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LEGISLATIVE HISTORY

OF

H.R. 8363

88TH CONGRESS

THE REVENUE ACT OF 1964

PUBLIC LAW 88-272

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

EIGHTY-NINTH CONGRESS

SECOND SESSION

PART 3

Prepared by the Staff of the Committee on Ways and Means for the use of the Committee on Ways and Means

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CHRONOLOGICAL HISTORY OF THE LEGISLATION

Date of President's state of the Union message	Jan. 14, 1963.
Date of President's tax message	Jan. 24, 1963.
Dates of public hearings before the House Committee on Ways and Means	Feb. 6, 7, 8, 18, 19, 20, 21, 25, and 26; Mar. 4, 6, 7, 8, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 25, 26, and 27, 1963.
House bill number	H.R. 8363.
Date bill introduced in House of Representatives	Sept. 10, 1963.
Date bill reported by Committee on Ways and Means	Sept. 13, 1963.
House report number	H. Rept. 749 (with supplemental and separate views).
Date rule obtained—H. Res. 527, providing for a closed rule, waiving points of order against, 8 hours of debate, committee amendments, and 1 motion to recommit	Sept. 24, 1963.
Dates of House floor debate and final passage	Sept. 24 and 25, 1963.
Rule: H. Res. 527 adopted by a record vote—320 yeas, 66 nays, 46 not voting.	
Motion to recommit: Rejected by a record vote—199 yeas, 226 nays, 7 not voting.	
Final passage: Passed by a record vote—271 yeas, 155 nays, 6 not voting.	
Public hearings before the Senate Committee on Finance	Oct. 15, 16, 17, 18 21, 22, 23, 24, 25, 28, 29, 30, and 31; Nov. 1, 4, 5, 6, 7, 8, 12, 13, 14, 15, 21, and 22; Dec. 2, 3, 4, 5, 6, 9, and 10, 1963.
Date reported by Senate Committee on Finance	Jan. 28, 1964.
Senate report number	S. Rept. 830 (with separate views).
(Supplemental report, pt. 2 of S. Rept. 830, filed on Jan. 31, 1964.)	
Dates of Senate floor debate	Jan. 31; Feb. 3, 4, 5, and 6, 1964.
Date bill passed the Senate	Feb. 7, 1964.
Final passage: Passed by a record vote—77 yeas, 21 nays.	
Date conference report filed	Feb. 24, 1964.
Conference report number	Rept No. 1149.
Date conference report presented to and adopted by House of Representatives	Feb. 25, 1964.
Vote: 326 yeas, 83 nays.	
Date conference report presented to and adopted by the Senate	Feb. 26, 1964
Vote: 74 yeas, 19 nays.	
Date signed by the President	Do.
Public law number	Public Law 88–272.

ALPHABETICAL LISTING OF MEMBERS OF CONGRESS WITH CROSS-REFERENCES TO FLOOR DEBATES (INCLUDING EXTENSION OF REMARKS)

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Becker, Frank J. (New York) — 1514, 1516
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ALPHABETICAL LISTING OF MEMBERS OF CONGRESS WITH CROSS-REFERENCES TO FLOOR DEBATES (INCLUDING EXTENSION OF REMARKS)—Continued

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Cannon, Howard W. (Nevada)
Clark, Joseph S. (Pennsylvania)
Dirksen, Everett McKinley (Illinois)
Dominick, Peter H. (Colorado)
Douglas, Paul H. (Illinois)
Eastland, James O. (Mississippi)
Ellender, Allen J. (Louisiana)
Fong, Hiram L. (Hawaii)
Fulbright, J. W. (Arkansas)
Gore, Albert (Tennessee)
Gruening, Ernest (Alaska)
Hart, Philip A. (Michigan)
Hruska, Roman L. (Nebraska)
Humphrey, Hubert H. (Minnesota)
Javits, Jacob K. (New York)
Jordan, Len B. (Idaho)
Keating, Kenneth B. (New York)
Lausche, Frank J. (Ohio)
Long, Russell B. (Louisiana)
McCarthy, Eugene J. (Minnesota)
Mansfield, Mike (Montana)
Miller, Jack R. (Iowa)
Morton, Thruston B. (Kentucky)
Pell, Claiborne (Rhode Island)
Proxmire, William (Wisconsin)
Randolph, Jennings (West Virginia)
Ribicoff, Abraham A. (Connecticut)
Smathers, George A. (Florida)
Stennis, John (Mississippi)
Talmadge, Herman E. (Georgia)
Thurmond, Strom (South Carolina)
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Javits, Jacob K. (New York)
Kuchel, Thomas H. (California)
Lausche, Frank J. (Ohio)
Long, Russell B. (Louisiana)
Miller, Jack R. (Iowa)
Morton, Thruston B. (Kentucky)
Ribicoff, Abraham A. (Connecticut)
Smathers, George A. (Florida)

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- Douglas, Paul H. (Illinois)
- Gore, Albert (Tennessee)
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- Clark, Joseph S. (Pennsylvania)
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- Dodd, Thomas J. (Connecticut)
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- Edmondson, J. Howard (Oklahoma)
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- Gore, Albert (Tennessee)
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- Keating, Kenneth B. (New York)
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Gruening, Ernest (Alaska)	
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Humphrey, Hubert H. (Minnesota)	
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- Javits, Jacob K. (New York)
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- Long, Russell B. (Louisiana)
- McGee, Gale W. (Wyoming)
- Mechem, Edwin L. (New Mexico)
- Miller, Jack R. (Iowa)
- Monroney, A. S. Mike (Oklahoma)
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- Proxmire, William (Wisconsin)
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- Stennis, John (Mississippi)
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Calendar No. 805

88TH CONGRESS, 2d Session — SENATE — REPORT No. 830

REVENUE ACT OF 1964

REPORT

OF THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

TO ACCOMPANY

H.R. 8363

A Bill To Amend the Internal Revenue Code of 1954 To Reduce Individual and Corporate Income Taxes, To Make Certain Structural Changes With Respect to the Income Tax, and for Other Purposes

TOGETHER WITH

Individual and Minority Views

JANUARY 28, 1964.—Ordered to be printed

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Calendar No. 805

88TH CONGRESS 2d Session } SENATE { REPORT No. 830

REVENUE ACT OF 1964

JANUARY 28, 1964.—Ordered to be printed

Mr. LONG of Louisiana, from the Committee on Finance, submitted the following

REPORT

Together with

INDIVIDUAL AND MINORITY VIEWS

[To accompany H.R. 8363]

The Committee on Finance, to whom was referred the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

I. SUMMARY

This bill, H.R. 8363, the Revenue Act of 1964, provides $11.6 billion of tax reduction scheduled over a 2-year period, the bulk of the relief, however, becoming effective within a month of enactment. The bill will cut back on excessive tax rates which unnecessarily restrain individual and business incentives, it will provide the increased consumer and business purchasing power to assure continued expansion, and it will improve the equity of the tax system.

(*a*) ***Revenue.***—The bill when fully effective in 1965 will reduce tax liabilities of individuals by $9.2 billion and of corporations by $2.4 billion. At constant income levels the bill would reduce receipts by $1.9 billion in fiscal year 1964 and $8.4 billion in fiscal year 1965 (including the $1.9 billion reduction from 1964). Taking into account the effect of this reduction in increasing private expenditures and income, the net effect on revenues is expected by the Treasury Department to be a reduction of $1.7 billion in fiscal year 1964 and $4.3 billion in fiscal year 1965.

(*b*) ***Rate reduction.***—

1. ***Individual.***—As in the House bill, individual rates are reduced from the present range of 20 to 91 percent to a new range of 16 to 77 percent in 1964 and to 14 to 70 percent in 1965. The bill provides that the withholding rate, presently 18 percent, will be reduced to 14 percent, effective within a week after enactment.

2. ***Corporate rate.***—As in the House bill, the tax rate for corporations in 1964 is reduced from 52 to 50 percent and is further reduced in 1965 to 48 percent. In addition, the rate applicable to the first $25,000 of corporate income beginning in 1964 is reduced from 30 percent to 22 percent. Furthermore, corporations are placed on a full pay-as-you-go basis so that ultimately all of their tax liability above $100,000 is to be payable in the year in which it is earned. This is achieved over a 7-year period so that it will not increase corporate cash outlays for tax payments in any year of the transitional period.

(*c*) ***Structural changes.***—In addition to rate changes the bill provides a number of provisions designed to increase the equity of the present tax law. Some of these increase and others decrease the revenue. The major items are:

1. ***Minimum standard deduction.***—The bill provides that each taxpayer may have a minimum standard deduction of $300 plus $100 for each additional exemption. This relieves from tax all single individuals with incomes up to $900, and all married couples with incomes up to $1,600.

2. ***Dividend credit and exclusion.***—The 4-percent dividend received credit is reduced by the bill to 2 percent for 1964, and repealed for subsequent years. The $50 dividend exclusion is increased to $100 for 1964 and subsequent years. In practical effect, this increase is from $100 to $200 for married couples.

3. ***Retirement income credit.***—The bill provides that in computing the retirement income credit the limit on retirement income is to be raised from $1,524 to $2,286 in certain cases where a joint return is filed.

4. ***Investment credit.***—In the case of the investment credit, the bill (*a*) repeals the provision requiring a 7-percent downward adjustment in the basis of property eligible for depreciation to the extent that the investment credit applies; (*b*) prevents regulatory commissions in certain cases from requiring the "flowthrough" of the benefits of the investment credit to the customers of regulated industries; and (*c*) makes other revisions in the investment credit.

5. ***Group term insurance.***—The bill limits the employee exclusion for premiums on group term insurance furnished through the employer to premiums paid for the first $70,000 of coverage.

6. ***Sick pay exclusion.***—The bill restricts the sick pay exclusion, of up to $100 a week, only to those who are absent from work for more than 30 days (and makes the exclusion available only for the period beyond that time).

7. ***Sale of residence by aged taxpayer.***—The bill provides an exclusion from the tax base for the gain attributable to the first $20,000 of the sales price of a personal residence in the case of an individual aged 65 or over.

8. ***Deduction of certain State and local taxes.***—The bill denies a deduction in computing income subject to Federal tax for State and

local taxes other than property, income, general sales taxes, gasoline, and auto license (the principal taxes for which a deduction is denied are alcoholic beverage, cigarette, and selective excise taxes).

9. ***Casualty loss deduction.***—The deduction for personal casualty and theft losses is limited to the amount in excess of $100 per loss (similar to "$100 deductible" insurance).

10. ***Charitable contribution deduction.***—Several changes are made in the charitable contribution deduction: (*a*) The 30-percent maximum deduction is made available generally for contributions to publicly supported organizations other than private foundations; (*b*) the 2-year carryover of charitable contributions for corporations is extended to 5 years; (*c*) a 5-year carryover is provided for individuals with respect to contributions to publicly supported organizations; (*d*) the unlimited charitable deduction is restricted to contributions to publicly supported organizations; and (*e*) charitable contributions deductions for future interests in tangible personal property are denied until the gifts are completed.

11. ***Foreign expropriation losses.***—The bill permits a taxpayer which has sustained a substantial foreign expropriation loss after 1958 to carry over that portion of a net operating loss arising from the foreign expropriation loss for 10 years without any carryback.

12. ***Medical expense deduction.***—The 1 percent limitation, or floor, on medicines and drugs which must be taken into account in determining deductible medical expenses is made inapplicable where the taxpayer or his wife is over 65 and also with respect to such expenses for dependent parents over 65.

13. ***Child-care expense deduction.***—The child-care deduction is revised (*a*) to make it available in the case of a wife who is incapacitated; (*b*) to make it available with respect to care for children up to age 13 (instead of 12); (*c*) the maximum deduction allowable where there are two or more children is increased from $600 to $900, and to $1,000 where there are three or more children; and (*d*) the present limit on the family income in the case of a working wife is raised from $4,500 to $7,000.

14. ***Moving expense deduction.***—A deduction for certain moving expenses—transportation of the household goods and the persons involved, and also their meals and lodging while in transit—is allowed for employees who are not reimbursed for these expenses and also for new employees (an exclusion for these items is already available in the case of old employees who are reimbursed). Old employees who are reimbursed for certain costs and losses in connection with the sale of their old home, occasioned by a move, are permitted to treat the reimbursement as sale proceeds rather than compensation.

15. ***Political contribution deduction.***—The bill allows individuals a deduction, limited to $50 a year ($100 on a joint return) for contributions to any political candidate or political committee to further the candidacy of individuals.

16. ***Intercorporate dividend deduction for certain affiliated groups.***—The bill provides that certain affiliated groups eligible to file a consolidated return, but not doing so, may take under certain conditions a 100-percent deduction for intercorporate dividends received from other members of the group if the group agrees to be treated as a single entity for certain purposes, such as the surtax exemption.

17. ***Face amount certificate companies.***—The bill provides that a "face amount certificate company" shall not be subject to disallowance of a deduction on interest paid with respect to face amount certificates under section 265(2) of the code (relating to interest indebtedness to carry tax-exempt bonds on tax-exempt income) to the extent that tax-exempt obligations do not constitute more than 25 percent of the average of the total assets.

18. ***"Bank loan" insurance.***—An interest deduction is denied for amounts borrowed under a systematic plan to pay premiums on life insurance (certain exceptions are provided).

19. ***Corporate reorganizations.***—The bill provides tax-free status to a stock-for-stock reorganization, where the corporation acquiring the stock exchanges either its voting stock or the voting stock of a corporation which is in control of the acquiring corporation.

20. ***Travel expense deduction.***—The bill repeals the rule, adopted in 1962, which disallows a portion of travel expenses for certain business trips which are combined with a vacation.

21. ***Pension plans.***—The bill permits retroactive qualification for certain pension plans under multi-employer collective bargaining agreements. It also permits a U.S. corporation to extend coverage under its qualified pension, profit sharing, etc., plan to certain U.S. citizens employed by subsidiaries operating outside of the United States.

22. ***Stock options.***—The present tax treatment of employee stock options is further restricted, the principal additional restrictions being: (*a*) the stock when acquired must be held for 3 years or more; (*b*) the option must not be for a period of more than 5 years; (*c*) the option price must at least equal the market price of the stock when the option is issued; (*d*) stockholders' approval for the options must be obtained; and (*e*) the extent to which new options may be exercised when the old options are outstanding is restricted. Separate tax treatment is provided for employee stock purchase plans which are available to all employees on a nondiscriminatory basis under rules which are substantially the same as under present law.

23. ***Installment method.***—The bill treats all revolving credit sales as installment sales for tax purposes and also treats time payment charges as installment sales.

24. ***Deduction of contested liabilities.***—The bill would allow a deduction for the taxable year in which a taxpayer pays a tax or other liability, even though he contests the liability.

25. ***Interest on certain deferred payments.***—Where property is sold on an installment basis and either no, or very low, interest is charged on the installments, the bill provides that an appropriate amount of each installment is to be treated as if it were an interest payment.

26. ***Personal holding companies.***—The percentage of passive income which may result in a company being classified as a personal holding company is reduced from 80 to 60 percent and amendments are made so that the tax cannot be avoided by using rental income or oil or gas or mineral royalties (or working interests) to shelter substantial amounts of investment income, such as dividends and interest, from the personal holding company tax. Other restrictive amendments are also made. Relief is provided for those companies which are not now personal holding companies, but which would be

under the new definitions. They are permitted favorable liquidation treatment in certain cases and also permitted a deduction, in computing the personal holding company income, for paying off existing debts.

27. ***Aggregation of oil and gas properties.***—For the future, oil and gas leases or acquisitions are no longer to be aggregated in determining what constitutes a property for purposes of computing the percentage depletion deduction.

28. ***Iron ore royalties.***—The bill provides capital gains treatment for certain domestic iron ore royalties.

29. ***Life insurance companies.***—The bill makes three changes with respect to the income tax of life insurance companies: (1) It removes the requirement of present law that life insurance companies, and mutual insurance companies electing to be taxed on investment income only, are to ratably accrue market discount on purchased bonds as ordinary income; (2) it extends to 1962 the rule for deductibility of certain distributions to shareholders pursuant to certain mutualization plans; and (3) it assures deductibility of qualified pension plan contributions of mutual insurance companies.

30. ***Regulated investment companies.***—The bill amends the regulated investment company provisions (1) by increasing from 30 to 45 days after the close of the taxable year the time for giving certain notices to shareholders, and (2) by providing that distributions by a unit investment trust liquidating an individual's interest are not to be considered as giving rise to capital gains tax with respect to interests of other investors still in the trust.

31. ***Foreign tax credit on mineral operations.***—The bill provides that any excess foreign tax credit which arises from mineral extraction, because of the percentage depletion allowance under U.S. law, may not be used to offset U.S. tax on income not related to mineral extraction, processing transportation or marketing.

32. ***Sale of depreciable real estate.***—In the case of real estate sold in the future, any depreciation deductions, generally to the extent these deductions exceed depreciation allowable under the "straight line" method (to the extent of the gain), will be treated by the bill as giving rise to ordinary income. However, in the case of property held more than 20 months the amount treated as ordinary income will be reduced by 1 percent for each month of holding over 20, with the result that no amount will be treated as ordinary income in the case of real property held more than 10 years.

33. ***Averaging of income.***—The bill in effect provides for the averaging of income over a 5-year period where the income in the current year exceeds the average of the 4 prior years by more than one-third and this excess is more than $3,000.

34. ***Subchapter S corporations.***—The bill amends the provisions for subchapter S corporations to provide (1) that certain distributions of money made after the close of a taxable year may be treated as made at the close of that year in order to prevent double inclusion of income, and (2) that a corporate member of an affiliated group may elect subchapter S treatment where the only other members of the group are inactive subsidiary corporations.

35. ***Repeal of consolidated returns tax.***—The 2-percent penalty tax, which must presently be paid by corporations for the privilege of filing consolidated returns, is repealed.

36. ***Multiple surtax exemption.***—For corporations where there is common control to the extent of 80 percent or more, the corporations involved generally are limited to one $25,000 surtax exemption for the group or alternatively required to pay a special tax of 6 percent on the first $25,000 of their income. No penalty tax is imposed where a consolidated return is filed for the group.

37. ***Tax lien on automobiles.***—A purchaser, mortgagee, or pledgee of a motor vehicle will not be subject to a Federal tax lien against the motor vehicle, notice of which has been publicly filed, unless the purchaser, mortgagee, or pledgee had actual knowledge of the existence of the lien.

II. GENERAL STATEMENT

H.R. 8363 represents a basic revision of the Federal income tax laws. By substantially reducing individual and corporate tax rates, it is anticipated that this bill will stimulate higher investments and increase consumer purchases. In this manner, the bill is designed to lessen unemployment and to increase the rate of growth of our productive capacity. The bill also contains a series of structural changes in the tax system designed to improve the equity of the system and to close loopholes.

The extensive public hearings held by your committee have provided convincing evidence of the wide area of agreement on the part of the public generally—including representatives of both business and labor—of the need for reducing our present unrealistically high individual income tax rates. At present, they range from 20 to 91 percent and under this bill are reduced to a range of 14 to 70 percent. Also in the case of corporations, by reducing the top rate from 52 to 48 percent, this bill converts the Government from a "senior partner" to a "junior partner" in any business undertaking. The present high income tax rates are a carryover from the tax policy of World War II and the Korean war when the dampening down of investment stimulants and holding the line on consumption were necessary to our wartime effort. These policies are no longer appropriate, however, in our economy today.

Despite the fact that business conditions have been improving over the past 33 months, unemployment still is at the high rate of 5.5 percent, which matches the unemployment rate in the 1954 recession. Since obtaining an unemployment rate of 4.2 percent in 1956, we have experienced a succession of disappointing recoveries in which the unemployment rate has remained disturbingly high; this rate, in fact, has not been below 5 percent since 1957.

Added significance for this persistent high rate of unemployment lies in the fact that the next decade will be a period of unusually high growth in the labor force as the children of the post-World War II era come of age. The annual growth in the labor force as a result can be expected to increase from less than 1 million to about 1½ million. In addition, it is expected that with an improvement in employment conditions, perhaps 1 million people not now seeking work will return to the labor market. This shows quite clearly that the growth rate of our economy must be increased if the requisite jobs are to be found for this expanding labor force.

Although business conditions were generally good in 1963, the level of new investment in business plant and equipment was scarcely 6 percent above the level of investment in 1957, despite the 31-percent increase in the gross national product during this period.

The existence of these underutilized resources of manpower and plant capacity means that it is possible to attain a faster economic growth through tax reduction without significant inflationary pressures. The 5-year stability of the wholesale price index, together with the relatively moderate increase in the consumers' price index, in recent years, is evidence of this. The goal of a balanced growth with stable prices will, of course, also call for restraint in Government expenditures.

Tax reduction is also important as an aid in the reduction of our persistent balance-of-payments deficit. The presence of greater investment incentives and opportunities abroad than at home is the root cause of American capital seeking foreign outlets. The expanding markets resulting from the tax reduction contained in this bill will raise the attractiveness of domestic investment. Moreover, a faster domestic growth rate will result in a larger flow of new products and technological improvements, making our exports more competitive. The substantial improvements in our balance-of-payments position in the last 6 months is further evidence that an improvement in domestic business can aid our foreign balance. This also has been the experience in Europe where is is the rapidly growing and modernizing economies that have strong currencies.

(a) Tax reduction and revenues

The record of economic performance below capacity over the last 6 years has left a heavy mark on the Federal debt. The initial budget forecast for each of the fiscal years 1958–63 was for a budgetary surplus. The actual outcome in 5 out of the 6 years was a deficit with the deficit averaging about $5 billion.

The major factor in each of these deficits was the failure of the economy to expand as predicted. Either the present or proposed tax rates are high enough to produce a substantial budgetary surplus in a few years if there is sufficient growth and the economy operates at a high level. The present rates, however, constitute such a drag on the economy that the rate of growth has been disappointing and the rate of operation remains low. As a result, income and profits are relatively low and tax receipts are lower than would otherwise be the case. This is the principal factor accounting for the budgetary deficits.

The size of tax receipts is attributable to two variables, the tax rates and the tax base. The major thrust of the present tax bill is to provide a long-range expansion in one of these variables—the tax base—and thereby to increase the revenue potential. To accomplish this result the bill encourages the expansion of the private, rather than public, sector of the economy.

The present tax bill, along with a policy of expenditure constraint offers promise of restoring a balanced budget by the fiscal year 1967 or 1968. During a year of healthy growth in our economy the yield of the present tax system will increase in the neighborhood of $5 billion to $6 billion. The reduction in tax rates under this bill is designed to maintain that high rate of growth which will provide

sufficient additional revenue to cover the cost of the tax bill in a relatively short period of time.

It may be argued that taxes should not be cut while there is a budget deficit. However, this overlooks the fact that maintaining high tax rates does not produce more revenue unless the tax base expands sufficiently—and the rates themselves inhibit this expansion. It is your committee's considered judgment that with the current rates it would take longer to eliminate the deficit than would be the case with the lower rates of this bill but with the expanded economy induced by this bill.

(b) Expenditure control

The House bill in section 1 contains a statement of policy as to the need to stimulate the economy and in this manner raise revenues. It also states that to further the objective of obtaining balanced budgets in the near future, Congress by this action, recognizes the importance of taking all reasonable means to restrain Government spending and urges the President to declare his accord with this objective.

The accord of your committee with the first of these statements is evidenced by its approval of the tax reduction provided by this bill and in the views expressed above that this legislation will, in the long run, increase rather than decrease revenues.

Your committee is also in accord with the second of these statements. The fact that your committee is reporting this bill after the presentation of the President's budget for the fiscal year 1965 is fortunate in that now the restraint of Government spending not only has been stated as an objective of administration policy but also is evidenced by the budgetary figures themselves. This budget reduces the deficit in the administrative budget by more than one-half from $10 billion to $4.9 billion. It also reflects a substantial decrease in new obligational authority requested and actually provides for a slight reduction—from $98.4 billion to $97.9 billion—in the level of spending for the fiscal year 1965. In view of these considerations, your committee believed that the retention of section 1 of the House bill was unnecessary. Moreover, it is questionable whether expressing declarations of intent in tax legislation would be a desirable precedent. Intent to restrain Government expenditures can best be evidenced by action on appropriation bills as they are presented in this session of Congress.

(c) The structure of tax reduction

This bill provides a balanced reduction between individuals and business firms. In this respect, the bill is much the same as the bill that came from the House. When fully effective, the bill will reduce individual income taxes by $9.2 billion and will reduce corporate taxes by about $2.4 billion. These figures must be evaluated along with the effective tax reduction of 1962 through the investment credit and depreciation reform, the largest share of which went to corporations. Taking the 1962 and 1964 programs together, the share of the reduction going to individuals is about two-thirds and to corporations about one-third, which is approximately the present relative shares of individuals and corporations in income tax liabilities.

Looked at another way, the net individual income tax reduction will reduce present tax liabilities for individuals by just under 20 percent. The combined effects of this bill, depreciation reform, and

last year's investment tax credit, will reduce corporate tax liabilities by something more than 19 percent.

The bill equitably distributes tax reduction over the various individual income tax levels. Those at the lowest income levels will receive the largest tax reductions, measured as a percent of the present tax. This reduction of 38.6 percent of present law tax at these levels is due to the sharper reductions in the first bracket rate, the split first bracket, and the effect of the minimum standard deduction. Due to the structural reforms, particularly the repeal of the dividends received credit the amount of tax reduction for persons with incomes of $50,000 or more will average approximately 13.5 percent of their present tax (excluding the alternative capital gains tax). Since the present tax for these individuals is already considerably higher relative to income than it is for those with incomes below $3,000, this 13.5-percent reduction in tax necessarily represents a greater increase in aftertax income.

In addition to a rate reduction the present bill contains a number of provisions designed to increase the equity of the tax system, some of which increase and some of which decrease the total revenue. These provisions are listed in part I above.

The bill also significantly improves the pattern of progression in the tax structure. At the lower end of the income tax scale, the minimum standard deduction will effectively eliminiate tax for all single people with adjusted gross incomes below $900 and for married couples with incomes below $1,600 (with higher minimum levels of $700 for each dependent). Furthermore the division of the present first surtax bracket (which is $4,000 wide for a married couple) into four narrower brackets permits greater proportionate tax reduction for families and single individuals whose total income leaves them close to a poverty level.

At the upper end of the income scale, under the demands of war finance, progression has been carried to the extreme of rates that under peacetime conditions are clearly excessive and inhibit individual initiative. Over the years the Congress has been faced with the necessity of making statutory exceptions, through special deductions, lower capital gains rates and the like, until there now is a wide range of effective rates applicable to people with the same economic income. Your committee's bill deals with this problem by applying the reductions made in these higher brackets to those cases where current rates are excessive and also by removing special benefits in the law which account for part of this divergence in rates.

(d) *Principal changes from the House bill*

Your committee's amendments make a number of changes in the House bill. These are:

(1) The 14-percent withholding rate, scheduled under the House bill to become effective in 1965, is made effective in 1964, 8 days after the enactment of this legislation. This change is needed because lower tax rates will apply to all of 1964 incomes but withholding will continue at 18 percent (rather than the 15 percent provided in the House bill) until this bill goes into effect.

(2) The restoration of the deduction for State and local taxes on gasoline and for other State and local registration taxes on automobiles. Under the House bill individuals who itemize their personal deductions were not to be allowed deductions for these items.

(3) The deletion of the House provision reducing the tax rate on capital gains where the assets have been held more than 2 years. Under the House bill certain capital gains held more than 2 years were to achieve an effective lower rate of tax by the reduction of the percentage of such gains included in income from 50 to 40 percent and by the reduction of the alternative tax rate on these gains from 25 to 21 percent. Your committee believes that further reduction in capital gains should be deferred until Congress has a further opportunity to examine these rates and related problems. Even though the capital gains provisions are not reduced in this bill, those who include half of their capital gains in their regular income tax base (96 percent) will obtain under this bill the same percentage tax reduction on these capital gains as is applicable to other kinds of income.

(4) The taxation of group term insurance paid for through the employer is to apply to the cost of insurance for over $70,000 of coverage rather than $30,000 as provided by the House bill.

(5) A new deduction for political contributions of up to $50 a year for a single person and up to $100 a year for a married couple is provided.

(6) The child-care deduction is liberalized, particularly with respect to working wives. Under present law this deduction is reduced in the case of a working wife by the excess of the family income over $4,500. The bill raises this limitation to $7,000.

(7) A new provision is added limiting the use of excess foreign tax credits arising from mineral extraction. Where the foreign tax on the extraction activity exceeds the U.S. tax, because of the allowance of percentage depletion under the U.S. tax, the resulting excess foreign tax credit may not be used against U.S. tax on income arising from nonmineral activities.

(8) The limitation on the business travel expense deduction enacted in the Revenue Act of 1962 is repealed. Thus there will no longer be an allocation of the travel expense where the taxpayer combines a business trip with a vacation.

(9) A new provision provides that where an employee moves and the employer reimburses him for selling costs on his house and losses incurred on the sale of the house attributable to the fact that it must be sold more quickly than usual, the reimbursement is to be treated as a part of the selling price of the house (rather than as compensation).

(10) Groups of affiliated corporations eligible to file a consolidated return and those eligible which do not do so, will be permitted to take a 100 percent dividends received deduction with respect to dividends received from other members of the controlled group, provided the group elects to take only one surtax exemption and meets certain other conditions.

(11) A new provision is added extending the installment method of accounting to business firms maintaining so-called revolving credit accounts.

(12) A new provision is added to allow taxpayers who suffered losses through foreign expropriation after 1958 to carry these losses forward for 10 years (instead of the usual 3-year carryback and 5-year carryforward).

(13) A new provision liberalizes the retirement income credit. This increases the amounts of retirement income on which the credit is computed to make the credit more nearly analogous to the social security exclusion.

(14) A 5-year carryover of unused charitable contributions is provided for individuals, deductions for gifts of future interests are restricted, and contributions to private foundations are made ineligible for the unlimited charitable contributions deduction.

(15) A new amendment provides that companies issuing face amount certificates may invest up to 25 percent of their total assets in tax-exempt obligations without losing a deduction for interest paid to the shareholders.

(16) A new amendment provides a tax-free status for a stock-for-stock reorganization where the corporation acquiring the stock exchanges the stock of its parent for the stock of the acquired corporation.

(17) A new provision provides for the retroactive qualification of union negotiated multiemployer pension plans where these pension plans are subsequently qualified.

(18) A new provision makes possible the coverage under qualified pension plans of U.S. employees of foreign subsidiaries or of U.S. employees of foreign branches of domestic corporations.

(19) In the case of employee stock options, the House provision is liberalized with respect to the restrictions imposed where one option is outstanding and a subsequent option is acquired and the effective date is changed to apply to options granted after December 31, 1963 (instead of June 11, 1963).

(20) A new provision provides that in the case of contested liabilities, the deduction is to be taken in the year of the payment where this occurs before the contest is settled.

(21) The personal holding company provision of the House bill is liberalized somewhat in the case of the test as to when rent is considered personal holding company income and also with respect to the exemptions for consumer finance companies.

(22) Three new provisions are added with respect to insurance companies, providing additional time for special treatment mutalization distributions, providing capital gains treatment with respect to the accrual of bond discount in certain cases, and correcting a technical error in present law.

(23) Liberalizing amendments are provided giving regulated investment companies more time for the mailing of notices to shareholders and with respect to the treatment of redemptions by unit investment trusts.

(24) An amendment liberalizes somewhat the treatment accorded "small business corporations"; namely, those treated essentially like partnerships for tax purposes.

(25) An amendment provides that a purchaser, mortgagee, or pledgee of a motor vehicle will not be subject to a Federal tax lien against the motor vehicle unless the purchaser, mortgagee, or pledgee has actual notice of the existence of the lien.

III. REVENUE ESTIMATES

The revenue effect of your committee's bill is shown in tables 1 through 4 below. (Pt. A of tables 1 through 3 refers to estimates under your committee's bill and pt. B in each case to estimates under the House bill.) Estimates in the tables are based on income levels assumed for the calendar year 1963 but do not take into account any "feedback" to the economy anticipated from this bill. Table 1 shows the estimated impact of the various provisions contained in your committee's bill and the House bill upon calendar year 1964 and 1965 tax liabilities and also upon liabilities in the long run. Table 2 shows the estimated effect of your committee's bill and the House bill upon receipts in the fiscal years 1964 and 1965.

Table 1 indicates that your committee's bill can be expected to decrease calendar year 1964 tax liabilities by $7.9 billion and calendar year 1965 liabilities by $11.6 billion (the latter figure includes the $7.9 billion reduction). The calendar year 1965 effect is virtually identical with the long-term effect of the bill before taking into account any impact of the reductions upon the economy. Of the $11.6 billion reduction in 1965, $9.2 billion will go to individuals, or nearly 80 percent of the total. Revenue raising structural changes for the calendar year 1965 amount to $740 million but are partially offset by other liberalizing provisions reducing the net increase to $160 million.

Table 2 shows that your committee's bill will decrease revenues in the fiscal year 1964 by $1.9 billion and in the fiscal year 1965 by $8.4 billion (the latter figure includes the $1.9 billion reduction). These figures are considerably lower than the calendar year liability figures for the same year; first, because of the fact that the fiscal year ends in the middle of the calendar year; and, second, because the calendar year data are shown on the basis of liability rather than receipts. Liabilities indicate the amount of tax liability attributable to income of the year in which it is earned; receipts show the actual amount collected in the year in question. Since collection tends to lag behind the accruing of the liability, tax reductions show up in later years when shown on a "receipt" basis than when shown on a "liability" basis.

It is important to note that it is not expected that actual tax revenues in the fiscal year 1964 and future years will be reduced by the full $1.9 or $8.4 billion referred to above. It is anticipated that income levels in these years will be substantially higher as a result of the economic stimulus of the tax cut and will generate revenues significantly offsetting the budgetary impact of these rate reductions.

The stimulative effects of the tax reduction are expected to produce, according to the Treasury Department, relatively modest amounts of increased income in the first months, with the result that the "feedback" effect on the fiscal year 1964 revenues is expected to amount to only $200 million. As a result, the gross tax loss of $1.9 billion for the fiscal year 1964 is expected to be reduced to $1.5 billion after the "feedback" effect. The Treasury Department has estimated that the increased revenues from the rise of income, however, will amount to about $4 billion in the fiscal year 1965. Thus, the Treasury estimates that while tax reductions during that year would lose an estimated $8.4 billion of revenue at 1963 income levels, the net cost after allowing for the revenues generated by the expansion in income and

profits induced by the tax program would be limited to approximately $4.3 billion. The expansionary effect of the tax reductions on future years' revenues can be expected to be considerably larger than for the first 2 years. The order of magnitude was indicated in the discussion in part II.

Part A of table 3 shows by adjusted gross income class the distribution of changes in estimated tax liabilities for individuals when your committee's bill is fully effective. This table shows this distribution for each of the major rate and structural changes. These data are shown both in terms of amount of tax liability involved and the percentage change each of these is of present tax liability. It indicates that the rate changes alone would decrease tax liability by 20 percent while the structural changes would increase tax liability by 0.3 percent, resulting in the net reduction of 19.7 percent. Part B of table 3 presents similar data under the House bill.

Table 4 compares the tax liability effect of your committee's amendments with the House bill. This table indicates that in the calendar year 1964 your committee's amendments would decrease tax liabilities $680 million more than the House bill, in 1965 your committee's amendments are expected to decrease tax liabilities $395 million more and in the long run $185 million more.

The impact of the capital gains provisions is excluded from table 3 because of the difficulty of showing these changes by adjusted gross income class. Part A of table 1 sets forth the overall effect of the changes in the taxation of capital gains under your committee's bill: an increase of $115 million in calendar year 1964 tax liabilities, $120 million in 1965, and $50 million in the long run.[1]

As set forth in part A of table 2, the estimated overall revenue loss, before taking into account acceleration of corporation tax payments, is $2.2 billion in fiscal year 1964. This is $400 million less than was estimated in the budget. According to the Treasury Department this difference is due to the assumption of an earlier effective date in the budget document for institution of the 14-percent withholding. Similarly, according to the Treasury Department, the $9.3 billion revenue loss ($8.4 billion plus $900 million of accelerated corporation tax payments) estimated in part A of table 2 for fiscal year 1965 is greater than the loss shown in the budget by approximately $1.1 billion. The difference is ascribed primarily to $400 million due to the change in date of the reduced withholding and to the $680 million due to changes in structural provisions as shown in table 4.

[1] When this $115 million estimate for 1964 under your committee's bill is compared with the $295 million estimate under the House bill (pt. B of table 1) as subsequently revised to $215 million, the effect of your committee's action as compared to action by the House is a decrease in tax liability of $100 million in calendar year 1964 (see line 7 of table 4). Similarly, when the $120 million estimated increase in calendar year 1965 tax liabilities under your committee's bill is compared with the $170 million estimate under the House bill (pt. B of table 1), as subsequently revised to $80 million, the effect of your committee's action as compared to action by the House is an increase in tax liability of $40 million (see line 7 of table 4).

TABLE 1.—*Revenue bill of 1964, H.R. 8363—Estimated decrease in tax liability* [1] (−) *and increase* (+) (*before feedback*) *of provisions of bill*

[In millions of dollars]

A. AS APPROVED BY SENATE COMMITTEE ON FINANCE

	Calendar year 1964 liability			Calendar year 1965 liability			Long run liability		
	Individual	Corporate	Total	Individual	Corporate	Total	Individual	Corporate	Total
A. Tax program:									
Rate changes: Basic rates	−6,310	−1,320	−7,630	−9,470	−2,190	−11,660	−9,470	−2,190	−11,660
Structural changes:									
(*a*) Revenue raising:									
1. Group term insurance	(2)		(2)	(2)		(2)	(2)		(2)
2. Bank loan insurance	+5		+5	+5		+5	+10		+10
3. Sick pay inclusion	+110		+110	+110		+110	+110		+110
4. Deduction of personal taxes	+190		+190	+190		+190	+190		+190
5. Casualty loss deduction	+50		+50	+50		+50	+50		+50
6. Aggregation of mineral properties		+40	+40		+40	+40		+40	+40
7. Personal holding companies	+15		+15	+15		+15	+15		+15
8. Repeal of dividend credit and increase in exclusion	+120		+120	+300		+300	+300		+300
9. Multiple corporation provisions		+30	+30		+30	+30		+30	+30
Total, revenue raising	+490	+70	+560	+670	+70	+740	+675	+70	+745
(*b*) Revenue reducing:									
10. Medical expense deduction	−10		−10	−10		−10	−10		−10
11. Child care allowance	−20		−20	−20		−20	−20		−20
12. Moving expenses	−105		−105	−105		−105	−105		−105
13. Income averaging	−40		−40	−40		−40	−40		−40
14. Minimum standard deduction	−320		−320	−320		−320	−320		−320
15. Repeal 2-percent tax on consolidated returns		−50	−50		−50	−50		−50	−50
16. Political contributions	−25		−25	−5		−5	−15		−15
17. Travel expenses	−5		−5	−5		−5	−5		−5
18. Installment sales treatment		[3] −140	−140		−10	−10		−10	−10
19. Expropriation loss carryover		(2)	(2)		−5	−5		−5	−5
20. Retirement income credit	−10		−10	−10		−10	−10		−10
Total, revenue reducing	−535	−190	−725	−515	−65	−580	−525	−65	−590
Total, structural changes	−45	−120	−165	+155	+5	+160	+150	+5	+155
Total, rate and structural changes, tax program	−6,355	−1,440	−7,795	−9,315	−2,185	−11,500	−9,320	−2,185	−11,505

Capital gains revisions (including induced effects):									
1. Unlocking of capital gains from general rate reduction	+130		+130	+130		+130	+50		+50
2. Sale or exchange of real estate		(2)	(2)		+5	+5		+15	+15
3. Sales of residences by taxpayers aged 65 or over	−10		−10	−10		−10	−10		−10
4. Capital gains treatment of iron ore royalties		−5	−5		−5	−5		−5	−5
Total, capital gains revisions	+120	−5	+115	+120	0	+120	+40	+10	+50
Total, tax program	−6,235	−1,445	−7,680	−9,195	−2,185	−11,380	−9,280	−2,175	−11,455
B. Revision of 1962 legislation:									
1. Repeal of requirement to reduce basis by investment credit	−20	−140	[4] −160	−25	−170	[4] −195	−25	−170	−195
2. Allow investment credit for elevators and escalators		−10	−10		−10	−10		−10	−10
Total, revision of 1962 legislation	−20	−150	−170	−25	−180	−205	−25	−180	−205
C. Total, revenue bill of 1964	−6,255	−1,595	−7,850	−9,220	−2,365	−11,585	−9,305	−2,355	−11,660

See footnotes at end of table, p. 17.

TABLE 1.—*Revenue bill of 1964, H.R. 8363—Estimated decrease in tax liability* [1] *(−) and increase (+) (before feedback) of provisions of bill*—Continued

[In millions of dollars]

B. AS PASSED BY HOUSE OF REPRESENTATIVES

	Calendar year 1964 liability			Calendar year 1965 liability		
	Individual	Corporate	Total	Individual	Corporate	Total
A. 1963 tax program:						
Rate changes	−6,310	−1,320	−7,630	−9,470	−2,190	−11,660
Structural changes:						
(*a*) Revenue raising:						
1. Group term insurance	+5		+5	+5		+5
2. Bank loan insurance	+5		+5	+5		+5
3. Sick pay exclusion	+110		+110	+110		+110
4. Deduction of personal taxes	+520		+520	+520		+520
5. Casualty loss deduction	+50		+50	+50		+50
6. Aggregation of mineral properties		+40	+40		+40	+40
7. Personal holding companies	+15		+15	+15		+15
8. Repeal of dividend credit and increase in exclusion	+120		+120	+300		+300
9. Multiple corporation provisions		+35	+35		+35	+35
Total, revenue raising	+825	+75	+900	+1,005	+75	+1,080
(*b*) Revenue reducing:						
10. Medical expense deduction	−10		−10	−10		−10
11. Child care allowance	−5		−5	−5		−5
12. Moving expenses	−60		−60	−60		−60
13. Income averaging	−40		−40	−40		−40
14. Minimum standard deduction	−320		−320	−320		−320
15. Repeal 2-percent tax on consolidated returns		−50	−50		−50	−50
Total, revenue reducing	−435	−50	−485	−435	−50	−485
Total, structural changes	+390	+25	+415	+570	+25	+595
Total, rate and structural changes, 1963 tax program	−5,920	−1.295	−7,215	−8,900	−2,165	−11,065

Capital gains revision (including induced effects):						
1. 50- to 40-percent inclusion [5]	+340		+340	+210		+210
2. Sale or exchange of real estate		(2)	(2)		+5	+5
3. Carryover of losses	−30		−30	−30		−30
4. Sales of residences by taxpayers aged 65 or over	−10		−10	−10		−10
5. Capital gains treatment of iron ore royalties		−5	−5		−5	−5
Total, capital gains revision	+300	−5	+295	+170	0	+170
Total, 1963 tax program	−5,620	−1,300	−6,920	−8,730	−2,165	−10,895
B. Revision of 1962 legislation:						
1. Repeal requirement to reduce basis by investment credit	−20	−125	[4] −145	−25	−160	[4] −185
2. Allow investment credit for elevators and escalators		−10	−10		−10	−10
Total, revision of 1962 legislation	−20	−135	−155	−25	−170	−195
C. Total	−5,640	−1,435	−7,075	−8,755	−2,335	−11,090

[1] At levels of income estimated for the calendar year 1963.
[2] Less than $2,500,000.
[3] Includes relatively small loss attributable to individuals.
[4] Treasury Department estimate; estimate of Staff of Joint Committee on Internal Revenue Taxation is $245,000,000 for 1964, and $305,000,000 for 1965.
[5] Includes amounts shown in part A as "unlocking due to general rate reduction."

TABLE 2.—*Revenue bill of 1964, H.R. 8363—Estimated decrease in fiscal year receipts* [1] *(−) and increase (+) (before feedback) of provisions of bill*

[In millions of dollars]

A. AS APPROVED BY SENATE COMMITTEE ON FINANCE

	Fiscal year 1964 receipts			Fiscal year 1965 receipts		
	Individual	Corporation	Total	Individual	Corporation	Total
A. Tax program:						
Rate changes:						
Basic rates	[2] −2,200		−2,200	[2] −7,760	−1,320	−9,080
Acceleration of corporate payments		+260	+260		+900	+900
Total	−2,200	+260	−1,940	−7,760	−420	−8,180
Structural changes:						
(a) Revenue raising:						
1. Group term insurance				(3)		(3)
2. Bank loan insurance				+5		+5
3. Sick pay exclusion				+110		+110
4. Deduction of personal taxes				+190		+190
5. Casualty loss deduction				+50		+50
6. Aggregation of mineral properties					+40	+40
7. Personal holding companies				+15		+15
8. Repeal of dividend credit and increase in exclusion				+120		+120
9. Multiple corporation provisions					+30	+30
Total, revenue raising				+490	+70	+560
(b) Revenue reducing:						
10. Medical expense deduction				−10		−10
11. Child care allowance				−20		−20
12. Moving expenses				−105		−105
13. Income averaging				−40		−40
14. Minimum standard deduction				−320		−320
15. Repeal 2-percent tax on consolidated returns					−50	−50
16. Political contributions				−25		−25
17. Travel expenses				−5		−5
18. Installment sales treatment					[4] −140	−140
19. Expropriation loss carryover					(3)	(3)

20. Retirement income credit				−10		−10
Total, revenue reducing				−535	−190	−725
Total, structural changes				−45	−120	−165
Total, rate and structural changes, tax program	−2,200	+260	−1,940	−7,805	−540	−8,345
A. Capital gains revisions (including induced effects):						
1. Unlocking of capital gains from general rate reduction				+130		+130
2. Sale or exchange of real estate					(3)	(3)
3. Sales of residences by taxpayers aged 65 or over				−10		−10
4. Capital gains treatment of iron ore royalties					−5	−5
Total, capital gains revisions				+120	−5	+115
Total, tax program	−2,200	+260	−1,940	−7,685	−545	−8,230
B. Revision of 1962 legislation:						
1. Repeal of requirement to reduce basis by investment credit				−20	−140	[5]−160
2. Allow investment credit for elevators and escalators					−10	−10
Total, revision of 1962 legislation				−20	−150	−170
C. Total, revenue bill of 1964	−2,200	+260	−1,940	−7,705	−695	−8,400

See footnotes at end of table, p. 21.

TABLE 2.—*Revenue bill of 1964, H.R. 8363—Estimated decrease in fiscal year receipts*[1] *(−) and increase (+) (before feedback) of provisions of bill*—Continued

[In millions of dollars]

B. AS PASSED BY HOUSE OF REPRESENTATIVES

	Fiscal year 1964 receipts			Fiscal year 1965 receipts		
	Individual	Corporation	Total	Individual	Corporation	Total
A. 1963 tax program:						
Rate changes	−2,430		−2,430	−7,530	−1,320	−8,850
Acceleration of payments		+260	+260		+900	+900
Total	−2,430	+260	−2,170	−7,530	−420	−7,950
Structural changes:						
(*a*) Revenue raising:						
1. Group term insurance				+5		+5
2. Bank loan insurance				+5		+5
3. Sick pay exclusion				+110		+110
4. Deduction of personal taxes				+520		+520
5. Casualty loss deduction				+50		+50
6. Aggregation of mineral properties					+40	+40
7. Personal holding companies				+15		+15
8. Repeal of dividend credit and increase in exclusion				+120		+120
9. Multiple corporation provisions					+35	+35
Total, revenue raising				+825	+75	+900
(*b*) Revenue reducing:						
10. Medical expense deduction				−10		−10
11. Child care allowance				−5		−5
12. Moving expenses				−60		−60
13. Income averaging				−40		−40
14. Minimum standard deduction				−320		−320
15. Repeal 2-percent tax on consolidated returns					−50	−50
Total, revenue reducing				−435	−50	−485
Total structural changes				+390	+25	+415
Total rate and structural changes, 1963 tax program	−2,430	+260	−2,170	−7,140	−395	−7,535

Capital gains revision (including induced effects):						
1. 50 to 40 percent inclusion				+340		+340
2. Sale or exchange of real estate					(3)	(3)
3. Carryover of losses				−30		−30
4. Sales of residences by taxpayers aged 65 or over				−10		−10
5. Capital gains treatment of iron ore royalties					−5	−5
Total, capital gains revision				+300	−5	+295
Total, 1963 tax program	−2,430	+260	−2,170	−6,840	−400	−7,240
B. Revision of 1962 legislation:						
1. Repeal requirement to reduce basis by investment credit		−15	−15	−20	−125	[5]−145
2. Allowing investment credit for elevators and escalators		−5	−5		−10	−10
Total, revision of 1962 legislation		−20	−20	−20	−135	−155
C. Total	−2,430	+240	−2,190	−6,860	−535	−7,395

[1] At levels of income estimated for the calendar year 1963.
[2] Assumes effective date for withholding change of Feb. 22, 1964.
[3] Less than $2,500,000.
[4] Includes relatively small loss attributable to individuals.
[5] Treasury Department estimate; estimate of Staff of Joint Committee on Internal Revenue Taxation is $245,000,000.

TABLE 3.—*Revenue bill of 1964, H.R. 8363—Change in tax liability*[1] *resulting from rate and structural changes for individuals when fully effective*

A. AS APPROVED BY SENATE COMMITTEE ON FINANCE

Adjusted gross income class (thousands of dollars)	Rate change	Structural changes														Total rate and structural changes
		Group term and other insurance	Sick pay exclusion	Limitation of deductions	Casualty loss deduction	Personal holding companies	Dividend credit and exclusion	Medical care deduction (aged)	Child care allowance	Moving expenses	Income averaging	Minimum standard deduction	Political contribution	Travel and entertainment	Retirement income credit expense	Total structural changes	
	[In millions of dollars]																
0 to 3	−400	[2]	5	5	[2]	[2]	[2]	[2]	[2]	[2]	-----	−170	[2]	[2]	[2]	−160	−560
3 to 5	−1,020	[2]	20	20	5	[2]	10	[2]	−10	−25	-----	−100	[2]	[2]	[2]	−80	−1,100
5 to 10	−3,905	[2]	55	80	25	[2]	30	[2]	−10	−40	[2]	−50	[2]	[2]	−5	+85	−3,820
10 to 20	−2,285	[2]	25	45	15	[2]	50	[2]	[2]	−25	−10	-----	[2]	−5	−5	+90	−2,195
20 to 50	−1,150	[2]	5	20	5	[2]	85	−5	[2]	−10	−20	-----	−10	[2]	[2]	+70	−1,080
50 and over	−710	10	[2]	20	[2]	15	125	−5	[2]	−5	−10	-----	−5	[2]	[2]	+145	−565
Total	−9,470	10	110	190	50	15	300	−10	−20	−105	−40	−320	−15	−5	−10	+150	−9,320
	Change as a percent of present tax																
0 to 3	−27.6	[2]	0.3	0.3	[2]	[2]	[2]	[2]	[2]	[2]	-----	−11.7	[2]	[2]	[2]	−11.0	−38.6
3 to 5	−25.3	[2]	.5	.5	0.1	[2]	0.2	[2]	−0.2	−0.6	-----	−2.5	[2]	[2]	[2]	−2.0	−27.3
5 to 10	−21.3	[2]	.3	.4	.1	[2]	.2	[2]	−.1	−.2	[2]	−.3	[2]	[2]	[2]	+.5	−20.9
10 to 20	−18.0	[2]	.2	.4	.1	[2]	.4	[2]	[2]	−.2	−0.1	-----	[2]	[2]	[2]	+.7	−17.3
20 to 50	−17.0	[2]	.1	.3	.1	[2]	1.3	−0.1	[2]	−.1	−.3	-----	−0.1	[2]	[2]	+1.0	−16.0
50 and over	−17.0	0.2	[2]	.5	[2]	0.4	3.0	−.1	[2]	−.1	−.2	-----	−.1	[2]	[2]	+3.5	−13.5
Total	−20.0	[2]	.2	.4	.1	[2]	.6	[2]	[2]	−.2	−.1	.7	[2]	[2]	[2]	+.3	−19.7

B. AS PASSED BY THE HOUSE OF REPRESENTATIVES

Adjusted gross income class (thousands of dollars)	Rate change	Structural changes												Total
		Group term and other insurance	Sick pay exclusion	Limitation of deductions	Casualty loss deduction	Personal holding companies	Dividend credit and exclusion	Medical care deduction (aged)	Child care allowance	Moving expenses	Income averaging	Minimum standard deduction	Total	
	[In millions of dollars]													
0 to 3	−400	[2]	5	10	[2]	[2]	[2]	[2]	[2]	[2]		−170	−155	−555
3 to 5	−1,020	[2]	20	50	5	[2]	10	[2]	−5	−15		−100	−35	−1,055
5 to 10	−3,905	[2]	55	220	25	[2]	30	[2]	[2]	−25	[2]	−50	+255	−3,650
10 to 20	−2,285	[2]	25	130	15	[2]	50	[2]	[2]	−15	−10		+195	−2,090
20 to 50	−1,150	5	5	60	5	[2]	85	−5	[2]	−5	−20		+130	−1,020
50 and over	−710	10	[2]	50	[2]	15	125	−5	[2]	[2]	−10		+185	−525
Total	−9,470	15	110	520	50	15	300	−10	−5	−60	−40	−320	+575	−8,895
	Change as a percent of present tax													
0 to 3	−27.6	[2]	0.3	0.7	[2]	[2]	[2]	[2]	[2]	[2]		−11.7	−10.7	−38.3
3 to 5	−25.3	[2]	.5	1.2	0.1	[2]	0.2	[2]	−0.1	−0.4		−2.5	−.9	−26.2
5 to 10	−21.3	[2]	.3	1.2	.1	[2]	.2	[2]	[2]	−.1	[2]	−.3	+1.4	−19.9
10 to 20	−18.0	[2]	.2	1.0	.1	[2]	.4	[2]	[2]	−.1	−0.1		+1.5	−16.4
20 to 50	−17.0	0.1	.1	.9	.1	[2]	1.3	−0.1	[2]	−.1	−.3		+1.9	−15.1
50 and over	−17.0	.2	[2]	1.2	[2]	0.4	3.0	−.1	[2]	[2]	−.2		+4.4	−12.6
Total	−20.0	[2]	.2	1.1	.1	[2]	.6	[2]	[2]	−.1	−.1	−.7	+1.2	−18.8

[1] Excludes effect of capital gains provisions and repeal of the requirement to reduce basis by amount of investment credit.

[2] Less than $2,500,000 or 0.05 percent.

TABLE 4.—*Action by Senate Finance Committee on H.R. 8363 resulting in significant change in tax liability over House bill, calendar years 1964 and 1965 and long run*

[Millions]

	Change in tax liability from House bill		
	1964	1965	Long run
1. Deduction for political contributions	−$25	−$5	[1] −$15
2. Liberalized deduction for child care expense	−15	−15	−15
3. Elimination of allocation of travel expenses	−5	−5	−5
4. 100 percent intercorporate dividend deduction for certain affiliated groups	−5	−5	−5
5. Restoration of deduction of State and local gas tax and auto registration fees	−330	−330	−330
6. Allowance to reimbursed employee, as part of sales price, of selling costs and loss on forced sale of house	−45	−45	−45
7. Elimination of general capital gains provision	−100	+40	+260
8. Allowance of installment sales treatment for revolving credit plans	−140	−10	−10
9. Permitting election of 10-year carryforward without carryback for expropriation losses	(2)	−5	[2] −5
10. Increasing from $50,000 to $70,000 the minimum group-term life insurance subject to tax	−5	−5	−5
11. Liberalize retirement income credit on certain joint returns	−10	−10	−10
Total	−680	−395	−185

[1] $25,000,000 for presidential election year; 50 percent of that amount for congressional election year and 25 percent for off year; average about $15,000,000 per year.
[2] Less than $2,500,000 in 1964 and practically exhausted by 1970.

IV. GENERAL EXPLANATION

A. RATE CHANGES

1. *Individual income tax rates (sec. 111 of the bill and sec. 1 of the code)*

The most important change made by this bill is the individual income tax rate reduction. The bill, in both the House and your committee's versions, provides an individual income tax rate reduction of $9.47 billion spread over the 2 calendar years, 1964 and 1965. Over this 2-year period, the present rates, which range from 20 percent on the first $2,000 or $4,000 (the former for single persons and the latter for married couples) and 91 percent on incomes over $200,000 or $400,000 are reduced to a range of from 14 percent on the first $500 or $1,000 to 70 percent on incomes over $100,000 or $200,000. This represents an average rate reduction of 20 percent. Approximately two-thirds of this reduction is made effective in 1964 and the remaining one-third in 1965.

Table 5 shows the individual income tax rates under present law and under the House and committee bill, both for 1964 and for subsequent years. A separate table with rates, as nearly as possible halfway between those applicable for single persons and for married couples is provided for heads of households. The withholding tax rate of 18 percent under present law is reduced to 14 percent not only for 1965 and subsequent years but, under your committee's action also for 1964, starting 1 week after the date of enactment. The House bill would have provided a 15-percent rate for 1964. Wage bracket withholding tables provided by the bill reflect similar reductions in withholding tax rates. The 14-percent withholding tax rate is designed to withhold the appropriate amount of tax at an income level of $2,000 for a single person, or $4,000 in the case of a married couple, using the standard deduction.

TABLE 5.—*Individual income-tax rates under present law and schedules provided by House and committee bill for 1964 and 1965*

Taxable income brackets (in thousands of dollars)		Present rates	Rates provided under House and committee bill—	
Single person	Married (joint)		1964 [1]	1965
		Percent	Percent	Percent
0 to 0.5	0 to 1	20	16.0	14
0.5 to 1	1 to 2	20	16.5	15
1 to 1.5	2 to 3	20	17.5	16
1.5 to 2	3 to 4	20	18.0	17
2 to 4	4 to 8	22	20.0	19
4 to 6	8 to 12	26	23.5	22
6 to 8	12 to 16	30	27.0	25
8 to 10	16 to 20	34	30.5	28
10 to 12	20 to 24	38	34.0	32
12 to 14	24 to 28	43	37.5	36
14 to 16	28 to 32	47	41.0	39
16 to 18	32 to 36	50	44.5	42
18 to 20	36 to 40	53	47.5	45
20 to 22	40 to 44	56	50.5	48
22 to 26	44 to 52	59	53.5	50
26 to 32	52 to 64	62	56.0	53
32 to 38	64 to 76	65	58.8	55
38 to 44	76 to 88	69	61.0	58
44 to 50	88 to 100	72	63.5	60
50 to 60	100 to 120	75	66.0	62
60 to 70	120 to 140	78	68.5	64
70 to 80	140 to 160	81	71.0	66
80 to 90	160 to 180	84	73.5	68
90 to 100	180 to 200	87	75.0	69
100 to 150	200 to 300	89	76.5	70
150 to 200	300 to 400	90	76.5	70
200 and over	400 and over	91	77.0	70

[1] Provides ⅔ of tax cut in 1964.

The rate brackets provided by the House and committee bill differ from those under present law in that what is now the first bracket is divided into four brackets:

Single persons	*Married couples*
$0 to $500	$0 to $1,000
$500 to $1,000	$1,000 to $2,000
$1,000 to $1,500	$2,000 to $3,000
$1,500 to $2,000	$3,000 to $4,000

Splitting this first bracket into four brackets has several advantages. First, it makes it possible to have a lower starting rate than would otherwise be possible, given the same revenue loss. Only splitting this first bracket into four parts makes it possible to provide a 30-percent tax reduction for those with the lowest taxable income, who need the tax cut the most. Second, it makes it possible to provide some progression in the portion of the rate structure where none has been provided before. The significance of this is that over half of the taxpayers presently are subject only to the first bracket rate. As among taxpayers in this major group, the present rate structure provides no differentiation in applicable tax rates.

Table 6 shows the percentage of tax rate reduction provided in each rate bracket for 1965 and subsequent years. This table indicates that the new 14-percent rate represents a 30-percent reduction; the 15-percent rate, a 25-percent cut; and the 16-percent rate, a 20-percent cut. The average reduction in these first four brackets is 22.5 percent. Above this level the percentage reductions, up to a taxable income level of about $50,000 for single persons or $100,000 for married couples, is as nearly a uniform 15-percent rate reduction as practicable for a smooth progression. Above this $50,000 or $100,000 taxable income

level, the rate reductions again gradually increase until the top rate is reached at $200,000 or $400,000 where a 23-percent rate reduction is provided. This rate schedule, therefore, provides a minimum reduction of approximately 15 percent for all tax brackets. In addition, it provides extra reductions in the very lowest tax brackets where the impact of the present taxes is the most heavy. It also provides larger reductions in the very highest bracket where it is quite clear the present rates are too steeply graduated. These rates, which were developed during World War II to assure equality of sacrifice, are no longer appropriate under today's conditions.

TABLE 6.—*Individual income tax rates under present law and under House and committee bill for 1965*

Taxable income bracket (thousands of dollars)		Present law rate	House and committee bill	
Single person	Married (joint)		Rate for 1965 and subsequent years	Percentage reduction from present law rates
		Percent	*Percent*	*Percent*
0 to 0.5	0 to 1	20	14	30 } 22.5
0.5 to 1	1 to 2	20	15	25 } 22.5
1 to 1.5	2 to 3	20	16	20 } 22.5
1.5 to 2	3 to 4	20	17	15 } 22.5
2 to 4	4 to 8	22	19	14
4 to 6	8 to 12	26	22	15
6 to 8	12 to 16	30	25	17
8 to 10	16 to 20	34	28	18
10 to 12	20 to 24	38	32	16
12 to 14	24 to 28	43	36	16
14 to 16	28 to 32	47	39	17
16 to 18	32 to 36	50	42	16
18 to 20	36 to 40	53	45	15
20 to 22	40 to 44	56	48	14
22 to 26	44 to 52	59	50	15
26 to 32	52 to 64	62	53	15
32 to 38	64 to 76	65	55	15
38 to 44	76 to 88	69	58	16
44 to 50	88 to 100	72	60	17
50 to 60	100 to 120	75	62	17
60 to 70	120 to 140	78	64	18
70 to 80	140 to 160	81	66	19
80 to 90	160 to 180	84	68	19
90 to 100	180 to 200	87	69	21
100 to 150	200 to 300	89	70	21
150 to 200	300 to 400	90	70	22
200 and over	400 and over	91	70	23

The rate reductions found in table 6 reflect only the marginal rate reduction, or the rate reduction in each bracket. From the standpoint of the reduction in the total tax burden, however, it is important to realize that all taxpayers benefit from the rate reductions in all of the tax brackets below their top, or marginal, bracket. Thus, every taxpayer receives the benefit of the 30-percent reduction in the first bracket, either on his entire taxable income or on his first $500 or $1,000 of taxable income. Table 7 reflects this accumulative effect of the rate reduction provided by the House and committee bill. This is accomplished by showing for the top of each rate bracket—both for married couples and for single persons—the total tax under present law and under House and committee bill for 1965, together with the decrease, in terms of dollars and also percentages, which this represents in present tax liability. This indicates that on an accumulative basis the large rate reduction in the bottom bracket has an important effect on income up to $8,000 for married couples (or $4,000 for single per-

sons) and is of some significance for income levels up to about $40,000 for married couples (or $20,000 for single persons).

TABLE 7-A.—*Comparison of individual income tax liability under present law and under House and committee bill*

MARRIED COUPLE FILING JOINTLY

Amount of taxable income	Tax		Decrease in tax in House and committee bill	
	Present law	House and committee bill	Amount	Percent
$1,000	$200	$140	$60	30.0
$2,000	400	290	110	27.5
$3,000	600	450	150	25.0
$4,000	800	620	180	22.5
$8,000	1,680	1,380	300	17.9
$12,000	2,720	2,260	460	16.9
$16,000	3,920	3,260	660	16.8
$20,000	5,280	4,380	900	17.0
$24,000	6,800	5,660	1,140	16.8
$28,000	8,520	7,100	1,420	16.7
$32,000	10,400	8,660	1,740	16.7
$36,000	12,400	10,340	2,060	16.6
$40,000	14,520	12,140	2,380	16.4
$44,000	16,760	14,060	2,700	16.1
$52,000	21,480	18,060	3,420	15.9
$64,000	28,920	24,420	4,500	15.6
$76,000	36,720	31,020	5,700	15.5
$88,000	45,000	37,980	7,020	15.6
$100,000	53,640	45,180	8,460	15.8
$120,000	68,640	57,580	11,060	16.1
$140,000	84,240	70,380	13,860	16.5
$160,000	100,440	83,580	16,860	16.8
$180,000	117,240	97,180	20,060	17.1
$200,000	134,640	110,980	23,660	17.6
$300,000	223,640	180,980	42,660	19.1
$400,000	313,640	250,980	62,660	20.0

TABLE 7-B.—*Comparison of individual income tax liability under present law and under House and committee bill*

SINGLE PERSONS

Amount of taxable income	Tax		Decrease in tax in House and committee bill	
	Present law	House and committee bill	Amount	Percent
$500	$100	$70	$30	30.0
$1,000	200	145	55	27.5
$1,500	300	225	75	25.0
$2,000	400	310	90	22.5
$4,000	840	690	150	17.9
$6,000	1,360	1,130	230	16.9
$8,000	1,960	1,630	330	16.8
$10,000	2,640	2,190	450	17.0
$12,000	3,400	2,830	570	16.8
$14,000	4,260	3,550	710	16.7
$16,000	5,200	4,330	870	16.7
$18,000	6,200	5,170	1,030	16.6
$20,000	7,260	6,070	1,190	16.4
$22,000	8,380	7,030	1,350	16.1
$26,000	10,740	9,030	1,710	15.9
$32,000	14,460	12,210	2,250	15.6
$38,000	18,360	15,510	2,850	15.5
$44,000	22,500	18,990	3,510	15.6
$50,000	26,820	22,590	4,230	15.8
$60,000	34,320	28,790	5,530	16.1
$70,000	42,120	35,190	6,930	16.5
$80,000	50,220	41,790	8,430	16.8
$90,000	58,620	48,590	10,030	17.1
$100,000	67,320	55,490	11,830	17.6
$150,000	111,820	90,490	21,330	19.1
$200,000	156,820	125,490	31,330	20.0

Table 8 shows the distribution by adjusted gross income classes (as distinguished from taxable income classes) of both the rate and structural changes provided by the bill when these changes are fully effective. This table also shows the number of taxable returns and tax liability under present law (not including the alternative tax on capital gains), together with the tax liability which will remain when the rate reductions and other changes provided by this bill are fully effective. The table further shows the percentage distribution of the rate, structural, and total changes made by this bill (expressed as a percentage of present tax liability by income class). This indicates that the rate changes on the average represent a 20-percent reduction. The percentage reductions vary within the various income classes from 17 percent for adjusted gross income above $10,000 up to 27.6 percent for incomes below $3,000. Taking the structural changes into account, the overall reduction averages 19.7 percent under your committee's bill and 18.8 percent under the House bill. The reductions under your committee's bill range from 13.5 percent for those with incomes over $50,000 to 38.6 percent for those with incomes under $3,000. Under the House bill this range was from 12.6 to 38.3 percent.

TABLE 8.—*Revenue bill of 1964—Distribution by adjusted gross income class of the full year effect of all tax changes*[1] *made by your committee's bill which directly affect individuals*

Adjusted gross income class (thousands of dollars)	Number of taxable returns (millions)	Tax liability under present law[2]	Effect of revenue bill of 1964			Total tax under revenue bill of 1964
			Rate change	Structural changes	Total	
		In millions of dollars				
0 to 3	9.7	1,450	−400	−160	−560	890
3 to 5	10.5	4,030	−1,020	−80	−1,100	2,930
5 to 10	22.9	18,300	−3,905	+85	−3,820	14,480
10 to 20	6.7	12,710	−2,285	+90	−2,195	10,515
20 to 50	1.0	6,760	−1,150	+70	−1,080	5,680
50 and over	.2	4,170	−710	+145	−565	3,605
Total	51.0	47,420	−9,470	+150	−9,320	38,100
		Percent distribution by income class				
0 to 3	19.0	3.1	4.2	−106.7	6.0	2.3
3 to 5	20.6	8.5	10.8	−53.3	11.8	7.7
5 to 10	44.9	38.6	41.2	+56.7	41.0	38.0
10 to 20	13.1	26.8	24.1	+60.0	23.6	27.6
20 to 50	2.0	14.3	12.1	+46.7	11.6	14.9
50 and over	.4	8.8	7.5	+96.7	6.1	9.5
Total	100.0	100.0	100.0	100.0	100.0	100.0
		Percent of tax liability under present law				
0 to 3		100.0	−27.6	−11.0	−38.6	61.4
3 to 5		100.0	−25.3	−2.0	−27.3	72.7
5 to 10		100.0	−21.3	+.5	−20.9	79.1
10 to 20		100.0	−18.0	+.7	−17.3	82.7
20 to 50		100.0	−17.0	+1.0	−16.0	84.0
50 and over		100.0	−17.0	+3.5	−13.5	86.5
Total		100.0	−20.0	+.3	−19.7	80.3

[1] Excluding effect of capital gains provisions and repeal of the requirement to reduce basis by amount of investment credit.
[2] Excludes alternative tax on capital gains.

The tax rate reductions described above take effect as of January 1, 1964, and January 1, 1965. For taxpayers with fiscal years falling partially in either the calendar year 1963 or the calendar year 1964, the bill provides for the proration of the rates applicable in the 2 years involved, according to the number of days in the fiscal year in question which falls in each calendar year.

The tax rate changes provided for individuals by this bill are expected to decrease tax liabilities in the calendar year 1964 by $6.3 billion and in the calendar year 1965 by $9.5 billion. The latter reduction is cumulative and includes the reduction of $6.3 billion for the calendar year 1964.

2. Minimum standard deduction (sec. 112 of the bill and sec. 141 of the code)

(*a*) *Present law.*—Under present law, single taxpayers who take the standard deduction, if they have no dependents, become taxable on income above $667. This represents a standard deduction of 10 percent ($67) plus the personal exemption ($600). For a married couple filing a joint return under present law, income becomes taxable above $1,333. This represents a 10-percent standard deduction ($133) plus two $600 exemptions. Similarly, a married couple with one child becomes taxable on income above $2,000 (a standard deduction of $200 plus three $600 exemptions).

(*b*) *General reasons for proposal.*—In addition to the rate reductions described above, the House and your committee concluded that it was desirable to remove from the tax rolls those persons with minimum incomes and also to provide those with incomes just slightly above these levels a somewhat larger tax reduction than is made available generally through the rate cuts.

The minimum standard deduction that the House and your committee have adopted, and which is described below, removes 1.5 million taxpayers, with very low incomes, from the tax rolls entirely.

The tax relief provided under this provision is almost entirely concentrated in the adjusted gross income classes of $5,000 or less, with much of it concentrated in income levels below $3,000. The total revenue loss anticipated from the minimum standard deduction of $320 million, for example, is distributed as follows:

Adjusted gross income class (thousands of dollars)	Change in tax liability from minimum standard deduction (millions of dollars)	Percentage change in present tax liability
0 to 3	−170	−11.7
3 to 5	−100	−2.5
5 to 10	−50	−.3
10 and over	0	0
Total	−320	−.7

The minimum standard deduction relieves persons at or near the subsistence level of much or all of their tax liability. In this respect the provision is much more economical than a personal exemption increase. The minimum standard deduction in the bill provides a floor of $300 above his exemption for a single person, a floor of $400

above exemptions for a married couple, and one of $600 above exemptions for a married couple with two children. Yet an increase in exemptions of only $100 would cost $2.6 billion, and one of $200 would cost $5 billion in lieu of the $320 million cost entailed in the minimum standard deduction.

(c) *General explanation of proposal.*—The bill provides that taxpayers who use the standard deduction may use either the regular 10-percent deduction or a minimum standard deduction, whichever is the larger. The minimum standard deduction in effect is $300 for the first exemption and $100 for each additional exemption. In the case of a married person filing a separate return, however, the minimum standard deduction is $200 for the first exemption and $100 for each additional exemption.[1] As under present law, the standard deduction, whether a "10-percent" deduction or a "minimum" deduction, may not exceed $1,000 (or $500 in the case of a married person filing a separate return).

Under the bill, a single person would be allowed a minimum standard deduction of $300 which, together with the personal exemption of $600, would mean that he would have no tax to pay until his income exceeded $900. Similarly, a married couple with no children would be allowed a minimum standard deduction of $400 ($300 for the first exemption, plus $100 for the second exemption). As a result, the married couple would pay tax on income only in excess of $1,600. A head of a household with one dependent also would be subject to tax only on income above $1,600, since the minimum standard deduction in this case also would be $300, plus $100 for the dependent. A married couple, both over age 65, would receive a minimum standard deduction of $600; i.e., $300 with respect to the first exemption, and $100 with respect to the three additional exemptions. This together with their four exemptions would mean they would pay no tax on the first $3,000 of income. This would also be true of blind persons with double exemptions.

The income levels under present law and under the bill at, or below, which there would be no tax, are as follows:

Status of taxpayer	Present law with 10-percent standard deduction	Minimum standard deduction provided by bill
Single person	[1] $667	$900
Married couple, no dependents or head of household, 1 dependent	[1] 1,333	1,600
Married couple, 1 dependent or head of household, 2 dependents	[1] 2,000	2,300
Married couple, 2 dependents or head of household, 3 dependents	[1] 2,667	3,000
Married couple, 3 dependents or head of household, 4 dependents	[1] 3,333	3,700
Married couple, 4 dependents or head of household, 5 dependents	[1] 4,000	4,400
Married couple, 5 dependents or head of household, 6 dependents	[1] 4,667	5,100
Married couple, 6 dependents or head of household, 7 dependents	5,333	5,800

[1] The amounts shown above assume that the income level under existing law is reached at exactly the level which would apply if a uniform 10 percent standard deduction were used. However, under present law for taxpayers with income below $5,000, a tax table with brackets is substituted for the uniform 10 percent. This modifies slightly all of the figures noted above. The income levels in these cases according to the tax table are $674, $1,324, $1,999, $2,674, $3,349, $3,999, and $4,649 respectively.

[1] In the case of married couples, where one takes the 10-percent standard deduction, rather than the minimum standard deduction, the other spouse must also take the 10-percent standard deduction. However, both may, if they so desire, elect to take the minimum standard deduction, which, as indicated above, is $200 for the 1st exemption and $100 for each additional exemption in the case of married persons filing separate returns.

Under the bill, taxpayers have the right to change their election with respect to the minimum standard deduction at any time within the period in which they can amend their tax return, that is, generally within the period ending 3 years after the due date filing for a given return.

(c)(i) *Effective date.*—Generally, the minimum standard deduction applies to taxable years ending after December 31, 1963. However, for taxpayers with fiscal years straddling this date, the bill provides for a portion of the benefits of the minimum standard deduction in the same way as rate reductions, in accordance with the number of days before and after December 31, 1963, in such years.

(d) *Revenue effect.*—The minimum standard deduction provided by this bill is expected to reduce revenues in a full year of operation by $320 million.

3. Amendments related to individual income tax rate reductions (sec. 113 of the bill and secs. 37 and 871 of the code)

(a) *Retirement income credit.*—Present law provides a tax credit on retirement for passive investment or pension income received by persons generally over age 65. However, the income taken into account for this credit must be reduced for tax exempt social security or railroad retirement income, and for those under age 72 for income derived from work above a specified income level. In computing the credit, present law provides that the income eligible for the credit is to be multiplied by the "rate provided in section 1 for the first $2,000 of taxable income." Under present law, this rate is 20 percent. Under both the House and committee bill, however, since this bracket has been split into four brackets, there are four rates ranging from 14 to 17 percent, applicable to different segments of this first $2,000 of taxable income.

The bill provides that the rate of tax to be used in computing this credit in the future is to be 15 percent. This is as near the middle of the four rates applicable to the first $2,000 of income as is possible, without the use of fractional rates.

(b) *Tax on nonresident aliens.*—Under present law, nonresident aliens receiving income from sources within the United States, such as interest, dividends, rents, salaries, wages, etc., are taxed on this income at a flat 30-percent rate (unless applicable tax treaties provide some other rates). However, present law also provides that if the nonresident alien receives more than $15,400 from the specified sources within the United States, then the regular individual income tax will apply with respect to the nonresident aliens' income from sources within the United States (if this results in a higher tax than the flat rate 30-percent tax).

The income level of $15,400 in present law is the point at which a 30-percent flat tax rate with one exemption would be likely to approximate the regular income tax rate with exemptions and with progressive rates. Because of the rate reductions provided by the bill, this income level of approximate equality rises, and has been established in the bill at $21,200.

4. Corporate rate reductions (sec. 121 of the bill and sec. 11 of the code)

Under present law, the total, or combined, corporate income tax rate is 52 percent. It consists of a 30-percent normal tax rate, applying to all corporate income, and a 22-percent surtax rate applying to corporate income in excess of $25,000. Thus, corporations are

taxed at a 30-percent rate on the first $25,000 of their taxable income and at a 52-percent rate on their taxable income above that level.

The House and committee bill makes two basic changes in the rate structure provided by present law. First, it lowers the overall rate from 52 to 50 percent for 1964, and to 48 percent for 1965 and subsequent years. Second, it "reverses" the normal and surtax rate in order to provide greater relief for small business. Thus, it provides that the normal tax rate is to be 22 percent instead of 30 percent for 1964 and subsequent years. The surtax rate then, for 1964, is to be 28 percent, and for 1965 and subsequent years, 26 percent. Thus, the bill provides a tax rate of 22 percent (in place of 30 percent) on the first $25,000 of a corporation's taxable income for both 1964 and subsequent years and a tax rate of 50 percent in 1964 and 48 percent in 1965 and subsequent years for the portion of a corporation's income over $25,000 (in lieu of the present 52-percent rate).

This reduction in corporate rates is important because it reverses the trend toward higher and higher corporate rates and also because it again makes the Government a "junior," rather than "senior," partner in any venture a corporation may undertake, insofar as the sharing of corporate income before tax is concerned. This tax rate reduction should be an important factor in improving the rate of profitability for corporations and, therefore, should provide an incentive for business investment and economic modernization and growth. It should also aid corporations in the export market in competing with corporations in other countries, where the corporate rates may not be as high as in the United States.

This tax cut for corporations, when fully effective, will amount to $2.2 billion a year. It should, of course, be viewed in connection with the reduction provided by Congress in 1962 in the form of an investment credit and the reform provided in 1962 in the depreciation guidelines. These taken together provide corporations with a tax reduction of approximately $4½ billion.

The "reversal" of the corporate rates should be a substantial benefit to small business. The substitution of a 22-percent rate for the 30-percent rate represents a rate reduction of nearly 27 percent on the first $25,000 of income, as contrasted to the rate reduction for income above $25,000 of slightly less than 8 percent. Moreover, as indicated in table 9, the benefit of this rate reduction on the first $25,000 of income is appreciable for income levels up to $100,000.

TABLE 9.—*Revenue effect* [1]

Surtax net income class (dollars)	Number of taxable corporations	Computed tax liability, present rates [2] (million)	Normal tax to 22 percent and combined rate to 48 percent	
			Amount of reduction (million)	Percent reduction
0 to 25,000	467,500	$874	$233	26.7
25,000 to 50,000	54,000	636	126	19.8
50,000 to 100,000	25,000	759	94	12.4
100,000 to 1,000,000	25,500	3,427	299	8.7
1,000,000 and over	4,000	18,664	1,438	7.7
Total	576,000	24,360	2,190	9.0

[1] At 1963 levels of income.
[2] Excluding capital gains presently taxed at the alternative rate.

Your committee agrees with the House that it is important to provide a greater rate reduction for small businesses because of their importance in maintaining competitive prices in our economy, and also because of the greater difficulty small businesses have in finding outside funds to finance their expansion. As a result, they have traditionally found it necessary to expand largely out of income remaining after tax.

The rate reductions provided by the House and your committee for corporations apply to taxable years beginning after December 31, 1963, in the case of the reversal of the normal and surtax rates and also in the case of the reduction of the general rate to 50 percent. The reduction in the corporate rate from 50 to 48 percent applies to taxable years beginning after December 31, 1964. For fiscal year taxpayers, with years straddling either of these two dates, the bill provides that the reductions are to be prorated in accordance with the portion of the corporate year occurring after December 31, 1963, or after December 31, 1964.

The decrease of corporate rate from 52 to 50 percent in the calendar year 1964, and the reversal of the normal and surtax rates, is expected to decrease corporate tax liabilities for that year by $1.3 billion. The reduction in corporate tax liabilities for the calendar year 1965 and subsequent years (when the corporate rate will be further reduced to 48 percent) is expected to amount to $2.2 billion. This estimate is cumulative and includes the $1.3 billion loss referred to with respect to 1964 corporate tax liabilities.

5. Current tax payments by corporations (sec. 122 of the bill and secs. 6074 and 6154 of the code)

(*a*) *Present law.*—Under present law a calendar year corporation is required to pay 25 percent of its estimated tax in excess of $100,000 in the third quarter of the year in which the tax liability actually arises, or on September 15. Another one-fourth of this estimated tax is paid in the fourth quarter of the year of liability, or on December 15. The remainder of the tax is paid in two equal installments in the following year, the first installment being due at the same time as the tax return for that year, or on March 15, and the second and final installment being due on June 15. Comparable dates are provided for fiscal year corporations.

This system of paying two quarterly installments with respect to tax liability in excess of $100,000 in the same year in which the liability arises, was initially provided at the time of the adoption of the Internal Revenue Code of 1954. Before that time Congress had, in 1950, provided, in the case of calendar year corporations, that the tax was to be paid in two installments of 50 percent each on March 15 at the time for filing the return and on the following June 15, both of these payment dates being in the year immediately following the year in which the tax liability arose. (Comparable dates were provided for fiscal year corporations.) Prior to 1950, corporate taxes were payable in four installments of 25 percent each, the first two for calendar year corporations being on the dates specified above, and the last two on the following September 15 and December 15—both dates being in the year following the year in which the tax liability arose.

(*b*) *General reasons for provisions.*—As indicated above, corporations presently are only on a partial pay-as-you-go basis. Individuals, on

the other hand, either through withholding or through declarations, are on a full pay-as-you-go basis. Both the House and your committee, with respect to tax liability in excess of $100,000, place corporations on essentially the same pay-as-you-go basis as is already true in the case of individuals. This is to be accomplished gradually over a 7-year period. With the corporate rate reduction also provided by this bill, spreading the acceleration in corporate payments over this 7-year period can be accomplished without raising any corporation's income tax payment above its tax for 1963 (assuming the same income level throughout).

At the present time, the larger corporations appear to have sufficient funds to meet their investment requirements. In fact, many of the larger corporations customarily fund their tax liabilities by investing currently in Treasury tax notes or other types of short-term debt. Moreover, the cash and other liquid assets of corporations in 1962 amounted to $68.5 billion, or some five times the aggregate tax liability of these corporations. In any event, since in each year the acceleration in payments is offset or more than offset by the tax reduction, the speedup of corporate payments will not decrease internal funds available at the corporate level for investment. At the same time, the reduction in the rate of corporate tax will increase the profitability of investments, thus encouraging further expansion.

Since the acceleration of the corporate payments has no effect if tax liabilities are $100,000 or less, the smaller corporations which, in many cases, may have a shortage of internal funds available for investment, will not be affected by this provision. Such corporations will have additional funds available for investment through the general 4 percentage point corporate rate cut, and more especially through the 8 percentage point reduction in the tax applying to the first $25,000 of income.

(*c*) *General explanation of provision.*—Over the 7-year period, 1964 through 1970, the House and the committee bill, in effect, provides, in the case of calendar year corporations, that the two installment payments due on March 15 and June 15 of the year following the year of liability are to be advanced to April 15 and June 15 of the year of liability, leaving the September 15 and December 15 installment payments of 25 percent still due at the same time as under present law. (A comparable advance is made for fiscal year corporations.) Any liability, to the extent that it is not paid by estimated tax payments (for example, does not exceed $100,000), will still be payable in two installments after the close of the year of liability, on March 15 and June 15, in the same manner as under present law. The following tabulation shows the change in the percentage payment dates from present law to the system set forth in the bill when it is fully effective in 1970 and subsequent years:

	Percentage payments	
	Present law	Under bill when fully effective in 1970
Payments in year of liability:		
Apr. 15	0	25
June 15	0	25
Sept. 15	25	25
Dec. 15	25	25
Payments in year following year of liability:		
Mar. 15	25	(1)
June 15	25	(1)

[1] Payments will still be due on these 2 dates with respect to tax liability on the 1st $100,000 of tax and on any amount of underestimates.

The advance in corporate payments described above is achieved under the bill over a 7-year period, commencing in 1964, with respect to tax liabilities arising in that year. For corporations with tax liabilities in excess of $100,000, the bill requires that they make first and second quarterly current payments of 1964 tax in excess of $100,000 of 1 percent in April and June of 1964 (assuming they are calendar year corporations), with these quarterly percentages increasing to 4 percent in 1965, 9 percent in 1966, 14 percent in 1967, 19 percent in 1968, 22 percent in 1969, and then 25 percent in 1970 and subsequent years. These percentages apply only with respect to the portion of the corporations' tax liabilities which exceed $100,000. This gradual shift of the corporate tax payments, with respect to tax liability above $100,000, can perhaps best be seen by the following tabulation.

	Percent of estimated tax to be paid on the 15th day of the—				Percent of tax to be paid on the 15th day of—	
	4th month	6th month	9th month	12th month	3d month	6th month
	of the year of liability				of the year following the year of liability	
1964	1	1	25	25	24	24
1965	4	4	25	25	21	21
1966	9	9	25	25	16	16
1967	14	14	25	25	11	11
1968	19	19	25	25	6	6
1969	22	22	25	25	3	3
1970 and any subsequent year	25	25	25	25	(1)	(1)

[1] Payments will still be due on these 2 dates with respect to tax liability on the 1st $100,000 of tax and on any amount of underestimates.

The percentages of the tax liabilities to be accelerated for each of the years 1964 through 1970 were selected so that the speedup in corporate payments would not exceed the reduction in tax liabilities provided by the bill. The effect of the speedup on corporate tax liabilities for a calendar year corporation having a $10 million tax liability is shown in table 10. As indicated by this table, the combined effect of the rate reduction with the acceleration of corporate payments in all years results in a net reduction in tax payments, even for a corporation with a taxable income of $10 million. Corporations with smaller incomes would fare still more favorably in this respect.

The present provisions exempting corporations from any additional charges for failure to comply with the provisions of the declarations of estimated tax are continued as under present law. Present law provides an additional charge equal to 6 percent per annum for underpayments only if the estimated tax payments fail to come under one of the following four categories:

(1) they amount to 70 percent of the tax shown on the final return after subtracting $100,000 and allowing credits;

(2) they amount to as much as the previous year's tax reduced by $100,000;

(3) they are equal to what last year's tax (less $100,000 and allowable credits) would have been had current rates been applicable to that year's income; or

(4) the installment with respect to the declaration for any quarter is equal to 70 percent of the tax (less $100,000 and allowable credits) due on the basis of the income received to date, placed on an annual basis.

TABLE 10.—*Example of the combined effect on a calendar year corporation of current tax payments and the tax rate reductions provided by the bill (corporation assumed to have $10 million of taxable income and to base its estimates on 75 percent of this income* [1]*)*

Calendar year	Corporation payments		Calendar year	Corporation payments	
	Dollars	Percent of 1963		Dollars	Percent of 1963
1963	5,194,500	100.0	1968	5,145,513	99.1
1964	5,192,332	99.9	1969	5,004,707	96.3
1965	5,126,402	98.7	1970	5,004,707	96.3
1966	5,145,512	99.1	1971	4,793,500	92.3
1967	5,145,513	99.1			

[1] Your committee's bill provides for (1) a reduction of the normal tax rate to 22 percent in 1964; of surtax rate of 28 percent in 1964 and 26 percent in 1965; and (2) 1st and 2d quarter current payments in 1964 and 6 succeeding years of 1, 4, 9, 14, 19, 22, and 25 percent.

(*c*)(*i*) *Effective date.*—The changes described above with respect to the acceleration of corporate tax payments start in taxable years beginning after December 31, 1963, and will become fully effective for taxable years beginning after December 31, 1969.

(*d*) *Revenue effects.*—It has been estimated that this proposal will increase revenues in the fiscal year 1964 by $260 million and in the fiscal year 1965 by $900 million.

IV. GENERAL EXPLANATION

B. STRUCTURAL CHANGES

1. Dividend credit and exclusion (sec. 201 of the bill [1] *and secs. 34 and 116 of the code)*

(*a*) *Present law.*—Under present law, individuals are allowed to exclude from their tax base the first $50 of dividend income. If a husband and wife each have dividend income (or if they have such income jointly), the exclusion claimed on a joint return may amount to as much as $100 of dividend income. In addition, under present law, a credit of 4 percent is allowed against tax for any dividends

[1] The parenthetical references to the bill are to the bill as amended by your committee.

remaining after the $50 or $100 exclusion. This credit may not, however, exceed 4 percent of taxable income.[2]

(*b*) *General reasons for provision.*—In 1954 when the present dividend credit and exclusions were adopted, the committee report indicated that these relief measures were provided because the earnings of a corporation are taxed twice, once as corporate income and again as dividend income when paid out to the shareholders. It was stated that in addition to this being a double tax on this type of income, it also was a deterrent to investment in corporations. The report in 1954 partcularly stressed the effect of the penalty of double taxation in channeling investments in the form of indebtedness rather than equity capital or stock.

In fact, the reduction in the corporate rate by 4 percentage points provided by this bill probably does as much to remove any double taxation involved with respect to corporate distributions as would the continuance of the present 4 percent dividend credit. Moreover, from the standpoint of making funds available for investment in corporate enterprises, this reduction in tax with respect to retained earnings can be expected to have a more important impact on corporate investment than any reduction directed solely toward corporate income which is distributed. This greater encouragement for corporate investment has been provided not only by the corporate rate cut in this bill, but also by the investment credit allowed with respect to business investment in the Revenue Act of 1962. The House and your committee's action in this bill, in making this investment credit available without reduction in the depreciation base, provides still further inducements for business investment.

In addition, the notion that the dividend credit would encourage equity financing does not seem to be borne out by the events which have occurred since 1954. The Secretary of the Treasury has pointed out that the ratio of equity to debt financing by corporations has not increased despite the presence of the 4-percent credit.

The form of the present dividend credit, in any event, is undesirable since it reduces any double taxation by a much larger percentage for the higher income bracket stockholders than it does for those in the lower bracket. Information presented by the Secretary of the Treasury indicated that the dividend credit, even combined with the present exclusion, reduces the extra burden of double taxation by 10.4 percent in the highest income bracket, while reducing it by only 4.3 percent for those subject to the first bracket rate.

In view of these considerations, your committee agreed with the House that it would be better to concentrate relief from any double taxation which it is possible to provide in a dividend exclusion rather than in a dividend credit. The dividend exclusion, in the area operative, completely removes any double taxation. Moreover, increasing the exclusion, as the bill provides, will tend to encourage a broader stock ownership among those with relatively low income. At the same time, the repeal of the credit removes the discrimination in present law in favor of high bracket shareholders. Furthermore, removing the credit even though doubling the exemption available has the effect of raising $300 million of revenue in the calendar year

[2] The dividend exclusion and credit are not allowed for dividends received from foreign corporations, China Trade Act corporations, exempt corporations, corporations deriving most of their income from U.S. possessions, real estate investment trusts, life insurance dividends, dividends from mutual savings banks, domestic building and loan associations, etc., and capital gains dividends from regulated investment companies.

1965 and subsequent years, which in the bill is devoted to further individual income tax rate reductions than would otherwise be possible.

(*c*) *General explanation of provision.*—In view of the considerations referred to above, the bill, both as passed by the House and as approved by your committee, decreases from 4 to 2 percent the credit against tax allowed for dividends received during the calendar year 1964. With respect to dividends received in 1965 and subsequent years, the credit is repealed altogether. Consistent with the treatment provided when the tax credit was 4 percent of the dividend income, the dividend credit allowable during the calendar year 1964 is to be limited to 2 percent of taxable income received by an individual during that year.

The bill provides that with respect to dividends received in the calendar year 1964 and subsequent years the maximum exclusion per individual with respect to dividends received from a domestic corporation is to be $100, in lieu of the $50 available at the present time. In the case of married couples, where each owns stock separately or where stock is owned jointly and joint returns are filed, the maximum exclusion will be $200 in place of the $100 applicable under present law.

(*c*)(*i*) *Effective date.*—As indicated above, the dividend credit is reduced from 4 percent to 2 percent with respect to dividends received in the calendar year 1964 and is repealed with respect to dividends received in 1965 and subsequent years. The dividend exclusion is doubled with respect to amounts received in the calendar year 1964 and subsequent years.

(*d*) *Revenue effect.*—The combined effect of the reduction and then repeal of the credit and the increase of the exclusion is expected to increase tax liabilities by about $120 million for the calendar year 1964 and by $300 million in the calendar year 1965 and subsequent years when the repeal of the credit becomes fully effective.

2. Limitation on retirement income (sec. 202 of the bill and sec. 37 of the code)

(*a*) *Present law.*—Present law provides a retirement income credit which in general terms is designed to provide a credit against tax for those making provision for their retirement other than through social security, or railroad retirement or other tax-exempt income, and it is intended that this credit be approximately equal in value to the exclusions provided in the case of social security, etc. Thus, the maximum amount of income with respect to which a retirement income credit may be taken is geared to the maximum social security payment. Moreover, the credit is based upon the amount of pension or investment income of the individual involved, on the general principle that this represents the retirement base built up by those not covered by social security, etc. (or not covered to any appreciable extent). For the same reasons, the amount of income upon which the credit is based is reduced for any tax-exempt social security, railroad retirement, or other similar income received by the individual.

In addition, what amounts to a "work clause" applies to the retirement income credit to make it comparable to social security payments which also are reduced for earned income received by the individual above a specified level. The reduction for earned income in the case of the retirement income credit generally is a reduction of 50 percent for any earned income above $1,200 but not above $1,700, and a 100 percent reduction for any earned income above $1,700.

Social security and the retirement income credit also are correlated in the earnings requirement. To be covered for social security tax purposes, an individual generally must have a minimum coverage of 40 quarters or 10 years, assuming he has been in covered employment for a sufficient period of time. On the same basis, the retirement income credit provides that an individual to be eligible for the retirement income credit must have had 10 years of prior earnings experience, in each year of which he earned in excess of $600. For this requirement a widow or widower may use the earnings experience of the deceased spouse in much the same way as is provided in the case of social security benefits.

(*b*) *General reasons for provision.*—The attention of your committee was called to the fact that in one respect the retirement income credit is not coordinated with the social security program. Under the old age and survivors insurance program, if a husband has the appropriate 40 quarters of coverage but the wife does not, nevertheless, the payment may be made not only with respect to the husband directly but also a supplementary payment of one-half the size of the payment going to the husband may also be made with respect to the wife. The retirement income credit, on the other hand, contains no supplementary payment with respect to a spouse where that individual does not have the requisite prior 10 years' earnings experience. To provide a retirement income credit of one-half the size of that going to the primary wage earner in the family in such a case is the purpose of the amendment added by your committee.

(*c*) *General explanation of provision.*—Your committee has added a new subsection to the existing retirement income credit provision to provide that where the husband and wife have both attained the age of 65 before the close of the year, the maximum income on which the credit may be based is to be increased above the present ceiling of $1,524 by $762, or one-half of the present maximum. This is designed as the equivalent of the supplementary benefit going to a wife under the old age and survivors insurance program.

Where only one spouse has the requisite 10 years' prior earnings experience and receives an increase in his retirement income of $762, this amount is to be reduced by any social security, railroad retirement, or other tax-exempt pension income received by the spouse without the prior earnings experience. In addition, this $762 is to be decreased by any earned income this spouse is currently receiving in excess of $1,200 (on a 50-percent basis with respect to income between $1,200 and $1,700) assuming this spouse has not reached the age of 72.

If one spouse does not have 10 years' prior earnings experience, then the maximum base retirement income of the other spouse is increased by the full $762 (with certain reductions referred to later). On the other hand, if both husband and wife have the requisite 10 years' prior earnings experience and if one of them has less than $762 of retirement income, then the maximum of $1,524 with respect to the other spouse is to be increased to the extent that the retirement income of the other spouse is less than $762. Computations, similar to the reductions referred to above where only one spouse has the ten years prior earnings experience, are required here with respect to tax-exempt income and earnings above the specified levels.

It should be noted that increasing a spouse's maximum allowable retirement income by the $762, or any part of this amount, does

not of necessity mean a larger retirement income credit. Whether he can receive a larger retirement income credit in such a case depends upon whether or not he receives sufficient qualifying investment and/or pension income to reach this new ceiling level, which may be as high as $2,286. The credit allowable is 15 percent of this amount.

(*c*)(*i*) *Effective date.*—This increase in the retirement income credit applies to taxable years beginning after December 31, 1963.

(*d*) *Revenue effect.*—It is anticipated that this will result in an annual revenue loss of $10 million a year.

3. Investment credit: Repeal of provision reducing basis of property by 7 percent and other amendments (sec. 203 of the bill and secs. 48 and 1245 of the code)

(*a*) *Present law.*—Last year in enacting an investment credit, Congress in general allowed a credit equal to 7 percent of certain types of investment (3 percent in effect in the case of most public utilities). This amount may be offset in full against tax liability up to $25,000 and against one-quarter of the tax liability above this level. Property with an estimated useful life of 8 years or more is fully taken into account in computing this credit, property with an estimated life from 6 to 8 years is taken into account at two-thirds of its cost, while property with an estimated life from 4 years up to 6 years is taken into account at one-third of its cost. The credit for the most part is limited to purchases of tangible personal property. As a result, machinery and equipment are the principal types of investment eligible for the credit.

As finally enacted in the Revenue Act of 1962, it was further provided that the base on which depreciation may be taken in the case of assets eligible for the investment credit was to be reduced by the amount of the credit. Thus, for example, where a taxpayer purchased a $100 asset and $7 of this purchase price was allowed as an investment credit, the basis on which depreciation could be computed with respect to the asset was decreased from $100 to $93.

(*b*) *General reasons for provisions.*—Although the investment credit enacted last year appears to have been successful in stimulating investment, several problems have arisen with respect to this credit which are dealt with in this bill.

First and most important of the changes made is the repeal of the requirement that the basis of property eligible for the investment credit be reduced by 7 percent of the qualified investment. This provision requires that if property costing $100 and eligible for an investment credit of $7 was acquired, the basis of this property for purposes of depreciation (or gain or loss on sale) was to be reduced from $100 to $93.

This provision has proved troublesome to taxpayers since it requires a downward basis adjustment with respect to eligible property, whether or not an investment credit is claimed for the property. Moreover, making this adjustment has presented recordkeeping problems for taxpayers, especially in the case of early retirements, and also severely complicated the statutory language of the investment credit provision.

In addition, this basis adjustment for property severely restricted the incentive effect of the investment credit. In effect, this amendment converted the 7-percent credit into a 3½-percent credit for corporations, plus a 7-percent initial depreciation allowance. This

result occurs because the decrease in basis of the asset which may be written off means that the equivalent of approximately one-half of the investment credit is recouped over the life of the asset in substantially the same manner as an initial depreciation allowance. This effect substantially reduces the incentive effect of the credit, since it means that approximately half of the benefits must be restored over the useful life of the asset. In effect, this transforms one-half of the credit into an interest-free loan.

To remove the recordkeeping and accounting problems which have arisen in connection with the basis adjustment provision and also to provide a greater stimulus with respect to the investment credit, the bill, both as passed by the House and as reported by your committee, repeals this basis adjustment provision. It also provides a means whereby over a period of time taxpayers may recoup their basis adjustments already made.

A second problem presented with respect to the investment credit arises in determining the amount of the credit in certain situations in the case of leased property. Under present law a lessor may pass on the benefits of any investment credit with respect to his purchases or other acquisitions to the lessee of the property. This was provided on the grounds that it was the lessee in such cases who was creating the additional market for investment. The existing provision in this respect provides that the amount of the investment credit, if the property is constructed by the lessor, is to be the appropriate percentage of the "fair market value" of the property. However, in all other cases involving leases the investment credit is to be the appropriate percentage of the basis of the property to the lessor. In practice, this has discriminated in favor of manufacturers of equipment relative to independent distributors. Thus, in the case of equipment leased by the manufacturer having a fair market value of $1,000 the investment credit passed through to the lessee in this case will be 7 percent of $1,000 or $70. However, if the same equipment is purchased from the manufacturer by an independent distributor at a dealer's discount of perhaps 25 percent, the basis of the property to the dealer would be $750. Thus, he could pass on an investment credit of only $52.50 instead of the $70. As a result, it is more advantageous for customers to lease the property directly from manufacturers, rather than from independent distributors. Both the House and your committee's version of the bill removes this discrimination by basing the credit in both cases upon the fair market value of the property.

A third problem arises with respect to the treatment of escalators and elevators in the case of the investment credit. Among the categories of property not eligible for the investment credit are buildings and their structural components. Your committee's report indicated that the term "structural components" of a building included such parts of a building as central air conditioning and heating systems, plumbing and electric wiring and lighting fixtures relating to the operation and maintenance of the building. The proposed regulations issued by the Treasury Department with respect to the term "structural components" provide an extensive list of the type of items considered to be structural components and therefore not eligible for the investment credit. Among these items are escalators and elevators. While these regulations are an accurate interpretation of the intention of Congress last year in this respect, nevertheless your committee

agrees with the House that it is appropriate to reconsider the treatment of escalators and elevators for purposes of the investment credit. Escalators and elevators are closely akin to assets "accessory to the operation" of a business which presently are eligible for the investment credit. These assets include machinery, printing presses, transportation or office equipment, refrigerators, individual air-conditioning units, grocery counters, etc. In addition, new elevator and escalator equipment represents an important aspect of modernization of plant and facilities.

For the reasons cited above, the bill provides that new elevators and escalators installed after June 30, 1963, and modernization of existing elevators after that date should be eligible for the investment credit. This, of course, also means that elevators and escalators will be treated as coming under the recapture provision enacted in 1962. This in general provides that depreciation deductions taken with respect to such equipment in the future are to give rise to ordinary income to the extent of any gain recognized on the sale of such property.

A fourth modification in the investment credit relates to the treatment of the credit by regulatory bodies. Both the House and Senate committee reports on the investment credit, as well as the statement of the managers on the part of the House with respect to the conference (and the floor statement on the Senate with respect to the conference report) state that the purpose of the investment credit was to stimulate investment by reducing the net cost of acquiring depreciable assets. This is shown by the following quotations. First, in the report of the Committee on Ways and Means of the House on that bill:

> The investment credit will stimulate investments because—as a direct offset against the tax otherwise payable—it will reduce the cost of acquiring depreciable assets. This reduced cost will stimulate additional investment as it increases the expected return from their use. The investment credit will also encourage investment because it increases the funds available for investment. * * *

In the report of your committee on that bill it was stated:

> The investment credit will stimulate investment, first by reducing the net cost of acquiring depreciable assets, which in turn increases the rate of return after taxes arising from their acquisition. * * *
>
> The objective of the credit is to reduce the net cost of acquiring new equipment; this will have the effect of increasing the earnings of new facilities over their productive lives and increasing the profitability of productive investment. It is your committee's intent that the financial assistance represented by the credit should itself be used for new investment, thereby further advancing the economy.

Again, in the statement of the managers on the part of the House with respect to the conference committee, and also in the floor statement of the manager of the bill in the Senate, it was stated:

> It is the understanding of the conferees on the part of both the House and Senate that the purpose of the credit for investment in certain depreciable property, in the case of both regulated and nonregulated industries, is to encourage mod-

ernization and expansion of the Nation's productive facilities and to improve its economic potential by reducing the net cost of acquiring new equipment, thereby increasing the earnings of new facilities over their productive lives.

Despite the statements cited above, the Federal Communications Commission has indicated that it is its policy that any benefits from the investment credit made available by the Revenue Act of 1962 should "flow through" immediately to the customers. In addition, the staff of the Federal Power Commission has recommended the same position. This is clearly contrary to the intent of Congress in enacting this provision and as a result this bill contains a provision to the effect that it was and is not Congress' intention that the Federal regulatory agencies require the benefit of the investment credit to "flow through" in this manner.

(*c*) *General explanation of repeal of basis adjustment provision.*—In the case of property placed in service after December 31, 1963, the bill, as amended by your committee, repeals the provision in existing law requiring a downward adjustment in the basis of property by 7 percent of the qualified investment. In the House bill the repeal of the provision was for property placed in service after June 30, 1963. This date was moved up by your committee because of the later consideration of the bill by your committee.

In addition, the bill provides that the basis of property eligible for the investment credit which was placed in service before January 1, 1964 (July 1, 1963 under the House bill), is to be increased by 7 percent of the qualified investment for such property, as of the first day of the taxpayer's first taxable year beginning on or after that date—January 1, 1964, with respect to a calendar-year taxpayer.[1]

Where the lessor passed the benefit of the investment credit on to the lessee, present law provides that the deductions allowed to the lessee for payments to the lessor under the lease contract are to be adjusted downward to reflect an amount similar to the amount of basis denied in the case of other than lease property. The bill provides that where this has occurred the Treasury is to provide for upward adjustment in the deductions allowed to the lessee for amounts paid to the lessor to similarly reflect the restoration of basis adjustments in these cases.

The effect of the provisions described above is to provide for no downward adjustment in basis with respect to property placed in service after December 31, 1963 (June 30, 1963, under the House bill). With respect to property placed in service before that time but in 1962 or 1963 and still on hand at the beginning of the taxpayer's first year beginning after that time (January 1, 1964, in case of calendar-year taxpayers) the basis on which depreciation is taken (or gain or loss in the case of sale) for property which was eligible for the investment credit is to be increased by the same 7 percent by which the basis was reduced when the property was acquired. This addition to basis in the case of those computing depreciation on a straight-line basis will be recouped ratably by the taxpayer over the remaining life of the assets. In the case of double declining balance depreciation the recoupment will occur somewhat more rapidly. This method of handling the

[1] The restoration of basis referred to above is to be reduced with respect to any previous restoration which may have arisen because the property was no longer eligible for the investment credit or because of conversion of industrial property to public utility use, therefore no longer being eligible for the full investment credit.

restoration of the basis in the case of previously acquired investment credit assets makes the taxpayer "whole" without the necessity of refunds.

(*c*)(*i*) *Credit for leased property to lessee.*—As indicated above, present law provides that when the investment credit is passed through from the lessor to the lessee the investment credit is to be based on the fair market value of the property if the property was constructed by the lessor, but otherwise is to be determined from the basis of the property to the lessor. The House and your committee's bill provides that the investment credit in these lease cases is to be based on the fair market value of the property, whether or not the lessor created the property. An exception to this rule is provided, however, where the property is leased by a corporation which is a member of an affiliated group to another member of the same affiliated group. In this latter case, since there is no lease to an "outsider," the investment credit will still be determined on the basis of the cost of the property to the lessor. This amendment applies to property, the possession of which is transferred to a lessee on or after the date of enactment of this bill.

(*c*) (*ii*) *Treatment of elevators and escalators.* Elevators and escalators have not, up to this time, been eligible for the 7-percent investment credit, since they have been classified as structural components of a building which specifically were not eligible for the investment credit. Both the House and your committee's version of the bill, however, modifies this rule. It provides in the case of elevators and escalators that where their construction, reconstruction or erection is completed after June 30, 1963, or the elevator or escalator is new in the hands of the taxpayer and is acquired after that date, then the cost of the elevator or escalator (or a reconstruction) is to be eligible for the investment credit.

In view of the fact that the investment in elevators and escalators is to be eligible for the investment credit, they also are to be treated as subject to the recapture provision (sec. 1245) enacted by Congress in 1962. However, only depreciation deductions taken with respect to periods after June 30, 1963, are to be subject to this ordinary income recapture where the elevator or escalator subsequently is sold at a gain (and then only to the extent of this gain are these depreciation deductions to be treated as ordinary income). This provision applies only to elevators and escalators sold after December 31, 1963.

(*c*)(*iii*) *Treatment of investment credit by Federal regulatory agencies.*—Another investment credit provision in the bill makes it clear that it was the intent of Congress in providing an investment credit in 1962, and that it is the intent of Congress this year in repealing the reduction in basis required with respect to investment credit assets, to provide an incentive for the modernization and growth of private industry, including regulated industries.

As a result, the bill specifies in two paragraphs the intent of Congress as to the treatment of the investment credit by Federal regulatory agencies. It states in the case of public utility property that these regulatory agencies are not, without the taxpayer's consent, for the purpose of establishing the cost of service of the taxpayer, to treat more than a proportionate part of an investment credit (determined with reference to the useful life of the property) as reducing the taxpayer's Federal income tax liabilities. Nor are they to accomplish a

similar result by any other method. Public utility property for this purpose includes property of electric, gas, water, telephone, and telegraph public utilities which under present law is eligible for what in effect amounts to a credit of 3 percent.

The bill also provides restrictions for Federal regulatory agencies in the case of other regulated companies—such as natural gas pipelines, railroads, airlines, truck and bus operators, and other types of public carriers—which receive an investment credit of 7 percent of the investment in qualified property. It provides that Federal regulatory agencies are not, without the taxpayer's consent, for purposes of establishing the cost of service of the taxpayer, to treat any investment credit allowed him as reducing his Federal income taxes. Nor are the agencies to accomplish a similar result by any other method.

As indicated above in the case of the public utility property Congress is merely directing the Federal regulatory agencies not to "flow" the benefits of the investment credit "through" to the customers over any period shorter than the useful lives of the property involved. In the case of the other property Congress is directing the Federal regulatory agencies not to "flow" this benefit "through" at any time. This difference in treatment is attributable to the fact that Congress provided what in effect is a 3-percent credit for the public utility property rather than 7-percent credit because in 1962 it was recognized that in their case part of the benefit from the investment credit would be likely to be passed on eventually to the customers in lower rates.

(*c*)(*iv*) *Effective dates.*—As indicated previously, under your committee's amendments the repeal of the basis adjustment is to apply with respect to property placed in service after December 31, 1963. However, property placed in service before that time, with respect to which a basis adjustment has already been taken, if still in the hands of the taxpayer on the first day of his taxable year beginning after December 31, 1963, is to receive an upward adjustment in basis.

The amendment concerning the amount of the investment credit in the case of leased property is to apply with respect to property transferred to a lessee on or after the date of enactment of this bill. The amendment made with respect to escalators and elevators in the case of the investment credit applies to those acquired or constructed after June 30, 1963. The recapture rule with respect to these assets applies to dispositions of escalators or elevators after December 31, 1963.

(*d*) *Revenue effect.*—The repeal of the basis adjustment with respect to the investment credit is expected to reduce tax liabilities by $160 million in the calendar year 1964 and by $195 million in the calendar year 1965 with gradually greater reductions in successive years, according to Treasury estimates; estimates by the staff of the Joint Committee on Internal Revenue Taxation are $245 million and $305 million, respectively. Making elevators and escalators eligible for the investment credit is expected to result in an additional $10 million of loss in the calendar year 1964 and subsequent years.

4. Group term life insurance purchased for employees (sec. 204 of the bill and sec. 79 of the code)

(*a*) *Present law.*—Under present law, employees are required to include in their income the amount of premiums paid by their employers to provide them with individual life insurance or group

permanent life insurance which carries a loan or surrender value. However, the regulations (1.61–2(d)(2)) have provided that the cost of group term life insurance purchased for employees is not includible in their income as compensation although the employer receives deductions for the amounts he pays to provide this protection.

(*b*) *General reasons for provisions.*—As indicated above, this tax-free status for employer-financed group term life insurance is inconsistent with the tax treatment of other types of life insurance protection furnished employees by their employers. While this complete exclusion might have been considered relatively insignificant when tax rates were low, the present relatively high rates as well as the growing volume of group term life insurance now provided makes it particularly inequitable to continue this complete exclusion. The employee in such case receives a substantial economic benefit from this insurance protection whether or not the policy for a specific year leads to a payment to his beneficiary. The provision of this insurance by the employer relieves the employee of substantial costs of providing his own insurance protection for his family which he would otherwise have to provide out of tax-paid dollars.

The House, despite recognizing that the entire cost of this insurance protection represents compensation to the employee, provided an exemption with respect to the premiums paid on the first $30,000 of such insurance because it believed, from the standpoint of the economy as a whole, that it is desirable to encourage employers to provide life insurance protection for their employees. Provision of such a basic amount of insurance does much to keep together family units where the principal breadwinner dies prematurely. Your committee is in accord with the reasoning of the House on this subject but believes that $70,000 represents a more appropriate exemption level. It has also made three other more technical amendments described below.

(*c*) *General explanation of provisions.*—For the reasons given above, the bill as amended by your committee provides that the gross income of an employee for tax purposes is to include the cost of any group term life insurance provided him under a policy carried directly or indirectly by his employer to the extent that the insurance coverage provided is in excess of $70,000 as contrasted to $30,000 under the House bill. The employee will not be charged with any portion of this insurance protection over $70,000 which he provides himself through his own contributions, since insurance protection provided in this manner is paid for out of tax-paid dollars. Moreover, all contributions made by the employee are applied against insurance protection above the $70,000 exclusion level.

The cost of protection above $70,000 is taxed to an employee if it is provided under a plan arranged for by the employer whether the protection the employee receives (over and above that provided by his own contributions) is provided directly by the employer, or indirectly by the employer's charging more than the cost of the insurance to other employees (such as those in younger age brackets) and less to those in the older age brackets, such as the specific employee in question.

(*c*)(*i*) *Exception for retired employees, etc.*—Both the House and your committee's bill provides an exception to the general rule described above where the individual's employment has been terminated and either he has reached the normal retirement age (under the practice followed by his employer) or he has become disabled. In both of

these cases it was concluded that it would be undesirable to tax the aged or disabled individual who is no longer working for group term life insurance protection provided to him by his former employer.

Two other exceptions are also provided where the insurance protection provided by the employer will not be treated as compensation to the employee, even though in excess of the $70,000 coverage exclusion. First, it will not be taxed to the employee where the employer directly or indirectly is the beneficiary of the policy since in such cases the employer is in reality providing for his own rather than his employee's interest.

Secondly, the costs of the insurance protection in excess of $70,000 will not be taxed to the employee where the beneficiary of the policy is a charitable organization (of the type described in sec. 170(c) of the code). An exception is provided for such cases because it is recognized that where an employer provides protection for all of his employees, a few of them may not have natural heirs and, therefore, if left to their own choice, might not purchase insurance protection. It was concluded that in such cases, it would be unfair to tax such employees on the cost of insurance protection provided by employers. For this reason, it was thought that where the employee demonstrated his own personal disinterest in the protection by naming a charity as the beneficiary, no portion of the cost of such protection should be considered as income to him. It is not intended, however, that he receive any deduction for a charitable contribution with respect to such assignment.

(c)(ii) *Determining the cost of the insurance.*—The House bill provided that the cost of the insurance protection can be determined under either of two methods. Your committee's bill provides that this cost can be determined only under the first of these methods. Under both versions of the bill this cost can be determined by using a uniform table. In this case, the cost of the insurance is averaged out on the basis of 5-year age brackets, in order to simplify computations which must be made by the employer in informing the employee as to the amount of taxable income. Where cost is determined on the basis of this uniform table it will be determined on the basis of a table published in the Treasury Regulations on this provision.

This table will reflect costs of such protection based upon insurance company experience and, of course, will be changed from time to time as mortality experience or other factors indicate that this is appropriate. Until provided otherwise by regulation, however, the cost per $1,000 of group term life insurance protection can be determined from table 11 below.

TABLE 11.—*Uniform 1-year term premiums for $1,000 of life insurance protection*

[Cost per $1,000 of protection]

Age:	
15 to 19	$1.44
20 to 24	1.73
25 to 29	2.11
30 to 34	2.72
35 to 39	3.65
40 to 44	5.10
45 to 49	7.36
50 to 54	10.87
55 to 59	16.29
60 to 64 [1]	24.67

[1] Those age 65 and over whose employment is not terminated will also have their insurance cost computed on the basis of the 60 to 64 age category.

The second method which would be available under the House bill but not under your committee's amendments provides that an employer, in computing the cost of his employee's protection for tax purposes, may use the actual cost of the policy to him and the employees. In this case also, the same 5-year age brackets as provided under the uniform premium table would be used. Your committee's amendments remove this second method of computation because it has been informed that this method is difficult for employers to compute. Moreover, since the uniform premium table method of computation contains no loading charge, in almost all cases it will in any event result in the lower cost.

Both the House and your committee's version of the bill provides that in the case of employees (not retired), who are over age 64, the cost of protection is not to be increased in such cases, but instead is to continue to be computed on the same basis as those in the age bracket 60 to 64.

(*c*)(*iii*) *Deduction for certain contributions provided by House bill but not your committee's amendments.*—The House bill provided a special deduction in computing taxable income for contributions made by an employee toward the purchase of group-term insurance protection in excess of the cost of his own insurance (only above the exemption level). This deduction was provided by the House bill on the grounds that under some group-term insurance plans the younger employees in effect pay for insurance protection provided for those in higher age brackets. It was suggested that this usually occurs where a uniform rate of contribution is required of all employees regardless of age. In such cases, it was indicated that the cost of protection for those who are relatively young may not equal the contribution made by the employees. In view of this, the House bill provided that contributions made by an employee (above the exemption level) to the extent that they exceeded the cost of the protection provided for him were to be deductible by him for tax purposes. Your committee's amendment deletes this deduction. Your committee has taken this action primarily because it believes that the size of these deductions would in any event be relatively small and on the grounds that it is questionable whether these deductions are worth the added administrative burden they would bring for the employer.

(*c*)(*iv*) *Example of method of computation.*—To illustrate the method of computing the taxable cost of group term insurance provided under your committee's version of the bill, it is first assumed that the employee makes no contribution toward this protection himself, and then that he makes a contribution of $2 per $1,000 of coverage. The method of computing the inclusion in the employee's gross income is illustrated by an employee age 41 who is provided with $200,000 of group term life insurance protection.

Where employee makes no contribution

Portion of insurance coverage taken into account ($200,000–$70,000)	$130, 000. 00
Cost of insurance protection per $1,000 for individual age 41 assuming uniform premium table is used	5. 10
Amount to be included in income tax base by employee ($5.10×130)	663. 00

Where employee makes contribution

Portion of insurance coverage taken into account ($200,000-$70,000)	$130, 000. 00
Cost of insurance protection per $1,000 for individual age 41 assuming uniform premium table is used	5. 10
Total cost of insurance attributable to employee's contribution ($2.00×200)	400. 00
Cost of insurance protection above $70,000 exclusion ($5.10×130)	663. 00
Amount to be included in income tax base by employee ($663−$400)	263. 00

(*c*)(*v*) *Reporting instead of withholding.*—The House bill provides that the cost of group term insurance, to the extent taxable to the employees, is to be subject to regular income tax withholding. Your committee concluded that this was unnecessarily burdensome for employers, particularly in view of the fact that so few employees would be affected by the $70,000 exclusion level. Instead, your committee's bill provides for the reporting of this income annually by the employer to the Government, with a copy of the information return also going to the employee. The amount shown on this information return is only the amount payable with respect to an employee which represents taxable income to him. Where he is covered by more than one employer, each employer is to determine the exemption for purposes of the information return in the same manner as if he were the only employer. The type of information return (form 1099) is the same as that already used under existing law to report dividends and interest. The penalties for failure to provide the information are $10 per person unless the failure is due to reasonable cause rather than willful neglect. The total penalties paid by an employer may not exceed $25,000.

(*c*)(*vi*) *Effective date.*—The tax treatment provided with respect to group term insurance as described above is to apply with respect to such insurance protection provided after December 31, 1963. The information reporting with respect to this insurance will apply to remuneration paid after December 31, 1963, in the form of group term insurance provided after that date.

(*d*) *Revenue effect.*—It has been estimated that the enactment of the group term life insurance provision described above will result in an increase of somewhat less than $5 million in revenues in a year when this provision is fully effective.

5. *Sick pay exclusion (sec. 205 of the bill and sec. 105(d) of the code)*

(*a*) *Present law.*—Under present law amounts paid to an employee by his employer to continue his wage payments when he is absent from work because he is sick or injured are excludable from the employee's gross income under certain conditions (although deductible by his employer). The exclusion in any case is available only up to $100 per week. In the case of absence from work due to personal injuries, this $100 is the only limitation at the present time. In the case of sickness, however, the exclusion is available only after the first 7 days of absence, unless the employee is hospitalized because of the sickness for at least 1 day during his absence.

(*b*) *General reasons for provision.*—Your committee agrees with the House that this sick pay exclusion in its present form is not justified. The amounts received by the employee in this case are substitutes for regular wages or salaries which, had they been received as such, would

be fully taxable. The wage substitutes in this case are wholly unrelated to the costs involved as a result of illness or injury. Amounts paid by the employer for the medical expense of the employee already are excludable by the employee under other provisions of law (sec. 105(b)) and amounts paid by the employee himself for medical expenses also are deductible elsewhere under present law (sec. 213 of the code) to the extent that they exceed what is considered to be the normal level of medical expenses.

The present exclusion also tends to encourage malingering because it treats the employee who stays at home better than another employee; also is easily abused because an employee who stays home because of a minor injury or illness may obtain an exclusion substantially in excess of any additional expenses he may incur.

The House bill provided, however, that those who have become permanently disabled or who have had long, continuing illnesses or accidents could continue to receive the advantage of this provision. It was thought that persons are likely to have their earnings substantially decreased, at the same time they also may be faced with large medical bills. Moreover, in such cases, the ordinary family financial requirements are likely to continue at their usual level, presenting larger problems for the individual as the period of absence from work becomes longer. Your committee also is in accord with this reasoning, and therefore has continued this provision unchanged.

(*c*) *General explanation.*—For the reasons presented above the sick pay exclusion of present law is amended to provide that wage continuation payments are not to be excludable to the extent they are attributable to the first 30 days of absence because of personal injury or sickness. This means, of course, that this exclusion will be available after the first 30 days of injury or sickness for the long continuing illness and also in the case of those receiving permanent disability pensions before the normal retirement age.

Under present law employers who make wage continuation payments which are not excludable from the employee's income (e.g., payments in excess of $100 a week or payments for the first 7 days in the case of sickness where there is no hospitalization) are required to include these amounts in income subject to withholding and reporting on form W–2. This practice will be continued under the revised provision with the withholding and reporting applying to a larger proportion of the wage continuation payments. Where these payments are made by someone other than the employer, such as an insurance company or a pension trust, the Treasury does not presently require withholding and it is the intention of the House and your committee that this practice be continued. However, these payments are (if made on behalf of the employer) to be included on the W–2 form prepared by the employer and shown on this form as wages or salary.

(*c*)(*i*) *Effective date.*—The amendment made by this provision will apply to wage payments attributable to periods of absence commencing after December 31, 1963.

(*d*) *Revenue effects.*—It is estimated that the provision described above, when fully effective, will result in an increase in revenues of $110 million a year.

6. Exclusion for gain on the sale of a residence by an individual age 65 or over (sec. 206 of the bill, sec. 121 of the code)

(*a*) *Present law.*—Under present law (sec. 1034) where an individual sells his old residence and, within a year of that sale, purchases a new residence (or within 18 months thereafter builds a new residence), the gain on the sale of the old residence is not recognized to the extent that it, plus the cost or other basis of the old residence, is invested in the new residence. This postponement of the taxation of the gain is available only where the new residence is purchased or built within the time specified.

(*b*) *General reasons for the provisions.*—While present law generally provides adequately for the younger individual who is for one reason or another changing residences, it does not do so for the elderly person whose family has grown and who no longer has need for the family homestead. Such an individual may desire to purchase a less expensive home or move to an apartment or to a rental property at another location. He may also require some or all of the funds obtained from the sale of the old residence to meet his and his wife's living expenses. Nevertheless, under present law, such an individual must tie up all of his investment from the old residence in a new residence, if he is to avoid taxation on any of the gain which may be involved.

Your committee agrees with the House that this is an undesirable burden on our elderly taxpayers.

(*c*) *General explanation.*—For the reasons given above, the bill provides an exclusion from gross income for a limited amount of gain received from the sale or exchange of a personal residence in the case of taxpayers who have reached age 65 before the sale or exchange occurs. To be eligible for this treatment, they must have owned and used the property involved as their principal residence for 5 out of the last 8 years before the sale or exchange.

(*c*)(*i*) *Limitations.*—In this provision the primary concern is with the average and smaller homestead selling for $20,000 or less. For that reason, the application of this section is limited so that a full exclusion is provided only for the gain attributable to the first $20,000 of the sales price.[1] Where the sale price of the residence does not exceed $20,000, the entire gain is excluded from income for tax purposes. Where the sale price exceeds $20,000, a proportion of the gain is excluded. The proportion excluded is in the ratio of $20,000 to the actual sale price; for example, if a residence is sold for $60,000 and the gain is $10,000, then the portion of this $10,000 gain which will not be taxable is determined as follows:

Actual sale price	$60, 000
Ratio of $20,000 to sale price ($20,000/$60,000)	⅓
Proportion of $10,000 gain to be excluded from taxable income (⅓ of $10,000)	$3, 333. 33
Remaining gain subject to tax	$6, 666. 67

To prevent taxpayers over age 65 from reusing this section and obtaining numerous exclusions for gains on personal residences, the bill provides that this exclusion is available to a taxpayer and his spouse only once in their lifetimes.

[1] Actually the determination is made on the basis of adjusted sales price which as provided elsewhere in the code is the gross sales price less any so-called fix-up expenses incurred in selling the property. In this regard, see sec. 1034(b)(1).

(*c*)(*ii*) *Other rules.*—Since a taxpayer and his spouse may claim the exemption under this provision only once in their lifetimes, the bill provides that the exclusion is elective and may be made or revoked at any time before the expiration of the period for making a claim for credit or refund of tax, generally about 3 years after the year of the sale or exchange. It also was necessary to provide a number of other special rules for the application of this provision. These rules may be described briefly as follows:

1. Where property is held jointly by a husband and wife either as joint tenants, tenants by the entirety or as community property, if a joint return is filed by the husband and wife and one of them satisfies the age requirement of 65 and has held and used the property for the required 5 out of the last 8 years, then both the husband and wife are treated as meeting these requirements.

2. Where the spouse of an individual has died and that spouse held and used the property as a personal residence for 5 out of the last 8 years and had not previously claimed an exemption under this provision, then the individual who is still living will be treated as satisfying these holding and use requirements. (However, the surviving spouse must be age 65 for the exclusion to apply).

3. The bill provides that for purposes of this provision tenant stockholders in a cooperative housing corporation who sell their right to occupy the house or apartment are to be treated in the same manner for purposes of this provision as those who own their residence outright.

4. Any gain realized from the destruction, theft, seizure, requisition, or condemnation of a personal residence is to be eligible for this provision in the same manner as if the residence had been sold.

5. Where a part of a property is used as a personal residence and the remainder as a business or income producing property, the exclusion provided under this provision upon the sale of the property is to be available to the extent that the gain is attributable to the portion of the property owned and used by the taxpayer as his personal residence.

6. In applying this provision, an individual is to be considered as married or single according to his status on the date of the sale or exchange. An individual who is separated under a decree of divorce or separate maintenance on the date of the sale is not considered as married for purposes of this provision.

7. In the case of involuntary conversions and in the case of the sale or exchange of one personal residence for another, gain is not recognized under present law where the total amount realized from the conversion or sale is reinvested within a specified period of time. In addition, the basis of the new property so acquired in such cases remains the same (except for any additional investments over and above the sales price) as the property previously held. Where both the exclusion available for taxpayers over age 65 and either of these two provisions may be applied with respect to the same transaction, the bill provides that the exclusion for those over age 65 is to be applied first. Thus, in the case of the involuntary conversion or the sale of a personal residence and the purchase of another, by a taxpayer who is over age 65, any gain which might be realized upon the involuntary conversion or sale of the residence will be reduced by any exclusion available to the taxpayer under this section. In addition, in the case

where the total amount is reinvested within the specified period the basis of the taxpayer in the newly acquired residence will be his basis for the old residence increased by any exclusion of gain obtained by him under the provision which is reinvested in the new residence (and, of course, increased by any additional funds which he may have invested over and above the amount realized from the first residence).

8. In determining whether an individual has gross income of $600 or more (or $1,200 or more in the case of those over age 65) any exclusion provided under this provision will for that purpose alone be treated as gross income. This assures that the Government will receive proper reporting on amounts claimed as exclusions under this provision.

(*c*)(*iii*) *Effective date.*—This provision applies to sales, exchanges, and other dispositions after December 31, 1963.

(*d*) *Revenue effects.*—This provision is expected to result in an annual revenue loss of $10 million.

7. Denial of deduction for certain State, local, and foreign taxes (*sec. 207 of the bill and secs. 164 and 275 of the code*)

(*a*) *Present law.*—The general rule under present law is that taxes paid or accrued by a taxpayer are deductible for Federal income tax purposes. However, an exception to this rule provides that no deduction is to be allowed for certain specified taxes, principally Federal taxes. The categories of taxes which may not be deducted under present law are:

1. Federal income taxes.
2. Federal war profits and excess profits taxes.
3. Federal import duties and Federal excise and stamp taxes (except that these taxes may be deductible as business expenses or taken into account as expenses incurred in the production of income).
4. Estate, inheritance, gift, and similar taxes.
5. Most local improvement taxes.
6. Foreign income and excess profits taxes and similar taxes imposed by U.S. possessions (if the taxpayer elects to take a foreign tax credit for these taxes in lieu of a deduction).

The practical effect of the above listing of taxes is to deny any deduction for Federal taxes paid by the taxpayer (except to the extent that taxes listed in category 3 above qualify as business expenses or expenses incurred in the production of income).

State and local taxes on the other hand generally are deductible, except death and gift taxes and most local improvement taxes. The most important State and local taxes, and the revenues derived from them by State and local governments in 1961, are as follows:

1. Real and personal property taxes, $18 billion.
2. Income taxes, $3.9 billion.
3. General sales and gross receipts taxes, $5.4 billion.

The three categories of taxes indicated above account for $7.5 billion of the total $10 billion of taxes taken as nonbusiness deductions on taxable returns for Federal income tax purposes in 1960. The principal remaining State and local taxes, for which deductions may presently be taken, together with revenues derived from them by State and local governments in 1961, are as follows:

1. Gasoline taxes, $3.5 billion.
2. Auto and drivers' licenses, $1.8 billion.

3. Alcoholic beverage taxes, $0.7 billion.
4. Tobacco taxes, $1.1 billion.
5. Selective sales or excise taxes not included above (such as those on admissions, room occupancy, etc.), $1.8 billion.

(*b*) *General reasons for the provision.*—The House bill would provide for the continued deduction only of property taxes, income taxes, and general sales taxes. Your committee's amendments provide for the deduction of these three categories of taxes but also restores the deductibility of two categories of taxes which under the House bill would no longer be deductible. These are the excise tax on gasoline (and diesel and other motor fuels), and the taxes for auto registration and driver's licenses.

Your committee finds no disagreement with the House in the reasons given for the desirability of continuing the deductibility of property taxes, income taxes, and general sales taxes. In the case of property taxes, it was suggested that any denial of the deduction would result in an important shift in the distribution of Federal income taxes between homeowners and nonhomeowners. In the case of State and local income taxes, it was suggested that the continued deductibility of these taxes represent an important means of accommodation to take into account the fact that both State and local governments on one hand and the Federal Government on the other hand tap this same important revenue source. A failure to provide deductions in such a case could mean a combined burden of income taxes which in some cases would be extremely heavy. It was further indicated that, if property and income taxes are to be deductible for Federal income tax purposes, it also is important to allow the deduction of general sales taxes. To deny the deductibility of general sales taxes while allowing deductions for the other major revenue sources would encourage State and local governments to use these other resources in place of the sales tax. Your committee agrees with the House that it is important for the Federal Government to remain neutral as to the relative use made of these three forms of State and local taxation.

Your committee believes that much the same reasons which led to the House continuing the deduction of property, income, and sales taxes also suggest the desirability of continuing the deduction of gasoline and auto registration and drivers' licenses. Gasoline taxes are also a major source of State revenue and to deny the deduction of this tax while allowing the deduction of property, income, and general sales taxes tends to encourage States to use other than automotive taxes as their more important revenue sources. Moreover, a failure to provide a deduction for these automotive taxes also could result in an important shift in the distribution of Federal income taxes between classes of taxpayers, i.e., between those who own automobiles and those who do not.

Moreover, your committee is inclined to doubt that it is difficult for a taxpayer to make good estimates of the amount of these State and local automotive taxes as is sometimes suggested. The registration and drivers' license taxes are no more than annual taxes and certainly present the taxpayer with no particular recordkeeping problem. For most taxpayers the amount of gasoline taxes paid can be estimated relatively accurately either from credit sales slips or from the mileage added on a car each year.

Your committee agrees with the House that the other forms of excise taxes do present a recordkeeping problem for taxpayers. Also, it is recognized that these taxes, especially those on alcohol and tobacco products, may be deductible in some States and not in others, depending on the form of State law. As pointed out in the report of the House Committee on Ways and Means, in the case of cigarette and tobacco taxes, 26 States levy taxes which comply with the Federal rules for deductibility. However, 21 States and the District of Columbia have laws which do not meet these standards; and, thus, in these States, no deductions are available for these taxes.[1] There also is a wide variation among the States as to the deductibility of alcoholic beverage taxes. In six States, these taxes are imposed on the consumer and, therefore, are deductible. In addition, in 10 other States, where alcoholic beverages are sold through State liquor stores, the tax also generally is deductible.[2] This variation as to the Federal tax treatment of these various excise taxes is discriminatory as between taxpayers and different States. Moreover, it further complicates the already difficult problem of reporting deductible taxes in these cases. It should be noted, however, that this problem does not exist in the case of the gasoline, registration, and license taxes.

For the reasons indicated above, your committee is in agreement with the House as to the desirability of denying deductions in computing the Federal income tax for certain selective State and local taxes. However, in addition to retaining deductions for property, income and sales taxes, your committee has concluded that it also is desirable to retain deductions for gasoline and auto registration and driver's license taxes. Your committee has also made a modification with respect to limited types of improvement taxes which presently are deductible. As explained subsequently, under your committee's bill, such taxes to the extent now deductible will continue to be deductible.

(c) *General explanation of provision.*—For the reasons given above, your committee's bill provides as a general rule that only the following taxes may be taken as deductions:

1. State and local personal property taxes;
2. State and local, and foreign, real property taxes;
3. State and local, and foreign, income, war profits, and excess profits taxes; and
4. State and local general sales taxes;
5. State and local gasoline taxes (and taxes on diesel and other motor fuels);
6. State and local taxes on registering automobiles and on driver's licenses.

The fact that only these taxes may be deducted as taxes does not mean that other State, local, and foreign taxes may not be deducted to the extent they represent trade or business expenses or expenses incurred in the production of income. A sentence added to the code on this point makes it clear that these other State, local, and foreign taxes may be deducted as taxes when they are of a business nature or for the production of income even though otherwise they might have to be capitalized. Taxes levied on intangible personal property are examples of taxes generally deductible in this latter category since it

[1] Three States, Colorado, North Carolina, and Oregon, do not levy cigarette taxes.
[2] Seven States do not levy taxes on liquor except beer, and in some cases, wine. The beer and wine taxes of these States are not deductible.

can be reasonably supposed that the property subject to such a tax is held either in connection with a trade or business or for the current, or possible future, production of income.

(c)(i) *Taxes which in no event may be deducted.*—Under present law certain taxes, largely Federal taxes, may not be deducted in any case either as taxes or as business expenses or as expenses incurred in the production of income. To make clear the distinction between these taxes for which presently no deduction may be claimed and the other taxes which may be deducted if they represent expenses of a business or in the production of income, in the bill a new section (sec. 275) is added providing that no deduction at all may be taken for certain specified taxes. The taxes listed in this section are listed as exceptions in section 164 of the code under present law, and are moved to the new location in the code merely to emphasize the fact that these taxes cannot in any event be claimed as a deduction.

These taxes are as follows:

1. Federal income taxes;
2. Federal war profits and excess profits taxes; and
3. Estate, inheritance, legacy, succession, and gift taxes;
4. Income, war profits, and excess profits taxes imposed by a foreign country or a possession of the United States if the taxpayer chooses to take a foreign tax credit with respect to these taxes; and
5. Taxes on real property which the code requires to be treated as being imposed on another taxpayer.

Federal import duties and Federal excise and stamp taxes (to the extent not included in the above categories) will continue to be deductible to the extent they can presently be deducted as trade or business expenses (under sec. 162) or as expenses for the production of income (under sec. 212).

(c)(ii) *Definitions of certain deductible taxes.*—The bill defines a personal property tax which may be deducted as an ad valorem tax imposed on an annual basis in respect of personal property.

A general sales tax is defined as a tax imposed on one rate with respect to the sale at retail of a broad range of classes of items. The bill specifies, however, that the fact that food, clothing, medical supplies, and motor vehicles either are exempt from a sales tax or are taxed at a lower rate is not to result in any given tax being classified as not applying to a "broad range of classes of items." However, if any of these specified items are taxed at a higher rate than the general rate applying to other items, or if any other item is taxed at a different rate, no deduction is to be permitted for the tax on these items.

As under present law, deductions may be taken for general sales and gasoline taxes not only where they are imposed on the consumer as such, but also where they are separately stated and where the tax is in fact paid by the consumer.

Included in the definition of a deductible general sales tax by the bill is a "compensating use tax." A compensating use tax, as its name implies, is generally a tax imposed on items brought in from another taxing jurisdiction. In this case, the tax is imposed on the "use, storage, or consumption of the item" since the sale as such does not occur in the taxing jurisdiction in question. For such a tax to be deductible, similar items must be subject to a deductible general retail sales tax in the taxing jurisdiction in question.

(*c*)(*iii*) *Certain local improvement taxes.*—Under present law, local improvement taxes generally are not deductible (although interest or maintenance charges may otherwise be deductible). However, presently an exception is made and a deduction is permitted for local improvement taxes levied by a special taxing district where the district covers at least one entire county, at least 1,000 persons are subject to the tax levied by the district, and the district levies its assessment annually at a uniform rate on the same assessed value for real property as is used generally for purposes of the real property tax. The House would have eliminated this provision on the grounds that it is of limited application and also on the grounds that the continuation of this provision was not desirable. Your committee is in accord with the view that improvement taxes should not generally be deductible. However, in order to prevent the changing of rules of deductibility in this respect after debt has been incurred it has provided for the continued deduction of such taxes (to the extent presently deductible) for the purposes of paying off indebtedness already existing on December 31, 1963.

(*c*)(*iv*) *Effective date.*—The changes made by the above provisions relating to taxes apply to taxable years beginning after December 31, 1963.

(*d*) *Revenue effect.*—The changes made in the deduction of taxes by this section, as amended by your committee, are expected to increase revenues by $190 million in a full year of operation. The changes made by the House bill would have increased revenues by $520 million.

8. Personal casualty and theft losses (sec. 208 of the bill and sec. 165(c)(3) of the code)

(*a*) *Present law.*—Under present law, taxpayers may claim a deduction for losses of property not connected with a trade or business if these losses arise from fire, storm, shipwreck, or other casualty, or from theft. Under present law, these deductions are available without limitation to all taxpayers who itemize their personal deductions.

In addition, under present law, losses incurred in a taxpayer's trade or business or losses incurred in connection with transactions entered into for profit are deductible. The change made by this bill with respect to casualty losses described below does not affect the continued full deduction of these losses as business expenses or as expenses incurred in the production of income.

(*b*) *General reasons for provision.*—Your committee agrees with the House that in the case of nonbusiness casualty and theft losses, it is appropriate in computing taxable income to allow the deduction only of those losses which may be considered extraordinary, nonrecurring losses, and which go beyond the average or usual losses incurred by most taxpayers in day-to-day living. In view of this, it is believed appropriate to limit the casualty loss deduction to those losses or thefts above a minimum amount. The minimum selected was $100 per casualty loss, since this corresponds approximately with the "$100 deductible" insurance carried by many individuals in the United States with respect to such losses. This means that no deduction will be allowed in the case of an ordinary "fender bending" accident or casualty, but that casualty and theft losses will continue to be deductible (over the $100) in those cases where they are sufficient in size to have a significant effect upon an individual's ability to pay Federal income taxes.

(*c*) *General explanation of provision.*—The amendment made by both the House and your committee's versions of the bill limit the deductibility of personal losses (as distinct from those associated with a trade or business or transactions entered into for profit) to those where the casualty or theft loss exceeds $100. For this purpose, in determining what is a single casualty, it is intended that the law be interpreted liberally. Thus, for example, where an individual's property is damaged by wind from a hurricane and this is followed by additional damage resulting from water, it is intended that the combination of these events be treated as one casualty and, therefore, that all amounts over $100 of damage be deductible.

The $100 limitation applies to a joint return by a husband and wife as well as to a separate return of either. Thus, if a husband and wife file separate returns, each is subject to a separate $100 floor with respect to each casualty or theft, while, if they file a joint return, they are together subject to only one $100 floor with respect to each casualty or theft whether the loss is sustained with respect to jointly, or separately, owned property.

(*c*)(*i*) *Effective date.*—This amendment applies to losses sustained after December 31, 1963.

(*d*) *Revenue effect.*—It is estimated that this provision will increase revenues by $50 million a year in a full year of operation.

9. Charitable, etc., contributions, and gifts (sec. 209(a) of the bill and sec. 170(b) of the code)

(*a*) *Present law.*—Under present law, individuals are allowed a deduction of up to 20 percent of their adjusted gross income for contributions to or for the use of charitable, educational, religious, etc., organizations generally. An additional 10-percent deduction also is available for contributions to churches, schools, hospitals, certain medical research organizations, and certain organizations affiliated with State colleges or universities. Thus, with respect to contributions in this latter category, a charitable contribution deduction of up to 30 percent is allowed.

(*b*) *General reasons for provision.*—The House and your committee agree that the availability of this additional 10-percent deduction should be extended to include contributions to many forms of charitable or philanthropic organizations not now covered by this provision. Greater uniformity in the availability of this additional 10-percent deduction is desirable because of the many beneficial activities that are carried on by various philanthropic organizations not now eligible for the 30-percent deduction. This is especially true of many cultural and educational organizations and major charitable organizations not now eligible for the 30-percent deduction.

The additional 10-percent deduction is limited to organizations which are publicly or governmentally supported, however, and this additional deduction is not made available in the case of private foundations. These latter types of organizations frequently do not make contributions to the operating philanthropic organizations for extended periods of time and in the meanwhile use the funds for investments. The extra 10-percent deduction is intended to encourage immediately spendable receipts of contributions for charitable organizations.

(*c*) *General explanation of provision.*—For the reasons given above, the House and your committee's bill provide that the additional 10-

percent deduction (or 30-percent deduction in total) from a taxpayer's adjusted gross income is to be extended so that it not only is available with respect to charitable contributions to churches, schools, hospitals, etc., but also is available generally in the case of charitable contributions to religious, charitable, scientific, literary, or educational organizations or those for the prevention of cruelty to children or animals (which otherwise meet the conditions set forth in sec. 170(c)(2) of the code). In addition, the 30-percent deduction is to be available for charitable contributions to a Federal, State, or local governmental unit if the contribution or gift is made for exclusively public purposes.

For any of the nongovernmental organizations to qualify for the additional 10-percent deduction referred to above, they must normally receive a substantial part of their support from a governmental unit or from direct or indirect contributions from the general public. "Support" for this purpose does not take into account income received by the organization from exercise of its exempt function. The reference to direct or indirect contributions from the general public prevents what are generally termed private foundations from qualifying for this additional 10-percent deduction. To qualify, the organization must receive support from at least a representative number of persons within the community concerned.

Types of organizations which generally will in the future qualify for this additional 10-percent deduction are those publicly or governmentally supported museums of history, art, or science, libraries, community centers to promote the arts, organizations providing facilities for the support of an opera, symphony orchestra, ballet, or repertory drama, and organizations such as the American Red Cross, United Givers Fund, etc.

(c)(i) *Effective date.*—This provision applies to taxable years beginning after December 31, 1963.

(d) *Revenue effect.*—This amendment is expected to result in a negligible revenue loss when fully effective.

10. Denial of unlimited charitable contributions deduction with respect to gifts to private foundations (sec. 209(b) of the bill and sec. 170(b)(1)(D) of the code)

(a) *Present law.*—Under present law, the 30-percent limitation with respect to charitable contributions deductions in the case of individuals does not apply if the taxpayer in the taxable year in question and in 8 out of 10 of the preceding taxable years made a charitable contribution which taken together with his income taxes with respect to each of those years equalled 90 percent or more of his taxable income for the year in question. Under present law, there is no distinction between charitable contributions in the 20-percent category and those in the 30-percent category for purposes of this unlimited deduction. Thus, the charitable contributions taken into account both in the taxable year and in the 8 prior qualifying years can be either those to public type charities or those to private foundations.

(b) *General reasons for provision.*—Your committee has added a provision to the bill making the unlimited charitable contribution deduction available only with respect to contributions to publicly supported organizations for much of the same reasons that both the House and your committee only make the extra 10-percent deduction

available in the case of these organizations. Your committee believes that the special advantage of the unlimited charitable contribution deduction should not be made available in the case of these private foundations because frequently contributions to foundations do not find their way into operating philanthropic endeavors for extended periods of time. In the meanwhile, the funds are invested and the advantages arising from control of these investments are likely to inure to the principal contributors to the foundations. Thus, your committee concluded that if the 20- or 30-percent limitations with respect to charitable giving are to be removed for those desiring to make large contributions there should be no question that the bulk of the funds involved, within a reasonable period of time, are devoted to the charitable and philanthropic purposes.

(*c*) *General explanation of provision.*—Your committee's amendment provides that for taxable years beginning after December 31, 1963, the charitable contributions taken into account with respect to the unlimited charitable contributions deduction are to be only those going to publicly supported organizations. Moreover, if the unlimited charitable contributions deduction is elected by the taxpayer, then he is to receive no charitable contribution deduction for amounts going to organizations which are not publicly supported, such as private foundations (even with respect to contributions coming under the 20-percent test, which, without this provision, would allow such contributions).

Similarly, in determining in a subsequent year whether contributions and taxes in 1964 and subsequent years meet the 90-percent test in 8 out of 10 years, contributions to private foundations are not to be taken into account. However, with respect to any year prior to 1964 in determining whether charitable contributions and taxes equal 90 percent or more of the taxpayer's taxable income for purposes of the 8- out of 10-year test, charitable contributions to private foundations may be taken into account in the same manner as under prior law. Thus, for purposes of the unlimited charitable contribution deduction, your committee's bill follows the rules of prior law whenever any year prior to 1964 is taken into account and the new rules applicable with respect to any computation involving 1964 or a subsequent year. As a result taxpayers will not find the rules changed with respect to past years' computations; but, if they hope to obtain the benefits of the unlimited charitable contribution deduction with respect to the future, then for subsequent years they will have to forego any income tax benefits for contributions or gifts to private foundations.

With respect to future years, the unlimited charitable contribution deduction will take into account charitable contributions to: churches; schools; hospitals; specified medical research organizations; certain organizations affiliated with State colleges or universities; Federal, State, or local governmental units, if the contribution or gift is made for exclusively public purposes; and charitable contributions generally to religious, charitable, scientific, literary, or educational organizations or those for the prevention of cruelty to children or animals. However, in this latter case, the charitable organization must receive a substantial part of its support from a governmental unit or from direct or indirect contributions from the general public. Support for this purpose does not take into account income received by the organization from the exercise of its exempt function. The reference

to direct or indirect contributions from the general public is designed to prevent gifts to private foundations from qualifying for this unlimited deduction. To qualify, the organization must receive support from at least a representative number of persons within the community concerned.

(*c*)(*i*) *Effective date.*—This provision applies to taxable years beginning after December 31, 1963.

(*d*) *Revenue effect.*—This amendment is expected to result in a negligible revenue increase.

11. Five-year charitable contributions carryover for individuals (sec. 209(c) of the bill and sec. 170(b)(5) of the code)

(*a*) *Present law.*—As indicated above, individuals are limited to a charitable contributions deduction of 20 percent of their adjusted gross income or up to 30 percent for contributions to churches, schools, hospitals, and contributions to public charities generally. Any charitable contributions in excess of the amount which may be deducted under these limitations in the current year in the case of individuals are wasted. Corporations, on the other hand, although limited to a charitable contributions deduction of 5 percent of taxable income (without this deduction) nevertheless may carry any unused charitable contribution deduction forward and under present law use them in the 2 following years. The House bill adds a provision which extends this carryover of unused charitable contributions for corporations to 5 years (see the discussion below).

(*b*) *General reasons for provision.*—Your committee has added a provision to the House bill to provide a 5-year carryover of unused charitable contributions for individuals. Your committee sees no reason why a carryover should be made available for corporations while individuals are in effect compelled to waste their contributions in excess of the specified limitation. More important, however, this will make it unnecessary for taxpayers desiring to make a contribution of a substantial nature to a charitable organization to carefully divide the gift into parts, contributing each in a separate year, or perhaps giving undivided interests in a property, up to their applicable limitation, to the charitable organization in each of a series of years. Not only is the present practice complicated for the donor but it also creates problems for the charitable or educational organization. Where they are given undivided interests in a property over an extended period of time, they may find it impossible either to sell or use the property over this same period of time while their interest in it gradually increases from year to year. The allowance of a 5-year charitable contribution carryover for individuals, like the averaging provision contained in this bill, also is another step toward the computation of income for tax purposes over a long period of time rather than on an annual basis.

(*c*) *General explanation of provision.*—For the reasons indicated above, your committee has added a provision to present law providing a 5-year carryforward for individuals for unused charitable contributions. In making this carryover available, your committee's amendments provide that the only amounts which may be carried forward are excess contributions with respect to which the 30-percent limitation applies (i.e., generally all contributions except those going to private foundations). In determining whether there is any unused charitable

contribution to carry forward, the charitable contributions to private foundations are ignored and only those contributions fully eligible under the 30-percent limitation, to the extent they exceed this limitation, may be carried forward.

In the year to which these contributions are carried, if the taxpayer has made any contributions to a private foundation, these are ignored for purposes of determining how much of these charitable contributions carried forward are used up in that year. This can be illustrated by the following example: Assume $500 of unused charitable contributions are carried forward, the individual's 30-percent limitation for the year in question would permit charitable contribution deductions of $1,000, and $400 had been already contributed in that year to private foundations and $300 to publicly supported charitable organizations. In this case the entire $500 carryforward would be considered as used up in that year, although the additional charitable contribution deductions obtained with respect to this $500 would be only $300. This result is obtained by ignoring the $400 of contributions to the private foundation for purposes of determining the extent to which the carryover is used up in that year. Thus, in the example cited, the charitable contribution in the year to publicly supported organizations was $300 and the carryover from the prior year was $500. This would make it possible to use up the entire charitable contribution carryover in that year. The individual could also deduct $200 of the $400 which he contributed to the private foundation. Since under existing law the individual in the example could have claimed a deduction of $700, the use of the carryover permits an additional deduction of $300.

The provision added by your committee also provides that no charitable contribution may be carried to, or through a year with respect to which the taxpayer has elected the unlimited charitable contributions deduction. The carryover was considered unnecessary in such cases because of the fact that no limitations are imposed in these cases. A technical adjustment is also made to prevent a taxpayer from claiming a benefit with respect to the same amount twice, through the interaction of the net operating loss carryover and the 5-year charitable contribution carryover.

(*c*)(*i*) *Effective date.*—The new 5-year charitable contributions carryover provided by your committee's bill will be available with respect to contributions paid in taxable years beginning after December 31, 1963.

(*d*) *Revenue effect.*—This amendment is expected to result in a negligible revenue loss.

12. Five-year charitable contribution carryover for corporations (sec. 209(d) of the bill and sec. 170(b)(2) of the code)

(*a*) *Present law.*—Under present law corporations are allowed a maximum charitable contribution deduction of 5 percent of their taxable income computed without regard to this deduction (and certain other deductions). Any charitable contribution deductions which exceed this maximum may be carried forward and used in the 2 following years to the extent the maximum limitations for those years permit. In the case of tax-free reorganizations, generally, and in the case of the liquidation of a subsidiary, the present law provides that the 2-year charitable contribution carryover, to the extent not used by the prior corporation, is to be available to the acquiring corporation.

(*b*) *Reasons for provision.*—Situations have arisen where corporations have income which varies widely from year to year with the result that in some years they have losses and in other years income. This presents a problem where these corporations have committed themselves to the making of specific annual contributions to local charitable organizations. This frequently is done because of the importance to the local charity of maintaining a relatively stable budget from year to year. However, from the standpoint of the corporation the 5-percent limitation on charitable contributions means that the benefit of the charitable contribution deduction is lost in loss years, or in low income years, unless income is sufficiently high in the 2 immediately following years to not only permit the deduction of the amount carried forward but the usual charitable contributions for those years as well. Frequently this is not a sufficient length of time to enable the full deduction of charitable contributions in such cases.

(*c*) *General explanation of provision.*—In view of the above considerations the House bill substitutes for the 2-year carryforward of unused charitable contributions available in present law a 5-year charitable contribution carryforward for corporations. Your committee has accepted this amendment except that it has amended the effective date as indicated below. The amount which may be carried forward in such cases is the amount of the charitable contributions in excess of the amount which may be deducted within the 5-percent limitation. In the year to which the charitable contributions are carried the charitable contributions of that year are applied first, and then the charitable contributions carried forward with the oldest year from which a charitable contribution is carried forward being applied first. Any unused charitable contributions are carried forward to succeeding years, but if not used up after a 5-year carryforward period, they no longer are available for further deduction.

The 5-year charitable contribution deduction carryover is also made available to acquiring corporations in tax-free reorganizations and to parent corporations in the case of the liquidation of a subsidiary. The acquiring corporation in these cases treats the carryforward of the charitable contribution in the same manner as if it were its own unused charitable contribution being carried forward to the current year.

(*c*)(*i*) *Effective date.*—The 5-year carryforward under the House bill would be effective with respect to contributions paid (or treated as paid) in taxable years beginning after December 31, 1963. Thus, under the House bill a charitable contribution made in 1964 would be the first charitable contribution with respect to which the 5-year, as distinct from the 2-year, charitable contribution carryforward would be available. Under your committee's amendments, the 5-year carryforward of unused charitable contributions will be available with respect to contributions paid (or treated as paid) in taxable years beginning after December 31, 1961. Thus, charitable contributions made in the calendar years 1962 and 1963, (to the extent the former is not used in 1963) will be available as carryforwards to 1964, since in these cases the 2-year carryforward from these years has not yet expired.

(*d*) *Revenue effect.*—This provision is expected to result in a negligible loss of revenue when fully effective.

13. Limitation on charitable contribution deduction for future gifts of tangible property (sec. 209(e) of the bill and sec. 170(f) of the code)

(*a*) *Present law.*—Under present law, if a taxpayer gives property to charity but retains for either his or someone else's life or any other period the use or enjoyment of the property, he receives a charitable contribution deduction for income tax purposes at the time of the gift of the future interest in an amount equal to the present discounted value of that future interest.

(*b*) *General reasons for provision.*—The House report calls attention to the problem where pictures or art objects are given to museums, but the gift takes effect at some future time, usually based upon the life of the contributor or someone else. In the meanwhile, the use of the pictures or art objects is retained in much the same manner as if the contribution of the future interest had not been made. The same enjoyment would occur, for example, if instead of making a gift of a future interest, the taxpayer were to wait until his, or his family's use of the property was completed. If this use was completed at the time of his death, however, no charitable contribution for income tax purposes could be claimed, even though an estate tax deduction would be available.

The report of the House Committee on Ways and Means suggests generally that it is inappropriate for taxpayers using this device to obtain what amounts to an extra charitable contribution deduction for income tax purposes. However, the House report further suggests that in the ordinary case where the contributor retains the right to use the property for his own life that this in fact has been a strong inducement for giving pictures and art objects to museums and other cultural centers in the United States and that in any event much of the problem which has arisen in the past has stemmed from the problem of valuing the pictures and art objects given.

Based upon the consideration outlined above, the House bill provided a general rule which denied deductions for charitable contributions in the form of future interests in tangible personal property, but then made this rule inapplicable where the life interest was retained for the life or lives of the contributor or contributors. Your committee is in agreement with the general rule adopted by the House but believes that the exception making this general rule inapplicable in the case where a life estate was retained by the contributors in effect makes this rule inapplicable to the bulk of the cases which should come under the rule. Your committee sees no more reason for granting a charitable contribution deduction for income tax purposes whether the life interest is reserved for the contributor or someone else. It recognizes that for some taxpayers this may have some temporary effect in dulling the special incentive now existing for giving pictures and art objects to museums and other cultural centers. Moreover, some taxpayers may be induced under this provision to give their pictures or other objects outright during life rather than wait until their death, thereby accelerating gifts to museums and other organizations. In any event, your committee questions whether it is appropriate to provide the special stimulus of an income tax deduction, in addition to a charitable deduction for estate tax purposes, to induce this result.

(*c*) *General explanation of provision.*—For the reasons indicated above your committee's amendments provide that charitable con-

tributions in the form of a future interest in tangible personal property are to be treated as deductible for income tax purposes only when all interests in, and rights to possession or enjoyment of, the property in question has been given up. Your committee has deleted the exception in the House bill making this rule inapplicable in the case of charitable contributions where the only reservation in the gift is that the property is not to be transferred until the death of the contributor or contributors.

Any type of a reservation by the contributor and any reservation in the hands of related persons described in section 267(b) of the code under your committee's action will result in a denial of the charitable contribution deduction as long as the reservations continue.

Although generally this provision is limited to gifts of future interests in tangible personal property the provision also covers fixtures which are intended to be severed from the real property, such as chandeliers, mantels, etc.

(*c*)(*i*) *Effective date.*—This provision applies to transfers after December 31, 1963.

(*d*) *Revenue effect.*—This provision is expected to result in a negligible revenue gain when fully effective.

14. Losses arising from expropriation of property by governments of foreign countries (sec. 210 of the bill and sec. 172(b)(1)(D) of the code)

(*a*) *Present law.*—Generally, under present law, a net operating loss may be carried back to each of the 3 prior years and then, to the extent of any loss still not offset against income, the balance may be carried forward to the 5 succeeding years—providing a period of 8 years over which a loss may be spread. In two cases under present law, however, longer loss carryover periods are provided. Thus, in the case of corporation suffering losses which are certified as arising with respect to the "Trade Expansion Act of 1962", a 10-year carryover period is provided—a 5-year carryback and a 5-year carryforward. Present law also provides a 10-year carryover period in the case of regulated transportation companies—in this case a 3-year carryback and a 7-year carryforward.

(*b*) *General reasons for provision.*—Your committee has been informed that since World War II at least 14 foreign governments have expropriated property of U.S. taxpayers. The most significant of these expropriations was that made in Cuba, beginning in 1959 when all U.S. investments in that country were expropriated by the government.

Generally, it is believed that the 3-year carryback and 5-year carryforward for net operating losses provide a sufficient period for the recovering of substantially all business losses. In those cases, however, where this period has proved insufficient, Congress has followed the policy of providing a longer loss-carryover period. This accounts for the 10-year period in present law for those suffering losses arising under the Trade Expansion Act of 1962 and for the 10-year period in the case of regulated transportation companies.

Your committee believes that the expropriations by foreign governments which have occurred in recent years represent another example of larger than usual losses, where the usual 8-year carryover period for losses is inadequate. Therefore, your committee's amendments

extend the 10-year loss period, already applied in special cases, to expropriation losses. A 10-year carryforward with no carryback is provided for these expropriation losses. The longer carryforward has been substituted for the 3-year carryback because, if carrybacks were required, the taxpayers might have to forego the benefits derived from using foreign taxes as credits rather than deductions with respect to the back years.

(c) *General explanation of provision.*—Your committee's amendment provides a 10-year carryforward with no carryback for expropriation losses. This is available with respect to expropriation losses arising in taxable years ending after December 31, 1958. Thus, it will include 1959 which was the year the Cuban expropriations began.

To qualify for the 10-year carryforward, the expropriation loss must be at least 50 percent of the total net operating loss for a year. Thus, this extra carryforward period will not be available unless the expropriation loss is a major proportion of a company's net operating loss.

To receive this treatment, the taxpayer must elect the 10-year carryforward on or before the time specified by regulations prescribed by the Secretary of the Treasury or his delegate. However, in the case of past years with respect to which the 10-year carryforward is to be available, namely the years 1959 through 1963, taxpayers are to have until December 31, 1965, to make the elections for these years. In these cases the statute of limitations will be opened for deficiencies or refunds with respect to any years affected by the change and ending before 1964. Taxpayers are also to have an opportunity to make a new election with respect to the foreign taxes for this back period—to take either a deduction or a tax credit as the changed circumstances arising from the longer carryforward of losses (and no carryback of these expropriation losses) warrant.

The types of losses involved are trade or business, or production of income, losses which are "sustained by reason of the expropriation, intervention, seizure, or similar taking of property by the government of any foreign country, any political subdivision thereof, or agency or instrumentality of the foregoing * * *." Such a loss is to be considered a "foreign expropriation loss."

A foreign expropriation loss will be treated separately from any remaining net operating loss for the same year. The regular net operating loss for the year will be carried back and used up to the extent of the income in the 3 prior years. Then, if any of the regular net operating loss still remains, it will be carried forward to the next year and used first. Only after the net operating loss is fully applied in the first carryforward year will any expropriation loss from the same year be used in that year. Thus, the expropriation loss will be considered the last portion of the total net operating loss applied in any case, although the expropriation loss for a year will be applied before the regular net operating loss for any succeeding year.

(c)(i) *Effective date.*—This provision applies with respect to foreign expropriation losses arising in taxable years ending after December 31, 1958.

(d) *Revenue effect.*—This provision is expected to result in a revenue loss of approximately $5 million a year in 1965, but it expected to decline appreciably after 1970.

15. One percent limitation on medicines and drugs for those over age 65 (sec. 211 of the bill and sec. 213 of the code)

(*a*) *Present law.*—Under present law, generally only what are considered abnormal medical expenses are deductible. This result is attained by limiting expenses which may be deducted to the excess of these expenses over 3 percent of the individual's adjusted gross income (income after business and similar expenses but before personal exemptions and personal expenses). In computing medical expenses subject to this 3-percent limit, medicines and drugs may be taken into account only if they exceed 1 percent of adjusted gross income. The 3-percent limitation does not apply in the case of the taxpayer and his spouse where either of them is 65 or over nor does it apply in the case of medical expenses of the mother or father of the taxpayer or of his wife where the parent is 65 or over and receives his principal support from the taxpayer. The 1-percent limitation on medicines and drugs, however, applies to everyone without regard to their age.

(*b*) *General reasons for provision.*—The House bill repeals the 1-percent limitation with respect to medicines and drugs insofar as it relates to a taxpayer, or his spouse either of whom is age 65 or over, or to the parent of the taxpayer (or his spouse) where the parent is a dependent of the taxpayer and is 65 or over. The effect of this is to provide that the 1-percent limitation will apply only in those cases where the 3-percent limitation also applies. Your committee is in accord with this action, because it, like the House, believes that it is undesirable to impose any minimum limitation with respect to the deductibility of medical expenses in the case of the aged. It also believes that conforming the application of the 1-percent limitation with the 3-percent limit will simplify the statute somewhat in this area.

(*c*) *General explanation of provision.*—Present law provides that medicines and drugs which otherwise would be taken into account in computing medical expenses (which are either deductible in whole, or to the extent they exceed 3 percent) are to be deductible only to the extent that the total of these medicine and drug expenses exceed 1 percent of the taxpayer's adjusted gross income. Both the House and your committee's version of the bill make this 1-percent limitation inapplicable in the case of amounts paid for the care of the taxpayer and bis spouse if either of them has attained age 65 before the end of the taxable year. Both versions also provide that this 1-percent limitation is not to apply to amounts paid for the care of a dependent mother or father of the taxpayer or his spouse if the mother or father has attained age 65 before the end of the year and also is a dependent of the taxpayer. Thus neither the 3-percent limit on medical expenses generally nor the 1-percent limit on medicines and drugs will apply to the categories of persons specified above who are age 65 or over. The maximum limitations on medical expenses, however, continue to apply to these and other persons in the same manner as under existing law.

(*c*)(*i*) *Effective date.*—This provision is to apply to taxable years beginning after December 31, 1963.

(*d*) *Revenue effect.*—This provision is expected to result in a revenue loss of $10 million in a full year of operation.

16. Care of dependents (sec. 212 of the bill and sec. 214 of the code)

(*a*) *Present law.*—Under present law, a deduction of up to $600 is allowed in certain cases for expenses of child care incurred to enable a taxpayer to be gainfully employed. At present, this is available for single women, women who are divorced or separated, or in some cases, deserted, and widows and widowers, having one or more dependents without regard to the amount of the taxpayer's earnings. In the case of working wives, the $600 deduction is presently available only if the combined adjusted gross income of the wife and husband (who must file a joint return) does not exceed $4,500. If their income exceeds this amount, the deduction available is decreased $1 for each dollar of income above $4,500, thus disappearing entirely at an income level of $5,100. An exception to this rule provides that this income limitation is not to apply if the husband is incapable of self-support because mentally or physically defective.

A dependent of the taxpayer for whom this $600 may be claimed must be a son or daughter (or stepson or stepdaughter) of the taxpayer who is under age 12 or a dependent who is physically or mentally incapable of caring for himself.

(*b*) *General reasons for provision.*—Your committee, while agreeing with the changes made by the House bill in the child-care provision, found them too narrow. As a result, it has liberalized the changes made by the House bill to also include the principal changes recommended by the administration with respect to this provision which were omitted in the House bill. These changes have also been recommended by the President's Commission on the Status of Women. The most important change made by your committee in the House provision is to raise from $4,500 to $7,000 the income limitation applicable with respect to working wives. In 1954, when provision was first made for the deduction of child-care expenses with respect to working wives, your committee in its report then stated:

> * * * [I]t is recognized that in many low-income families, the earnings of the mother are essential for the maintenance of minimum living standards even where the father is also employed, and that in such situations, the requirement for providing child care may be just as pressing as in the case of a widowed or divorced mother.

Thus, Congress provided for the deduction of child-care expenses in the case of working wives because it was recognized that the maintenance of a minimum standard of living in these cases required the wife to work. However, the present maximum joint income level of $4,500 is so low that relatively few working wives presently can claim this deduction. Of the 244,000 taxable returns claiming the deduction in 1960, only 117,000 were joint returns filed by married couples. In 1961, according to Department of Labor statistics, the median income of husband-wife families in which the wife worked at any time during the year was $7,050. Thus, the $4,500 limitation falls far short of covering the average case where the wife has found it necessary to supplement the husband's income by working. To carry out the original intention of Congress with respect to this provision, your committee's bill raises the joint income limitation for husbands and wives who may claim the child-care expense deduction from $4,500 to $7,000.

Under present law, the maximum amount which may be deducted for child care is $600 per year per taxpayer. As the House report indicates a flat limitation of this type fails to take into account the fact that the costs of caring for dependents, particularly where they must be cared for outside of the home, increases as the number of dependents increases. Because of this, the House bill raised the maximum deduction which may be claimed for child-care expenses to $900 where the taxpayer has two or more dependents. Your committee's bill carries this one step further and provides a maximum deduction of $1,000 where there are three or more qualifying dependents. It also makes this graduated maximum available in the case of working wives as well as where there is only one parent. These expenses are as likely to increase on a per-child basis in the case of a married couple as in those cases where there is only one parent.

In other respects, your committee's amendments, with minor technical exceptions, follow the House bill. Thus, as under the House bill, relief is provided where the wife is either in an institution or is physically or mentally incapable of caring for herself. Under present law, if the husband is incapable of self-support because of mental or physical deficiencies, the wife is fully eligible for the deduction without regard to the family income level. Your committee agrees with the House that a family where the wife is in an institution is at least as likely to incur expenses for child care as a family where the husband is incapable of self-support. Similarly, it also agrees that child-care expenses are likely to be required, where the wife is in the home but not capable of caring for herself. As under the House bill, your committee's amendments extend present law to permit child-care expenses in these cases, subject to limitations, to be deducted. Your committee in this regard modified the House provision only in that in the case of incapacitated wives, the deduction is to be fully available where the adjusted gross income of the taxpayer and his spouse does not exceed $7,000 rather than $4,500. This is in conformity with its change in the income level generally applicable in the case of working wives.

Both the House and your committee's bill also raise the maximum age limit generally available from 12 to 13 years for children with respect to whom the child-care deduction generally may be taken.

(c) General explanation: Raising income limitation from $4,500 to $7,000.—Your committee's amendments, as distinct from the House bill, increase from $4,500 to $7,000 the amount of income that families with working wives can earn and still qualify for the full amount of the deduction for expenses incurred for the care of children or dependents. The House bill made no change in this area. This raising of the income limitation to $7,000 is in accordance with the recommendation of the administration.

Under present law, for every dollar of income a husband and working wife have above $4,500, the maximum limit on their deduction for child-care expenses is reduced by a similar dollar below the $600 level. Thus, under present law with the $600 limitation, it is possible for a husband and working wife to receive some child-care expense deduction in the case of those with incomes up to $5,100. Under your committee's bill, since the maximum child-care expense deduction (where there are three or more children) is raised to $1,000, it will be possible for husbands and wives who are both working to claim some

child-care expense deductions in cases where their joint incomes are up to $8,000. In 1960, the child-care expense deduction was claimed on 244,000 taxable returns. It is anticipated that the liberalizing amendments, primarily raising the income level for working wives to $7,000, will make this deduction available to an additional 200,000 returns or 444,000 taxable returns in all.

(c)(i) *General explanation: Raising the deduction to $900 or $1,000 in certain cases.*—Under present law, as previously indicated, the maximum annual deduction which may be claimed by a taxpayer is $600. The House bill, where there are two or more qualified dependents, would raise this maximun deduction which may be taken, for expenses incurred by the taxpayer, to $900. Your committee's amendments provide that the $600 limitation, as under the House bill, is still to be applicable where the taxpayer has only one dependent and that the $900 limitation is to be applicable where the taxpayer has two dependents. However, it provides that where there are three or more qualifying dependents, the maximum deduction which may be taken is to be $1,000, in lieu of the $900 provided by the House bill. The $900 and $1,000 limitations are also to be available in the case of working wives who are eligible for the child-care deduction (under the House bill, the $600 limitation would continue to apply in such cases).

(c)(ii) *General explanation: Incapacitated and institutionalized wives.*—The House bill adds to the list of situations where the child-care deduction may be claimed those cases where a wife is incapacitated or institutionalized. Your committee's amendments accord substantially the same treatment. For the husband to be eligible for this deduction, the wife must be institutionalized or incapacitated for 90 consecutive days (or a shorter period if she dies). In the case of incapacitated wives, under the House bill the deduction would be fully available only where the adjusted gross income of the taxpayer and his spouse does not exceed $4,500 (for incomes above that level, the deduction would decrease $1 for each dollar of income above $4,500). Under your committee's amendments, the $4,500 limitation in this case is replaced by the $7,000 limitation. The income limitation under both the House bill and your committee's amendments does not apply if the taxpayer's wife is institutionalized for a period of 90 days or more. A wife is considered as being incapacitated if she is incapable of caring for herself because she is mentally or physically defective (including any time she is institutionalized). A wife is considered institutionalized while she is receiving medical care or treatment as an inpatient, resident, or inmate of a public or private hospital, sanitarium, or similar institution.

(c)(iv) *General explanation: Raising the age limit for children to 13.*—Present law provides that a dependent, for purposes of the child-care deduction (if not physically or mentally incapable of caring for himself), must be a son or daughter (or stepson or stepdaughter) of the taxpayer and must not have attained the age of 12. The House bill raises this age limit to 13 and your committee's amendments make no change in the House bill in this respect.

(c)(v) *Effective date.*—The amendment made by this provision apply to taxable years beginning after December 31, 1963.

(d) *Revenue effect.*—Changes made by the House bill with respect to the child-care provision in a full year of operation would have resulted in a revenue loss of $5 million. The changes made by your

committee increase this loss by $15 million or to a total of $20 million when compared with present law.

17. Moving expenses (sec. 213 of the bill and sec. 217 of the code)

(*a*) *Present law.*—Under present law, certain moving expenses of existing employees if reimbursed by the employer are held to be excludable from the employee's income. They have been ruled excludable on the ground that they are incurred "in the interest of the employer" (Rev. Rul. 54–429, C.B. 1954–2, 53).

Under present law, the moving expenses (for moving from one official station to another for permanent duty) which the Internal Revenue Service has agreed are excludable for existing employees where they are reimbursed are:

1. Transportation expenses for moving the employee and his family;
2. Transportation and certain related costs of moving the personal and household effects of the employee and his family; and
3. Expenses incurred for meals and lodging for the employee and his family while they are en route to their new location.

In addition, in two court cases, taxpayers have been permitted to exclude other types of moving expenses, although the Internal Revenue Service has not acquiesced in the exclusion of these other types of moving expenses.[1]

On the other hand, reimbursements for moving expenses received by new employees from their employers are includible in gross income. Moreover, no deduction is allowed for moving expenses of any employee with respect to expenses for which no reimbursement is received.

(*b*) *General reasons for provisions.*—Your committee agrees with the House that the existing tax treatment of moving expenses needs modification because the present treatment discriminates against both new employees and employees who are not reimbursed for their moving expenses by their employers. There is no reason why new employees should include in their income amounts representing moving expenses which, if received by an existing employee who is moved by his employer from one location to another, would be excludable from income. Neither is there any reason for discriminating against those employees who are not reimbursed for their moving expenses, but who incur such expenses in seeking job opportunities. Moreover, it is important to remove deterrents to the mobility of labor. Any thing which can be done in this respect should aid in reducing local structural unemployment.

Both the House and your committee's bill limit the categories of expense for which a deduction is available to new employees or those who are not reimbursed for moving expenses to the three categories specified above, which, by ruling, the Internal Revenue Service recognizes the reimbursements of which are as excludable for existing employees. No inference should be drawn from this, however, that moving expense exclusions under existing law are necessarily limited

[1] In *John E. Cavanagh* (36 T.C. 300; 1961) it was held that living costs incurred by the employee in excess of ordinary living expenses of his family were excludable where they were reimbursed while his household effects were in transit. In *Otto Sorg Schairer* (9 T.C. 549; 1947) it was held that where an employee was reimbursed for a loss incurred in selling his home this reimbursement was an addition to the sales price. More recently, however, the Tax Court held that reimbursements of similar expenses were additional compensation and not excludable from the employee's income in the case of *Harris W. Bradley* (39 T. C. 652; 1963 aff'd, 324 F. 2d 610 (4th Cir. 1963). A reimbursement on sale of a house was also held to be compensation in *Arthur V. Kobacker* (37 T.C. 882; 1962).

to these three categories of expenses. However, since by administrative ruling, these categories are clearly excludable in the case of existing employees who are reimbursed, it is believed that deductions for such expenses should also be made available to new employees and nonreimbursed employees as well. The question of whether the exclusion for existing employees extends beyond these three categories is left for judicial interpretation.

(c) *General explanation of provisions.*—The deductions allowed by the House and your committee's bill with respect to moving expenses are to be deductible in computing "adjusted gross income." These expenses, therefore, are deductible whether the individual involved itemizes his personal deductions or takes the standard deduction. This treatment is provided not only because these expenses are substantially similar to business expenses, but also because when they are incurred, they are likely to be relatively large. In such cases, it was thought that it would be undesirable to, in effect, make taxpayers choose between taking this deduction and the standard deduction in lieu of itemized personal deductions.

No deduction is provided under this provision for moving expenses for which the taxpayer receives reimbursements which are not included in his gross income. Thus, existing employees may continue to exclude reimbursed moving expenses from their gross income in the same manner as under present law. Their status, in this regard, is left entirely unchanged.

The types of moving expenses which may be deducted under this provision are reasonable expenses for—

1. Moving household goods and personal effects from the former residence to the new residence;
2. Transportation expenses of the employee and his family from the former residence to the new place of residence; and
3. Expenses for meals and lodging while in transit from the former residence to the new place of residence.

The moving expenses referred to are available not only with respect to the taxpayer, but also to any other members of the taxpayer's household who had as their permanent place of abode the taxpayer's former residence and moved to his new residence. (For amendment added by your committee with respect to sales of residences of employees who are moved see sec. 232 of the bill, item 39 below.)

(c)(i) *Limitations.*—To prevent the deduction of moving expenses for short moves, the bill provides that, for a deduction to be available, the taxpayer's new place of work must be at least 20 miles farther from his former residence than was his former place of work. In other words, his commuting distance must have increased by at least 20 miles to be eligible for this deduction. If the individual involved previously had no place of work, his new work location must be at least 20 miles from his former residence.

To prevent individuals from taking temporary jobs in order to obtain the deduction of moving expenses, it is provided that during the 12-month period immediately after the individual's arrival at his new principal place of work, he must be a full-time employee in that general location for three-fourths of the time (39 weeks). This limitation, however, is not applied to the extent where the individual is reimbursed for his moving expenses by his employer since, presumably, an employer would not reimburse such expenses even for a new

employee unless it was his intention that the individual remain employed for an extended period of time.

This requirement that an employee be a full-time employee in a general location for three-quarters of a year after moving means that where he has moved after the first half of the year, he cannot be sure when he files his return in the following April that he will meet this 9 months' requirement. For that reason, the employee in such a case is permitted to claim the moving expense deduction (assuming he has not already disqualified himself by that time, such as by moving out of the general location). Then, if after filing his return he fails to qualify for the moving expense deduction by not remaining employed full time for 39 weeks in the new location he is to include in his gross income for the following year the amount of moving expense deduction claimed in the prior year.

(*c*) (*ii*) *Effective date.*—The new treatment provided by this provision applies to expenses incurred after December 31, 1963.

(*d*) *Revenue effect.*—It is anticipated that this provision in a full year of operation will result in an annual revenue loss of $60 million a year.

18. Deduction for political contributions (sec. 214 of the bill and sec. 218 of the code)

(*a*) *Present law.*—Up to the present no deduction or credit has been allowed for political contributions of any type. In fact, charitable and educational contributions presently may be denied if the organizations involved spends any substantial part of its activities in attempting to influence legislation.

(*b*) *General reasons for provisions.*—Your committee's bill departs with the precedent in this respect primarily because of the report of the late President Kennedy's Commission on Campaign Costs and because of his recommendation to Congress with respect to this report. This section, while not identical to the proposal of the late President, nevertheless is substantially similar to it, and in your committee's opinion carries out the objectives of that request. The purpose of allowing a limited deduction for campaign contributions is, as indicated by the late President, to broaden the base of contributions: "to reduce dependence on large contributions of those with special interests." As he indicated, this section "is designed to give party solicitors an additional tool to help stimulate individuals to contribute money, in * * * election years."

(*c*) *General explanation of provision.*—The new section added by the bill allows a deduction for political contributions up to a maximum of $50 a year in the case of a single person (or a married person filing a separate return) and up to $100 a year in the case of a married couple filing a joint return. The amounts for which deductions are permitted are limited in order to achieve the objective of the late President Kennedy in "broadening the base of political contributions."

These deductions are available only to those who itemize their deductions, rather than taking a standard deduction. Therefore, this places these limited deductions for political contributions in the same category as charitable contributions, deductible taxes, interest, certain medical expenses, etc.

The bill provides that this deduction for political contributions is to be allowed only if the fact of the political contribution is verified in such manner as the Secretary of the Treasury or his delegate prescribe

by regulation. It is anticipated that under this grant of authority the Secretary of the Treasury will provide that the deduction will be available only where the taxpayer, if his return is audited, presents adequate records to show that he has actually made the political contributions to a qualified candidate or committee. This will give assurance against the claiming of deductions for fictitious political contributions.

A political contribution which as a result of the new section added by the bill will be deductible must be a contribution or gift to a "political candidate" or "political committee." However, in addition, it is required that the contribution be made only for the purpose of furthering the candidacy of one or more individuals in a general, special, or primary election or a convention of a political party. Thus, contributions or gifts to further the cause of a referendum or other issue on a ballot will not be deductible. The candidate with respect to which the deduction of a contribution or gift may be claimed may be a candidate for National, State, or local office and may be either a partisan or nonpartisan candidate. Thus, for example, where judges are elected officials, contributions for their candidacy may be deducted. The candidacy of the individual may be either for a primary election or for a convention of a political party nominating candidates for office or for a general election. Included also are special elections to fill vacancies.

The deduction for political contributions under the bill is limited to contributions made by individuals. It is not available with respect to contributions from corporations or from estates or trusts.

(*c*)(*i*) *Effective date.*—The bill provides that contributions or gifts made after the date of enactment of this bill are to be deductible.

(*d*) *Revenue effect.*—It is anticipated that this provision will result in a revenue loss of approximately $25 million a year for Presidential election years; 50 percent of that amount for congressional election years; 25 percent for off years; and average about $15 million per year.

19. One hundred-percent dividends received deduction for members of electing affiliated groups (sec. 215 of the bill and sec. 243 of the code)

(*a*) *Present law.*—Present law in general provides a deduction equal to 85 percent of the dividends received by one corporation from another domestic corporation. This has the effect of taxing 15 percent of intercorporate dividends received. With the present 52-percent tax rate, this is a tax of 7.8 percent on the entire dividend (15 percent times 52 percent), or in the case of the 48-percent rate effective under this bill for corporations in 1965 and subsequent years, a tax on the entire dividend of 7.2 percent.

(*b*) *General reasons for provision.*—The administration in its initial recommendation to Congress proposed that the 2-percent penalty tax on consolidated returns be repealed that controlled groups be limited to a single surtax exemption, and also, that the intercorporate dividends received deduction be increased to 100 percent in the case of amounts received as a dividend from a corporation which is a member of the same parent-subsidiary affiliated group. In this regard, the Secretary of the Treasury in his explanation of this provision to the Ways and Means Committee stated:

> The elimination of the intercorporate dividend tax in this type of parent-subsidiary relationship would extend to such

groups one of the tax advantages generally now available only to affiliated groups which file consolidated returns. This amendment is designed to facilitate the adjustment to the elimination of multiple surtax exemptions in cases where the affiliated group does not, or cannot, file consolidated returns, but would recognize that the earnings of an 80-percent-owned operating subsidiary are more directly the earnings of the parent than is the case where one corporation merely derives investment income from an unrelated corporation.

Your committee is in accord with this recommendation of the administration. Your committee concluded that it would be inequitable to repeal the consolidated return 2-percent tax without also providing a 100-percent intercorporate dividends received deduction for corporations meeting the same tests of common ownership, but which for one reason or another cannot, or do not want to, file a consolidated return and are willing to forgo multiple surtax exemptions. Among the principal reasons for not being eligible to file a consolidated return in the case of an affiliated group is the need for different members of a group to maintain different fiscal years due to variations in the natural business years of the different companies involved. Still another factor accounting for some corporations in an affiliated group not filing consolidated returns is the necessity to use the same accounting method (unless the Internal Revenue Service specifically permits a variance) although there may be valid business reasons for the different accounting methods in the case of the different businesses. Another reason which applies in the case of life insurance companies is that under present law such companies may not file a consolidated return with other domestic corporations which are not life insurance companies. Moreover, still other corporations are hesitant to file consolidated returns because of the sheer complexity of the consolidated return regulations.

For these reasons, your committee has added a provision granting a 100-percent dividends-received deduction in those cases where corporations are affiliated but they do not file a consolidated return. To be sure that no special advantage was given these corporations over those corporations which do file consolidated returns, your committee has reviewed the various provisions of the code and denied tax benefits in those cases where the separate corporations received significant advantages over a consolidated group. Thus, where this 100-percent dividends-received deduction is elected, the group is to have only one $25,000 surtax exemption for the group, the election with respect to foreign tax credits or deductions must be the same for all members of the group, only one $100,000 minimum accumulated earnings credit is to be allowed in determining exemptions from the tax on unreasonable accumulations, only one $100,000 exemption in computing estimated tax subject to accelerated payments is to be allowed, and limitations generally applicable to a single corporation are provided in the case of exploration expenditures.

(c) *General explanation of provision.*—A 100-percent dividends-received deduction is allowed by your committee's amendment when dividends are paid by a domestic corporation but only where the dividends are "qualifying dividends." To be qualifying dividends

they must be received from a corporation which is a member of the same affiliated group of corporations. "Affiliated group" for this purpose is defined in the same manner as an affiliated group for purposes of the requirement for filing a consolidated return except that a domestic insurance company (taxable under section 802 or 821) is treated as an includible corporation. For the dividends to be qualifying, the receiving and distributing corporation must be members of the same affiliated group at the time of the distribution and also the dividends must be distributed out of earnings and profits of a year ending after December 31, 1963, when on each day of which the two corporations were members of the same affiliated group and were not claiming multiple surtax exemptions.

The determination as to what earnings and profits a dividend is considered as being distributed out of will be made under the rules applicable elsewhere in the code for this purpose; i.e., they will be considered as paid first out of the current year's earnings and profits and then, to the extent of any excess, out of the prior year's earnings and profits, then, to the extent of any excess, out of the second prior year's earnings and profits, etc. In addition, the dividends must be paid at a time when the distributing and receiving corporations are members of an affiliated group which has elected to qualify for the 100-percent dividend-received treatment provided by the new section.

An election must be made by the parent corporation and consented to by each of the subsidiary corporations. The election is effective for the taxable year of the subsidiaries which includes the last day of the year of the parent with respect to which the election was initially made. In addition, the election applies automatically for each succeeding year unless the election is specifically terminated. A special rule provides that with respect to fiscal years beginning in 1963 and ending in 1964, the election would be effective as long as the last day of the corporation's year is included in a year of the parent for which an election is effective.

An election may be terminated by an affiliated group if the affiliated group files a termination of the election and each member of the group consents to this termination. In addition, the election may be terminated where a new member is added to the affiliated group and this member files a statement to the effect that it does not consent to the election.

Where an affiliated group elects the 100-percent dividend paid treatment, the members of the group must forego certain advantages which they otherwise would have as separate corporations. These rights are withdrawn since they are not available to a group filing a consolidated return, where the tax advantages are substantially similar to those provided in the case of the 100-percent dividends received deduction. The advantages of separate treatment which the affiliated group must forego if this election is made are as follows:

1. The group may not elect to receive more than one surtax exemption.

2. All members of the group must all make the same elections with respect to foreign taxes; i.e., they must all elect either to claim deductions for these foreign taxes or foreign tax credit; and, if they claim foreign tax credit, they must all either elect the "per country limitation" or the "overall limitation" in computing the size of the credits available. They will each, however, continue to compute their own

foreign tax deduction or credit in the same manner as separate corporations.

3. In determining whether or not the various corporations in the affiliated group are subject to the accumulated earnings tax (imposed by section 531), only one $100,000 minimum accumulated earnings credit would be available for the entire group.

4. In determining the tax liability of the group which will be subject to estimated tax (i.e., acceleration of corporate payments so that the tax is paid in the year of liability rather than in the succeeding year), only one exemption of $100,000 of tax liability is to be available to the entire group rather than to each member of the group.

5. In determining the maximum amount of exploration expenditures with respect to mineral deposits which may be written off in any one year or treated as a deferred expense the group of affiliated corporations making this election is to be eligible to write off one $100,000 in any one year with a total of $400,000 over any number of years.

Except for the $100,000 minimum accumulated earnings credit, it is anticipated that the members of the affiliated group will be permitted to apportion the $100,000 exemptions, limitations, or the $400,000 limitation in any manner that they see fit.

Life insurance companies and mutual casualty insurance companies may not file a consolidated return with any other companies except other life insurance companies of the same type. Under your committee's amendment, however, dividends from, or to, such insurance companies are eligible for the 100-percent dividends received deduction if the entire affiliated group of which the insurance company is a member consents to the tax treatment provided by this section.

(*c*)(*i*) *Effective date.*—This 100-percent dividend deduction treatment is to apply with respect to dividends received in taxable years ending after December 31, 1963.

(*d*) *Revenue effect.*—It is anticipated that this provision will result in a revenue loss of approximately $5 million a year.

20. Interest on loans on certain insurance and annuity contracts (sec. 216 of the bill and sec. 264 of the code)

(*a*) *Present law.*—Under existing law, no interest deduction is allowed in the case of indebtedness incurred or continued to purchase, or carry, a single-premium life insurance, endowment, or annuity contract. In addition, if substantially all the premiums on a contract are paid within 4 years of the date on which the contract was purchased, the contract is treated as if it were a single-premium contract for purposes of this provision. Similarly, where a purchaser borrows an amount equal to a substantial portion of the premium payments on a contract, but, instead of purchasing the policy outright, deposits the borrowed funds with the insurance company for future payments on a policy, this also is treated as if it were a single-premium contract and the interest deduction on the indebtedness relating to the contract is denied. However, under present law, no interest deductions are denied where the taxpayer purchases an insurance contract with the intention of borrowing the maximum amount on the contract each year, unless the contract falls in one of the categories described above.

(*b*) *General reasons for provision.*—It is understood that life, or other insurance policies are being sold to individuals on the basis that they cost the individual little or nothing, and in some cases on the

grounds that they actually result in a net profit for him. In such cases, the taxpayer each year borrows all, or a substantial part, of the funds necessary to pay the premium on the policy. If he is in a 50-percent (or higher) tax bracket, since the interest payments on such loans are presently deductible, the net interest cost to him is one-half or less of the interest payments he makes. The annual increase in the cash value of the insurance policy to reflect interest earnings, which generally is not taxable to the taxpayer either currently or otherwise, is likely to equal or exceed the net interest charges the taxpayer pays. Thus, for taxpayers in higher brackets, where the annual increment in the value of the policy, apart from the premiums, exceeds the net interest cost of the borrowing, such policies can actually result in a net profit for those insured. Because of this, some insurance companies have sold insurance policies under plans which provide for the taxpayer borrowing the premiums either directly from the insurer, or from a bank or otherwise, primarily on the grounds that the policies are tax-saving devices. Both the House and your committee doubt that the sale of insurance on such a basis is either desirable or fair to taxpayers generally.

However, the importance of being able to borrow on insurance policies is recognized; and, therefore, while adopting a provision designed at minimizing the sale of insurance as a tax-saving device, the House and your committee have been careful in this provision to provide for the retention of rights to borrow on insurance for other than tax-saving purposes without the loss of the interest deduction.

One of the Treasury's proposals on which neither the House nor your committee took any action involves the tax treatment of split-dollar life insurance arrangements, which are closely related to this bank loan insurance provision. These are arrangements entered into jointly by an employer and employee under which part of the premiums on a life insurance policy are paid by each. It is believed that the issues involved in this problem, and the proper solution, including the possibility of administrative action, are in need of further study by the Treasury Department.

(*c*) *General explanation of provision.*—Both the House and your committee's bill provide that interest paid on indebtedness incurred or continued to pay premiums on life insurance contracts, endowment contracts, or an annuity is not to be deductible if the individual is following a plan of systematically borrowing amounts equal to the increase in the cash value of the insurance contract to pay part or all of the premiums. The interest deduction is to be denied whether the borrowing is direct or indirect; that is, whether it is from the insurance carrier, from a bank, or from any other person. It also is intended to cover cases where the individual borrows on other property or on his general line of credit to pay the premiums. This provision is not to apply to a single-premium contract or to a contract treated like a single-premium contract, since present law already denies a deduction in these cases.

In effect, where the taxpayer systematically borrows the increase in the cash value of his policy he is converting what generally is a permanent form of life insurance into substantially the equivalent of renewable term insurance. In this case, however, he retains the right to restore the contract to permanent insurance as of the original

age at which he took out the contract by repaying the amount borrowed from the insurance company, bank, or other person.

The House bill would apply only to insurance or annuity contracts purchased after August 6, 1963, the date the House Committee on Ways and Means first announced its action on this matter. Your committee has amended the provision so that it will apply only to contracts purchased after December 31, 1963, to bring this provision into line with the general effective dates provided in this bill for structural changes. In any event, both the House provision and the provision as amended by your committee will only affect contracts entered into after the specified date and will have no effect on contracts entered into before that date even in the case of borrowings on such a contract in the future.

(c)(i) *Exceptions.*—Both the House and your committee desire to be sure that the value of insurance generally would not be decreased by reducing the rights of the individual to borrow on the insurance, as he can in the case of other forms of assets. For this reason, a number of exceptions to the general rule are added where, even though the borrowing may take the form of a systematic plan, nevertheless this provision is not to apply. These exceptions are as follows:

1. The interest deduction is to be allowed if there is no borrowing with respect to any four of the annual premiums payable on the insurance or annuity contract in the first 7 years of the contract. However, to prevent avoidance of this provision by taking out a contract with very low premiums for the first 4 years, with the premiums being substantially greater thereafter, the bill contains a rule relating to situations of this type. It is provided that the 7-year period referred to above is to commence again at any time there is a substantial increase in the premiums payable under the insurance or annuity contract.

2. A de minimis rule is to apply. Thus, if the otherwise nondeductible interest of an individual with respect to an entire taxable year does not exceed $100, no interest deduction will be denied.

3. In any event, no interest deduction will be denied if the debt was incurred because of an unforeseen substantial loss of income or unforeseen substantial increase in financial obligations. Thus, for example, the interest deduction would not be denied where the individual systematically borrowed on a policy previously purchased because he, or his family, incurred large unforeseen medical bills or because he unexpectedly lost a substantial income source.

4. The interest deduction is not to be denied where the indebtedness actually is to finance business obligations, rather than to carry insurance. For example, an individual with an insurance policy would not have his interest deductions denied where it can be shown that the amounts borrowed by him were actually used to finance the expansion of inventory or for other similar business needs.

(c)(ii) *Effective date.*—This provision as amended by your committee applies to amounts paid in taxable years beginning after December 31, 1963, but with respect to policies purchased after December 31, 1963.

(d) *Revenue effect.*—It is estimated that this provision will result in an annual revenue gain of $5 million in 1964 and 1965 and $10 million when the provision is fully effective.

21. Interest on indebtedness incurred or continued to purchase or carry tax-exempt bonds (sec. 217 of the bill and sec. 265(2) of the code)

(*a*) *Present law.*—Under present law, no deduction is allowed for interest on indebtedness incurred or continued to purchase or carry obligations the interest on which is exempt from Federal income taxes. It has been held that interest paid on indebtedness represented by deposits in banks engaged in the general banking business is not subject to this provision since this indebtedness is not considered to be "incurred or continued to purchase or carry" tax-exempt obligations. This position which has been a long-standing administrative practice was specified by ruling in 1961 (Rev. Rul. 61–222, 1961–2 CB58).

(*b*) *General reasons for provision.*—A witness before your committee called attention to the fact that financial institutions which are subject to the banking laws of a State, although not actually banks themselves, pay interest on face amount certificates—a way by which thousands of individuals throughout the country systematically invest their savings. In the example cited to your committee, a certificate holder pays to the financial institution equal monthly payments for 20 years and at the end of that time, the financial institution pays back the amount of the investment plus interest in accordance with the provisions of the certificate. The funds of the financial institution in this case are subject to regulation by the Investment Company Act which permits investment of the funds received from the certificate holder in "qualified investments."

Qualified investments for this purpose include real estate mortgages, certain property improvement loans, U.S. Government and municipal bonds, and other securities meeting certain performance standards. As a result, part of the financial institution's funds are invested in State and municipal bonds, the interest on which is exempt from Federal income tax.

Your committee concluded that in cases of this type the relationship of the financial institution to the certificate holder is sufficiently close to the relationship of a bank to its depositors as to permit the investment of a substantial portion of the funds of such an institution in tax-exempt State and municipal bonds without this resulting in the possible denial of the interest deduction with respect to amounts paid out to the certificate holders. Your committee therefore has amended the House bill to provide that interest deductions are not to be denied in the case of these types of financial institutions to the extent they invest not more than 25 percent of their assets in tax-exempt obligations.

Your committee intends that no inference be drawn from the fact that it has provided this treatment for the future as to the proper interpretation of the applicable law with respect to interest deductions for any prior year.

(*c*) *General explanation of provision.*—Your committee's amendment adds a sentence to the provision of existing law which denies a deduction for interest on indebtedness incurred or continued to purchase or carry obligations, the interest on which is wholly exempt from Federal income tax. The sentence added provides that financial institutions which are subject to the banking laws of the State in which they are incorporated are not to be denied interest deductions on face amount certificates (as defined in the Investment Company Act of 1940), or on amounts received for the purchase of these certificates, on the grounds that this interest is on indebtedness incurred or continued to

purchase or carry tax-exempt obligations. However, interest on these face-amount certificates is to be so treated only to the extent that the average amount of tax investments of the institution in the tax-exempt obligations do not comprise more than 25 percent of the average of the total assets of the institution. "Total assets" for this purpose means gross assets (taken at cost) less all of the liabilities other than the liability on the face-amount certificates.

(c)(i) *Effective date.*—This provision applies with respect to taxable years ending after the date of enactment of this bill.

(d) *Revenue effect.*—It is expected that this provision will result in a negligible revenue loss.

22. Repeal of requirement of allocation of certain traveling expenses (sec. 218 of the bill and sec. 274(c) of the code)

(a) *Present law.*—In the Revenue Act of 1962, Congress provided that where a person takes a business trip and this is combined with recreational or other personal activities, the cost of this trip in certain cases must be allocated between the business and personal activity, the former, but not the latter, being deductible for income tax purposes.

Exceptions in the statute provide that this allocation is not to be required where the trip does not take more than a week or where the time spent on the personal activities represents less than a quarter of the time away from home on the trip. In these cases, the entire expenses of travel, and meals and lodging while in travel status, are deductible as under prior law, where the taxpayer can establish that the trip is related primarily to business. Under the authority provided for prescribing, under regulation by the Secretary or his delegate, the amount of activity allocable to the trade or business, the Treasury Department has held that if the travel expense qualifies as an ordinary and necessary business expense, none of it will be disallowed (1) if the taxpayer does not have substantial control over arranging the business trip or (2) if he does not have the obtaining of a personal vacation as a major consideration in determining whether to make the trip.[1] The Internal Revenue Service has held that an employee who is reimbursed by his employer for his travel expenses is considered not to have substantial control over arranging the business trip providing he is not a managing executive of, or closely related to, his employer. Even a managing executive, or an individual who is closely related to his employer, is not affected if he can establish that he did not have substantial control over arranging the particular trip.[2] It is also indicated that mere control over the timing of a business trip will not itself represent substantial control.[3] Even where the person has substantial control over arranging the business-vacation trip, the Service has indicated that it will not be held to be partially allocable to nonbusiness activity unless obtaining a personal vacation or holiday was a major consideration in making the trip.[4] The Service has also indicated that if a major consideration in making the business trip is to visit a hospitalized relative, this will not result in any allocation of the travel expense for personal reasons. On the other hand, of course, if the primary purpose of the trip is to visit an ill relative

[1] U.S. Treasury Department, Internal Revenue Service, "Questions and Answers for the Businessman; Travel, Entertainment and Gift Expenses," Document No. 5495 (7-30-63), question No. 69.
[2] Op. cit., question No. 71.
[3] Op. cit., question No. 73.
[4] Op. cit., question No. 75.

for personal reasons, no deduction would be allowable for travel expense as under prior law.[5]

(*b*) *General reasons for the provision.*—There is at the present time a great deal of confusion as to the area of application of this provision and the rules developed by the Internal Revenue Service with respect to this provision are little understood by the general public. It is recognized that the Internal Revenue Service in its interpretation of this provision has attempted to remove the harsher aspects in its application. However, this also has had the unfortunate effect of complicating the provision to such a degree that it is not generally understood by the traveling public. Moreover, the area of application of the provision is so restricted, since it applies only to self-employed persons and to employees who are managing executives or related to employer, and in many cases not to them, that your committee concluded that the provision in its present form served little purpose. In view of these considerations your committee has added a section to the bill repealing this travel allocation rule retroactively to the date of its enactment in the Revenue Act of 1962.

(*c*) *General explanation of provision.*—The section added by your committee repeals the subsection adopted in 1962 which required a person taking a business trip, which was also combined with recreational or other personal activities, to allocate the cost of the trip between the business and personal activities, deducting the former and not the latter. This allocation was not required where the trip does not take more than a week or where the time spent on personal activity represents less than a quarter of the time away from home on the trip.

(*c*)(*i*) *Effective date.*—This provision is repealed as of the date of its enactment; namely, for periods after December 31, 1962.

(*d*) *Revenue effect.*—It is estimated that the repeal of this provision will result in a revenue loss of $5 million a year.

23. Acquisition of stock in exchange for stock of corporation which is in control of acquiring corporation (sec. 219 of the bill and sec. 368 of the code)

(*a*) *Present law.*—Under present law, a subsidiary corporation can acquire the assets of another corporation in exchange for its parent company's stock. This is a tax-free reorganization (under sec. 368(a)(1)(C)). In addition, following this tax-free reorganization the acquired assets can be transferred to a subsidiary corporation without affecting the tax-free nature of the reorganization.

Under present law, it is not possible, however, for a subsidiary corporation to acquire tax free the stock of another corporation in exchange for the stock of its parent corporation. In such a case, for the reorganization to be tax free, present law requires that the subsidiary corporation transfer its own stock in exchange for the stock of the other corporation, rather than the stock of its parent.

(*b*) *General reasons for provision.*—The Supreme Court in *Groman* v. *Helvering* (302 U.S. 82) and *Helvering* v. *Bashford* (302 U.S. 454), found that exchanges in which the parent corporation transferred stock while its subsidiary corporation received stock or the assets of another corporation did not qualify as tax-free reorganizations because the required "continuity of interest" was lacking.

[5] Op. cit., question No. 76.

In the 1954 code, in order to avoid the results of the *Groman* and *Bashford* decisions, the law was amended to provide that the subsidiary corporation could acquire the assets of another corporation in exchange for its parent corporation's stock (in tax-free reorganization under sec. 368(a)(1)(C)). The 1954 code also provided that following this reorganization, the acquired assets could be transferred to a subsidiary corporation without destroying the tax-free status of the reorganization.

Thus, the 1954 code permits tax-free reorganizations in the case of the exchange of the parent's stock for the assets of a corporation acquired by the subsidiary. However, a similar result is denied where the subsidiary acquires the stock of the other corporation in exchange for the stock of its parent corporation. Since Congress has considered the "continuity of interest" rule satisfied in the case of asset acquisitions, there seems to be no reason for not applying the same rule to stock acquisitions, since there is little in substance to distinguish an asset acquisition from a stock acquisition.

As a result, your committee has concluded that it is desirable to treat these two types of acquisitions in the same manner. For that reason, it has provided tax-free status for the stock-for-stock reorganization in the same manner that present law provides a tax-free status for stock-for-assets reorganizations.

(*c*) *General explanation of provision.*—This provision amends the definition of a stock-for-stock reorganization (known as a (B) reorganization) to qualify as a tax-free reorganization a transaction in which a subsidiary corporation acquires the stock of another corporation (and after that is in control of the corporation) in exchange solely for the voting stock of its parent corporation. Present law is also amended to permit the subsidiary corporation acquiring the stock of another corporation in the "(B) reorganization" to transfer all or part of this stock to another corporation which it controls. In addition, conforming changes have been made to the definition of the term "party to the reorganization".

(*c*)(*i*) *Effective date.*—The amendment made by this provision applies with respect to transactions after December 31, 1963.

(*d*) *Revenue effect.*—This amendment is expected to result in a negligible loss in revenue.

24. Retroactive qualification of certain union negotiated multiemployer pension plans (sec. 220 of the bill and sec. 401(i) of the code)

(*a*) *Present law.*—Under present law, a pension trust is qualified for income tax exemption only if it meets certain requirements relating to coverage of employees and nondiscrimination of contributions or benefits. Where the pension trust is properly qualified, not only is it exempt from Federal taxation with respect to its income, but contributions paid to it by an employer on behalf of his employees are deductible for Federal income tax purposes. Thus, it is of great importance for a pension trust to meet the requirements of the Internal Revenue Code and thereby become a qualified trust.

(*b*) *General reasons for provision.*—On several occasions in recent years bills have been presented to Congress and enacted into law providing for the retroactive qualification of specific pension trusts which could not initially qualify for exemption but after a period of time were able to do so. An example of this is the pension plan of local union No. 435, International Hod Carriers Building and Com-

mon Laborers' Union of America which was retroactively made a qualified trust by Congress in section 25 of the Revenue Act of 1962.

These plans are multiemployer pension plans established under collective bargaining agreements between a union and several employers. The regulations under present law (Regulations sec. 1.401–1(a)(2)) require that a "definite written program and arrangement" be communicated to the employees. This requirement cannot be met without delay in many cases of these multiemployer pension funds. However, the employers are required by the collective bargaining agreement entered into to begin making contributions under a general formula when the agreement is signed. However, to determine a schedule of benefits under one of these plans, frequently a complex actuarial study must be made, including a census of the employees of all of the participating employers. This requires a substantial period of time and during this period there can be no "definite written program." Therefore, there cannot be a qualified plan during this period and the contributions required under the union agreement, where they are not vested, cannot be deducted by the employers.

Because of the severe consequences of the failure to qualify for deductions during this period, Congress has from time to time provided retroactive qualification of plans where they subsequently become qualified and where the pension trust in the meanwhile was not operated in a manner which jeopardized the interests of its beneficiaries. To make it unnecessary to consider each one of these plans separately for retroactive qualification, the Treasury Department has recommended to Congress that it be given general authority to qualify these plans retroactively to the date of their creation where certain tests are met: The plans subsequently must become qualified and in the interval the trust must have been operated in a manner which substantially meets the tests under which the plan subsequently qualifies and the interests of the beneficiaries during this period must not in any way have been jeopardized. Your committee is in accord with the Treasury Department's recommendation and, therefore, has added a new section to this bill to provide retroactive qualification for these plans in such cases.

(*c*) *General explanation of provision.*—Your committee's amendments provide that a trust which is a part of a pension plan which the Secretary has found to be a "qualified trust" and one which is itself exempt from taxation is to be considered as a trust which was a "qualified trust" and as one which was exempt from taxation from the period beginning with the date when contributions were first made to the trust rather than beginning with the date that the trust otherwise first constituted a "qualified trust".

For this retroactive qualification to be made available to a pension trust, it must be established to the satisfaction of the Secretary of the Treasury or his delegate that three conditions have been met. First, he must be satisfied that the trust was created under a collective bargaining agreement with two or more employers who are not related. This provision is made available only in the case of multiemployer plans because it is believed that only these plans involve the substantial delay after the bargaining agreement before it is possible to determine the schedule of benefits for the employees. Moreover, present law already provides that single employer plans may be retroactively qualified to the beginning of a year if the qualifications

are fully met by the 15th day of the third month following the close of a year.

Second, it must be shown to the satisfaction of the Secretary or his delegate that the disbursements made from the trust prior to actual qualification substantially meet the tests under which the pension plan subsequently qualifies. Minor variations, not basically discriminatory in character, for this purpose may be ignored.

Third, the Secretary or his delegate must be satisfied that prior to the time the trust constituted a qualified plan the contributions made to this trust were not used in a manner which would jeopardize the interests of the beneficiaries.

These are essentially the same conditions which previously, when plans were considered on an individual basis, Congress has required to be met before retroactive approval was accorded these plans.

(*c*)(*i*) *Effective date.*—This provision is to apply retroactively back to what was the general effective date of the Internal Revenue Code of 1954; namely, taxable years beginning after December 31, 1953, and ending after August 16, 1954, but only with respect to contributions made after December 31, 1954.

(*d*) *Revenue effect.*—It is believed that this provision will result in a negligible loss of revenue.

25. Qualified pension, etc., plan coverage for employees of foreign subsidiaries and domestic subsidiaries operating abroad (sec. 221 of the bill and secs. 406 and 407 of the code)

(*a*) *Present law.*—Under present law, a domestic corporation may extend old-age and survivors insurance coverage to U.S. citizens employed by its foreign subsidiaries. This social security coverage can be provided by agreements between the parent company and the Secretary of the Treasury or his delegate. This coverage is available only to U.S. citizens employed by foreign subsidiaries in which the domestic corporation has at least a 20-percent voting stock interest or a foreign subsidiary of such a foreign subsidiary if the first subsidiary has at least a 50-percent voting stock interest in the second. Of course, U.S. citizens in a domestic corporation, even though that domestic corporation is operating abroad, also are covered under present law for social security purposes.

There is no method comparable to the social security agreement referred to above for covering under a domestic corporation's qualified pension profit-sharing stock bonus, annuity, or bond purchase plan the U.S. citizens who are employees of its foreign subsidiaries. If a U.S. citizen becomes an employee of the foreign subsidiary, he is no longer eligible to participate in the pension or profit-sharing plan of the domestic parent corporation. Moreover, the foreign subsidiary corporation cannot establish a similar pension, etc., plan and obtain qualifications from the Internal Revenue Service unless it includes in this plan the foreign nationals on its payroll on a nondiscriminatory basis. Where the plan is not qualified, the U.S. citizens of such a foreign subsidiary under present law would be currently taxable on any contributions made by the foreign subsidiary to a pension or profit-sharing plan to which they had nonforfeitable rights.

Similarly, it has been held by some Internal Revenue offices that a domestic corporation operating abroad through branches cannot obtain qualified status plans which provide coverage for U.S. citizens

who are employees of the domestic corporation, unless it also provides nondiscriminatory coverage for the foreign employees on its payroll.

(b) *General reasons for provision.*—Your committee believes that it should be possible to cover under qualified plans U.S. citizens who are employees of foreign subsidiaries in substantially the same manner as it is possible to cover them by agreement under present law for social security purposes. It is believed that it should be possible to cover the U.S. citizens under a qualified plan for U.S. tax purposes without also covering the foreign nationals of the foreign subsidiary under such a plan. The foreign nationals usually are interested in different patterns of retirement benefits depending upon their own local custom; on the other hand, the U.S. citizen employed by the foreign subsidiary has close economic and personal ties with the United States, expects to return home, and may well wish to continue coverage under a qualified plan of the domestic parent corporation under which he was covered before becoming an employee of the foreign subsidiary.

The problem is substantially similar in the case of U.S. citizens employed abroad by foreign branches of domestic subsidiaries. They are covered for social security purposes and should in your committee's view have an opportunity to be covered under qualified plans in the same way as is proposed in the case of employees of foreign subsidiaries of domestic corporations.

(c) *General explanation.*—For the reasons given above, your committee has added an amendment to the House bill providing that U.S. citizens who are employees of foreign subsidiaries of a domestic corporation may under certain circumstances be included for coverage under a qualified pension or annuity plan or profit-sharing or stock bonus or bond-purchase plan or stock bonus plan of the domestic corporation. Thus, contributions made to such a plan for the U.S. citizens employed abroad by the domestic corporation will not be taxable to the employee at the time of contribution even though his rights in the contribution are nonforfeitable and the qualified status of the plan will not be disturbed.

To qualify for this treatment, the individual involved must be a citizen of the United States and an employee of a foreign subsidiary of a domestic corporation. The domestic corporation in this case must have entered into an agreement with the Treasury Department to cover for social security purposes the U.S. citizens who are employees of the foreign corporation involved, and the pension, profit-sharing or stock bonus plan of the domestic corporation must provide coverage for employees of all of its foreign subsidiaries with which it has entered into an agreement to provide social security coverage. In addition the individual involved must not be covered under any other employer's funded plan of deferred compensation such as a pension or profit-sharing or stock bonus plan (qualified or not) with respect to the compensation he receives from the foreign subsidiary. A foreign subsidiary for this purpose is defined in the same manner as is provided for in the case of social security coverage of U.S. citizens who are employees of a foreign subsidiary. Thus, the parent corporation must have a 20-percent voting stock interest in the foreign subsidiary. Also covered are subsidiaries of such a foreign subsidiary where the first foreign subsidiary has at least a 50-percent voting stock interest in the second.

Your committee's amendment also provides that employees of a domestic subsidiary of a domestic parent corporation may be covered

under the domestic parent corporation's pension or annuity plan, profit-sharing plan, stock bonus or bond-purchase plan where the individual involved is a U.S. citizen and the domestic subsidiary's operation is largely through foreign branches. Here, of course, coverage for social security purposes is automatically provided since the subsidiary corporation involved is a domestic corporation. In other respects, however, the conditions which must be met are substantially the same as those specified above in the case of the foreign subsidiary. Thus, the pension or profit-sharing plan of the domestic parent corporation must provide for coverage for employees of all domestic subsidiaries (meeting the definition specified below) who are citizens of the United States. Also the compensation paid by the domestic subsidiary operating abroad to the employee must not be covered under any other funded pension, profit-sharing or other type of plan of deferred compensation.

The definition of a domestic subsidiary whose operations are largely foreign approximates the requirements under present law specified with respect to Western Hemisphere trade corporations except that there is no geographical limitation to the Western Hemisphere. Thus, 95 percent or more of its gross income for the taxable year and 2 prior years must be derived from sources without the United States and 90 percent or more of its gross income for this same period must be derived from the active conduct of a trade or business. In addition, its voting stock must be held to the extent of 80 percent or more by the domestic parent corporation (as contrasted to the 20-percent requirement in the case of the foreign subsidiary).

Although the U.S. citizen who is an employee of either the foreign subsidiary or the domestic subsidiaries operating abroad is to receive the benefit of tax postponement with respect to contributions made by the domestic parent corporation to the qualified pension or profit-sharing plan, the domestic parent corporation is not to receive a deduction for its contribution to the plan since this is compensation provided with respect to an employee of its subsidiary. Generally, the domestic parent corporation, to the extent of these contributions, will be treated as having made a contribution of capital to its foreign subsidiary or domestic subsidiary operating abroad. Then this amount will be treated as a deduction to the subsidiary (to the extent it is subject to U.S. tax). In any event, this amount will decrease the earnings and profits account of the subsidiary.

Although the deduction in this case is denied the domestic parent corporation for purposes of all other tests as to the status of the pension or profit-sharing fund, including funding for back years as to which no benefits were provided under any funded plan of deferred compensation, the contribution to the plan with respect to these U.S. citizens employed abroad will be treated in the same manner as other contributions to the fund by the domestic parent corporation. The individual involved will also be treated as if he were an employee of the domestic parent corporation for purposes of the annuity provisions of the code (sec. 72 (d), (f)), the section providing up to $5,000 of tax-free benefits upon an employee's death (sec. 101(b)) and for purposes of the treatment of annuities received under qualified plans for purposes of the estate and gift taxes (secs. 2039 and 2517).

In testing to be sure that a plan is not discriminatory, officers, shareholders, supervisory personnel, etc., of the subsidiary will be

treated as if they had the same status with respect to the domestic corporation, and the determination as to whether an individual is highly compensated or not will be made on the basis of what the individual's status would be if he were an employee of the domestic parent corporation. Similarly, what is treated as compensation to the employee for purposes of a qualified plan is to be determined on the basis of his compensation received from the foreign or domestic subsidiary corporation. If part of this compensation is received in foreign currency, this compensation will be valued under existing law for purposes of this provision.

(*c*)(*i*) *Effective date.*—The general effective date for these provisions is to be taxable years ending after December 31, 1963.

(*d*) *Revenue effect.*—It is expected that this provision will result in a negligible loss of revenue.

26. Employee stock options and purchase plans (sec. 222 of the bill and secs. 421–425 of the code)

(*a*) *Present law.*—Under present law, no income tax is imposed in the case of employee restricted stock options, either when the option is granted or at the time it is exercised. Instead, tax generally is imposed at the time the stock involved is sold by the employee. In the case of those stock options where the option price is at least 95 percent of the market price of the stock at the time the option is granted, the entire amount of any gain realized by the employee at the time he sells the stock is treated as capital gain. Where the stock option price is between 85 and 95 percent of the market price at the time the option is granted, the difference between the option price and the market value of stock at the time of the grant of the option is treated as ordinary income. However, this ordinary income is not realized for tax purposes until the employee sells the stock.[1] Any additional gain at the time the stock is sold in such cases is treated as capital gain. In the case of these restricted stock options, employers are not allowed any deduction for the amount of the gain realized by the employee, whether this gain is treated as capital gain or ordinary income.

For a stock option to be classified as a restricted stock option and be eligible for the treatment outlined above, the option price must be at least 85 percent of the market price of the stock at the time the option was granted, the stock and/or the option must be held by the employee for at least 2 years after the date of the granting of the option and the stock held for at least 6 months after it is transferred to him, the option must not be transferable other than at death, the individual may not be a 10-percent shareholder in the corporation (unless the option price is at least 110 percent of the fair market value) and the option must not be for a period of more than 10 years.

(*b*) *General reasons for provisions.*—The administration recommended the repeal of the stock option provision altogether. This recommendation was made on the grounds that stock options were compensatory in nature and, therefore, should be treated in the same manner as wages and salaries. It was suggested that with the lower tax rates provided by this bill, compensation received in this manner no longer required special treatment.

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[1] If the gain is less than the spread between the option price and the fair market value at the time the option is granted, this lesser amount is taxed as ordinary income.

The House, however, decided to continue the stock option provision because it believed that it is good for the economy for management of various businesses to have a stake in their successful operation. The House believed that this provides important incentives to expand and improve the profit positions of the companies involved. It was suggested that this is not only good for the specific business involved, but also for the economy as a whole. Despite the fact that the House continued the stock option provision, however, it was recognized that there are abuse situations in the present provisions which need correcting. The House bill was directed toward such corrections. Your committee is in accord with this position and has, therefore, with relatively minor changes retained the House bill.

Although the use of stock options generally is thought of in terms of providing incentives for key executives in a business, what are presently called restricted stock options also are used by some companies for an entirely different purpose. Some companies have made stock options available to all, or practically all, of their employees Taking advantage of the fact that the option may be granted at 85 percent of the market price they make discount sales of the stock to their employees generally. These are known as employee stock purchase plans. Where stock options are used in this manner, they are designed primarily as a means of raising capital; and, in such cases, the discounts from market price made available to the employees usually correspond approximately with the costs the company would otherwise incur in floating a new stock issue.

In practice, the House and your committee found that quite different features are required for key employee stock options and the discount purchase plans made available to employees generally. For that reason, the two types of options are placed in separate sections setting forth substantially different requirements for each. In the case of the key employee stock options or "qualified stock options" as they are called by the bill for future years—

1. The period over which the stock must be held has been increased to 3 years. This is designed to give assurance that the key employees actually are acquiring a "stake in the business" and are not merely turning the stock over as fast as the options can be exercised.

2. The maximum period of time over which an option may be outstanding has been reduced from 10 years to 5. It is recognized that stock options historically have a much greater value to the individual if the period of time over which they may be exercised is a long period, since over most 10-year periods stock values have risen. Thus, where the option may be exercised over a very long period of time, such as 10 years, its grant appears more closely associated with compensation and less directed toward the individual efforts of the employee involved. Furthermore, the purpose of the provisions is to encourage the acquisition of a proprietary interest in the business as quickly as possible.

3. The options must be issued at 100 percent of the market price rather than 85 percent (with a special rule where the price inadvertently is set below 100 percent). Closely associated with this also is the removal of the variable price stock option provision. These modifications are made to decrease the compensatory nature of the existing stock option provision and to place

greater emphasis on the employee's efforts to improve his company's business and thereby raise the price level of the stock.

4. Provisions have been added to limit the extent to which new options may be exercised where old options previously were issued, but had become less attractive than a new option because of a decline in the market price of the stock in the interval between the issuance of the two. Existing law already limits the resetting of options below the original price of issue where the stock has declined. This modification achieves the result intended, but not obtained, by existing law. Your committee has adjusted this House provision in two respects to eliminate what it believes were unintended, harsh results under the House bill.

5. Stockholder approval is required for stock option plans to give assurance that the benefits granted management in the case of these options is in accordance with the desires of the stockholders.

6. The bill also provides that stock options generally are not to be made available to employees with stockholdings of more than 5 percent (although to a limited extent, they may be made available in the case of small business to those with holdings up to 10 percent). Under present law, stock options may be granted to employees with stockholdings of more than 10 percent only at a price 10 percent above the market price. It was thought unnecessary to provide employees who are substantial stockholders with any incentive to improve the business since they already have a substantial stake in its successful operation.

In the case of the employee stock purchase plans, existing law is continued (in a separate section) without major modification. In this case, for example, employees will continue to be able to purchase stock through options at a price as low as 85 percent of the market price of the stock at the time the option is issued since these plans, as previously indicated, are in the nature of "discount" purchase plans. However, to qualify for treatment under the employee stock purchase plans, a series of new conditions must be met, designed primarily to establish that the purchase plans are made available without discrimination to most employees of the corporation.

(c) *General explanation of provisions.*—The bill divides the tax treatment of employee stock options and purchase plans into five provisions: First are the general rules applicable to both; second, the special rules applicable to qualified stock options (i.e., those for key employees which are granted after December 31, 1963, under your committee's amendments, or June 11, 1963, under the House bill) third, the special rules applicable to employee stock purchase plans (in general, those granted after the date specified above); fourth, restricted stock options (which cover both of the two categories mentioned immediately above but only for options issued before the specified date); and fifth, certain definitions and special rules applicable to stock option and stock purchase plans in both the past and the future. The material presented below deals first with qualified stock options and then with employee stock purchase plans. The provisions dealing with restricted stock options, which are only those options issued in the past, are covered by a continuation of existing law and are not dealt with here.

(c)(*i*) *Qualified stock options: tax treatment.*—Generally, in the case of qualified stock options, no income tax is imposed either at the time

the option is granted or at the time the option is exercised and the stock is transferred to the employee. Similarly, no business expense deduction is allowed to the employer corporation (or a parent or subsidiary of that corporation) at any time with respect to this option.

There is, however, an exception to the general rule that no tax is imposed at the time of the exercise of the option. As is indicated below, one of the requirements of a qualified option is that the price under the option is not to be less than the fair market value of the stock at the time the option is granted. An exception to this, however, is provided where there was an attempt made in good faith to price the option at the market value of the stock but the market value was underestimated. This, of course, would ordinarily occur only in the case of unlisted stock. In such cases the option will not be disqualified, but 1½ times the difference between the option price and what actually is the fair market value of the stock at the time the option is granted (or the difference between the option price and fair market value at the time of exercise, if this is smaller) is to be taxed as ordinary income at the time the option is exercised. This is intended to discourage any attempts at undervaluing the stock, without disqualifying the options where the undervaluation was unintentional.

Another limitation on a qualified stock option (set forth below) is that the stock must be held for at least 3 years. The bill provides that in those cases where it is not held for this 3-year period, the option will still be a qualified option, but the spread between the option price and the value of the stock at the time the option is exercised will be treated as ordinary income at the time the stock is sold. However, in such cases the employee will never be taxed on more than his gain. Thus, if the price of the stock has fallen since the time of the exercise of the option, the amount of the ordinary income will be limited to the difference between the option price and the actual price of the stock on the date of sale. Where the price of the stock at the time of sale is less than the option price, there will be no ordinary income and the difference between the option price and the price at which the stock is sold will be treated as a capital loss. On the other hand, if the stock is sold at a price which is higher than the price on the date the option was exercised, then in addition to the amount treated as ordinary income (the difference between the option price and value on the date of exercise) there will be an amount treated as a capital gain.

The determination of the type of capital gain, i.e., whether short term or long term will depend on the length of time the stock has been held. Thus, any gain where the stock has been held beyond the 3-year period specified with respect to qualified stock options will result in long-term gain with a 50-percent inclusion factor and a 25-percent maximum tax. Where the stock is disposed of in less than 3 years and, in addition to the amount treated as ordinary income, there is an amount treated as capital gain, this capital gain will be either short term (if the stock is held 6 months or less) or long term (if it is held more than 6 months).

As under present law, where the employee dies after having purchased the stock but before holding it for the specified period of time, this holding period is waived since there is no business reason for

requiring the estate or heir to hold the stock. Similarly, a requirement subsequently referred to that the individual must be in the employ of the corporation involved up to 3 months before the date of exercise of the option also is waived in the case of the death of the employee before exercise.

A transfer to a trustee in bankruptcy (or a similar fiduciary) of shares of stock acquired under a qualified stock option is not considered to be a "disposition" of such share so there will be no ordinary income recognized at that time, although a capital gains tax may be due.

(*c*)(*ii*) *Qualified stock options: conditions for qualification.*—For an individual to receive full qualified stock option treatment, he must not sell (or otherwise dispose of) his stock within 3 years of the date of exercise of the stock option. As indicated previously, where all conditions but this one are met, tax is not imposed until the sale of the stock, but much or all of the tax imposed at that time, if this condition is not met, will be on the basis of ordinary income rather than capital gain. This condition is designed to give assurance that the key executive involved actually maintains a "stake in the business" and is not merely selling the stock shortly after he receives it, thus vitiating the principal purpose of stock options, and converting ordinary compensation into capital gain. This requirement, of course, is not a new idea since present law already requires the individual to hold the option, or stock, for at least 2 years and the stock alone for 6 months in order to receive restricted stock option treatment.

A second condition which must be met for the option to receive qualified stock option treatment is that the individual involved, for the entire time from the date of the granting of the option until 3 months before the date of the exercise of the option, must be an employee either of the company granting the option, a parent or subsidiary of that corporation, or a corporation (or parent or subsidiary of a corporation) which has assumed the option of another corporation as the result of a corporate reorganization, liquidation, etc. This provision differs only slightly from existing law, which requires that the individual be in the employment specified at the time of the granting of the option and on the day ending 3 months before the exercise of the option but does not require that he be in the specified employment in the intervening time. Of course, for this purpose, military leave or sick leave would not disqualify an individual.

In addition to the requirements referred to above, the terms of the option itself must also meet certain specified conditions in order to be eligible for qualified stock option treatment. They are as follows:

1. The option must be granted under a plan which specifies the number of shares of stock to be issued and the employees or class of employees to receive the options. This plan must be approved by the stockholders of the corporation within 12 months before or after the plan is adopted. If the plan permits stock options to be granted to a class of employees, the class of employees must be described with sufficient particularity to allow the shareholders to make a meaningful decision concerning the plan. The use of a general term such as "key employees" is not a sufficient description of those eligible to receive options. Ordinarily any change in the aggregate number of shares which may be issued under the plan or the employees or class of employees eligible to receive such options will be treated as the adoption

of a new plan. No other change in the terms of a stock option plan will, however, be considered to be the adoption of a new plan.

2. The option must be granted within 10 years of the time the plan is adopted or approved by the stockholders, whichever is the earlier.

3. The option must by its terms be exercisable only within 5 years of the time it is granted.

4. The option price must equal or exceed the fair market value of the stock at the time the option is granted. An exception to this provides that where the option price was less than the market price, but this was unintentional, then this condition is to be considered as met (although as previously indicated, a maximum of 1½ times any difference in price is taxed as ordinary income at the time of the exercise).

5. Generally the option by its terms is not to be exercisable while there is outstanding any qualified stock option or restricted stock option which was granted to the employee at an earlier time. The purpose of this provision is to prevent an individual from indirectly gaining an advantage by the employer in effect resetting the price at which an earlier option was issued by issuing a second option at the lower price. To prevent this a second option may not be exercised during the period the first option under its initial terms could have been exercised unless the first option itself is exercised. Thus, generally a cancellation of the first option will not enable the second option to be exercised any sooner. However, the bill as passed by the House provides that restricted stock options may be canceled any time before January 1, 1965, without affecting adversely the exercise of a qualified stock option subsequently issued. In addition, in the case of a restricted stock option which under its terms is made available to the employee only in installments over an extended period of time, the House bill provides that the installments which cannot yet be exercised at the time of the granting of a new qualified option are not to prevent the exercise of this second option so long as these installments cannot be exercised. Your committee has accepted this general rule of the House bill preventing the "resetting" of option prices and also has accepted the modifications in the general rule provided by the House bill. However, your committee has added two new modifications to provide for situations which it believes were overlooked by the House. First, where the option price for the new option is at least as high as the price of each of the outstanding, previously issued options to purchase the same stock (whether these prior options were qualified options or restricted options), this "reset" rule is not to apply; i.e., the new stock option in such a case can be exercised before the outstanding options. Second, your committee has provided that where an option under the terms under which it was granted is not immediately exercisable in full, the employer can permit the exercise date for any or all of the remaining installments of the options to be accelerated without this change being considered a "modification" which would require a new option price for the option for it to continue to constitute a qualified (or restricted) option. Both of these modifications made by your committee continue the intent of the House provision, in that neither permits the taxpayer to exercise a new option at a lower price than his old option until the old option has been exercised or lapsed. It was thought, however, that there was no need to deny the right to exercise the second option in those

cases where the taxpayer could gain no price advantage from this. Similarly, it was thought that there was no reason why the installments on the first option should not be accelerated where the inability to exercise these installments was preventing the exercise of the new option.[1]

6. The option by its terms must be nontransferable other than at death and must be exercisable during the employee's lifetime only by him. This provision is the same as under present law.

7. The employee, immediately after the option is granted, must not own stock representing more than 5 percent of the voting power or value of all classes of stock of the employer corporation or its parent or subsidiary. In the case of small businesses, however, the employee may own up to 10 percent of the voting power or value of the stock before being disqualified. For a corporation with equity capital of less than $1 million, this percentage is to be 10 percent and for one with equity capital of $2 million it is to be 5 percent. Between these two levels of equity capital the allowable percentage decreases gradually from the 10-percent level for a company with $1 million of equity capital down to the 5-percent level for a corporation with equity capital of $2 million or more. Equity capital for this purpose is the assets of the corporation, adjusted for any change in their basis, less any indebtedness of the corporation. Where a parent or subsidiary also are involved, adjustments are made to delete intercorporate ownership. For this purpose, the individual is considered to own stock owned directly or indirectly by brothers and sisters, wife, ancestors, and lineal descendants. Stock owned directly or indirectly by a corporation, partnership, estate, or trust for this purpose is considered as being owned proportionately by shareholders, partners, or beneficiaries.

(*c*)(*iii*) *Employee stock purchase plans; tax treatment.*—As indicated previously, except for the addition of the nondiscrimination requirement (and the requiring of stockholder approval) the tax treatment of employee stock purchase plans continues to be substantially similar to the tax treatment of restricted stock options under present law. Thus, as under present law, no income is to be reported by the employee either at the time the option is granted or at the time it is exercised. Similarly, no deduction is available to the employer corporation with respect to the employee stock purchase plan.

As under present law, under these purchase plans the option may be issued at a price as low as 85 percent of the market value of the stock at the time of the grant. Where this is done, this spread between the option price and the market value at the time the option is granted, upon the subsequent sale of the stock by the employee or upon the employee's death is treated as ordinary income. However, in no event is the amount to be taxed to the individual as ordinary income to exceed the gain realized on the stock at the time of its disposition.

In addition, ordinary income in the case of employee stock purchase plans may arise where the stock is disposed of before the expiration of the applicable holding period. As under present law, the option and/or stock must be held for a period of at least 2 years and the stock itself held for a period of at least 6 months. Where this holding

[1] This latter rule, of course, applies whether or not a second option is issued; but it is believed that it will have a primary impact in cases of this type.

period is not complied with, then any spread between the option price and the price of the stock at the time the option is exercised will be treated as ordinary income when the stock is sold or otherwise disposed of. As under present law, the specified amount is ordinary income without regard to whether this is greater or less than the gain realized on the stock at the time of the sale. Where the gain otherwise realized is less than this amount treated as ordinary income, the specified amount is still treated as ordinary income but a capital loss is recognized equal to the difference between the market value of the stock at the time of exercise and the sales price of the stock. Apart from these two cases where ordinary income may be realized any other gain recognized on the sale of purchase plan stock results in capital gain.

(*c*) (*iv*) *Employee stock purchase plans; conditions for qualifications.*—As indicated above, to qualify for purchase plan treatment, the stock in these cases must not be disposed of within 2 years of the date of the granting of the option nor within 6 months after the transfer of the stock to the individual. This is a continuation of existing law.

In addition, the individual must at all times during the period beginning with the date of the granting of the option and ending 3 months prior to the date of exercise, be an employee of the corporation granting the option, a parent or subsidiary of the corporation, or a corporation (or parent or subsidiary of a corporation) which assumed this stock option as a result of a corporate reorganization, liquidation, etc. This provision is the same as that previously described in the case of qualified stock options. As indicated in the case of qualified stock options, this differs only slightly from existing law.

To qualify as an employee stock purchase plan, nine requirements must be met by the plan itself. Alternatively, all but the first two of these may, however, be met in the stock offering rather than the plan. These conditions are as follows:

1. As under present law, the plan must provide that the options are to be granted only to employees of the granted corporation or a parent or subsidiary.

2. The plan must be approved by the stockholders of the corporation granting the option within 12 months before or after the date the plan is adopted. This provision is a new requirement which is the same as that provided in the case of qualified stock options.

3. No employee can be granted an option if he owns 5 percent or more of the voting power or value of all classes of stock of the employer corporation or its parent or subsidiary. Present law provides that employees having more than a 10-percent interest in a corporation may not obtain a restricted stock option at less than 110 percent of the market price of the stock.

4. A new provision designed to prevent discrimination provides that the options must be granted to all employees of the corporation except that there may be excluded one or more of the following four categories:

(*a*) Employees who have been employed less than 2 years;

(*b*) Employees who are part time and employed 20 hours or less per week;

(*c*) Employees whose customary employment is not for more than 5 months a year; and

(*d*) Officers, supervisory personnel, or highly compensated employees.

5. Another new provision designed to give assurance that these stock purchase plans are nondiscriminatory requires that all employees granted options have the same rights and privileges except that the amount of stock which may be purchased by any employee may be a uniform percentage of total compensation or regular or basic compensation and the plan may provide a maximum number or value of shares to be purchased.

6. Under the plan, the option price may not be less than 85 percent of the market value of the stock at the time the option is granted or not less than 85 percent of the market value of the stock at the time the option is exercised, whichever is the lesser. This restriction is similar to the limitations of present law although slightly more restrictive in some cases.

7. The period over which the option may be exercised cannot exceed 5 years where the option price is not less than 85 percent of the value of the stock at the time of the exercise or 27 months from the date of the grant of the option if the option price is at least in part determined on the basis of the price of the stock at the time the option is granted. Present law provides a 10-year period over which restricted stock options may be exercised but in practice it is understood that options issued under purchase plans generally have a much shorter period over which they may be exercised.

8. A new ceiling is provided to the effect that an employee may not purchase stock at an annual rate in excess of $25,000 a year. This restriction is provided since these plans are designed primarily for broad employee participation.

9. As under present law and in the case of the qualified stock options, the option must not be transferable by the individual other than at death and must be exercisable during the employee's life only by him.

(*c*)(*v*) *Reporting requirements.*—The bill provides that corporate employers are to report on the transfer of stock to an employee in the case of the newly established category of qualified stock options or present law restricted stock options. They also are to report on the sale of stock by the employee where stock is acquired under a stock purchase plan at a price less than the full value of the stock and where, under a restricted stock option, stock is purchased at a price between 85 and 95 percent of the value of the stock. In these latter two cases, the report of the sale of the stock by the employee is required since generally in these cases ordinary income tax will be payable by him. A copy of the form of the report going to the Government also is to be sent to the employee or former employee on or before January 31 after the year involved. In those cases where the employer is required to report on the sale of stock by the employee, he will not be expected to follow the ownership of the stock beyond the first transfer; e.g., if an employee transfers stock to a street name and then subsequently sells the stock, the employer will report the first transfer of the stock to the street name but will not be required to report the subsequent sale. Moreover, the reporting in these cases is merely to indicate the name, address, and account number of the individual employee involved and the stock sold by him.

(*c*)(*vi*) *Effective date.*—In the case of qualified options, the House bill generally provided that the new provisions were to apply to options granted to an individual after June 11, 1963. Your committee has amended this to provide that the new provisions with respect to

qualified options are to apply to options granted after December 31, 1963. A binding, written contract entered into before January 1, 1964, will not be considered as giving rise to options which must meet the "qualified option" test. Your committee has provided this new effective date to conform the effective date in this case with the general effective date provided under the bill for structural changes. In addition, it thought that it would be unfair to require taxpayers to conform to a new set of rules during an extended interval of time when the status of the proposals was still uncertain.

Of course, in a transaction which qualified as a tax-free reorganization, where a corporation entered into a binding obligation to assume outstanding restricted stock options previously granted by a corporation, any option which the acquiring corporation issues in assuming the outstanding options already granted by the acquired corporation, to the extent provided by present law, are considered as continuations of the old options and therefore will be considered as granted prior to January 1, 1964, and treated as restricted stock options rather than qualified stock options.

In the case of qualified options, your committee has also added a transition rule. This rule provides that an option which is issued after December 31, 1963, and before January 1, 1965, which does not meet the terms of a "qualified option", can be modified to meet these terms any time before January 1, 1965, without this modification being considered as giving rise to a new option requiring a new option price. This rule is intended to give taxpayers who have their plans already established, or who initially are not aware of the new provision, time to modify their stock options so that the new conditions are met without the options being disqualified as a result.

In the case of employee stock purchase plans, the new provisions under the House bill would apply to options granted after June 11, 1963. Your committee's bill has changed the effective date of the employee stock purchase provision so that it applies to options granted after December 31, 1963, in the same manner as in the case of the qualified options. These same reasons account for this change. Thus, the new employee stock purchase plan provision will apply generally to options granted after December 31, 1963. Existing law, however, will apply to options granted pursuant to a written plan adopted and approved before January 1, 1963, which at that time met the nondiscrimination requirements specified for employee stock purchase plans. A plan which was being administered in a way which did not discriminate in favor of officers, supervisory personnel, or highly compensated employees would continue to qualify as adopted and approved before January 1, 1964. Except for the date, this modification is the same as provided by the House bill. Thus, a plan (not otherwise being discriminatory) would be considered nondiscriminatory even though only full-time employees were covered (rather than those working 20 hours a week or more) or those with less than 6 months a year employment were omitted (rather than those with less than 5 months employment).

(*d*) *Revenue effect.*—The changes made by this provision are not expected to have any appreciable revenue effect. To the extent that the changes made above result in a reduction in stock options issued, this will increase deductions taken by corporations as they make deductible payments to employees in other forms.

27. Installment sales by dealers in personal property (sec. 223 of the bill and sec. 453(a) of the code)

(*a*) *Present law.*—A taxpayer using installment sale reporting can defer income for tax purposes until payments are received under the contract (rather than treating the entire amount as income as of the time the sale is made). This provides the seller with funds with which to pay the tax, while at the same time giving him the immediate advantage of deductions attributable to the sale.

Prior to October 15, 1963, sales under revolving credit plans were not recognized by the Treasury Department as installment sales for tax purposes because of certain differences between revolving credit plans and traditional installment sales. For instance, installment sales ordinarily involve a separate contract for each item of property purchased, providing for a series of payments specifically applicable to the purchase price of that piece of property. Usually the seller also retains some type of security interest in the property, until the property is paid for.

Revolving credit plans, on the other hand, do not involve separate sales contracts; under these plans any item in the store may be charged to the same account, and the seller does not retain any security interest in the property sold. The buyer has an option to pay his account in full within 30 days with no interest or finance charges. Alternatively, he may pay the account in installments and in this case a finance or service charge related to the unpaid balance of the account is added to the account each month. The buyer's regular payments are not specifically attributable to the purchase price of any single item but only go to reduce the unpaid balance on what may be the total purchase price of several items purchased at different times.

Despite these differences the U.S. district court in Massachusetts held revolving credit sales did qualify for installment sale treatment because, like installment sales they did retain the essential feature of an arrangement for the payment by the purchaser for the merchandise sold to him in a series of periodic payments of an agreed part or installment of the debt due (*Consolidated Dry Goods* v. *U.S.*, 180 F. Supp. 878; 1960). Shortly after this case was decided, the Internal Revenue Service announced that it would not follow the decision but was studying whether workable standards could be formulated for determining what part of revolving credit sales qualify as "sales on the installment plan" under existing law (Rev. Rul. 60–293, 1960–2 CB 163).

New regulations were issued by the Treasury Department on October 15, 1963 (TD 6682) as the result of this study. They specifically provide for installment sale treatment of some amounts received under revolving credit plans, and include rules for determining the extent to which revolving credit plans qualify as installment sales. Broadly speaking, under these rules, a sample of revolving credit sales is taken from balances in customer accounts as of the billing dates for the last month of the seller's taxable year, and the percentage of sales in the sample accounts determined which (1) are of the type the revolving credit plan contemplates will be paid for in two or more installments and (2) actually are paid for in two or more installments. This percentage is then applied to total revolving

sales accounts (after adjusting for sales of nonpersonal property) and the resulting amount is considered to be sales under the installment plan. This new regulation provides installment sale treatment for about 80 percent of revolving credit sales.

(*b*) *General reasons for provision.*—Your committee believes that although the new revolving credit regulations are commendable, they are difficult to apply. By providing in the statute that revolving credit sales are to qualify for income spreading, your committee's bill fully conforms the tax treatment of income under revolving credit plans and installment sales contracts. It also replaces the complex sampling procedure required by the regulations with a simple rule which will forestall compliance and administrative problems likely to arise under the regulations. It, of course, is not intended in making this change to exclude from installment sales treatment any sales or existing charges which are covered by existing law or regulations.

(*c*) *General explanation of provisions.*—This amendment adds definitions of two terms of the provision of present law which allows dealers in personal property to spread income from installment sales over the payout period under the installment contract. These terms are "installment plan" and "total contract price."

(*c*)(*i*) *Installment plan.*—The definition of "installment plan" would extend installment sale treatment to income received under any plan which provides for the payment by the purchaser for personal property sold to him in a series of periodic installments of an agreed part or installment of the debt due the seller. This definition would extend installment sale treatment to revolving credit sales of personal property which do not qualify under the new Treasury regulations. These include, principally, sales which are paid for in full on the first billing for the month of purchase, and sales for a month which in total amount to less than the monthly payment agreed to be paid by the purchaser under the revolving credit contract.

(*c*)(*ii*) *Total contract price.*—The proposed definition of "total contract price" would include finance and service charges with respect to revolving credit sales in the amount subject to installment sale treatment, thereby conforming to the treatment which is permitted in the case of the "time price differential" under traditional installment sale arrangements. Time price differentials are treated as part of the contract price and are not required to be included in income for tax purposes until the installments are received under the contract. Finance charges under revolving credit plans on the other hand, under the new regulation, may not be deferred until payments are received but must be accrued currently in the month to which they relate. The amendment does not change present law with respect to the treatment of amounts charged for service contracts or warranties.

(*c*)(*iii*) *Effective date.*—The amendments made by this provision are to apply with respect to taxable years beginning after December 31, 1963.

(*d*) *Revenue effect.*—These amendments are expected to result in a revenue loss of $140 million in the first full year of operation. However, this is a nonrecurring loss which is not repeated in subsequent years. The loss thereafter is expected to be about $10 million a year.

28. Timing of deductions and credits in certain cases where asserted liabilities are contested (sec. 224 of the bill and sec. 461 of the code)

(*a*) *Present law.*—Prior to the decision in the *Consolidated Edison* case [1] the Internal Revenue Service generally held that the payment of a contested tax liability resulted in the tax being considered as deductible even though the tax was still being vigorously denied and contested.[2] In the *Consolidated Edison* case decided in 1961 the Supreme Court held that a contested tax even when paid does not accrue as a deduction for income tax purposes until the contest is terminated. It was held that the tax was not deductible until after the contest was settled because all of the events which would determine whether or not the amount would ultimately have to be paid would not be determined until that time.

(*b*) *General reasons for provision.*—Although your committee does not question the legal doctrine laid down by the Supreme Court in the *Consolidated Edison* case, it believes that it is unfortunate to deny taxpayers a deduction with respect to an item where the payment has actually been made, even though the liability is still being contested either as to amount or as to the item itself. The objective of the reporting of items of income and deduction under the internal revenue laws generally is to realistically and practically match receipts and disbursements attributable to specific taxable years. The internal revenue laws contain a number of adjustments designed to accomplish this result. Your committee believes that allowing the deduction of items in the year paid, even though they are still being contested in the courts or otherwise, more realistically matches these deductions up with the income to which they relate than would the postponement of the deduction, perhaps for several years, until the contest is settled. To the extent that deductions are allowed under this rule and then subsequently as a result of the contest the items were found not to be payable, adjustment can be made for this overstatement of the deduction by the inclusion of the overstatement in income in the year in which the amount of the liability is finally determined.

(*c*) *General explanation of provision.*—In view of the above considerations, your committee has amended the provision of existing law which specifies the year for the taking of deductions or credits generally. The amendment provides that if a taxpayer contests an asserted liability, such as a tax assessment, but makes a payment in satisfaction of this liability and the contest with respect to the liability exists after the payment, then the item involved is to be allowed as a deduction or credit in the year of the payment. This is based upon the assumption that the deduction or credit in this case would have been allowed in the year of payment, or perhaps in an earlier year when it would have been accrued, had there been no contest.

The treatment provided here can be illustrated by an example. Assume that in 1965 a $100 liability is asserted against a business which it pays at that time but contests the liability in a court action. Assume further that in 1967 the court action is settled for $80. Under present law, before the enactment of this provision, the deduction of $80 would be allowed in 1967. Under your committee's action, the taxpayer could claim a $100 deduction in 1965 but then in 1967 would

[1] *The United States* v. *Consolidated Edison Co. of New York Inc.*, 366 U.S. 380 (1961).

[2] This is the general rule laid down in *Chestnut Securities Co.* v. *United States* (62 F. Supp. 574 (1945)) which the Internal Revenue Service accepted in GCM 25298 (1947-2 CB 39).

have to take $20 into income except as provided in section 111 of the code, relating to recovery of bad debts, prior taxes, and delinquency amounts.

In those cases where payment is not made until after the contest is settled, this does not prevent an accrual basis taxpayer from accruing the deduction or credit in an earlier year in which the contest is settled.

A similar amendment to that described above is also made to the Internal Revenue Code of 1939.

(*c*)(*i*) *Effective date.*—Generally, your committee's amendment to the 1954 code is to apply to payments made in taxable years beginning after December 31, 1953, and ending after August 16, 1954, the general effective date of the 1954 code. The amendment to the 1939 code applies to payments in taxable years to which that code applies.

The bill provides two exceptions to the general effective date rule specified above. First, if the taxpayer elects, he may continue to apply the old law with respect to taxable years beginning before January 1, 1964; i.e., he may claim the deduction or credit in the year in which the contest is settled rather than in the year in which the payment is made. If the taxpayer makes this election, he must do so within 1 year after the date of enactment of this bill and may not change this election after the expiration of this 1-year period. Moreover, to make this election the taxpayer must follow the rule of old law with respect to all payments made in a year beginning before January 1, 1964. This election may not be made with respect to a payment if the assessment of any deficiency arising as a result of this election would be barred with respect to any year. If this election is made with respect to a year which is not barred, the period for assessment of any deficiency arising from this election is to be kept open at least until 2 years after the date of enactment of this bill.

The second general exception to the general effective date is designed to keep a taxpayer from losing a deduction as a result of the enactment of this new provision. Thus, where for a past year no deduction or credit was allowed for a payment in a year before the contest with respect to it was settled and the refund or credit which would result from the deduction in the earlier year is barred, then the deduction is to be allowed in the year in which the contest is settled.

(*d*) *Revenue effect.*—This provision is expected to result in a negligible decrease in revenues.

29. Interest on certain deferred payments (sec. 225 of the bill and sec. 483 of the code)

(*a*) *Present law.*—Under present law, an individual may sell a capital asset on the installment basis without making any specific provisions for interest payments on installments. In such cases the full difference between the cost or other basis for the property and the sales price usually is treated as capital gain to the seller. The buyer takes as a basis for the property the total sales price paid. For example, an individual taxpayer might sell a capital asset worth $1,000 for $1,300 payable over 10 years. In this case, if no mention is made that part of this payment is to be treated as interest, and the seller elects to report any gain on the installment basis, then each payment might be treated partly as a return of capital and partly as a capital gain. Over the 10-year period, the taxpayer would report $300 of

capital gain (assuming he had the full fair market value of $1,000 as his basis for the property). However, had $300 of this $1,300 payment been specified as an interest payment, this amount would have been ordinary income to the seller rather than capital gain. From the buyer's standpoint, the $300, if treated as part of the price of the property would be added to the basis of the property and, in the case of depreciable property be recoverable over the life of the property. He might also, if the property qualified, be eligible for an investment credit with respect to this $300. On the other hand, if this $300 were treated as interest, he could receive an interest deduction for this amount.

(*b*) *General reasons for provision.*—Your committee agrees with the House that there is no reason for not reporting amounts as interest income merely because the seller and purchaser did not specifically provide for interest payments. This treats taxpayers differently in what are essentially the same circumstances merely on the grounds of the names assigned to the payments. In the case of depreciable property this may convert what is in reality ordinary interest income into capital gain to the seller. At the same time the purchaser can still recoup the amount as a deduction against ordinary income through depreciation deductions. Even where the property involved is a nondepreciable capital asset, the difference in tax bracket of the seller and buyer may make a distortion of the treatment of the payments advantageous from a tax standpoint. The House and your committee believe that manipulation of the tax laws in such a manner is undesirable and that corrective action is needed.

(*c*) *General explanation of provision.*—The bill solves the problem referred to above by providing that where property is sold on an installment basis and part or all of the payments are due more than 1 year after the date of the sale or exchange—if no interest payments are specified or if "too low" interest payments are specified then part of each payment due after 6 months is to be treated as interest rather than as part of the sales price.

The interest rate to be used for purposes of this provision is to be a rate provided by regulations prescribed by the Secretary of the Treasury or his delegate. It is anticipated that any rate specified by the Secretary of the Treasury or his delegate will reflect the going rate of interest and will not be higher than the rate at which a person, in reasonably sound financial circumstances and with adequate security could be expected to borrow money from a bank. A rate of 5 percent, for example, would appear appropriate under existing circumstances.

With this interest rate specified by the Secretary, the proportion of each payment which would be considered an interest payment would be determined in the following manner: First, the present value of each installment payment would be determined, based upon the specified interest rate. Second, the deduction of the total of these present values from the total actual payments provided for under the contract then would give the total "unstated" interest payments under the contract.[1] Third, the total unstated interest then is assumed

[1] Where an interest rate was provided on the installments but at "too low" a rate, the present value of these interest payments would be determined along with the present value of the remainder of the payments as well. The unstated interest then would represent the present values, including the present values of such interest payments, deducted from total payments to be received under the contract excluding the interest payments.

to be spread pro rata over the total payments involved. Thus, if a specific payment represents one-tenth of the total payments, it would be assumed to include one-tenth of the total unstated interest.

For ease of administration and compliance, the regulations are to provide for the discounting of payments on a 6-month basis and are to ignore for this purpose any interest payments due within the first 6 months.

Where an installment contract provides for the payment of some interest, no unstated interest is to be computed unless the interest payments specified are at a rate more than 1 percent below the rate of interest payments which would be computed under this provision in the absence of those payments. Thus, if a 5-percent rate is specified by the Secretary, no unstated interest will be computed where the interest actually provided for under the contract is 4 percent or more. This represents a de minimis rule to prevent the application of this provision in those cases where interest variations are relatively minor.

For purposes of this provision, a payment for property in the form of a note, or other evidence of indebtedness of the purchaser, is not to be treated as a payment. To treat such amounts as payments would permit avoidance of this provision merely by exchanging non-interest-bearing forms of indebtedness for property. However, payments made on such indebtedness for purposes of this provision will be treated as if they were payments made on the contract itself.

Where, at the time of the sale or exchange, some or all of the payments are indefinite as to their size; for example where the payments are in part at least dependent upon future income derived from the property, the "unstated" interest for purposes of this provision will be determined separately with respect to each indefinite payment as it is received, taking into account the time interval between the sale or exchange and the receipt of the payment. Also, where there is a change in the amount due under a contract, the "unstated" interest is to be recomputed at the time of each such change.

The bill specifies five situations in which this provision is not to apply: First, a de minimis rule as to price is provided. Thus, the provision will not apply unless the sale price of the property is in excess of $3,000. Second, in the case of the purchaser of the property, if any of the amounts involved are carrying charges which under present law from the standpoint of the purchaser are treated as interest, then, in the case of the purchaser, this provision is not to apply. Third, in the case of the seller, this provision is to apply only if some part of the gain from the sale or exchange of the property would be considered as gain from a capital asset or as gain from depreciable property. If the property is sold at a loss, this provision will nevertheless apply if, had there been a gain, some part of it would have been considered as gain from a capital asset or from depreciable property. Fourth, this provision is not to apply in the case of payments with respect to patents, which are treated as capital gain under present law. Fifth, the provision is not to apply where the property is exchanged for annuity payments which depend in whole or in part on the life expectancy of one or more individuals. In addition, this provision, of course, will not apply to payments such as those for timber, coal and iron ore (sec. 631) where the property is treated as sold as the timber is cut or the coal or iron ore is withdrawn, with the result that this is not treated as an installment contract.

(*c*)(*i*) *Effective date.*—Under the House bill this provision applies to payments made after December 31, 1963, on account of sales or exchanges of property occurring after June 30, 1963. Your committee has accepted the House effective date, but has provided one exception to it. It has provided that the new rule is not to apply to any sale or exchange made pursuant to a binding, written contract (including an irrevocable written option) entered into before July 1, 1963. This is consistent with the treatment provided elsewhere in the bill with respect to binding contracts.

(*d*) *Revenue effect.*—This provision is expected to result in a negligible increase in revenues.

30. Personal holding companies (sec. 226 of the bill and secs. 541–543 of the code)

(*a*) *Present law.*—Under present law, a domestic personal holding company is taxed on its "undistributed personal holding company income" at a rate of 75 percent on the first $2,000 and 85 percent on the balance. This is in addition to the regular corporate income tax. In general terms, a personal holding company is a closely held corporation, most of whose income is derived from certain specified forms of passive income. The tax applies only where 50 percent or more in value of the outstanding stock of the corporation is owned directly or indirectly by five or fewer individuals. In addition, at least 80 percent of the corporation's gross income must be from what is defined as "personal holding company income."

In general terms, personal holding company income consists of income from what are considered to be passive forms of investment. Thus, it includes dividends, interest, and annuities. It also includes most royalties although mineral, oil, or gas royalties are included only where these royalties do not represent 50 percent or more of the company's gross income or where there are not trade or business deductions (other than compensation for personal services rendered by shareholders) equal to 15 percent or more of the company's gross income. Copyright royalties also are classified as personal holding company income if they represent less than 50 percent of the company's gross income or the business deductions (other than compensation for personal services rendered by shareholders) represent less than 50 percent of gross income or if other personal holding company income constitutes more than 10 percent of gross income. Thus, where these mineral, oil, gas, or copyright royalties represent the principal business of the company, this type of income is not classified as personal holding company income, if there also is evidence, in the form of sufficient business deductions, that the company is actively engaged in business. Rents also are classified as personal holding company income unless they represent 50 percent or more of the company's gross income. Other forms of income which are classified as personal holding company income includes income from stock, security, and commodity transactions (except in the case of dealers, producers, etc.), income from estates and trusts, income from personal service contracts where 25 percent or more of the stock of the corporation is owned directly or indirectly by the individual performing the services, and income from the right to use property of the corporation where 25 percent or more of the stock of the corporation is owned directly or indirectly by the person eligible to use the property. This latter category of income, however, is treated as personal holding

company income only where 10 percent or more of its income (without regard to this latter category or rents) is personal holding company income.

(*b*) *General reasons for provisions.*—Congress first imposed this tax on personal holding companies in 1934 in order to prevent the avoidance of the individual upper bracket surtax rates, by leaving what is essentially investment-type income in a corporate organization, subject to the lower corporate income tax. As indicated by the Administration, ways around the present personal holding company provisions have been found in several arrangements which permit the use of holding companies to avoid the individual income tax with respect to what is essentially investment-type income without the company involved being classified as a "personal holding company."

The principal avoidance devices involve the use of rental income, income from mineral operations, and certain capital gains which are not classified as personal holding company income as means of sheltering other investment income in such a manner that 80 percent or more of the company's gross income does not come within the technical definition of personal holding company income. In view of this, a number of modifications are made in the personal holding company provisions designed primarily to minimize the extent to which these special categories of income can be used to shelter clearly passive income. More detailed reasons for each of the various modifications provided by the bill are set forth in the explanation given below with respect to each of the modifications.

(*c*) *General explanation of provisions.*—The bill makes a series of modifications in the application of the personal holding company tax in the case of domestic corporations. However, except in the case of the dividends paid deduction in a liquidation, no change is made in the case of foreign personal holding companies. Most of the modifications described below are designed to eliminate various means by which holding companies have been avoiding classification as personal holding companies, although other problems are also dealt with.

(*c*)(*i*) *Tax rate of 70 percent.*—In view of the fact that this bill decreases the maximum tax rate applicable to individuals from 91 to 70 percent, your committee agrees with the House that the rates applicable to personal holding companies also should be lowered from the present rates of 75 percent on the first $2,000, and 85 percent on the excess, to what will be the new top individual income tax rate. Moreover, there appears to be no particular purpose for continuing the graduation in the personal holding company tax rate from 75 percent on the first $2,000 to 85 percent on the balance. In view of this, the bill provides that the personal holding company tax is to be 70 percent of the undistributed personal holding company income.

(*c*)(*ii*) *Decrease in 80-percent test.*—As previously indicated, one of the tests under present law provides that a company, to be a personal holding company, must derive 80 percent or more of its gross income from certain specified types of passive income, called personal holding company income. The bill decreases this 80-percent test to 60 percent. The decrease in this percentage is made because too many holding companies which are essentially holding companies of passive income have avoided the classification as such by holding their "personal holding company income" just slightly below the 80-percent limit. The more realistic 60-percent limit together with

other modifications described below will make the avoidance of this classification much more difficult for holding companies generally.

(c)(*iii*) *Adjusted ordinary gross income requirement.*—Under present law the 80-percent requirement referred to above is applied to the gross income of the corporation; i.e., if the gross income derived from certain specified passive sources equals 80 percent of the total gross income of the corporation, the corporation is classed as a personal holding company. This has made it possible for corporations to avoid personal holding company classification by seeking out types of income not characterized as passive, or of a personal holding company type, which give rise to a proportionately large amount of gross income even though leaving little, if any, income after the deductions attributable to this income. In this manner, various types of income have been used to shelter investment income and remove the company from the classification of a personal holding company. Rents, where they constitute more than 50 percent of the gross income of the corporation, are an example of a type of income used to shelter passive income, such as dividends. Mineral, oil, and gas income are the other principal examples of income which have been so used.

To overcome this problem, the bill adjusts downward the income from certain sources to the extent of certain specified deductions attributable to these types of income. Thus, the corporation will be a personal holding company if 60 percent of "adjusted" gross income consists of certain passive income. The adjustments are as follows:

1. In the case of gross income from rents, the deductions for depreciation and amortization, property taxes, interest, and rents paid to the extent attributable to the rental income received, are to be deducted from gross income.
2. In the case of mineral oil, and gas royalties and also in the case of working interests in oil or gas wells, the deductions attributable to these royalties or working interests for depreciation, amortization and depletion, property and severance taxes, interests and rents paid are to be deducted in computing this adjusted gross income. It should be clearly understood that although income from working interests in an oil and gas well for purposes of the 60-percent limitation are reduced by the deductions referred to above such income is itself never classified as personal holding company income.
3. Interest from U.S. Government bonds held for sale by a dealer who is making a primary market for these obligations and interest on condemnation awards, judgments and tax refunds also are to be excluded in arriving at adjusted gross income for this purpose. This adjustment serves a different purpose from the first two deductions in that it merely excludes from the base on which personal holding company income is computed this particular type of interest income which in reality is not passive in nature.

In applying the 60-percent test, not only is the total gross income adjusted downward by the amount of the deductions (or interest) referred to in the cases specified above, but also in determining the rental income and mineral, oil and gas income for purposes of this test, this income also is reduced by the specified reductions.

(c)(*iv*) *Capital gains.*—Under present law capital gains (other than capital gains attributable to stock, securities, or commodities) are

not treated as personal holding company income. All capital gains, however, are included in the gross income of the company for purposes of the 80-percent test. As in the case of the deductions referred to above, some companies have timed the realization of their capital gains income in such a manner as to keep their personal holding company income below the 80 percent. The bill avoids this problem by excluding all capital gains from the gross income in determining whether the 60-percent test is met. Thus, the test under the bill is based on adjusted ordinary gross income.

(c)(v) *Rental income.*—Under present law rental income is classified as personal holding company income only if it represents less than 50 percent of total gross income. This is based on the concept that where rental income represents the major activity, the activity involved is more likely to be of an active rather than passive character. The House bill retains this 50-percent test (applying it, however, to adjusted income from rents and to adjusted ordinary gross income) but adds a second test providing that rental income may be characterized as passive, or personal holding company income even where it represents 50 percent or more of the adjusted ordinary gross income if, apart from the rental income, more than 10 percent of the ordinary gross income (gross income excluding capital gains) of the company is personal holding company income. For this purpose, income derived from the use of corporate property by shareholders is not viewed as personal holding company income, but income from copyright royalties and the adjusted income from mineral, oil, and gas royalties is included for this purpose as personal holding company income.

Your committee has accepted the House changes in the 50-percent test with one modification. Your committee has made an amendment to this test with regard to rentals of tangible personal property retained by the lessee for three years or less. Under the amendment, in the case of such property, the income is not to be reduced by depreciation attributable to it for purposes of the 50-percent test and also for purposes of computing ordinary gross income. However, in the case of the provision in the House bill that the personal holding company income (apart from rent) may not exceed 10 percent of the ordinary gross income, your committee's amendments provide that the personal holding company income for this purpose may be reduced by dividends paid during the year, by dividends paid in the next year which are treated as if paid in the year in question, and by consent dividends. Your committee believes that this prevents the 10-percent rule from working harshly where the personal holding company income other than rents may exceed 10 percent of ordinary gross income, perhaps by only a small amount but under the House bill, nevertheless, result in the entire amount of rental income being classified as personal holding company income. Your committee's amendment in effect permits taxpayers to meet the 10-percent test after dividend payments (or amounts treated as paid in dividends). At the same time it gives assurance that the personal holding company income (apart from rent) sheltered in the company may not exceed 10 percent of its ordinary gross income.

The fact that rental income, both in applying the 60-percent test and also in applying the 50-percent provision to the rental income itself, is determined on the basis of reducing rental income by depre-

ciation, amortization, property taxes, interest, and rents paid has already been noted above. However, as previously indicated, tangible personal property rented for three years or less is not reduced by depreciation attributable to it for purposes of these tests, under your committee's amendments.

(*c*)(*vi*) *Mineral, oil, and gas royalties.*—Under present law mineral, oil, and gas royalties are considered to be personal holding company income unless they represent 50 percent or more of the gross income of the company and unless the trade or business expense deductions (other than compensation for personal services rendered by shareholders) represent 15 percent or more of the gross income of the company. Thus, under present law, as in the case of rental income, mineral, oil, or gas royalties are treated as personal holding company income unless they represent the bulk of the company's income. However, in this case there also must be business expenses—indicating the active character of the business—constituting 15 percent or more of the gross income.

The bill retains these two tests but applies them on the basis of the adjusted ordinary gross income, thereby reducing, for this purpose, the income considered to be in these categories by depreciation, depletion, property and severance taxes, interest, and rent paid.

In addition, the bill adds another test which must be met in such cases for the mineral, oil, or gas royalty income to escape characterization as personal holding company income. The personal holding company income of the company, apart from this category of income (but including as such income that from copyright royalties and from rents), must not represent more than 10 percent of the ordinary gross income of the company. Thus, the personal holding company type income which mineral, oil, or gas royalty income may shelter even where this income represents the bulk of the income of the company must be relatively small; namely, less than 10 percent of ordinary gross income. Your committee has also added an amendment making it clear that income from mineral, oil, and gas royalties includes production payments and overriding royalties.

(*c*)(*vii*) *Copyright royalties.*—Under present law, copyright royalties also are considered to be personal holding company income unless they represent 50 percent or more of the total gross income. An additional test which must be met in order to escape such classification is that the personal holding company income, apart from the copyright royalty income, must not exceed 10 percent of the company's gross income and the trade or business expense deductions (other than those for compensation for personal services rendered by shareholders or for royalties paid to shareholders) must represent 50 percent or more of the company's gross income. This provision is modified by the bill in that the requirement that deductions equal at least 50 percent of gross income is changed to provide that they must equal 25 percent of ordinary gross income reduced by royalties paid and by depreciation deductions with respect to the copyrights.

(*c*)(*viii*) *Produced film rents.*—Under present law payments received from the distribution and exhibition of motion picture films are treated as rentals. As a result, under present law, a corporation may be formed by an individual who owns a motion picture negative and have its earnings treated as rents for purposes of the personal holding company tax. Since in such a case more than 50 percent of its gross

income would be considered to be from rents, there would be no personal holding company tax payable in this case.

To meet this problem, the bill provides that payments received from the use of, or the right to use, films generally will be characterized as copyright royalty income. Thus, such income will be classified as personal holding company income unless 50 percent or more of the company's ordinary income is from this source, not more than 10 percent of the company's ordinary gross income is personal holding company income, and the deductions properly allocable to this film income represent 25 percent or more of the gross income from this source reduced by royalties paid and depreciation taken.

The bill, however, retains what is essentially the treatment of present law for "produced film rents." Produced film rents are rents arising from an interest in a film acquired before the production of the film was substantially complete. It was thought that less severe tests should be applied in such cases because the participation in the production of the film in itself indicates an active business enterprise in this case. For produced film rent to escape characterization as personal holding company income, as under present law, these rents need constitute only 50 percent or more of the ordinary gross income of the company.

(c)(ix) Other types of income characterized as personal holding company income.—Compensation for the use of property by a shareholder, amounts received under a personal service contract, and income from estates and trusts continue to be classified as personal holding company income essentially to the same extent as under present law, except for the fact that capital gain income is not classified as part of gross income in applying the 10-percent test in the case of the use of corporate property by shareholders.

(c)(x) Personal finance companies.—Present law provides that certain types of companies are not to be classified as personal holding companies. These include, for example, banks, life insurance companies, and surety companies. Also excluded from such classification are certain types of personal finance companies. Under present law, there are four different types of personal finance companies which are excluded from the personal holding company category. These categories in general terms are as follows:

1. Licensed personal finance companies, 80 percent of whose gross income is interest from loans if at least 60 percent of their gross income is received from loans classified as "small loans" by State law (or $500 if there is no State law limit) and if the interest is not payable in advance and computed only on unpaid balances. In addition, loans to a person who is a 10-percent shareholder must not exceed $5,000 in principal amount. These frequently are known as "Russell Sage" type personal finance companies.
2. Other lending companies engaged in the small loan or consumer finance business, 80 percent of whose gross income consists of interest or similar charges on loans to individuals and income from 80-percent-owned subsidiaries which in turn themselves meet this test. In addition, at least 60 percent of the company's income must be from interest or similar charges made in accordance with small loan or consumer finance laws to individuals where the loans do not exceed the State specification for small

loans (or if there is no such limit, $1,500) and if the trade or business expenses of the company represent 15 percent or more of the company's gross income. These companies also must not have loans outstanding to shareholders, with a 10-percent interest or more, which exceed $5,000.

3. A loan or investment company (such as a Morris Plan bank), a substantial part of whose business consists of receiving funds not subject to check and evidenced by certificates of indebtedness or investment, and making loans and discounts. Here also loans to a person who is a 10-percent shareholder may not exceed $5,000 in principal amount.

4. A finance company actively engaged in purchasing or discounting accounts or notes receivable, or installment obligations, or in making loans secured by any of these or by tangible personal property, if at least 80 percent of its gross income is derived from such business. In addition, at least 60 percent of such a company's gross income must be derived from certain categories of income. These categories, in general, relate to business or factoring-type loans: such as purchasing or discounting accounts or notes receivable, or installment obligations arising out of the sale of goods or services by the borrower in his business; making loans for not more than 36 months to businesses where the amounts are secured by accounts or notes receivable or installment obligations of the type described above, or secured by warehouse receipts, bills of lading, inventories, chattel mortgages on property used in the borrower's trade or business, etc. In the case of these companies, the trade or business expense deductions must represent at least 15 percent of the gross income of the company, and loans to those who are 10-percent shareholders in such company must not exceed $5,000 in principal amount.

In the interest of simplification, the House substituted one exclusion for the four now provided these categories of lending or finance companies. At the same time, it saw no need for purposes of the personal holding company provision to restrict the type of loans which these companies could make. It was suggested that this was properly a matter of regulation by State law governing these lending or finance businesses and that in any event the personal holding provisions do not apply to widely held corporations. In these latter cases only State law governs the type of loans which can be made.

In view of these considerations the House bill substituted for all four of the categories described above, one definition of a lending or finance company which is to be excluded from personal holding company tax treatment. This definition provided is designed first to assure that 60 percent of the company's income is from the active, regular conduct of a lending or finance business, and second that its personal holding company income [1] plus interest from U.S. obligations as a dealer in these obligations is not more than 20 percent of the company's ordinary income. These two limitations, and the restriction described below relating to business expense deductions, are designed to give assurance that the company is actively engaged in the lending or finance business and that not more than 20 percent of its remaining income is personal holding company income.

[1] For this purpose personal holding company income is computed without regard to income from subsidiaries qualifying under this exemption as lending businesses, but including gross income from rents royalties, produced film rents, and compensation for use of corporate property by shareholders.

Your committee has modified the requirement that not more than 20 percent of the company's ordinary income may constitute personal holding company income. The House bill permits a company engaged in the small loan business to satisfy the 20-percent test by excluding income which it receives from subsidiaries in the lending or finance business. Your committee's bill would extend this treatment to finance companies. Finally, a technical amendment makes it clear that income received for furnishing services and facilities to a lending or finance company is not to be treated as personal holding company income to members of the same affiliated group which meet the requirement of the exemption for the lending and finance companies, whether they are exempt from the personal holding company tax under the same or another provision.

In addition to 60- and 20-percent tests, the company must have certain business deductions described below, which are directly attributable to its lending or finance business equal to 15 percent of the ordinary gross income up to $500,000 plus 5 percent of the ordinary gross income between $500,000 and $1 million. This provision gives further assurance, as evidenced by the deductions of the company, that it is actively engaged in the lending or finance business. A fourth limitation applicable under present law in the case of all of the categories of lending companies denies the right to make loans to persons who are 10-percent shareholders to the extent of more than $5,000 a year in principal amounts.

The lending or finance business for purposes of this provision is defined as including the business of making loans and purchasing or discounting accounts receivable, notes, or installment obligations receivable, notes or installment obligations. It does not include, however, the making of loans or purchasing or discounting accounts receivable, notes or installment obligations if the remaining period to maturity on the loan or paper exceeds 60 months. It also does not include the making of loans evidenced by indebtedness issued in a series under a trust indenture and in registered form or with interest coupons attached. Your committee has amended the definition of a lending or finance business to make it clear that this includes the income from rendering services or making facilities available to another member of the same affiliated group which is also in the lending or finance business. This is provided because as a matter of economical operations, one company frequently hires the necessary personnel, acquires the appropriate facilities, and in accordance with the requirements of banks, borrows all of the money for the group. Then all of the corporations in the group pay a service charge for these services to the company performing them.

Business deductions for purposes of the 15-percent or 5-percent test include only those trade or business expense deductions which are deductible only by reason of section 162 or section 404 (other than compensation for personal services rendered by shareholders or members of their family), and depreciation deductions and deductions for real property taxes to the extent that the property to which they relate is used in the regular conduct of the lending or finance business. Trade or business expense deductions which are allowable specifically under other sections, such as the deduction for interest expense which is also allowable under section 163, are not included for purposes of the 15-percent or 5-percent test.

(c)(xi) *Liquidating dividends.*—Under present law, the 75- or 85-percent tax (70 percent under the bill) on personal holding companies applies only to the undistributed personal holding company income. Thus, this tax is applied after dividend distributions are taken into account. Included among the amounts treated as dividends eligible for the dividends paid deduction are distributions in liquidation to the extent of the accumulated earnings and profits. As a result, in the year of the liquidation of a personal holding company there is no income subject to personal holding company tax for that year. Despite the fact that the distributions are treated as dividends to the personal holding company, its stockholders in that year receive this income and report it at capital gains rates.

Thus, under present law, a company which is a personal holding company may nevertheless avoid both the personal holding company tax and the ordinary income treatment to its shareholders with respect to the personal holding company income the year in which it liquidates.

A problem is also presented in the case of corporations where a subsidiary is liquidated and both the parent and the subsidiary corporation are personal holding companies. In such a case, if the earnings and profits of the subsidiary exceed its undistributable personal holding company income in the year of the liquidating distribution, the parent corporation may use the excess dividend paid deduction in computing its own dividend paid deduction, thereby reducing its own undistributed personal holding company income in the taxable year and also in the 2 succeeding taxable years.

The bill meets these problems by limiting the application of section 562(b) to companies other than personal holding companies or foreign personal holding companies. However, it is provided in section 316(b) that in the case of a complete liquidation of a personal holding company within a 24-month period after the adoption of the plan of liquidation, that the term "dividend" is to include any amounts distributed in this liquidation to other than corporate shareholders to the extent of its undistributed income (before any deductions for this amount) only if the corporation involved designates amounts as dividends (and so notifies the distributee). If the corporation does so designate the distributions as dividends the individuals receiving a liquidating distribution from the personal holding company must report the amount so distributed as a dividend in the year of receipt. The bill also provides that in the case of a foreign personal holding company, the amount included in a United States shareholder's income is not to be diminished by any liquidating distributions made during the year.

An amendment is also made to the code which provides in the case of corporate distributees that where a complete liquidation of a personal holding company occurs within 24 months after the adoption of the plan of liquidation, the distribution is to be treated as a dividend for purposes of the personal holding company tax only to the extent of the corporate distributee's share of the undistributed personal holding company income for the taxable year of the distribution. Thus, the dividends paid deduction is allowed to a personal holding company only to the extent of the undistributed income for the taxable year and with respect to noncorporate distributees, only if such distributees treat such distribution as a dividend.

(c)(xii) *One-month liquidations.*—Your committee agrees with the House that while the tightening of the personal holding company

provisions as indicated in the prior discussion is desirable, nevertheless, it would be unfortunate to apply these provisions without any alternatives being available, to companies which in the past have not been classified as personal holding companies but which as a result of the new provision will for the first time find themselves subject to personal holding company tax. Your committee agrees that it would be unfair to require such companies to pay personal holding company tax if they are willing to liquidate. Although it is understood that some of these companies are willing to liquidate, nevertheless, it would represent a hardship under existing law for them to do so. The hardship arises from the fact that if they liquidate under the provisions of section 331 of the code, not only would the earnings and profits of such corporations be taxed to the shareholders at capital gains rates but also any other appreciation which has occurred in the value of the assets would be so taxed to them. Such companies in the absence of the new personal holding company provisions would face no necessity of liquidating and therefore under these circumstances no tax would now be paid with respect to these unrealized increases in value. The House and your committee believed it was appropriate therefore to forego the tax at this time on unrealized appreciations in value but to collect the capital gains tax on the earnings and profits distributed.

The bill, to facilitate the liquidation of these companies, provides a special provision (in sec. 333) applicable in the case of companies which, for one of the two most recent taxable years ending before December 31, 1963, were not personal holding companies under existing law, but would have been in that year if the new law provided by this bill had been in effect at that time. In such cases, the bill provides that any distribution in liquidation made by the corporation to the extent of the earnings and profits accumulated prior to the time of the liquidation is to be taxed at capital gains rates and that any remaining gain is to be recognized only to the extent of assets which consist of money or of stock or securities acquired by the corporation after December 31, 1962.

To be eligible for the treatment described above, the liquidation of one of these corporations must occur before January 1, 1967, under your committee's amendments (or January 1, 1966, under the House bill). The treatment described above providing capital gains treatment with respect to earnings and profits is not to apply with respect to any earnings and profits to which the corporation involved succeeds after December 31, 1963, under your committee's amendments (August 1, 1963, under the House bill) as a result of any corporate reorganization or as a result of a liquidation of a subsidiary of that corporation (except earnings and profits which on December 31, 1963 (August 1, 1963, under the House bill) constituted the earnings and profits of one of the companies described above or which were earned by such a company).

In addition to liquidations occurring before January 1, 1967, the capital gains treatment for earnings and profits accumulated before 1967 and nonrecognition of gain with respect to any other gains to the extent with respect to assets acquired before 1963 (and assets other than stock and securities acquired thereafter) the bill also makes this special liquidation treatment apply to certain corporations which liquidate after 1966 (1965 under the House bill). To qualify for

this post-1966 liquidation treatment, as in the prior case the corporation involved must be one which in at least one of the two most recent taxable years ending before December 31, 1963, was not a personal holding company under present law but would have been had the provisions of this bill been in effect with respect to that year. To qualify for this special post-1966 liquidation treatment, the corporation involved must also have incurred indebtedness in the period from December 31, 1933, to December 31, 1963 (August 1, 1963, under House bill), which is still outstanding, or incurred indebtedness after December 31, 1963 (August 1, 1963, under the House bill), which merely replaced indebtedness incurred before that time. So that the necessary records will be kept, the corporation must notify the Secretary that it may wish to liquidate under these provisions. This notice must be given before January 1, 1968 (January 1, 1967, under the House bill).

Cases have been called to the attention of your committee where corporations have entered into commitments to use their incomes to pay off such debts and where as a result it is difficult, if not impossible, for them to liquidate before this indebtedness is paid off. For that reason, the bill makes the liquidation treatment described above (but only with respect to earnings and profits accumulated before 1967) apply if the corporation liquidates in the year in which it either does pay off the pre-December 31, 1963, indebtedness or could have, if it had devoted all of its earnings or profits after 1963 to this purpose. In addition, it must also devote to this purpose any deductions for depreciation, amortization, or depletion since the funds in this case remain in the corporation and can be used to retire indebtedness. Thus, the special liquidation treatment described here with respect to liquidations occurring after 1966 is available only during the period of time necessary for the corporation to retire outstanding indebtedness out of earnings and profits and depreciation allowances.

Your committee has added an amendment providing that where a corporation believes that it is one of these "would have been" corporations eligible for the special liquidation treatment under section 333, if it subsequently is determined that it did not qualify for this treatment, the liquidation will, nevertheless, be treated as occurring under section 333 unless in the election it was indicated that it was made under section 333 only on the assumption that the new treatment would be available. Where the shareholders indicate that they made the election on this assumption, section 331 will apply if other requirements for the use of this liquidation section had been complied with.

(*c*) (*xiii*) *Postponement of new personal holding company provisions for certain corporations.*—To encourage the liquidation of companies which are not now personal holding companies but would become so as a result of the new provisions, a provision is added by the bill to the effect that such companies, if they liquidate before January 1, 1966, will not be subjected to the new personal holding company provisions provided by this bill. They will, however, have available to them the special liquidation provisions described immediately above and will be subject to the rules specified in the prior heading with respect to the dividends paid deduction. In addition, this provision will not apply in the case of the liquidation of a subsidiary corporation under section 332 unless before the 91st day after the last distribution by the subsidiary the parent corporation also is liquidated and both of these events occur before January 1, 1966.

(*c*)(*xiv*) *Deduction for amortization of indebtedness.*—In 1934, when the personal holding company provision was first adopted, Congress provided that indebtedness incurred before 1934 by a company which subsequently became a personal holding company would receive a special debt amortization deduction in computing its personal holding company tax. It was provided that to the extent that this debt was paid off, or amounts were set aside to pay off this debt, the tax base for purposes of the personal holding company tax was to be reduced by the amount of the amortization payments. Thus, these amortization payments were treated for purposes of the personal holding tax as deductions in the same manner as dividend distributions to shareholders.

The bill adds a similar provision for indebtedness incurred after December 31, 1933, and before January 1, 1964 (August 1, 1963, under the House bill), in the case of corporations which were not personal holding companies in one of the 2 most recent taxable years ending before December 31, 1963, but would have been had the new personal holding company provision been in effect at that time.

Qualified indebtedness for purposes of this provision includes not only the debt outstanding before January 1, 1964 (August 1, 1963, under the House bill), but also debt which has replaced that outstanding before January 1, 1964 (if the special amortization deduction has not already been taken for the repayment of the old debt). Thus, short-term bank loans, for example, which are renewed at intervals will not be disqualified for purposes of this amortization deduction if the taxpayer elects not to deduct the payment of the prior loan. In addition to deductions for actual payments, deductions are also permitted for amounts (if reasonable) which are irrevocably set aside to pay off a debt which may be payable at some future date.

The deduction for indebtedness under this provision is to be reduced by any deduction which the company receives for depreciation, amortization, or depletion, and for any deduction (in computing undistributed personal holding company income) for net long-term capital gains. These deductions are disallowed since the funds represented by them can be used by the corporation to pay off indebtedness in the same manner as the earnings and profits of the corporation. Any of these deductions not used in 1 year are carried forward for this purpose and used in a subsequent year. A special provision provides that where depreciable or depletable property which would give rise to this cutback in the indebtedness provision is disposed of after December 31, 1963, then to the extent the basis of the property disposed of exceeds the indebtedness which was transferred at the time of the same disposition the qualified indebtedness for which a deduction may subsequently be taken is reduced.

(*c*)(*xv*) *Effective dates.*—Generally the personal holding company provisions are made effective with respect to taxable years beginning after December 31, 1963. The dividends paid deduction modification and the liquidation provision, however, are to apply to distributions made in taxable years of the distributing corporation beginning after December 31, 1963.

(*d*) *Revenue effect.*—It is estimated that the personal holding company provision will result in a revenue increase of $15 million a year in a full year of operation.

31. Treatment of property in the case of oil and gas wells (sec. 227 of the bill and sec. 614 of the code)

(*a*) *Present law.*—The percentage depletion deduction, in the case of oil and gas, is either 27½ percent, multiplied by the gross income from the "property" or, if less, 50 percent of the net income from the "property." As a result, what constitutes "property" is of considerable significance in determining the percentage depletion deduction available. To avoid any reduction in the 27½-percent deduction on gross income from the property, it frequently is desirable to combine wells having a high ratio of net income to gross income with those having a low ratio so that the 50 percent net income limitation will have little, or no, effect.

At one time each separate mineral deposit in a lease or fee acquisition was treated as a separate property. Subsequently, the administrative practice arose of permitting, at the taxpayer's option, the aggregation or combination of deposits in a single lease or acquisition (sometimes referred to as a single tract or parcel of land). In 1954, Congress permitted the aggregation of properties across lease lines so long as all the properties were in one "operating unit." This change was prompted by circumstances of the hard mineral industry but it also applied to the oil and gas industries as well. In 1958, Congress adopted detailed rules in the case of the hard minerals. In general these rules provided that operating mineral interests may be aggregated mine by mine and any number of mines may be aggregated so long as they are in a single operating unit. These rules, to the extent applicable to hard minerals remain in force. In the case of oil and gas, Congress in 1958 gave operators an option to use either the 1939 code "lease" rule or the 1954 code "operating unit" rule.

The law and the regulations in the case of the "operating unit" rule provide that it is not necessary for purposes of the aggregation that the separate operating mineral interests be included in a single tract or parcel of land, or in contiguous tracts or parcels of land, so long as the interests are a part of the same "operating unit." In defining the "operating unit," the regulations refer to operating mineral interests which are operated together for the purpose of producing minerals. With respect to each taxpayer what constitutes an "operating unit" must be determined on the basis of his own operations. The operating units may not be uniform in the various natural resources industries or in any one of the natural resource industries. Moreover, in the case of a particular taxpayer, business reasons may require the formation of operating units that vary in size and content. The term "operating unit" refers, however, to a producing unit and not an administrative or sales organization. Among the factors which indicate that mineral interests are operated together as a unit are—

(1) Common field or operating personnel;
(2) Common supply and maintenance facilities;
(3) Common processing or treatment plants; and
(4) Common storage facilities.

It is made clear that operating mineral interests which are geographically widespread may not be treated as parts of the same operating unit merely because a single set of accounting records, a single executive organization, or a single sales force is maintained by the taxpayer with respect to such interests or merely because the products of the interests are processed at the same treatment plant. Generally,

however, the determination of the taxpayer as to what constitutes an operating unit is to be accepted unless there is a clear and convincing basis for a change in such determination.

(*b*) *General reasons for provision.*—There have been two major objections to the operating unit rule adopted in 1954 as applied to oil and gas. First, it has been difficult to determine what an operating unit is and this is a continuous source of controversy between taxpayers and the Government. The problem arises from the fact that the term "operating unit" apparently has no generally understood meaning within the oil and gas industries. Basically, it is a tax concept having no real business substance.

Second, the operating unit rule has proved objectionable because it gives taxpayers an opportunity to increase their percentage depletion deduction merely by choosing the best combination of high and low cost properties for purposes of this aggregation rule. This opportunity, of course, is available only to those large enough to have many diverse property interests. It is possible under this rule to include some leases or tracts of land within a large area and to omit others even though the latter may be contiguous to some of the property included, while other property included in the aggregation may be many miles away. Taxpayers, in fact, are contending that the term "operating unit" covers operations over widespread geographical areas, including substantial portions of several States.

To remove this controversy and also to delete this opportunity for larger companies to maximize their percentage depletion deductions by unrealistic grouping of properties, the bill for the future eliminates the operating unit aggregation rule in the case of oil and gas properties. No inferences are to be drawn from this, however, as to what constitutes an operating unit or as to what could properly be aggregated with respect to the period of time before this change is made. In place of the operating unit rule taxpayers, as was true before 1954, will be able to maintain separate deposits as separate properties or can combine some or all deposits falling within a single lease or acquisition. They will not, however, be able to combine different leases or acquisitions, except in the case of properties which are in a unitization agreement. In these latter cases the owners of the property have in effect exchanged their separate interests in their leases for undivided interests in the whole, with the result that all interests of a taxpayer in the unit become one property.

(*c*) *General explanation of provision.*—The operating unit rule of existing law provides that if a taxpayer owns two or more separate operating mineral interests which constitute all or a part of an operating unit, he may form one aggregation and treat as one property any two or more of these interests, treating as separate properties any interests which he does not include in this one aggregation. Separate operating mineral interests may be aggregated for this purpose whether or not they are in a single tract or parcel of land, or contiguous tracts or parcels. A taxpayer may not, however, form more than one aggregation within a single operating unit.

The bill repeals the rule described above for taxable years beginning after December 31, 1963, with respect to oil and gas. It substitutes in its place a rule which, in effect, restores the pre-1954 administrative practice. No longer will the aggregation of properties be permitted at the "operating unit" level. Except in the case of unitization agree-

ments discussed below, taxpayers may not aggregate oil and gas properties above the level of a separate lease or acquisition, or "separate tract or parcel of land" as referred to in the bill.

The general rule which will apply in the future is that all of the taxpayer's operating mineral interests in a separate lease or acquisition will be combined and treated as one property. However, the taxpayer may elect to treat separately operating mineral interests within a single lease or acquisition. Where he does this he may have either no combination, or one combination of mineral interests in that tract or parcel of land. If he has one combination, all other mineral interests not in that combination are treated as separate properties.

Where the taxpayer has elected to treat separately some or all of the operating mineral interests in a single lease or acquisition, and subsequently finds or acquires new interests in that property, the new interests, unless he elects otherwise, are to be treated as a part of the combination, if there is a combination, or as separate properties if there is no such combination.

The election to treat part or all of the operating mineral interests in a lease or acquisition as separate properties must be made at the time of the filing of the return for the first taxable year beginning after December 31, 1963, or if later, the first taxable year in which an expenditure for the development or operation of the operating mineral interest is made by the taxpayer after acquisition.

(c)(i) Unitization or pooling arrangements.—As previously indicated, a unitization or pooling agreement is to be an exception to the rule stated above. A unitization agreement arises where two or more taxpayers holding interests in separate tracts or parcels of land exchange their interests for an undivided interest in a larger area (either by formal conveyances or contractual arrangement). Such an agreement also arises where a taxpayer holding operating mineral interests in several leases enters into an arrangement to pay the lessors royalties based on an undivided share of the oil and gas from all the leases. The bill provides that in these cases all of the operating mineral interests of a taxpayer which participate in one of these unitization agreements are to be treated as a single property without regard to the rules specified above. This treatment applies to all compulsory unitization agreements required by State law and also to voluntary agreements which meet both of the following two tests:

(1) The operating mineral interests must be in the same deposit or two or more deposits, the joint development or production of which is logical from the standpoint of geology, convenience, economy, or conservation; and

(2) The operating mineral interests covered by the agreement must be in tracts or parcels of land which are either contiguous or in close proximity.

In making this determination under No. (1), tax benefits are not to be taken into account.

A special rule is provided in the case of unitization agreements entered into in taxable years beginning before January 1, 1964. In these cases, where for the last taxable year beginning before 1964 the taxpayer treated each interest as a separate property and if it is determined by law that this was the proper treatment, then the taxpayer may, if he so desires, continue to treat these interests as separate

properties despite the fact that they are in a unitization agreement.

(c)(ii) *"Unscrambling" of basis.*—In the past, because of the "operating unit" rule, taxpayers have aggregated two or more separate leases or acquisitions which under the new rules provided by this bill, they must treat separately. This means that any basis for these properties must be segregated or "unscrambled." In the great majority of the cases, it is understood that this will present no problem because of the fact that the entire basis of the property involved has already been written off by percentage depletion deductions. However, for those where some basis still remains, the bill provides two rules, either of which may be followed in "unscrambling" the basis of the operating mineral interests which for the future must be treated as separate properties. The first of these rules provides that any basis may be divided among the separate properties in accordance with the fair market value of each property. The second rule provides that taxpayers may take the adjusted basis of each property at the time it was first included in an aggregation and adjust this basis downward for adjustments reasonably attributable to the property so that the total of these adjusted bases equals the adjusted basis of the former aggregation.

(c)(iii) *Effective date.*—The amendments made by this provision apply to taxable years beginning after December 31, 1963. This does not involve any change in elections for those already covered under the 1939 code rules (sec. 614(d)).

(d) *Revenue effect.*—It is expected that this provision will result in an annual increase of revenue of $40 million.

32. Treatment of iron ore royalties (sec. 228 of the bill and secs. 631(c), 1231(b), and 272 of the code)

(a) *Present law.*—Under present law, iron ore royalties give rise to ordinary income; against this, however, a depletion deduction of 15 percent may be taken.

In the case of coal royalties, however, where the property has been held over 6 months, present law provides that the excess of the amount realized from the disposal of the coal, over the adjusted depletion basis and the expenditures attributable to making and administering the contract and in preserving the economic interest retained in the contract, is to be treated as a capital gain. Where capital gain is realized from coal royalties, no deduction is allowed for percentage depletion or generally for the making and administering of the contract or the preservation of the economic interest in the contract.[1]

(b) *General reasons for provision.*—Your committee agrees with the House that the tax treatment now available with respect to coal royalties also should be extended to iron ore royalties as well. The capital gains treatment was made available in the case of coal royalties in part at least to encourage leasing, and therefore production, at a time when the coal industry was facing strong competition from other forms of fuel energy. Today, domestic iron ore production also

[1] Where the expenditures referred to above plus the adjusted depletion basis of the coal disposed of exceed the amount realized under the contract and are not used to offset other gains, a loss is allowed (if some income is realized under the contract).

generally is decreasing. In recent years, for example, iron ore production in the United States has been as follows:

	Thousands of long tons
1950	98, 045
1955	103, 003
1958	67, 709
1959	60, 276
1960	88, 784
1961	71, 329

Source: Department of Interior, Bureau of Mines, Minerals Yearbook.

The capital gains treatment provided by this bill should encourage domestic leasing of iron ore properties to operators, and therefore should improve the position of domestic iron ore production relative to foreign production.

Your committee has modified the House bill, however, to limit the capital gains treatment for iron ore royalties to domestic iron ore. In addition, it has denied capital gains treatment for these royalties where the person receiving the royalty and the person acquiring the iron ore are related persons or are owned or controlled directly or indirectly by the same interests.

(*c*) *General explanation of provision.*—The bill provides that, as in the case of the disposal of coal, where iron ore is disposed of after being held for more than 6 months by the owner under a contract in which the owner retains an economic interest in the iron ore, the difference beween the amount realized from the sale of the iron ore and certain costs is to be treated as a capital gain. An amendment made by your committee limits this treatment in the case of iron ore to that mined in the United States.

The costs taken into account for purposes of determining the gain are the cost of the property itself (adjusted downward for any depletion deduction taken) plus expenditures in the taxable year for making and administering the contract and the preservation of the economic interest retained under the contract. However, where these expenditures together with the adjusted basis of the property exceed the amount realized under the contract and are not used to offset other gains from the sale or exchange of "property used in the trade or business," a loss is to be recognized. Thus, the costs and expenses incurred by the taxpayer are to decrease the amount received in determining the amount treated as a capital gain.

The bill treats these iron ore royalties like coal royalties as "property used in the trade or business." As a result, if the gains from iron ore royalties plus the gains from other "property used in the trade or business" exceed the losses from the same type of property, the gain is to be treated as capital gain.

In obtaining this capital gains treatment for the iron ore royalty the lessor must forgo any depletion deduction with respect to his property (although his adjusted depletion basis is taken into account in computing his gain). In addition, he must generally forgo any deductions for expenditures attributable to the making and administering of the royalty contract and any expenditures attributable to the preservation of his economic interest in this contract. The primary exception to the denial of the deductions in this case is where these expenses plus the adjusted depletion basis for the iron ore disposed of

exceed the royalty payments received and are not offset against other gains. With respect to this excess, a loss is allowed.

The House bill provided in the case of iron ore, as in the case of coal under present law, that the capital gains treatment is not to apply to income realized by any owner as a coadventurer, partner, or principal in the mining of the coal or iron. The word "owner" here means any person who owns an economic interest in the coal or iron ore in place including a sublessor. Your committee has added an amendment which in the case of iron ore further restricts the availability of the capital gains treatment. Under your committee's amendment, the capital gains treatment will not be available where the owner of the interest in the iron ore and the operator are related, or where the two parties are owned or controlled directly or indirectly by the same interests. "Relationship" here is the same as the relationship which would result in the denial of a deduction for losses in the case of the sale of property under section 267 or 707(b).

The iron ore for this purpose is considered as being sold on the date the iron ore is mined.

(*c*)(*i*) *Effective date.*—As amended by your committee, the capital gains treatment provided by this provision is to apply to amounts received or accrued in taxable years beginning after December 31, 1963, attributable to iron ore mined in taxable years beginning after December 31, 1963. In the House bill, the capital gains treatment would have applied to all iron ore mined in taxable years beginning after December 31, 1963, even though amounts were received with respect to such iron ore in prior taxable years.

(*d*) *Revenue effect.*—This provision is expected to result in an annual loss of revenue of $5 million.

33. Insurance companies; mutualization distributions made in 1962 (sec. 229(a) of the bill and secs. 809(d)(11) and 809(g)(3) of the code)

(*a*) *Present law.*—The Life Insurance Company Income Tax Act of 1959 provided a special rule where a stock life insurance company is "mutualized," or converted into a mutual life insurance company, with a liquidating distribution being made to the shareholders and the remainder of the surplus and reserves being held for the benefit of policyholders in what then becomes a mutual company.

The 1959 act provided a special deduction for these liquidating payments to shareholders. To the extent of the excess of any gain from operations for the year in question over the taxable investment income, a deduction is allowed in computing the phase 2 tax of the insurance company for amounts paid out in one of these liquidating distributions to the shareholders. The distribution has to be under a mutualization plan adopted before January 1, 1958. This deduction in computing the phase 2 tax cannot result in any lower tax than if the 1957 law had applied in the year in question. In addition, this amount is treated as paid first out of capital and paid-in surplus, to the extent of this capital and paid-in surplus, with the result that no tax is likely to arise under phase 3 of the life insurance company tax in the case of these distributions.

The treatment described here was initially made available with respect to distributions in 1958 and 1959 but was subsequently (in Public Law 87–59) extended to cover distributions in 1960 and 1961.

(*b*) *General reasons for the provision.*—The attention of your com-

mittee has been called to a case where a mutualization agreement was entered into before January 1, 1958, and the final distribution payment was authorized in 1961 but the distribution of these payments could not actually be made until 1962 because of the requirements of the State law involved. Your committee believes that liquidation payments made under these circumstances should be treated in the same manner as in the case of the mutualization liquidating payments made in prior years.

(*c*) *General explanation of provision.*—For the reasons given above, your committee has added an amendment to the bill providing that the special liquidating distributions rules provided by present law for the years 1958–61 under a mutualization agreement entered into before 1958 are also to apply to distributions in 1962. This will enable the company to receive a deduction for this amount (subject to applicable limitations) in computing its phase 2 tax and also to treat this amount for purposes of phase 3 as being made first out of capital and paid-in surplus, to the extent of such amounts, and only after that, is a part of this amount to be treated as a payment first out of the already tax-paid shareholders surplus account, to the extent of the balance of this account, and only then from the policyholders surplus account, withdrawals from which are subject to tax.

(*c*)(*i*) *Effective date.*—The amendment made by this provision is to apply to taxable years beginning after December 31, 1961.

(*d*) *Revenue effect.*—It is estimated that this provision will result in a negligible loss of revenue for 1 year.

34. Accrual of bond discount by certain insurance companies (sec. 229(b) of the bill and sec. 818(b) and sec. 822(d)(2) of the code)

(*a*) *Present law.*—Under existing law, prior to Rev. Rul. 60–210 (1960–1 CB 38), mutual fire and casualty insurance companies and life insurance companies amortized premiums and accrued discount on bonds purchased by them. In the case of State and local government bonds, these companies increased the amount of their deduction for tax-exempt interest by the amount of discount accrued by them. This had the effect of treating discount in the same manner as tax-exempt interest, without regard to whether the discount was on the original issue of the bond or whether it grew out of subsequent fluctuations in the market value of the bond.

Revenue ruling 60–210, issued May 31, 1960, draws a sharp distinction in tax treatment between "issue" discount and so-called "market" discount on State and local government bonds. Under this revenue ruling, in the case of issue discount, such discount continues to be treated as in the nature of tax-exempt interest, and the deduction for such interest continues to be increased by the amount of issue discount accrued each year. Market discount, on the other hand, although required to be accrued by these companies, no longer is allowed by the Internal Revenue Service to increase the deduction for tax-exempt interest. Thus market discount accrued by life insurance companies and by mutual fire and casualty insurance companies is taxed as ordinary income.

Stock fire and casualty insurance companies on the other hand, and corporations generally, are not required to accrue discount (either that arising at the time of issue or market) on bonds purchased at a discount by them. Rather these corporations treat market discount on both taxable and nontaxable bonds as capital gain (or loss)

when the bond is sold or disposed of by them and treat original issue discount on taxable bonds as ordinary income when it is realized.

The Revenue Act of 1962 further affected the tax treatment of discount on bonds purchased by mutual fire and casualty insurance companies (but not life insurance companies). Broadly speaking, it was the purpose of that act to treat mutual fire and casualty insurance companies more nearly like stock fire and casualty insurance companies for Federal income tax purposes. To accomplish this objective, mutual companies were taxed under a modified total income formula, which in effect converts accrued discount on bonds into an underwriting deduction. This effectively takes market discount out of the ordinary income tax base of these mutual companies and provides capital gain (or loss) treatment for market discount on both taxable and nontaxable bonds when the bonds are sold or disposed of by the mutual companies and treats original issue discount on taxable bonds as ordinary income as it is realized upon disposition. This treatment is identical to the treatment of discount by stock fire and casualty companies and other corporations. However, this treatment under the 1962 Revenue Act does not apply to all mutual fire and casualty insurance companies. Actually, it applies only to those companies which are subject to the modified total income tax.

Therefore, small mutual companies (those whose gross investment income, plus premiums, is between $150,000 and $500,000) which are taxed only on their investment profits must continue to treat accrued discount currently as ordinary income. In addition, life insurance companies must treat this discount currently as ordinary income.

(*b*) *General reasons for provisions.*—Your committee sees no reason for treating market discount on bonds owned by life insurance companies and by small mutual fire and casualty insurance companies as ordinary income when all other corporations, including all other insurance companies, are allowed capital gain treatment for such discount. Moreover, when the tax treatment of bond discount varies depending upon the type of business the bondholder may be engaged in, it is difficult for the bond market (particularly in the case of State or local government securities) to function normally, since the after-tax earnings on the bond will not be uniform.

Moreover, your committee desires to bring stability to an area of the tax law that has been unsettled since 1960. From 1942 until 1960 there was little question but that discount on tax-exempt bonds held by life insurance and mutual fire and casualty insurance companies, regardless of the source of the discount, was tax exempt. In 1960, however, the market portion of discount on such bonds was held by the Internal Revenue Service to be taxable as ordinary income. In 1962 larger mutual fire and casualty insurance companies (but not the smaller mutual fire and casualty companies and not life insurance companies) were provided capital gains treatment on their market discount. Under your committee's bill in the future, market discount on bonds held by insurance companies and other corporations will be taxed alike; that is, as capital gain when the bond is sold or redeemed.

(*c*) *General explanation of provision.*—This amendment provides that for taxable years beginning after December 31, 1962, market discount received by any insurance company will be taxed as a capital gain. This conforms the treatment of this discount in the case of

life insurance companies and small mutual fire and casualty companies with that presently accorded stock fire and casualty companies, and the larger mutual fire and casualty companies (under the Revenue Act of 1962) and corporations generally.

In the case of original issue discount, the amendment conforms the treatment by small mutual fire and casualty companies with the treatment of original issue discount received by stock fire and casualty, and larger mutual fire and casualty companies (under the Revenue Act of 1962). Under the amendment, this discount will be reported as ordinary income when it is realized upon disposition.

Life insurance companies, however, would continue (as under present law) to accrue original issue discount currently on both taxable and tax-exempt bonds.

(*c*)(*i*) *Effective date.*—The amendments made by this provision are to apply to taxable years beginning after December 31, 1962.

(*d*) *Revenue effect.*—This provision is expected to result in a negligible loss in revenue.

35. Contributions by certain insurance companies to qualified pension, etc., plans (sec. 229(c) of the bill and sec. 832(c)(10) of the code)

Under the Internal Revenue Code of 1939, deductions for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred payment plan were allowed under the same section (sec. 23(p)) as most other deductions from gross income. In the rearrangement made in the 1954 Code, however, the deduction for these contributions was transferred over to the subchapter relating to deferred compensation and pension, profit sharing, stock bonus plans, etc. However, the 1954 Code in the case of casualty insurance companies in providing for trade or business deductions, refers to deductions in part VI of subchapter B, relating to itemized deductions for individuals and corporations, unintentionally omitting the reference to section 404 wherein the deductions for contributions to qualified pension, etc., plans is provided under the 1954 Code.

To remove this clerical error in the 1954 Code, and to make it clear that deductions are allowed for contributions to a qualified pension, etc., trust in the case of these casualty insurance companies, your committee has added a provision to the bill containing an appropriate cross-reference to obtain this result. Thus, section 832(c)(10) of the code is amended by making specific reference to section 404 and following, which are the provisions relating to pension, profit sharing, stock bonus plans, etc.

The amendment made by this provision is to apply to taxable years beginning after December 31, 1953, and ending after August 16, 1954.

36. Regulated investment companies: Time for mailing certain notices to shareholders (sec. 230(a) of the bill and secs. 852–855 of the code)

(*a*) *Present law.*—Under present law, companies may qualify as "regulated investment companies" if they meet certain tests set forth in the statute. In general, to qualify for this status, the bulk of a company's income must be derived from dividends, interest, and gains on the sale of stock or securities. In addition, to receive this treatment, a substantial portion of the company's assets must be in diversified stock investments rather than being concentrated in the stock of a single or a few companies. Where a company qualifies as a regulated

investment company, if it distributes at least 90 percent of its investment company income (excluding net long-term capital gains), then the company is taxed only on its undistributed income.

In addition, certain features of the tax law which generally would be applicable only to the company receiving the income, in the case of a "regulated investment company" may be passed through to its shareholders. In each of these cases, the present provisions of the Internal Revenue Code provide that the shareholder must be given notice with respect to these special tax features within 30 days after the close of the regulated investment company's taxable year.

(*b*) *General reasons for provision.*—This provision increases from 30 to 45 days after the close of a regulated investment company's taxable year the time accorded it for giving notices to its shareholders with respect to these special tax features. Your committee believes that the allowance of this additional 15-day period is desirable because the regulated investment companies have had difficulties in getting out their notices within the 30-day period. Moreover, since individuals generally are not required to file their individual income tax returns until the 15th day of the 4th month (rather than the 15th day of the 3d month of the year as at one time was the case) provision of this additional time for the regulated investment companies to submit these reports to their shareholders still leaves the shareholders with 2 months after the receipt of the notices before their tax returns need to be filed.

(*c*) *General explanation of provision.*—The various tax features with respect to which the regulated investment company under this bill is to be given 45 rather than 30 days after the end of the year for notice to its shareholders are as follows:

1. Under present law, dividends paid to shareholders of a regulated investment company may be designated as capital gain dividends to the extent of the excess of the net long-term capital gain of the regulated investment company over its net short-term capital loss (but only to the extent these amounts are paid out). In the case of these dividends, the company pays no tax but the shareholder includes the dividend in his income as a long-term capital gain. In this case, the company is to have until 45 days after the end of its taxable year to notify its shareholders as to the amount of the dividend (sec. 852(b)(3)(C)).

2. As an alternative to actually distributing net long term capital gains, a regulated investment company can report such capital gains and pay a 25-percent tax on this income. Then the shareholder may include his share of these capital gains in his income as long term capital gain and claim a tax credit for the tax paid by the regulated investment company. For this treatment to be available, the company must designate within 30 days after the close of the taxable year the amount to be so treated by each shareholder. This provision increases this period of time to 45 days (sec. 852(b)(3)(D)(i)).

3. Present law provides that where more than 50 percent of the value of a regulated investment company's assets consist of stock or securities in foreign corporations and certain other tests are met, then the regulated investment company may elect to treat as distributed to its shareholders any income, war profits, and excess profits taxes paid by it to a foreign country (or a possession of the United States). Where the company so elects, the shareholders of the company include the amount of these foreign (or possession) taxes in their income and

then either claim a deduction or foreign tax credit for these amounts. For this treatment to be available, notice must be mailed to the shareholders not later than 30 days after the close of the company's taxable year. The provision changes this 30-day period to a 45-day period (sec. 853(c)).

4. Existing law provides that where less than 75 percent of a regulated investment company's gross income represents dividend income, then the shareholder receiving a dividend from the regulated investment company is to treat the amount he receives as a dividend only in the ratio which the company's dividend income represents of its total gross income. Present law provides that a regulated investment company must supply its shareholders with written notices indicating how much of its income in these cases is to be treated as dividends. This written notice must be supplied the shareholder within 30 days of the close of the company's taxable year. This provision changes the 30-day period to a 45-day period (sec. 854(b)(2)).

5. Existing law provides that income may be treated as paid out in the year earned if a regulated investment company declares a dividend before the time specified by law for filing of its return for the year in question and distributes this dividend to its shareholders not later than at the time of the first regular dividend payment after the declaration. (The shareholder in such cases may take the income into account in the taxable year in which he receives the distribution.) For the dividends to be considered as paid out in the earlier year, notice under existing law with respect to such dividends must be made to the shareholders not later than 30 days after the close of the taxable year in which the distribution of the dividends is made. This provision changes the 30-day period to a 45-day period (sec. 855(c)).

(c)(*i*) *Effective date.*—The changes in the filing dates referred to above are to apply to taxable years of regulated investment companies ending on or after the date of enactment of this bill.

(*d*) *Revenue effect.*—It is expected that this provision will have no effect on revenues.

37. Regulated investment companies: Redemptions by unit investment trusts (sec. 230(b) of the bill and sec. 852(d) of the code)

(*a*) *Present law.*—Present law provides that mutual funds are to be treated for Federal income tax purposes as "regulated investment companies." To qualify for this treatment the corporations involved must have widely diversified investments largely consisting of stocks or bonds. Ninety percent or more of their ordinary income must also be paid out to their shareholders. Such corporations, however, pay tax on their net long term capital gain to the extent such capital gain is not distributed to the shareholders.

In some cases what are sometimes called unit investment trusts are also associated with a mutual fund. These unit investment trusts receive periodic payments from individuals and invest these funds usually in the stock of a single mutual fund. Under present law these unit investment trusts are themselves also classified as regulated investment companies.

(*b*) *General reasons for provision.*—A problem has arisen under present law where one investor liquidates his interest in one of these unit investment trusts. In such a case if the trust sells stock which it holds to make the liquidating distribution and the proceeds from the

sale are distributed to one investor it is possible to argue that the distribution is a "preferential dividend" (as defined in sec. 562(c)) and that for this reason it does not result in a dividends paid deduction for this amount to the trust (but only to the extent of the investor's allocable share of the gain). This would therefore result in a tax on the capital gain to the trust although it retained none of the capital gain in its possession.

(c) *General explanation of provision.*—To meet the problem described the bill provides that in the case of a redemption by the trust of the investor's stock (in whole or in part) the redemption will not be considered as preferential dividend. This amendment is not intended to have any effect on the law prior to the effective date of this provision.

(c)(*i*) *Effective date.*—This amendment applies to taxable years of regulated investment companies ending after December 31, 1963.

(*d*) *Revenue effect.*—It is expected that this provision will have a negligible effect on revenues.

38. Foreign tax credit with respect to certain foreign mineral income (sec. 231 of the bill and sec. 901(d) of the code)

(*a*) *Present law.*—Under present law, citizens of the United States and domestic corporations may treat foreign income, war profits, and excess profits taxes paid or accrued to a foreign country as a credit against their U.S. income tax otherwise payable. In addition to taxes paid directly by a U.S. taxpayer, domestic corporations are allowed a credit for foreign taxes paid by 10-percent-owned first tier foreign subsidiaries and by second tier foreign subsidiaries if 50 percent of their voting stock is owned by a 10-percent-owned first tier foreign subsidiary. Similar tax credits are allowed if so-called "tax haven" income is included in the gross income of a domestic corporate shareholder (under sec. 951).

Foreign taxes which may be allowed as a credit against U.S. tax are limited to the same proportion of the U.S. tax against which the credit is taken as the income from sources within each foreign country (the "per country" limitation), or alternatively all foreign countries (the "overall" limitation), bears to the entire taxable income of the taxpayer. Thus, if foreign tax on foreign source income of the taxpayer on a per-country or overall basis is equal to, or less than, the U.S. tax resulting from including the foreign source income in taxable income, the entire foreign tax is allowed as a credit. Except in the case of interest income which is not related to the taxpayer's foreign operations, computations of foreign and U.S. taxes on foreign source income, for purposes of the limitation on the foreign tax credit, are made without regard to the type of activity from which the income is derived. To the extent the foreign taxes on foreign source income exceed the U.S. income tax applicable to the same income, the excess foreign tax may be carried back 2 years and forward 5 years and be used as a credit against U.S. tax in those years to the extent the foreign tax credit limitation for these years exceeds the foreign tax credit otherwise allowable.

(*b*) *General reasons for provision.*—Under present law, U.S. taxpayers who extract minerals in foreign countries are allowed a deduction for percentage depletion in computing their U.S. income tax. Because of the allowance by the United States of percentage depletion to the mineral-producing industries, the U.S. tax payable on these operations is often lower than the foreign tax payable on the income

from the same operations. Although the rates of tax generally in the foreign country in which the mineral is extracted are not likely to be higher than ours, the fact is that they frequently do not allow a deduction for percentage depletion or grant it at a lesser rate than does the United States. To the extent foreign tax paid or accrued on foreign income derived from the extraction of minerals from mines, wells, or other natural deposits exceeds the U.S. tax on the same income, the excess foreign tax, under present provisions relating to the allowance of foreign tax credits, is available as a credit against U.S. tax otherwise payable on foreign source income from unrelated activities of the taxpayer in the same or other foreign countries.

To prevent continuance of this benefit, which is available only to U.S. taxpayers who are engaged in the business of operating foreign mines, wells, and other natural deposits, your committee has provided that excess foreign tax credits which are attributable to the allowance of percentage, rather than cost, depletion by the United States shall not be allowed as a tax credit against U.S. tax otherwise payable on the income from taxpayer's nonmineral foreign activities. For this purpose, however, the taxpayer's mineral income is to include income from refining, distribution, and retail sales of the mineral products as well as their extraction. This is set forth in more detail below. Treating these related activities in this manner is necessary to enable these companies to maintain their present competitive position with others engaged in mineral extraction abroad. On the other hand, however, since the foreign tax credit cannot offset income from domestic sources, this will have no effect on domestic production.

(c) *General explanation of provision.*—For purposes of computing foreign tax credits available to a U.S. citizen or domestic corporation who claims a deduction for percentage depletion, your committee's bill requires a taxpayer to divide his income into two parts: first, "mineral income" from sources without the United States, and second, income from all other sources.

For purposes of this provision, the bill defines "mineral income" as income derived from the extraction of minerals from mines, wells, or other natural deposits, income from the processing of such minerals into their primary products, and income from the transportation, distribution, and sale of the primary products derived from the mineral or of the mineral itself. Thus, for example, an integrated oil company would treat its entire income from the production of oil, income attributable to the refining of crude oil into gasoline, income from the distribution of gasoline to marketing outlets, and its income from retail sales of gasoline as mineral income. Similarly, income from the refining, distribution, and marketing of fuel oil by the taxpayer would also be treated as mineral income for this purpose, whether or not the oil sold was extracted by the taxpayer. However, income attributable to the manufacture, distribution, and marketing of petrochemicals is not to be treated as mineral income since your committee does not consider them to be primary products of oil. In addition to treating certain operating income as mineral income, taxpayers are permitted to treat dividends from corporations in which they own 5 percent or more of the voting stock as mineral income to the extent the dividend is attributable to mineral activities of the payor corporation. However, this rule only applies if the dividend is treated as income from sources without the United States for income tax purposes. Thus, for example, if a domestic oil company receives

a dividend from a foreign oil pipeline company in which it owns more than 5 percent of the voting stock at the time of the distribution, the domestic company may treat the dividend as "mineral income." The bill also provides that a taxpayer may treat the portion of his distributable share of income of a partnership as mineral income to the extent it is derived from foreign mineral activities of the partnership.

Once the income of a taxpayer is divided into the mineral and non-mineral categories, your committee's bill results in a disallowance of foreign taxes as a credit against U.S. tax to the extent the excess of foreign tax over U.S. tax on the mineral portion of the taxpayer's income is attributable to the allowance of percentage, rather than cost, depletion for U.S. income tax purposes. Under this rule, foreign and U.S. taxes may be compared on the foreign mineral income of the taxpayer as a whole under the overall limitation, or they may be compared on a per country basis. However, if a foreign tax is disallowed under this provision in the year paid or accrued, it is not permitted to be treated as a carry back or a carry forward to another taxable year.

This provision does not affect taxpayers who do not claim percentage depletion on income from extraction of foreign minerals. Moreover, it does not affect taxpayers who claim percentage depletion on such income for Federal income tax purposes if the foreign tax allocable to their foreign mineral income is equal to or less than the U.S. tax applicable to the same income assuming the taxpayer used cost, rather than percentage, depletion for U.S. tax purposes.

(c)(i) *Effective date.*—This provision applies with respect to the computation of foreign tax credits for taxable years beginning after December 31, 1963.

(d) *Revenue effect.*—This provision is expected to result in a negligible increase in revenues.

39. Sale of residence by employee (sec. 232 of the bill and sec. 1003 of the code)

(a) *Present law.*—Under present law, amounts received by transferred employees from their employers in reimbursement of "losses," selling commissions, and legal fees incident to the sale of a principal residence have been held to be as ordinary income. *Harris W. Bradley*, 39 T.C. 652 aff'd 324 F. 2d 610 (4th Cir. 1963).

Prior to the *Bradley* opinion the treatment of these reimbursements was governed by a 1947 opinion of the Tax Court which treated the reimbursed amount as part of the selling price of the old residence (*Schairer*, 9 T.C. 549). This had the effect of providing capital gains treatment on the reimbursed amount if there was an overall gain on the sale and if the proceeds were not reinvested in a new residence. If, on the other hand, there was a loss on the sale of the old residence, the reimbursement received from the employer was not taxed.

(b) *General reasons for provisions.*—Your committee believes that treating reimbursements for selling expenses and "market value losses" as part of the proceeds from the sale of the old residence if the sale occurs because of an employee's transfer to a new place of work recognizes the practical effects of the transaction and treats the employee much as if he had not been required to sell his home under forced circumstances.

These transfers may be for the convenience of the employer, not the

employee, and they often occur unexpectedly. In these cases the employee may be unable to sell his residence on a normal market but must dispose of it promptly, often when market conditions are most unfavorable. In many cases an employer may transfer a great many of his employees at one time. This may have a depressing effect on the home market for which the employer is largely responsible, and his reimbursements of his employees' selling expenses is only equitable.

Your committee believes that in a case of this type the employees are likely to derive no economic advantage from the reimbursements from their employers and that as a result it is unfortunate to treat these reimbursements as compensation.

(*c*) *General explanation of provisions.*—For these reasons, your committee's bill treats reimbursements received by employees from their employers for selling expenses and market value losses arising from the "forced" sale of their residence (within a limited period from the employee's transfer to a new place of work) as an additional amount realized on the sale of the old residence. The provision limits the amount of reimbursement which may receive this treatment to the lesser of (A) the sales differential, or (B) 15 percent of the gross sales price of the old residence. "Sales differential" for this purpose means the amount by which (A) the appraised value of the old residence exceeds (B) the gross sales price of the old residence, reduced by the selling commissions, legal fees, and other expenses incident to the transfer of ownership of the old residence. In no event, however, is the appraised value, for purposes of (1) above, to exceed the fair market value of the old residence.

The bill further provides that this treatment is to apply only where the employee sells his house during the "forced sale" period; that is, the period beginning 90 days before and ending 180 days after the date on which he commences work as an employee at his new principal place of work. In addition, for the new rule to apply, the employee's commuting distance must, as in the case of the deduction for moving expenses under section 213 of the bill, be increased by at least 20 miles. This prevents the provision from applying to purely local moves. Finally, the individual receiving the reimbursement must have been an employee of the reimbursing employer for at least 6 months prior to the transfer.

(*c*)(*i*) *Illustrations.*—The following illustrations indicate the operation of this new provision in cases where the proceeds from the sale are not reinvested in a new residence and compares the result under the new provisions with the tax consequences under the Bradley decision.

Illustrations of provision

	Case A	Case B	Case C
Gross sales price of old residence	$30,000	$30,000	$30,000
Real estate commission	1,800	1,800	1,800
Legal fees incident to closing	200	200	200
Amount of reimbursement by employer	2,000	5,000	3,000
Average of appraisals of old residence	30,000	33,000	31,000
Fair market value of old residence	30,000	33,000	30,000
Cost of old residence	20,000	33,000	30,000
Tax consequences:			
1. Sec. 232:			
(*a*) Ordinary income	0	500	1,000
(*b*) Capital gain	10,000	0	0
2. Existing law, *Bradley* decision:			
(*a*) Ordinary income	2,000	5,000	3,000
(*b*) Capital gain	8,000	0	0

Case A indicates that where a residence is sold for its full value (which exceeds its cost), reimbursements received by the transferred employee for selling commissions and closing costs serve to increase the amount of capital gain otherwise realized on the sale.

Case B shows the application of the 15-percent limitation in a situation involving a loss based upon both fair market value and the employee's cost. In this case $500 of the reimbursed amount (the portion of the $5,000 reimbursement in excess of 15 percent of gross selling price) is not considered part of the amount realized on the sale.

Case C shows the fair market value limitation. Here, the old residence was sold for its value (which equaled its cost), but the employee was reimbursed $1,000 for a "loss" he did not incur. Under the provision, this $1,000 is not considered part of the amount realized on the sale.

(*c*)(*ii*) *Effective date.*—The amendment made by this provision shall apply to reimbursements received with respect to sales contracts entered into after December 31, 1960, in taxable years ending after such date.

(*d*) *Revenue effect.*—This amendment is expected to result in a revenue loss of $45 million in a full year of operation.

40. Dispositions of depreciable real estate (*sec. 233 of the bill and sec. 1250 of the code*)

(*a*) *Present law.*—Under present law, taxpayers may take depreciation on real property (other than land) used in a trade or business or held for the production of income. The depreciation methods available are the same as those applying to tangible personal property. They include (1) straight-line depreciation; (2) 150 percent declining balance depreciation; (3) double-declining balance depreciation; (4) sum-of-the-years-digits depreciation; and (5) any other consistent method of depreciation which does not during the first two-thirds of the useful life of the property result in greater depreciation than under the double-declining balance method. The 150-percent declining balance method is available with respect to used real property only under certain circumstances. The last three methods of depreciation referred to are available only for property with a useful life of 3 years or more and only if the property was new property in the hands of the taxpayer.

The depreciation is allowed as a deduction against ordinary income. As the depreciation deduction is taken the cost or other basis of the real property is reduced by a like amount. If the property subsequently is sold, any gain realized on the difference between the sales price (adjusted downward for selling expenses) and the adjusted basis of the property is taxed as a capital gain if the total transactions in depreciable property and certain other property (referred to in sec. 1231) result in a gain for the year involved. On the other hand, where the aggregate of these transactions results in a loss, the net loss is an ordinary loss.

(*b*) *General reasons for provisions.*—Since the depreciation deductions are taken against ordinary income while any gain on the sale of the property is treated as a capital gain, there is an opportunity under present law in effect to convert ordinary income into capital gain. This occurs whenever the depreciation deductions allowed reduce the basis of the property faster than the actual decline in its value.

Congress in the Revenue Act of 1962 recognized the existence of this same problem in the case of gains from the disposition of depreciable machinery and other personal property. In that act, the Congress provided that any gain realized on the sale of these assets in the future would be ordinary income to the extent of any depreciation deductions taken in 1962 and subsequent years with respect to the property.

In the case of real estate, this problem is magnified by the fact that real estate is usually acquired through debt financing and the depreciation deductions allowed relate not only to the taxpayer's equity investment but to the indebtedness as well. Since the depreciation deductions relate to the indebtedness as well as the equity in the property, this may permit the tax-free amortization of any mortgage on the property. As a result in such cases there is a tax-free cash return of a part of the investment which may in fact enable the taxpayer to show a loss for several years which he may offset against income for tax purposes.

In 1962, Congress did not include real property in the recapture provision applicable to depreciable personal property because it recognized the problem in doing so where there is an appreciable rise in the value of real property attributable to a rise in the general price level over a long period of time. The bill this year takes this factor into account. It makes sure that the ordinary income treatment is applied upon the sale of the asset only to what may truly be called excess depreciation deductions. It does this first by providing that in no event is there to be a recapture of depreciation as ordinary income where the property is sold at a gain except to the extent the depreciation deductions taken exceed the deduction which would have been allowable had the taxpayer limited his deductions to those available under the straight-line method of depreciation. Secondly, a provision has been added which in any event tapers off the proportion of any gain which will be treated as ordinary income so that it disappears gradually over a 10-year holding period for the real estate. As a result, under the bill, no ordinary income will be realized on the sale of real estate held for more than 10 years.

(*c*) *General explanation of provisions.*—In view of the considerations set forth above, the House and your committee have amended present law to provide that when depreciable real estate is sold after December 31, 1963, in certain cases a proportion of any gain realized upon the sale of the property is to be treated as ordinary income; that is, previous depreciation deductions against ordinary income are to be "recaptured" from the capital gains category.

The bill accomplishes this result by treating as ordinary income a certain percentage of what is called "additional" depreciation or the amount of gain realized on the sale of the property, whichever is smaller.[1] Generally, the "additional" depreciation referred to here is that part of the depreciation deductions which exceeds the depreciation deductions allowable under the straight-line method. The depreciation deductions taken into account, however, are only those taken after December 31, 1963. Thus, they are the excess of any depreciation deductions taken under the double-declining balance method,

[1] This provision also applies to certain dispositions where there is not a sale or exchange. Therefore, the bill refers not only to the excess of the amount realized over the adjusted basis of the property but also, so that the provision will apply to these dispositions which are not sales or exchanges, it refers to the excess of the fair market value of the property over its adjusted basis.

sum-of-the-years-digits method, or other method of rapid depreciation, over the depreciation which would have been taken under the straight-line method. In the case of property held for 1 year or less, however, the deductions recaptured are to include not only the excess over straight-line depreciation, but rather the entire depreciation deductions taken.

The bill limits the depreciation recapture to the excess over straight line depreciation because it is believes that only to this extent could the depreciation taken appropriately be considered in excess of the decline in the value of the property which occurs over time. If a gain still occurs, it is believed that this is attributable to a rise in price levels generally rather than to an absence of a decline in the value of the property. The portion representing the rise in value is comparable to other forms of gains which quite generally are treated as capital gains. Moreover, it is believed that when the property is held for an extended period of time, gains realized on the sale or other disposition of the property are more likely to be attributable to price rises generally than to an excess of depreciation deductions. For that reason, the bill also tapers off over a 10-year period the proportion of the additional depreciation (or gain where smaller) which is to be treated as ordinary income upon the sale of the property.

This is accomplished by providing that the additional depreciation (or gain if smaller) which otherwise would be treated as ordinary income is to be decreased by 1 percentage point for each full month the property is held in excess of 20 full months. Thus, the amount which will be treated as ordinary income in the case of property held for a full 21 months would be 99 percent (the applicable percentage) of the amount which otherwise would be so treated. This decreases 1 percent for each succeeding month the property is held until the applicable percentage decreases to zero for property held for 10 years or more.

The property which is to be given the type of treatment described above is depreciable real property other than real property which is eligible for the investment credit. Such property is already subject to the recapture rule provided by section 1245 which generally applies to tangible personal property. The types of real property, therefore, which are not subject to this provision are property other than buildings or structural components which are used as an integral part of manufacturing, production, or extraction, or of furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services or represent research or storage facilities used in connection with these activities. Examples of the types of real property which, therefore, are not included under this provision are railroad track and bridges and blast furnaces.

This provision applies only to the additional depreciation allowed or allowable. Consequently, the enactment of this provision is not intended to affect the question of whether all or any part of a claimed deduction for depreciation is in fact allowable. For example, since in the year real property is sold the actual value of the property is known, it has been held that depreciation deductions should not be allowed to the extent they reduce the adjusted basis of the property below the actual amount realized. This provision, in providing for ordinary income treatment for certain additional depreciation, is not intended to affect this holding.

(*c*)(*i*) *Substantial improvements.*—Because the percentage of additional depreciation (or gain, if smaller) decreases after the first 20

months by 1 percent a month, it is necessary to determine when property has been acquired. This presents a special problem where real estate already held is substantially improved. To consider the substantial improvement as being held for the same period as the original investment in the property would mean that where property has been held for 10 years or more there would be no ordinary income arising with respect to substantial improvements, even though these improvements might have been made within the last few years. To prevent avoidance of the ordinary income treatment provided by this provision, the bill defines a "separate improvement" which is treated as a separate element for purposes of determining the amount treated as ordinary income upon the sale or exchange of real property. Appreciation which may be treated as ordinary income is divided up among the separate elements in accordance with the additional depreciation deductions with respect to each element.[1]

A separate improvement is intended by the bill to be only an improvement which is of a substantial nature. Lesser improvements are treated as if they were a part of the original structure and do not take a new, or separate holding period for purposes of determining the proportion of the additional depreciation (or gain, if smaller) treated as ordinary income. As a result, separate improvements are defined under the bill as arising only where the cost of the improvements in question is greater than the largest of the following three amounts—

1. 25 percent of the adjusted basis of the property;
2. 10 percent of the original cost of the property plus the cost of any improvements made prior to those being considered here less the cost of retired components; or
3. $5,000.

These tests are applied over a 3-year period. Thus, if improvements made in any 3-year period increase the adjusted basis of the property before that period by 25 percent or more or exceed the amount specified under the other tests if larger, then this entire amount will be treated as a separate improvement. The 25-percent adjusted basis test in this case is expected to be the principal test applied; however, the 10-percent test will prevent a relatively moderate improvement in a fully, or almost fully, depreciated building from being classified as a substantial improvement. The $5,000 limitation is intended as a de minimis rule below which no aggregate amount in a 3-year period would be treated as a substantial improvement.

In applying the above test for determining whether an improvement is to be treated as substantial, improvements in any one of the 3 years are to be omitted entirely if they do not amount to at least $2,000, or 1 percent of the original cost of the property plus the cost of any improvements previously made (less the cost of retired components), whichever is the greater. As in the case of the $5,000 limitation, which applies over the 3-year period, these exceptions are designed as a de minimis rule to make it unnecessary to treat as separate improvements relatively minor improvements made in any one of the 3 years which may be involved in the computation in question.

In the future additional depreciation allowed over straight line depreciation is to be subject to recapture not only in the case of the

[1] In addition to the separate improvements, the bill also treats as separate elements units of real property which were placed in service at different times before initial completion of the building.

double-declining balance and other forms of rapid depreciation available only in the case of new property, but also the excess over straight line depreciation is to be recaptured in the case of depreciation, such as the 150-percent declining balance depreciation which presently is permitted with respect to used real property under certain circumstances.

(c)(ii) *Disposition where ordinary income is recognized.*—Ordinary income under the bill is recognized not only in the case of the sale or exchange of real property but also in the case of all other types of dispositions unless a specific exception is provided. Thus, as in the case of the provision enacted in 1962 in connection with tangible personal property, this provision may result in the recognition of ordinary income even though capital gain might not otherwise have been realized at the time of such a disposition. The bill provides seven general categories of exceptions, however, where dispositions are not to result in the recognition of any ordinary income.

The first exception is for gifts. Thus, the making of a gift for this purpose will not be a taxable event. However, the depreciation deductions of the donor in such a case are carried over to the donee. As a result, if the donee subsequently sells the real property, there may be ordinary income recognized by him as a result of depreciation deductions taken by the donor. The donee in such a case, however, will receive the benefit of the holding period of the donor. The effect, therefore, of this is to treat the donor and donee for purposes of this provision as if they were one person, with the result that upon the subsequent sale by the donee of the property, the same amount (if any) will be treated as ordinary income as if the donor held the property throughout the entire period. Similarly, in determining the percentage decrease in total gain to be taken into account as ordinary income, the holding period of both the donor and the donee is taken into account. This, of course, means that a smaller proportion of the gain will be treated as ordinary income than would be true if only the donee's holding period were used for this purpose.

In the case of real property which is given to a charitable organization, although no income is realized by the donor at the time of the gift, the bill provides that the amount of the charitable contribution deduction he may receive is reduced by the amount which would have been treated as ordinary income had the real property been sold at its fair market value (amendment to sec. 170(e)). This conforms with the treatment provided in 1962 by Congress with respect to tangible personal property contributed to a charity.

A second exception to the recognition of ordinary income upon the disposition of real property is provided in the case of transfers at death (except where the sale has occurred before death, in which case the amount is treated as income with respect to a decedent under sec. 691). In this case, however, there is no carryover of the income potential of the depreciation deductions to the decedent's devisee or heir.

A third category of exceptions to the recognition of ordinary income is provided in the case of a series of transactions which generally are tax free and in which the basis of the real property is carried over from the former to the new owner: However, in these transactions where there is any gain recognized because the exchange is accompanied by "boot" (i.e., money or its equivalent) then to the extent of

this gain, ordinary income may be recognized or to the extent of the applicable percentage of the additional depreciation deductions if smaller. The tax free transactions referred to relate to those occurring upon the complete liquidation of a subsidiary (sec. 332); in the case of a transfer for stock or securities to a corporation controlled by the transferor (sec. 351); in the case of a transfer of property by a corporation which is a party to a reorganization in pursuance of a plan of reorganization solely for stock or securities in another corporation also a party to the reorganization (sec. 361); and in the case of reorganizations in certain receivership and bankruptcy proceedings (secs. 371(a) and 374). Also included in the same category are contributions of real property to a partnership in exchange for an interest in the partnership, and distributions by a partnership of real property in partial or complete liquidation of an interest in the partnership (but in this respect, see the special partnership treatment described below). Under the bill, however, there will be a recognition of ordinary income where there is a contribution of depreciable property to a tax exempt organization (other than an exempt farm cooperative) in exchange for stocks or securities in the exempt organization. Recognition of gain in this case, as in the case of tangible personal property in the provision added last year, is provided because a disposition of the property by the exempt organization ordinarily would escape the realization of the ordinary income with respect to these deductions.

A fourth category of exceptions is provided in the case of so-called like-kind exchanges of real property used for production or investment and for involuntary conversions. In exchanges of these types, the ordinary income recognized is in general limited to any appreciation in value attributable to depreciable real property which is not reinvested, after the exchange or involuntary conversion into other depreciable real property. Thus, ordinary income will be recognized to the extent of the additional depreciation, decreased according to the holding period involved, or by the following amount of appreciation, whichever is the smaller. First, to the extent that the exchange or conversion results in actual gain being recognized, this will be treated as ordinary income under the general rule. Second, this gain will be increased by stock purchased in a corporation even though under the involuntary conversion provision this generally would not result in the recognition of gain. This amount is treated as potential ordinary income since any subsequent sale of the stock does not represent the sale of a depreciable asset and, therefore, it would not be possible in this event to recapture the depreciation. Third, to the extent of any remaining appreciation represented by real property, ordinary income is recognized to the extent this unrealized appreciation cannot be included in the basis of the newly acquired real property. Under this provision, the newly acquired real property will, upon its sale or other disposition, give rise to the same ordinary income, decreased according to the holding period for the newly acquired property, as would the previously held real property (except to the extent that ordinary income was recognized at the time of the conversion). The holding period for purposes of determining the percentage of the additional depreciation which is to be treated as ordinary income is begun anew with respect to the exchange or converted property, but the new holding period applies only to the percentage of the gain which would have been taken into account had the property held been sold at the time of the exchange or conversion.

A fifth exception is provided in the case of the exchange or sale of property in obedience to Federal Communications Commission orders or orders of the Securities and Exchange Commission (secs. 1071 and 1081). In these cases, also, the ordinary income includes not only the actual gain recognized but also the appropriate percentage of any depreciation charges unrecovered at the time of the sale or exchange which are not reinvested in other depreciable real property.

A sixth exception is provided in the case of distributions of real property by a partnership to a partner. A distribution of real property by a partnership to a partner, to the extent that the distribution represents the partner's share of unrealized appreciation attributable to this property, is not to result in ordinary income to the distributee partner at the time of the distribution. However, the unrealized appreciation representing additional depreciation taken by the partnership will be carried over to the distributee partner. When he disposes of this real property, the unrealized appreciation represented by these partnerships (or by an earlier transferee where the partnership acquired the property without recognizing gain), additional depreciation deductions will be taken into account in a manner substantially the same as that applying where the taxpayer himself took the depreciation deductions. This rule applies only to the extent a partner is considered as receiving his share of the real property to which is attributable potential ordinary income. An amendment made elsewhere to the code (sec. 751(c)) provides that in other cases the ordinary income element in real property is to be considered as "unrealized receivable." Thus, to the extent of applicable percentage of the additional depreciation deductions taken (or potential gain, if smaller) ordinary income will be recognized in the case of the sale of a partnership interest, in the case of a distribution to a retiring or deceased partner, and in the case of distributions to a partner where he receives either more or less than his proportionate share of real property reflecting this ordinary income.

A seventh exception deals with the case where the property being disposed of by the taxpayer is his principal residence. Under present law (sec. 1034) where the taxpayer sells his principal residence and within a year before or after this sale (18 months after in the case of the construction of a new home) purchases or builds another, then any gain realized on the sale of the first residence is not recognized for tax purposes to the extent the total proceeds from the sale of the first residence are invested in the second. The bill provides that in cases of this type, to the extent the full proceeds from the sale of the first residence are reinvested into a second, no ordinary income is to be recognized at that time.

Similarly, the bill provides no recognition of ordinary income potential with respect to the provision incorporated elsewhere in this bill (sec. 206 of the bill) which provides that no gain is recognized by a taxpayer age 65 or over who sells a home which he has used as a personal residence and owned for 5 out of the last 8 years.

As in the case of the provision enacted in 1962 relating to tangible personal property, the House and your committee in this provision found it necessary to recognize ordinary income in cases where capital gain is not recognized under existing law. This was done primarily in those cases where the transferee receives another basis for the property than that of the transferor. This treatment is provided in three types of cases where a distribution is made by a corporation without

the payment of a tax at the corporate level on unrealized appreciation in value; namely, where the real property is distributed as a dividend (sec. 311), where the real property is distributed as part of a partial or complete liquidation by a corporation (sec. 336), and where in a plan of complete liquidation a corporation sells the real property (and perhaps other assets) and within a 12-month period completes the liquidation of the corporation (sec. 337). Similarly, if the real property is first sold by a corporation for installment notes and the gain which would be realized on such sale is delayed because of the installment method of reporting, a distribution of these notes to the shareholder in a liquidation under section 337 (12-month liquidation) results under this bill in the recognition of the same amount of ordinary income of the corporation as would have been realized on a cash sale of these notes. The same rule is applied whenever similar installment notes are distributed by a corporation in a liquidation in which the basis of the real property to the receiving shareholder is determined under section 334(b)(2) (purchase of 80 percent of the stock of one corporation by another corporation followed by immediate liquidation of the corporation acquiring). The other situations where ordinary income may be realized under this provision although capital gain would not otherwise occur, include the case where distribution is made by a partnership and the partner gives up, or acquires, more than his proportionate share of this real property. Other cases include the provision relating to the exchange of like-kind property, involuntary conversions, sales or exchanges to effectuate FCC policy, and exchanges in obedience to orders of the SEC. In all of these cases where the property received in exchange for depreciable real property is not itself depreciable real property, then ordinary income is recognized.

(*c*)(*iii*) *Leasehold improvements.*—Improvements made to property held under a lease by a lessee present a special problem in determining what is the amortization period equivalent to the straight-line depreciation method selected as the norm in the usual case. Present law (sec. 178) in general provides that leasehold renewal periods are to be taken into account in determining amortization or depreciation with respect to any year if the initial lease period remaining is less than 60 percent of the useful life of the building or other improvement, or if less than 75 percent of the cost of the lease is attributable to the remaining portion of the initial lease period, and if it is more probable that the lease will be renewed, extended, or continued than that it will not. Such a test is appropriate when looking forward to amortization deductions in future years. However, it does not represent an adequate norm for the measurement of excess or additional depreciation after the deduction has been taken and the lease is being sold.

As a result, the bill provides that in determining the norm for purposes of specifying additional depreciation which may be treated as ordinary income, periods for which a lease may be renewed, extended, or continued under an option exercisable by the lessee are generally to be taken into account. However, the renewal periods so taken into account are not to extend the amortization period by more than two-thirds of the initial lease period remaining after the improvement was made. Thus, in the case of a 6-year lease with a 6-year renewal period, only 4 additional years are to be taken into account in determining the amortization period of an improvement made at the beginning of the initial lease. Thus, in this case, the amortization

payments with respect to the lease would be spread over a 10-year period and payments in excess of such a spreading would be considered additional depreciation adjustments. However, if the useful life of the asset itself in such a case were less than 10 years, then the depreciation deductions would be spread for this purpose in a straight-line method over the useful life of the asset, and this would be used as the measure in determining additional or excess depreciation adjustments.

(*c*)(*iv*) *Effective date.*—This provision is to apply with respect to depreciation attributable to periods after December 31, 1963, and to dispositions of property after that date.

(*d*) *Revenue effect.*—Since this provision relates only to depreciation deductions in 1964 and subsequent years, the initial revenue impact of this bill is expected to be small. In fiscal year 1965, it is expected that this provision will result in a revenue gain of about $5 million. In subsequent years, however, when the provision becomes fully effective, it is anticipated that it will result in a revenue gain of approximately $15 million a year.

41. Income averaging (sec. 234 of the bill and secs. 1301–1305 of the code)

(*a*) *Present law.*—Present law does not provide any generally available income averaging provision for the persons whose income fluctuates widely from year to year. Instead, present law contains six specific averaging provisions dealing with special types of situations: Certain compensation for personal services, income from inventions or artistic work, certain income from backpay, compensation for damages for patent infringements, breach of contract damages, and damages for injuries under the antitrust laws.

In the case of the provision relating to compensation for personal services and that relating to inventions and artistic works, in order to be eligible for this treatment, the employment involved must have covered 36 months or more in the case of the compensation for personal services, and in the case of the work on the inventions or the artistic works must have covered a period of 24 months or more. In addition, eligibility under these same two provisions required that the receipts of the payments involved with respect to the work be heavily concentrated in 1 year. In the case of compensation for personal services, 80 percent or more of the total compensation for the employment must have been received in the taxable year in question. In the case of the invention or artistic work, the amount received in the year in question must not be less than 80 percent of the gross amount received with respect to the invention or artistic work in the taxable year, all prior years, and the succeeding 12 months. The backpay provision also has a somewhat similar provision. To be eligible for averaging in the case of backpay, the amount of backpay received in the taxable year must exceed 15 percent of the gross income for that year.

In the case of all of the present averaging devices, the averaging is achieved by providing that the tax involved is not to be greater than if this income were spread back, either ratably over the period to which the income relates, or to the specific years to which the income relates. However, in the case of income from inventions, the spread back for this purpose may not exceed 60 months, and in the case of artistic work it may not exceed 36 months. The other averaging

provisions are not limited in this respect. The tax in each case, although imposed as of the current year, is determined by making a recomputation with respect to one or more back years.

(*b*) *General reasons for provisions.*—A general averaging provision is needed to accord those whose incomes fluctuate widely from year to year the same treatment accorded those with relatively stable incomes. Because the individual income tax rates are progressive, over a period of years those whose incomes vary widely from year to year pay substantially more in income taxes than others with a comparable amount of total income but spread evenly over the years involved. This occurs because the progressive rates take a much larger proportion of the income in taxes from those whose incomes in some years are relatively high. The absence of any general averaging device has worked particular hardships on professions or types of work where incomes tend to fluctuate. This is true, for example, in the case of authors, professional artists, actors, and athletes as well as farmers, fishermen, attorneys, architects, and others.

The present averaging provisions have proved unsatisfactory, first because they are limited to a relatively small proportion of the situations where averaging is needed. Thus, while they presumably cover inventors and writers, they do not provide for actors, athletes, and in most cases do not provide for attorneys, architects, and others. Even in the case of inventors and authors, the present provision is inadequate because of the requirement that the income arise over at least a 24-month period and 80 percent or more of the income from the invention or work be concentrated in the current year in question. In practice, many cases involving authors and inventors where averaging is needed do not meet these specific requirements. This was made clear in testimony from authors and others.

The present averaging provisions also have proved unduly complicated in practice because of the requirement that the prior years' incomes and taxes must be recomputed as if the income had actually been received in those prior years.

Your committee agrees with the House that income averaging should be designed to treat everyone as nearly equally for tax purposes as possible, without regard to how their income is spread over a period of years and without regard to the type of income involved. At the same time, it is necessary to have any income averaging device in a form which is workable, both from the standpoint of the taxpayer and the Internal Revenue Service.

Although the bill generally repeals the averaging devices in present law (secs. 1301–1307), it is recognized that cases may arise where a person has entered into long-term contingent employments upon the assumption that the averaging device in present law applicable to compensation from an employment would be available. Since employments in some cases may last for extended periods of time, such as 20 years, the general 5-year averaging device might produce less favorable treatment than the present provision. As a result, the bill provides, in the case of these long-term employments which were already in being before 1963, for the taxpayers involved to continue the form of averaging available under present law if they elect to forgo the general 5-year averaging provided in this bill.

(*c*) *General explanation of provisions.*—In view of the considerations set forth above, the bill deletes all of the averaging provisions in

present law referred to previously and substitutes instead an income averaging device available to individual taxpayers generally, substantially without regard to the source of the income. As indicated subsequently, however, in the case of the averaging device for compensation from an employment, the bill in certain cases permits the continuance of the application of this provision.

Under the averaging rule provided by the bill, once the amount of income to be averaged is determined—called averageable income in the bill—and assuming this amount is more than $3,000, the taxpayer is to compute a tentative tax on one-fifth of this amount. The tax on this one-fifth is determined by adding this one-fifth to 1⅓ times the average income received in the prior 4 years, plus the average capital gains income in this same 4-year period. The tax attributable to this one-fifth is then multiplied by 5 to determine the final tax on this income.

Averaging is available only where the "averageable income" exceeds $3,000 because, with the present progressive rate structure with tax brackets usually of $2,000 to $4,000, smaller amounts achieve little if any benefit from averaging. The device of including one-fifth of the averageable income in the tentative tax base, computing the tax attributable to this amount, and then multiplying this result by 5, achieves a result which is substantially similar (except when there are rate changes during the 5 years) to including one-fifth of the income eligible for averaging in the taxable income base of each of the prior 4 years and of the current year. The advantage of making the computation in this manner is that it is not necessary to recompute the tax for each of the 4 prior years in order to obtain this result.

The "averageable income" referred to here is the excess of the taxable income in the current or computation year—with certain adjustments—over 1⅓ times the average base period income. The average base period income is the average of the taxable income in the 4 prior years with certain adjustments specified below.

Averageable income is limited to that which is in excess of 1⅓ times average income in the base period for two basic reasons. First, in any new provision of this type, it is necessary to limit the number of cases to which the new provision will apply to a manageable level from the administrative standpoint. In other words, it was necessary initially, at least, to limit the volume of cases where averaging will be applied. Moreover, it is clear that the greatest need for averaging occurs where the fluctuation in income levels varies widely. An increase of more than one-third from the prior average income was selected to make the new averaging rule available in those cases where it is needed the most.

As indicated above, in computing the income subject to averaging, it is necessary to make some adjustments in both the income of the current, or computation year, and also in the income of the 4 base period years with which the current year's income is compared. The income of the computation year, referred to in the bill as the "adjusted taxable income" is the taxable income for that year decreased by: (1) Any capital gain net income for that year; (2) any income for that year attributable to gifts, bequests, devises, or inheritances received during that year or any of the four prior base period years;[1]

[1] Income attributable to gifts, bequests, devises, or inheritances between a husband and wife are not taken out of the income for the computation year if they file a joint return for the computation year or one of them makes a return in that year as a surviving spouse. Also not taken into account are amounts of less than $3,000 in computation year.

(3) any excess of wagering gains in the year over wagering losses; and (4) certain amounts of income to which penalties apply with respect to owner-employees who are self-insured for pension plan purposes (sec. 72(m)(5)).

Long-term capital gains are excluded from the income subject to averaging in the computation year on the grounds that such income does not require averaging because of the fact that only 50 percent of the capital gain income is included in the tax base in any event. Moreover, without regard to the averaging provision, such income is subject to a maximum rate of 25 percent.

Averageable income also excludes income from gifts, devises, or inheritances where the gifts, etc., have been received either in the computation year or in any of the four prior base period years, because such income does not arise from any additional efforts on the part of the taxpayer but merely represents a transfer to the taxpayer of income previously received by someone else. In addition, in the case of the transfer by gift of income producing properties between related parties, there would be some opportunity for manipulation if such income were not excluded from that which can be averaged. Income attributable to such property is excluded under the bill only where it is in excess of $3,000 in the computation year. Also, because it may be difficult to trace specific income to specific gifts, bequests, devises, or inheritances, the bill presumes that such property earns a 6-percent rate of return unless the taxpayer establishes to the satisfaction of the Treasury that some other amount of income is earned with respect to the property.

Net wagering gains are excluded from averageable income to prevent such income from receiving a preferred status. For similar reasons, penalty income of owner-employees in the case of self-insured pension plans is excluded.

It is also necessary to make some adjustments in the base period income with which the adjusted taxable income for the computation year is compared. Two of these adjustments are the same as those made in the computation year. Thus, capital gain net income for the base period year is excluded as is any income from gifts, bequests, devises, or inheritances where such property was initially received by the taxpayer in 1 of the 4 base period years.

A third adjustment made to the average base period income is to add back to such income any income excluded from the taxpayer's base in such year on the grounds that it was earned in a foreign country (the exclusion under sec. 911 of present law) or on the grounds that it was income from sources within a possession of the United States (sec. 931 of present law). The inclusion of such amounts in the base period is necessary so that the taxpayer will not become eligible for averaging merely on the grounds that during the 4-year base period, or a part of this period, he was in a foreign country and not subject to U.S. tax on his earned income. If such amounts are not included in the base period income comparable amounts earned in the United States in the computation year would be eligible for averaging.

(*c*)(*i*) *Example.*—For most taxpayers with little or none of the income which gives rise to the special exceptions described above the application of this averaging provision is relatively simple. This can be illustrated by an example of an unmarried taxpayer having an average base period income of $3,000 in the years 1961–64 and an adjusted taxable income of $44,000 in 1965. The taxpayer in this

case is eligible for averaging since his "averageable income" exceeds $3,000. His averageable income in this case can be computed as follows:

1. Adjusted taxable income in computation year	$44, 000
2. 133⅓ percent of average base period income ($3,000× 133⅓ percent)	4, 000
3. Averageable income	40, 000

Since the averageable income is in excess of $3,000, the entire amount is subject to averaging.

Computation of tax:

(*a*) 133⅓ percent of average base income ($3,000× 133⅓ percent)	4, 000
(*b*) Averageable income included in tentative tax base (⅕ of $40,000)	8, 000
(*c*) Tentative taxable income	12, 000
(*d*) Total tentative tax liability (1965 rates under bill)	2, 830
(*e*) Tax on $4,000 not subject to averaging	690
(*f*) Tax liability on ⅕ of averageable income	2, 140
(*g*) Tax on total averageable income ($2,140× 5)	10, 700
(*h*) Total final tax liability (tax on $4,000 not subject to averaging and $40,000 subject to averaging)	11, 390
(*i*) Tax on $44,000 under 1965 rates without averaging	18, 990

(*c*)(*ii*) *Treatment of capital gains and priority of taxing different types of income.*—As previously indicated, net capital gains—any excess of net long-term gains over capital losses—are excluded from the adjusted taxable income for the computation year in determining how much of this income is to be eligible for averaging and also from the average base period income. Thus, generally, capital gains (other than short-term capital gains) have no effect in determining the income subject to averaging. There is one exception to this general rule, however. If the average capital gain net income in the base period exceeds the capital gain net income in the computation year, then to the extent of this excess the income subject to averaging is reduced. Generally, it was thought that capital gains should be set apart and not taken into account in averaging since they, in effect, have their own specialized form of averaging. However, in those cases where the average capital gains in the base period exceed the capital gains in the computation year, it is believed that averaging should be permitted only when total taxable income of the current year is substantially greater than the average of the base period.

The bill provides that in determining the tax which is attributable to the income subject to averaging, the first income subject to tax is to be the ordinary income not eligible for averaging. In the example previously presented, this meant that the $4,000 of income not subject to averaging was considered to be the income subject to the first income brackets. The income subject to the next higher income rates is the capital gain net income of the computation year but only to the extent [1] this does not exceed the average base period capital gain net income. Following this is the income subject to averaging, with respect to which one-fifth is included, the tax then computed, and the result multiplied by 5. Any remaining capital gains income in the computation year, in excess of average base period capital gain net income, is treated as coming on top of this income subject to averaging along with income from wagering or gifts, bequests, devises, or inheritances, which is not eligible for the averaging treatment.[2]

[1] Actually this amount is preceded by an amount equal to any excess of average base period capital gain over capital gains of the computation year in those infrequent cases where such income exists.

[2] The penalty income with respect to owner-managers in connection with receipt of pension-type income is treated as if the averaging provision did not apply.

The alternative capital gains tax in such a case is determined by applying 25 percent to the long-term capital gains. This tax then is compared with the tax attributable to the capital gains in the computation explained above. The reason for structuring the tax base in the manner indicated is to give assurance that the income subject to averaging is taxed, as nearly as possible, at the same income level as would be the case had such income been earned ratably over the current year and 4 prior years.

(c)(iii) *Eligible individuals.*—To be eligible for averaging, one of the principal concerns is that the individual's income must have been subject to tax by the United States throughout the entire base period as well as the computation year. No one is eligible for averaging who was a nonresident alien in any of the 4 base period years or in the computation year. To be eligible for averaging, the individual must be a citizen or resident in the computation year. In addition, even though a citizen in the computation year, the individual must be claiming no exclusion in that year for income earned abroad. He may have claimed such an exclusion with respect to a base period year, but, for purposes of determining his income in the computation year subject to averaging, this income is added back to his base period income.

A second concern of this provision is that the individual be a member of the labor force in both the computation year and in the 4 base period years. It has been necessary, however, to approximate this result in some cases. The general rule provides that the individual and his spouse must have furnished one-half or more of his own support in each of the base period years. However, it was not intended to exclude from the benefits of the averaging provision an individual who, although in the labor force, was unemployed in part or all of the base period years. For that reason, individuals generally are eligible for averaging if they are 25 years old and there have been at least 4 years since the individual attained age 21 when he was not a full-time student. Thus, generally, individuals age 25 or over will be eligible for averaging so long as they have been out of school for at least 4 years since age 21. A second exception is provided for the individual who, although not self-supporting in the 4-year base period, nevertheless, has income in the current year more than half of which is attributable in substantial part to work he has done in two or more of the base period years. This is designed to make sure that those who have performed some work of a substantial nature which occurred over a period of years will be eligible for averaging even though below the 25-year age limit. A third exception is provided for an individual who was not self-supporting in the base period and who makes a joint return with someone else if not more than 25 percent of the total adjusted gross income of the couple in the computation year is attributable to the individual in question. This means that an individual who has been in the labor force and who marries someone who was a dependent of another will not be deprived of averaging, assuming three-quarters or more of the income in the computation year is attributable to the individual who was in the labor force in the base period. This is designed to assure that a man who marries a woman who was a dependent of her father during part or all of the base period years is not deprived of income averaging as a result of this marriage.

(c)(iv) *Special rule with respect to marital status.*—No problems arise in applying the averaging provision where a husband and wife file a joint return in the computation year and also did so in each of the base period years. However, it is necessary to reconstruct their income where they either filed separately (or with other spouses) in the base period years or are filing separately in the computation year. For example, if a married couple files a joint return in the current year but filed separate returns for one or more base period years, their base period income for purposes of averaging in the current year will be their combined base period incomes for their base period years. In addition, the bill provides that an individual's base period income is to be either his actual base period income in each of the base period years or, if higher, 50 percent of the combined base period income of him and his spouse.[1] In determining actual income for purposes of this provision, community property laws are not to be taken into account with reference to income from personal services. Thus, the actual income attributed to an individual will be the income earned by him without regard to whose income it is considered to be under community property law.

(c)(v) *Continuance of present averaging device in certain cases.*—The bill provides that the averaging device in present law with respect to compensation from an employment is to continue to be available if the taxpayer so elects where he receives or accrues compensation from employment which began before February 6, 1963. If the taxpayer elects this treatment he must forgo for that year the generally available averaging device and the carryover of certain excess charitable contributions.

This provision, which on this elective basis is continued for compensation for the employment begun before the specified date, provides in general that the employment must cover a period of 36 months or more and that the gross compensation from the employment received by the individual (or partnership) in the year in question must not be less than 80 percent of the total compensation for such employment. Where these conditions are met, present law provides that the tax is not to be greater than if the compensation had been included in the gross income of the individual ratably over the period of the employment prior to the date of the receipt or accrual.

(c)(vi) *Effective date.*—The amendments made by this provision apply to taxable years beginning after December 31, 1963. This means that averaging will be available for the first time with respect to taxable years beginning in 1964. This will involve base period years as far back as 1960. However, as indicated previously, the averaging device in present law relating to compensation from employment where the employment began prior to February 6, 1963, may continue to be applicable for taxable years beginning after December 31, 1963, at the election of the taxpayer.

(d) *Revenue effect.*—This provision is expected to result in a reduction of $40 million of tax liabilities in the calendar year 1964 and subsequent years.

[1] If the individual involved was married to another person in one or more of the base period years, his base period income is to be not less than 50 percent of his income in that year combined with the income of whichever spouse had the higher income.

42. Small business corporations: Ownership of certain stock disregarded (sec. 235(a) of the bill and sec. 1371 of the code)

(*a*) *Present law.*—In 1958 Congress added to the Internal Revenue Code a new subchapter (sec. 1371 and following) which provides that the earnings of certain small business corporations may be taxed to the shareholders of the corporation (rather than taxing the corporate entity as such) in a manner somewhat similar to the way partnership earnings are taxed to the partners rather than to the partnership. Where the tax treatment provided by this subchapter is elected, the shareholders include in their own income for tax purposes the current taxable income of the corporation, both the dividends which have been distributed and the portion of the earnings which are still retained by the corporation. This treatment was provided in order to permit businesses to select the form of business organization desired without the necessity of taking into account major differences in tax consequences.

The right to elect the treatment provided under the new subchapter was limited to small business corporations in part because of the complexity involved in passing the earnings of a corporation through to its shareholders where the stock of the corporation is held by a widely diversified group of shareholders, and in part because it was thought that only the relatively small corporations were essentially comparable to the partnership or proprietorship where the earnings are taxed to the owners rather than to the business organization. As a result, Congress provided that corporations making this election must be domestic corporations which are not eligible to file a consolidated return with any other corporation. Also, they must have not more than 10 shareholders, their shareholders must all be individuals (or estates), no nonresident aliens may be shareholders, and the corporations may not have more than one class of stock.

(*b*) *General reasons for provision.*—Situations have been called to your committee's attention where corporations are denied the privilege of electing to have their income taxed to their shareholders (rather than to the corporation) merely on the grounds that the corporation owns the stock of completely inactive subsidiaries.

The establishment of inactive subsidiaries is a common business practice for corporations planning for future growth. Such corporations often desire to reserve their corporate name in States in which they are not yet doing business by establishing subsidiaries with the same or a similar name to that of the parent corporation. Your committee sees no reason to penalize the parent corporation by denying it the privilege of electing to pass the income through to its shareholders for tax purposes merely because, for business reasons, it has established these inactive subsidiaries which constitute an affiliated group which could file a consolidated return.

(*c*) *General explanation of provision.*—As a result of the considerations set forth above, this provision adds a new subsection to section 1371 of the code providing that a corporation will not be considered a member of an affiliated group for purposes of this election (and, therefore, not be denied the right to elect subch. S status) merely because it owns stock in another corporation which is inactive. An inactive corporation, in this case, is one that has not begun business after the date of its incorporation and before the end of the parent corporation's taxable year in question and that does not have taxable

income for this taxable year. If these conditions are met and the parent is not affiliated with any other corporation, an election may be filed under subchapter S by the parent corporation despite the rule that a subchapter S corporation may not be a member of an affiliated group. However, if the subsidiary corporation does not meet the conditions set forth above in a subsequent year, the parent corporation's subchapter S status would be terminated at that time.

(c)(i) *Effective date.*—This bill is effective for taxable years of corporations beginning after December 31, 1962.

(d) *Revenue effect.*—It is estimated that this provision will result in a negligible loss of revenue.

43. Small business corporations: Certain distributions of money after close of taxable year (sec. 235(b) of the bill and sec. 1375 of the code)

(a) *Present law.*—As indicated above, the earnings of small business corporations may be taxed to the shareholders of the corporation in a manner somewhat similar to the way partnership earnings are taxed to the partners rather than to the partnership. The shareholders are taxed each year on the dividend income received from the corporation plus any additional earnings of the corporation which are retained by it rather than distributed. If in a particular year such a corporation does not in fact distribute its earnings, any distributions in a later year are treated as dividend distributions to the extent of the earnings and profits of that later year. In addition, if in that later year the corporation has ceased being an "electing small business corporation" then all distributions are treated as being dividends to the full extent of both current and accumulated earnings and profits.

(b) *General reasons for provision.*—The rule stated above has created a problem where an electing small business corporation sells a capital (or depreciable) asset, adopts a resolution to distribute to its shareholders all or part of the proceeds of such sale, and then actually does distribute such proceeds in the year immediately following the year of sale. In such a case, even though the shareholders pay tax on the full capital gains in the year of the sale, the distribution to them in the later year will be treated as an ordinary dividend at least to the extent of the current earnings and profits of the later year. The result will be even harsher if in the later year the corporation has ceased being an electing small business corporation, because in this case the distribution will be a dividend to the extent of both the current and the accumulated earnings of the corporation.

(c) *General explanation of provision.*—To prevent the result described above, your committee's bill adds a provision to the effect that in the case of an electing small business corporation a distribution of money to the shareholders on or before the 15th day of the third month following the close of a taxable year, may, at the election of the corporation, be treated as a distribution of money made on the last day of the taxable year in question. This election is available whether or not the corporation involved is an electing small business corporation in the second year.

(c)(i) *Effective date.*—This amendment applies to taxable years beginning after December 31, 1957.

(d) *Revenue effect.*—It is anticipated that this provision will result in a negligible loss of revenue.

44. Repeal of additional 2-percent tax for corporations filing consolidated returns (sec. 236 of the bill and sec. 1503 of the code)

(*a*) *Present law.*—Under present law a consolidated income tax return may be filed by a group of parent and subsidiary corporations where there is 80 percent control of each level of the chain of corporations, and there is a common parent corporation; 80 percent control, in this case, means 80 percent of the voting power of all classes of stock and at least 80 percent of each class of nonvoting stock. In the consolidated return, intercompany transactions are washed out, and it is possible to offset losses of one corporation against the gains of other members of the group. These intercompany transactions which are washed out also include intercompany dividends. As a result, dividends may be paid from one company in a consolidated group to another of the same group without the second member including in its income 15 percent of this dividend income.

Under present law, where the election to file a consolidated return is made, a special tax is levied equal to 2 percent of the consolidated taxable income of the group.

(*b*) *General reasons for provision.*—The bill removes the special 2-percent penalty tax on the privilege of filing a consolidated return, in part because the return of commonly controlled corporations as a single economic unit for tax purposes is in accord with the reality of the situation. Moreover, there appears to be no reason why, where a group of commonly controlled corporations are willing to have their operations consolidated for tax purposes, the mere presence of more than one corporate organization in the group should result in any penalty tax. No such penalty, for example, is exacted in the case of other corporate organizations operating through divisions rather than separate corporations.

In addition, the removal of this 2-percent penalty tax should encourage the filing of consolidated returns and serve as a brake on the expansion of the use of multiple surtax exemptions to gain tax advantages.

(*c*) *General explanation of provision.*—In view of the considerations set forth above, both the House and your committee's version of the bill repeals the special 2-percent tax on consolidated returns, effective with respect to taxable years beginning after December 31, 1963. This 2-percent tax presently applies to the consolidated taxable income of the affiliated group of includible corporations.

(*d*) *Revenue effect.*—The repeal of the 2-percent tax on consolidated corporate returns is expected to decrease revenues by $50 million a year.

45. Reduction of surtax exemption in case of certain controlled corporations (sec. 237 of the bill and secs. 1561–1563 of the code)

(*a*) *Present law.*—Under present law, corporations are taxed at a 30-percent rate on the first $25,000 of their taxable income and at a 52-percent rate on all income over that amount. This tax rate differential results from the fact that the first $25,000 of income of a corporation is subject to the 30-percent normal tax but is exempt from the 22-percent surtax, while income in excess of $25,000 is subject to both the 30-percent normal tax and the 22-percent surtax. This tax structure was intended to encourage small businesses which operate in corporate form. However, medium and large enterprises have in some cases taken advantage of the lower rates afforded small business by organizing their corporate structure in multiple corporate form.

As a result, the Internal Revenue Code contains several provisions designed to prevent taxpayers from using the multiple form of corporate organization, to avoid taxes. For example, present law provides (sec. 269) that where an individual or corporation acquires control of a corporation and the principal purpose of the acquisition is the evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance, this deduction, credit, or allowance is not to be allowed. Also, elsewhere (sec. 1551) present law provides that if a corporation transfers part or all of its property (other than money) to another corporation created to acquire the property, or not actively engaged in business at the time of the transfer, and if there is common control of the two corporations, then the transferee corporation is not to be allowed the $25,000 surtax exemption or the $100,000 accumulated earnings credit unless it establishes by the clear preponderance of the evidence that the securing of the exemption or credit is not a major purpose of the transfer. In addition, present law (sec. 482) provides that where two or more corporations are owned or controlled directly or indirectly by the same interest, the Secretary of the Treasury or his delegate may allocate deductions, credits, or allowances between or among these corporations, if he determines that this is necessary to prevent evasion of taxes or clearly to reflect the income of the corporations.

(*b*) *General reasons for provision.*—This bill reduces the tax applicable to the first $25,000 of taxable income from 30 to 22 percent and decreases the tax applicable to income above $25,000 from 52 to 50 percent in 1964 and to 48 percent in subsequent years. One of the effects of this change is to increase the value of a surtax exemption from $5,500 (22 percent tax applicable only above $25,000, multiplied by the first $25,000 of income) per corporation under present law to $6,500 (26 percent tax applicable only above $25,000, multiplied by the first $25,000 of income) per corporation for 1965 and subsequent years.

While the importance to small business of reducing the tax on the first $25,000 of income from 30 to 22 percent is recognized, it is believed that this substantial tax reduction should not provide added inducement to existing medium and large corporations to split up into multiple corporations. Therefore, the bill limits the benefits of the tax reduction in cases where a parent corporation owns or controls one or more other corporations, or where a single individual, trust, or estate owns or controls two or more corporations.

By limiting the benefits of the tax rate reductions in the case of groups of multiple corporations, it is possible to grant a substantial tax reduction to small business in reducing the normal tax rate to 22 percent, as was recommended by the President, without granting the same benefits to medium and large enterprises which use, or might choose to use, the multiple corporate form of organization. The method of taxing controlled corporations contained in the bill will, in the opinion of the House and your committee, when coupled with repeal of the 2-percent additional tax on consolidated returns, encourage some controlled groups to file consolidated returns, while leaving groups which do not choose to file consolidated returns in approximately the same relative position they are in under present law.

While the House and your committee recognize the advantages of use of multiple corporations, it is believed, as it has been in the past,

that, where corporations owned and controlled by the same interests engage in different businesses in the same area or conduct the same type business in different geographical locales, there are legitimate business reasons for use of separate corporations and, therefore, the separate corporations should generally be recognized as separate taxpayers, retaining the benefit of use of multiple surtax exemptions. However, the House and your committee do not intend to encourage the formation of these multiple corporations and therefore propose to apply higher tax rates to corporations which are members of an affiliated group of corporations. Of course, nothing in this bill is intended as changing the application of sections 269, 1551, or 482 if the multiple corporation form of organization is adopted to avoid taxes.

(*c*) *General explanation of provision.*—If a controlled group exists, three basic alternatives are available to corporations which are members of the group:

(1) The corporations in the group may forego the use of multiple surtax exemptions, i.e., they each file separate income tax returns and allocate one $25,000 surtax exemption among the members of the group (and either elect or not elect the 100-percent dividends received deduction provided by sec. 215 of this bill).

(2) Corporations in the group may elect to pay a penalty tax and file a multiple surtax exemption return. Under this election each member of the group (subject to the tax avoidance provision) may claim a separate $25,000 surtax exemption, but each must also agree to pay an additional tax of 6 percent on the first $25,000 of its taxable income. With the generally applicable rates of 22 percent on the first $25,000 of taxable income and 50 percent or 48 percent on income over $25,000, this means a total tax for such companies of 28 percent on the first $25,000 of income and 50 percent in 1964 and 48 percent in 1965 and subsequent years on income over $25,000.

(3) A controlled group which also qualifies as an "affiliated group" of corporations may, as under present law, file a consolidated income tax return.

This third alternative is similar to the first alternative in that only one $25,000 surtax exemption is available to the corporations filing the consolidated return. However, there are additional benefits in filing a consolidated return arising from the ability to declare and receive dividends between members of the group without tax, and to offset losses of one company against another.

The bill does not attempt to achieve complete symmetry between the definition of a controlled group of corporations for purposes of foregoing multiple surtax exemptions and the definition of a group eligible to file a consolidated return. Several differences arise. However, many complicated problems are involved in equating the two, and many avoidance possibilities might be created if they were equated. Thus, for example, a foreign corporation doing business in the United States is included in the controlled group definition. However, if the foreign corporation is also doing business abroad and was permitted to join in a consolidated return, it could pass a dividend, out of its foreign earnings, tax free to the domestic parent, and thus escape all U.S. taxes. Moreover, neither the House nor your committee is aware of any situations in which the discrepancies in the two

definitions would create a hardship (especially with the 100 percent dividends received deduction provided by this bill). If it develops, however, that the differing definitions create a substantial hardship for certain groups subject to the penalty tax which cannot file consolidated returns (or obtain a 100-percent deduction for dividends received), the decision would have to be reconsidered and adjustments made to the extent possible.

(*c*)(*i*) *Test of control.*—In determining whether a controlled group of corporations exists, the bill draws a distinction between a parent-subsidiary controlled group and a brother-sister controlled group. In a parent-subsidiary controlled group one corporation, called a parent corporation, owns at least 80 percent of the total combined voting power of all classes of stock entitled to vote, or at least 80 percent of the total value of all classes of stock, of one or more corporations called subsidiary corporations. The parent-subsidiary controlled group also includes corporations below the first tier subsidiary level which are 80-percent owned by the other corporations in the group. For example, if corporation A owns 80-percent of the stock of corporation B, and corporation B owns 80 percent of the stock of corporation C, corporations A, B, and C constitute a parent-subsidiary controlled group.

A brother-sister controlled group exists where a single individual, trust, or estate owns at least 80 percent of the total combined voting power of all classes of stock entitled to vote, or at least 80 percent of the total value of all classes of stock, of each of two or more corporations.

In determining whether a corporation, or a single individual, trust, or estate, owns 80 percent of the value or voting power of the stock of a corporation, the stock of the corporation is considered not to include nonvoting preferred stock, which more closely approximates a debt obligation than an equity interest, and treasury stock, which, from the standpoint of ownership, constitutes unissued stock. Moreover, certain outstanding stock, although owned by separate persons, could, unless neutralized for purposes of determining control, be used by some owners as a means of divesting themselves of sufficient stock to avoid the application of this section without, as a practical matter, divesting themselves of the benefits of ownership of a corporation. Therefore, in determining whether a parent-subsidiary controlled group exists, stock of a subsidiary corporation owned by (1) individuals who are 5-percent shareholders of the parent corporation, (2) officers of the parent corporation, (3) employees of the subsidiary if the stock is subject to restrictions which favor the parent or subsidiary corporation, and (4) trusts which are part of a plan of deferred compensation for the benefit of the employees of the parent or subsidiary corporation, will not be treated as outstanding stock if the parent corporation owns 50 percent or more of the value or voting power of the stock of the subsidiary. In addition, in determining whether a brother-sister controlled group exists, stock of a corporation owned by (1) a trust forming a part of a stock bonus, pension, or profit-sharing plan for the benefit of the employees of the corporation, and (2) employees of the corporation if the stock is subject to conditions which run in favor of such corporation or the common owner and which substantially restrict or limit the employee's right to dispose of stock will not be treated as outstanding stock if the individual, estate, or trust owns

50 percent or more of the value or voting power of the stock of the corporation.

In determining whether a single individual, trust, or estate owns 80 percent of the value or voting power of the stock of a corporation, such individual, trust, or estate is, in addition to the stock owned directly, considered to own stock by virtue of certain relatively limited attribution rules. The first rule provides that an individual is considered to own stock owned by his spouse. However, it is recognized that in many cases a husband and wife may each own and operate their separate businesses. In order to prevent attribution in such cases, which may have the effect of denying separate surtax exemptions to each corporation, an individual is not considered to own stock owned by or for his spouse if (1) the individual does not directly own stock in the corporation in which his spouse owns stock, (2) the individual is not a director or employee of such corporation and does not take part in the management of such corporation, (3) not more than 50 percent of the gross income of the corporation is derived from rents, royalties, dividends, interest, and annuities, and (4) the stock of the corporation owned by the spouse is not at any time during the taxable year subject to conditions which substantially restrict or limit the spouse's right to dispose of such stock if such right runs in favor of the individual or his children who have not attained age 21 years.

The bill also provides limited attribution rules in cases involving other family relationships. Thus, an individual is always considered to own the stock owned by his children who have not attained age 21. However, an individual is considered to own the stock owned by his children who have attained age 21 and grandchildren only if such individual owns, directly or indirectly, more than 50 percent of the value or voting power of the stock in the corporation. Similarly, children who have not attained age 21 are considered to own the stock held by their parents, but children who have attained age 21 and grandchildren are considered to own the stock held by their parents or grandparents, respectively, only if the child or grandchild owns, directly or indirectly, more than 50 percent of the stock of the corporation. There is no attribution between brothers and sisters. Limited attribution rules are also provided in cases involving stock held by trusts, estates, and partnerships. Stock owned by a corporation, directly or indirectly, is considered to be owned proportionately by any shareholder owning a 5-percent or greater interest in the corporation. If an individual, estate, trust, or corporation owns an option to buy stock in a corporation, for purposes of ascertaining a controlled group, such "person" is deemed to own the stock covered by the option.

(*c*)(*ii*) *Method for determining existence of a controlled group of corporations.*—Determination of whether a controlled group of corporations exists is made once each year on December 31 by taking into account the stockownership of each person who owns stock in the corporation for the taxable year including such December 31. Although the determination of the corporations included within a parent-subsidiary controlled group, or a brother-sister controlled group, is made without regard to the type of corporation involved, provision is made to limit the reduction in the surtax exemption (or payment of the additional tax) to those corporations, referred to in the bill as component menbers, whose income tax is determined in whole or in part by reference to the normal and surtax rates. Thus, exempt organizations which do

not have unrelated business income, and foreign corporations which are subject to a flat rate tax on their income from sources within the United States, are not considered to be component members.

In order to limit reduction of surtax exemptions (or payment of the additional tax) to cases in which the common owner of the controlled group would otherwise derive the principal benefit from the allowance of the exemption, the bill excepts from the definition of component member those corporations which are members of the controlled group for less than one-half of the days in their taxable year which precede the applicable December 31 determination date.

In addition to corporations which meet the ownership tests described above on the applicable December 31 determination date, the term "component member" also includes a corporation whose stock is not owned by the parent corporation or common owner on such December 31 but was so owned one-half or more of the number of days in the corporation's taxable year which includes the applicable December 31. The inclusion of such "additional members" as component members prevents corporations whose stock is sold before the end of the year from obtaining the benefits of an extra surtax exemption in the year in which they leave the controlled group.

The bill also provides for cases where certain manufacturing corporations, in an effort to facilitate the retail distribution of products which they produce, enter into agreements with individuals whereby the manufacturer and the individual each contribute capital to a distributing corporation under a plan by which a portion of the compensation of the individual from the distributing corporation is applied toward the retirement of the stock held by the manufacturer. In most cases, franchised corporations of this type are, by definition, excluded from a controlled group due to the fact that the manufacturer owns less than 80 percent of the value and voting power of the stock of the distributing corporation. However, in some cases the corporate structures of these corporations are arranged in a manner which results in the parent corporation, or common owner, owning more than 80 percent of the vote, but not more than 80 percent of the value, of the stock of the distributing corporation.

Your committee agrees with the House that it would serve no useful purpose to cause these corporations to reorganize their corporate structures and has, therefore, excluded them from the definition of the term "component member" of a controlled group.

Finally, due to the nature of the business conducted by life insurance companies, and the fact that a life insurance company is not permitted to file a consolidated return other than with another life insurance company, a life insurance company is excluded from the definition of a "component member" of a controlled group unless the controlled group contains two or more life insurance companies, in which case the life insurance corporations are treated as component members with respect to each other since they may then elect to file a consolidated return with each other. A mutual insurance company, other than a life insurance company and other than a fire, flood, or marine insurance company subject to the tax imposed by section 821, which is included in a controlled group is also excluded from the definition of a "component member."

(c)(*iii*) *Privilege of groups to elect multiple surtax exemptions.*—The bill provides that the component members of a controlled group of

corporations may elect to have each component member of the controlled group claim a separate surtax exemption in lieu of having one surtax exemption apportioned among such members. However, if the component members of a controlled group so elect, the income tax on each member is increased by 6 percent on so much of its taxable income which does not exceed $25,000. For example, assume individual A is a common owner of a brother-sister controlled group of corporations consisting of corporations X and Y. Further assume that corporations X and Y each have taxable income of $35,000 and that they elect to have each member claim a separate surtax exemption and pay the additional 6 percent. By taking separate surtax exemptions, each corporation would pay a total tax of $7,000 on the first $25,000 of income (28 percent, consisting of a 22-percent normal tax and a 6-percent additional tax), and a tax of $4,800 on the remaining $10,000 of income (48 percent, consisting of a 22-percent normal tax and a 26-percent surtax), for a total tax on each corporation of $11,800. On the $70,000 combined income of the controlled group this would be a tax of $23,600. Alternatively, if the group did not make the election, the total tax on the controlled group would be $27,100 (22 percent of the first $25,000 of income and 48 percent on the remaining $45,000 of income). Under these circumstances, corporations X and Y presumably would choose separate surtax exemptions with the penalty tax, rather than apportioning a single surtax exemption between the component members of the controlled group.

For the component members of a controlled group to elect to claim multiple surtax exemptions, all component members of the group must join in the election. Such an election must be made within 3 years after the date when the income tax return is required to be filed for the taxable year of the component member of the controlled group whose taxable year ends first on or after the December 31 for which the election applies. An election once made may be terminated by the consent of the members, by the refusal of a new member of the controlled group to consent, by the filing of a consolidated return by any component members of the group, or by the termination of the group. Once an election is terminated, the bill provides that the group may not again elect multiple surtax exemptions until the expiration of 5 years. In the case of reorganizations involving groups of corporations some of which, for example, are, and some of which are not, prevented from filing new elections under the 5-year period, the Secretary of the Treasury is required to issue regulations which provide which group is to be treated as the predominant (or successor group) and hence which group's characteristics are to carry over.

(*c*)(*iv*) *Disallowance of surtax exemption and accumulated earnings credit.*—The bill makes two basic changes to present section 1551. The first change provides that if a corporation transfers property (other than money) directly *or indirectly* to a corporation which it controls, and such transferee corporation was created for the purpose of acquiring such property, or was not actively engaged in business at the time of such acquisition, the Secretary of the Treasury or his delegate may disallow the $25,000 exemption from surtax, or the $100,000 accumulated earnings credit, unless the transferee corporation establishes by the clear preponderance of the evidence that the securing of the exemption or credit was not a major purpose of the

transfer. As presently interpreted, existing law applies only to direct transfers of property other than money. The bill does not affect the transfer of money to a new corporation if the money is not used to indirectly acquire property from the shareholder making the transfer. Therefore, the amendment does not in any way inhibit the organization of new corporations with money transfers even though the corporation is organized for the purpose of acquiring a surtax exemption or accumulated earnings credit. However, the new corporation may be a component member of a controlled group in which case a single surtax exemption is allocated among the members of the group unless the group elects to file a multiple surtax exemption return.

The second change from present law extends the application of section 1551 to transfers of property (other than money) by an individual to a corporation which he and not more than four other individuals control. For purposes of determining whether the transferor is considered to be in control of the transferee corporation, the individual who makes the transfer, together with no more than four other individuals, must own at least 80 percent of the value or voting power of the stock in two or more corporations, one of which is the transferee corporation, and the same individuals must own more than 50 percent of the value or voting power of the stock in each corporation (only taking into account identical stock holdings) after the transfer. In determining ownership of stock, the constructive ownership rules for determining if a controlled group exists are applicable.

(*c*)(*v*) *Effective date.*—The amendment with respect to the limitation of the number of surtax exemptions allowable to component members of a controlled group and authority for component members to elect to file multiple surtax exemption returns is effective with respect to taxable years of corporations ending after December 31, 1963. The amendment made to section 1551 is effective with respect to transfers made after June 12, 1963.

(*d*) *Revenue effect.*—It is expected that this provision will increase revenues by about $35 million in a full year of operation.

46. Validity of tax liens against mortgagees, pledgees, and purchasers of motor vehicles (sec. 238 of the bill and secs. 6323(c) and 6324 of the code)

(*a*) *Present law.*—An assessed tax—income, estate or gift, excise, or withheld income or social security tax—if not paid within 10 days after notice and demand, constitutes a lien upon all of the property of the taxpayer, both real and personal. This lien follows the taxpayer's possessions, but it is valid as against a purchaser, mortgagee, or judgment creditor only if the notice of the tax lien has been filed prior to the sale or mortgage in the place designated by the State for the filing of such notices—usually the county recorder's office.

(*b*) *General reasons for provision.*—A prospective purchaser or mortgage lender with respect to real estate will check with the county recording office to ascertain whether there are any outstanding liens on the property. Ordinarily, liens against automobiles and trucks are not recorded in the county recorder's office. In many States any lien upon the automobile or truck is stated on the title. The one who wants to record a chattel mortgage, for example, upon an automobile must present his chattel mortgage and the certificate of title to the motor vehicle department of the State. Dealers in used automobiles,

therefore, rely upon these title certificates to determine whether or not there is any adverse lien on the automobile which they intend to purchase. However, the certificate of title does not show any Government tax lien. Thus, a dealer having unknowingly bought a car from a delinquent taxpayer may find that the car is seized by the Internal Revenue Service to satisfy the lien.

An automobile or truck dealer buying hundreds of used cars or trucks each year finds it difficult to follow the normal procedures—search of the records in the county recording office—with respect to each car which he wishes to buy. A similar situation exists with respect to the sale of stocks and bonds, which are ordinarily sold on the stock exchanges or over the counter without knowledge of any Federal tax lien which might exist with respect to such securities. For this reason, the law has long provided in the case of securities (sec. 6323(c)) that even though the Federal tax lien has been filed in the appropriate recorder's office, the lien will not be effective as against any mortgagee, pledgee, or purchaser of a security if at the time of the mortgage, pledge, or purchase the mortgagee, pledgee, or purchaser is without notice or knowledge of the existence of such lien. Your committee believes that a similar procedure with respect to autos and trucks would be appropriate.

(*c*) *General explanation of provision.*—This section of your committee's bill provides a similar protection for dealers and other persons purchasing or making loans upon motor vehicles as is now provided in the case of securities, so that the lien of the Federal Government will not be effective against a purchaser, mortgage lender or pledgee unless the purchaser, mortgage lender or pledgee has actual notice or knowledge of the existence of the Government's lien.

The definition of the motor vehicle to which this provision will apply is a vehicle (except a house trailer) registered for highway use under the laws of any State or foreign country.

(*c*)(*i*) *Effective date.*—The amendments made by this section apply only with respect to mortgages, pledges, and purchases made after the date of enactment of this bill.

(*d*) *Revenue effect.*—This provision is expected to result in a negligible loss of revenue.

C. HOUSE PROVISIONS DELETED BY YOUR COMMITTEE

1. Reimbursement of medical expenses in excess of such expenses (sec. 204 of the House bill)

(*a*) *Present law.*—Present law provides that gross income is not to include amounts received through accident or health insurance for medical expenses for personal injuries or sickness (secs. 104(a)(3) and 105(b) of the code).[1] At the same time medical expense deductions may be claimed (if they exceed the 3-percent floor) for accident or health insurance premium payments.

(*b*) *Reasons for deleting the House provision.*—Cases were called to the attention of the House Committee on Ways and Means where individuals have been covered by more than one accident or health insurance program. This occurs on occasion when the individual himself carries more than one policy, and occurs in other cases when

[1] An exception to this rule provides that amounts received under accident or health insurance policies are to be included in gross income to the extent they represent medical expense deductions allowed in previous years.

the individual may carry a policy and also his employer may provide for the payment of medical care either through an insurance policy or through self-insurance. In these cases, the employee may receive double payments with respect to the same expenses incurred with respect to a given injury or sickness. In these cases, the House provision would have treated the excess of the amounts received over the actual expenses incurred as income received by the individual.

Your committee is in agreement with the objective of the House provision. However, it has been called to the attention of your committee that the National Association of Insurance Commissioners this last December adopted a report on overinsurance recommending the enactment of legislation at the State level pertaining to this subject. The legislation recommended in effect would provide amendments to the uniform individual accident and sickness policy provisions of State law providing that health insurance benefits are to be prorated in the event of overinsurance among the carriers on the risk. This recommendation of NAIC is likely to lead to changes in State law within the next year or two in many, if not most, of the States. This in effect would eliminate the overinsurance with which the House bill provision is concerned. In view of this, your committee concluded that it would be better to remove the House provision from the bill and see if the problem of overinsurance is not met in the relatively near future by action by the various States. Your committee will review this matter within the next year or two and should implementing legislation not be acted upon by most of the States, it will then reconsider this provision. Your committee has concluded, however, that the problem is broader than merely the tax aspect and, therefore, that it would be more appropriately handled by the States than by amendment to the Internal Revenue Code.

2. Carrying charges (sec. 215(c) of the House bill)

(*a*) *Present law.*—Among the itemized deductions allowed taxpayers under present law is the deduction for interest payments. Administrative practice has long allowed as an interest deduction the portion of any carrying charges on installment purchases to the extent the interest element is stated separately. In 1954, Congress also provided that an interest deduction was to be available in the case of carrying charges stated separately even where the interest charged could not be ascertained directly. In such cases, the law provides that so much of the carrying charges as equal a 6-percent interest charge on the average unpaid balance under the contract is to be allowable as an interest deduction. This provision applies, however, only in the case of "personal property" purchased under an installment contract.

(*b*) *Reasons for deleting the House provision.*—Cases were called to the attention of the House Committee on Ways and Means where carrying charges are imposed with respect to tuition payments to various educational institutions. On the basis of this, the House bill would have extended the deduction for part of the carrying charge as interest in the case of carrying charges for services as well as personal property. Your committee would have no objection to extending this provision to cover service charges which are in the form of tuition payments; however, before this is extended to service charges, generally, your committee believes that there should be a further investigation of what might be covered under such a provision.

3. *Increase in basis with respect to certain foreign personal holding company holdings (sec. 216(j) of the House bill)*

(*a*) *Present law.*—Under present law the undistributed income of a foreign personal holding company is included in the income of the U.S. shareholders of the company and taxed to them. This treatment applies only where 50 percent or more in value of the outstanding stock of the corporation is owned directly or indirectly by five or fewer individuals who are citizens or residents of the United States. In addition, in the first year, 60 percent, and in subsequent years 50 percent, of the corporation's gross income must be "foreign personal holding company income." In general terms, this income consists of passive or investment forms of income, such as dividends, interest, etc. To a substantial degree, the same type of income is classified as foreign personal holding company income as is classified as personal holding company income in the case of domestic companies.

Stock in a foreign personal holding company differs from most other property in that, at the time of the death of the U.S. shareholder, it generally does not receive a new basis equal to its fair market value. Actually, the applicable rule in this case is that the basis of the stock at the time of the death of the decedent is to be the fair market value at that time or the basis of the stock in the hands of the decedent, whichever is lower.

For foreign corporations, including foreign personal holding companies, to participate in a tax-free reorganization it must be determined to the satisfaction of the Secretary of the Treasury that the exchange was not in the pursuance of a plan having as one of its principal purposes the avoidance of Federal income tax. Of the two basic tax provisions on corporate liquidations, sections 331 and 333, foreign companies can use only section 331. Section 331 provides for the imposition of the regular capital gains tax on appreciation in the value of the stock. Section 333, which foreign corporations cannot use, provides that the accumulated earnings and profits of the corporation are to be taxed to the noncorporate shareholders as dividends and that capital gains are to be recognized on other appreciation in the stock only to the extent of the money and stock or securities acquired by the corporation after December 31, 1953, exceed the earnings and profits received as dividends. However, this provision also provides, in the case of assets acquired by the corporation before January 1, 1954, that no gain is to be recognized to the shareholder but that instead the shareholder is to receive the same basis for the assets received which he had for the stock (increased for gain recognized and decreased for money received).

(*b*) *Reasons for deleting the House provision.*—The House Committee on Ways and Means noted that the stock of a foreign personal holding company, when the shareholder dies, received much harsher treatment than is true of practically all other property included in the decedent's estate. Generally, property receives a new basis at a decedent's death equal to its fair market value, either at the time of the decedent's death or at the alternate valuation date 1 year later. Moreover, in the case of gifts where the donee carries over the basis of the donor, an increase in the basis (up to fair market value) is allowed to the donee with respect to any gift taxes paid on the property.

The House recognized that a relatively harsher treatment for the basis of the stock of these foreign personal holding companies is justified in order to discourage their use generally. However it was believed that it was appropriate to permit the same general type of adjustment to the basis as is presently permitted in the case of gifts; namely, to permit an increase in the basis of the stock of the foreign personal holding company equal to the death transfer tax imposed with respect to the appreciation in the value of the stock.

In view of the fact that the issue of a carryover of basis at date of death has not been dealt with by your committee in this bill, it concluded that it would be more appropriate to postpone consideration of this amendment until that broader topic was under consideration.

In addition, the House bill provided that these foreign personal holding companies were to be treated the same as domestic corporations for purposes of section 333 if the liquidation is completed shortly after the date of enactment of this bill. Since such companies are likely to have little if any accumulated earnings and profits, this in effect means that the shareholders would pay a capital gains tax on the appreciation of their stock in the corporation only to the extent they receive money, or stock or securities acquired after December 31, 1953, and that the basis of assets received in the liquidation is the basis of their stock in the corporation increased by the gain recognized. In such cases this property was to receive the same basis as it would if the shareholder died still holding the stock in the foreign personal holding company until this property had passed through one estate—the shareholder's or any transferee's.

Your committee has also decided not to include this aspect of the House provision in your committee's amendments. The same issue of the basis at date of death is involved here as where the stockholder dies still holding the stock of such a company.

4. Capital gains and losses (sec. 219 of the House bill)

(*a*) *Present law.*—Under present law, capital gains and losses are divided into two general classifications: short-term capital gains and losses and long-term capital gains and losses. The former are gains and losses on assets held for not more than 6 months and the latter are gains or losses on assets held for longer periods of time.

Gains and losses in each category are first offset against other gains or losses in the same category. Thus, there is determined "net," short-term gains or losses and "net" long-term gains or losses. Next, any net short-term gains are offset by net long-term losses or vice versa.

Net short-term gains in excess of net long-term losses are taxed to individuals or to corporations as ordinary income. In the case of net long-term gains in excess of net short-term losses, however, the tax treatment applicable to individuals and corporations differs somewhat. In the case of individuals, such a gain is included in the taxpayer's ordinary income and then reduced by a 50-percent deduction, or alternatively, the entire gain is omitted from the taxpayer's ordinary income base and a flat 25-percent tax paid with respect to this gain. In the case of corporations, there is no special 50-percent deduction. Instead, the corporation either includes the entire gain in its ordinary income, or alternatively, pays a tax of 25 percent on these capital gains.

The tax treatment of capital losses also differs somewhat between individuals and corporations. As previously indicated, any net short-term loss is first offset against any net long-term capital gain and vice versa. If there still remains an excess of capital losses (either short term or long term), these losses may be offset against ordinary income in the case of individuals but only to the extent of $1,000. If any net loss still remains, it may be carried forward for a period of up to 5 years as a short-term capital loss (whether such loss was in reality a long- or short-term loss) and as such in each of the years in succession first offset against net short-term capital gains, then against net long-term capital gains and finally against ordinary income to the extent of $1,000.

In the case of corporations, capital losses as in the case of individuals are first offset against gains in their own category (short term or long term) and then against gains in the other category. However, any remaining loss may not be offset against ordinary income to any extent, but it may be carried forward as a short-term loss and offset against short-term and long-term capital gains in each of the 5 succeeding taxable years.

The capital gain and loss treatment described above applies in the case of the sale or exchange of capital assets. In addition, certain other items are taxed in the same manner as capital gains. The principal category of assets treated in this manner are depreciable assets. Such assets, if the gains exceed the losses, are treated as capital gains; but, if the losses are in excess of the gains, they are treated as ordinary losses. Included with depreciable property for this purpose also are gains or losses from—

1. the sale of timber;
2. coal royalties;
3. livestock held by the taxpayer for draft, breeding, or dairy purposes if held by him for 12 months or more;
4. the sale of an unharvested crop sold in connection with the sale of the land.

Other types of items which are eligible for capital gain treatment are patent royalties received by the creator of the patent, certain lump-sum pension payments, and certain termination payments received by employees with more than 20 years employment. Income arising from the sale of stock acquired under a restricted stock option represents still another form of income accorded capital gains treatment under present law. In addition, this bill (sec. 228) provides capital gain treatment for iron ore royalties.

(*b*) *Reasons for deleting the House provision.*—The House bill would make three basic changes in the tax treatment of capital gains and losses. First, it would decrease from 50 to 40 percent, in the case of individuals, the proportion of the capital gain included in the tax base where the asset involved has been held for more than 2 years, and it would provide in such a case a maximum tax rate of 21 percent in lieu of the 25 percent; second, it would limit the more favorable capital gains treatment described above so that this treatment would not be made available with respect to transactions where the capital gains treatment under present law is made applicable to certain types of assets which are not capital assets; and, third, it would provide an indefinite carryover of unused losses in the case of individuals in lieu of the present 5-year limitation.

The Secretary of the Treasury in his testimony before your committee requested that the first two of the changes listed above not be made. He based this primarily on the fact that the administration in recommending lower capital gains tax rates had done so only as a part of a recommendation providing additional taxation on unrealized gains at death. Subsequently, this recommendation was modified to call for a carryover of the decedent's basis in such a case to the one receiving the property from the decedent. The House Committee on Ways and Means considered this latter proposal but rejected it at least in part on the grounds that there were technical problems which had not been satisfactorily worked out. In view of this, the Secretary of the Treasury in his testimony before your committee strongly urged that it not consider reducing the capital gains tax rates at this time.

In addition to the question raised by the Secretary of the Treasury as to whether capital gains tax rates should be lowered at the present time in view of the fact that other related structural changes are not now being made, questions arise as to the desirability of dividing the long-term capital gains group into two parts. Information submitted to your committee made it quite clear that this would substantially further complicate an already complex capital gains tax schedule. If the House provision had been adopted, not only would it be necessary to report separately three instead of two general categories of capital gains, but it would also be necessary to subdivide the proposed class A and class B gains between those coming under section 1231 and those which do not. Although gains from the sale of such assets result in capital gains where there is a gain from all such assets taken together, nevertheless, if there is a loss from the aggregate of these transactions with respect to these assets, they give rise to ordinary gain or loss. In addition, it is necessary on this schedule to account for the "recapture" of ordinary income provided generally for tangible personal property in the Revenue Act of 1962 and the somewhat different "recapture" rule provided in this bill with respect to real estate. As a result of the interrelationship of these factors, your committee concluded that it would be better not to further complicate this schedule at the present time by this further breakdown of what are presently long-term capital gains or losses for individuals.

Your committee also was concerned about the capital gains provision of the House bill because the benefit from this provision would have been largely concentrated in the very highest income brackets. The concentration of capital gains in the higher income levels in fact is a major factor accounting for the effective rates in the highest brackets being substantially below the rates shown in the tax rate schedule. Table 11 shows, for example, that, although those with incomes over $200,000 represent a small fraction of 1 percent of all the taxpayers, nevertheless they receive 16 percent of all capital gains. This is about the same percentage of capital gains received by the 58 percent of all taxpayers having incomes below $5,000. Those with incomes of $100,000 or over, although representing only 0.04 of 1 percent of all taxpayers, nevertheless receive 24 percent of all capital gains.

The effect of reducing the capital gains inclusion factor, or alternative rate, because of this concentration of these gains in the higher income classes would, of necessity, have meant that most of this relief would have gone to those with the highest income levels. This

is shown in table 12, which presents the overall distributional effects of the House and your committee's bill in detail for incomes over $50,000. This table indicates that, although the capital gains reduction in the House bill as a percentage of the present total tax amounted to only 0.7 of 1 percent, nevertheless the tax reduction which this would have accorded those with incomes between $100,000 and $200,000 would have been 3.4 percent; and this percentage would have risen to 7.4 percent for those with incomes of $1 million or over. This can be compared with the capital gains tax reduction accorded those with incomes of $3,000 and under of 0.3 of 1 percent. Your committee did not believe that a reduction of this type was justified in view of the overall distribution of reductions in this bill.

TABLE 11.—*Capital gains, by income levels*

Returns with adjusted gross income of—	Comprise this percentage of all taxpayers—	But receive this percentage of all capital gains
$200,000 and over	0.0096 of 1 percent	16
$100,000 and over	0.04 of 1 percent	24
$50,000 and over	0.2 of 1 percent	35
$10,000 and over	8.7 percent	69
Less than $5,000	57.8 percent	17

Source: Treasury Department.

TABLE 12.—*Overall distributional effects of the House bill (including capital gains changes) and the Finance Committee bill (which retains present law capital gains treatment)*

Adjusted gross income class (in thousands of dollars)	Total tax reduction as percentage of present tax		Capital gains tax reduction in House bill as percentage of total present tax
	House bill	Finance Committee bill	
0 to 3	38.6	38.6	0.3
3 to 5	26.5	27.3	.3
5 to 10	20.1	20.9	.2
10 to 20	16.9	17.3	.4
20 to 50	16.0	15.8	1.0
50 to 100	13.5	12.3	2.0
100 to 200	12.2	9.7	3.4
200 to 500	12.4	8.1	5.0
500 to 1,000	12.1	5.7	7.2
1,000 and over	12.0	5.6	7.4
Total	18.9	19.1	.7

Source: Treasury Department.

It should be noted that the great bulk of capital gains is accounted for by taxpayers by including 50 percent of the gain in income rather than by subjecting these gains to a separate flat 25 percent tax. It has been estimated that most of the capital gains fall in the former category where 50 percent is included in the ordinary income tax base. As a result, the regular rate reductions provided in this bill, which range from 30 percent for those in the bottom brackets to 23 percent for those at the top, will also be applicable in the case of these capital gains. Thus, even without any special tax treatment for capital gains, a substantial reduction in tax is provided by your committee's bill with respect to these gains.

INDIVIDUAL VIEWS OF SENATOR PAUL H. DOUGLAS

Good Features of the Bill

There are many good features in the present tax bill, H.R. 8363. Among these are (1) the fact of tax reduction itself which will stimulate demand, production, and employment; (2) the minimum standard deduction of $300 per taxpayer plus $100 for each family dependent (this with the per capita exemption of $600 means that families of four whose yearly incomes are less than $3,000 will be exempted from taxation—as they should be—instead of those under $2,666 as is now the case, i.e., $2,400 plus the 10 percent standard deduction); (3) the shifting of the corporation tax collection period from the present delayed system to roughly the same basis as taxes are now collected from individuals; (4) the repeal of the 4 percent dividend credit against taxes actually owed, and certain other features as well; and (5) the elimination by the Finance Committee of the reduction in the capital gains tax.

The capital gains loophole is already the largest loophole in our tax system. Between $5 and $6 billion a year are lost because of this provision. The bill as it came from the House of Representatives would have widened and deepened this hugh loophole by reducing the rate on long-term capital gains from 50 to 40 percent, subject to a maximum of 21 percent instead of the present inadequate rate of 25 percent. This was eliminated by a narrow margin in the committee. There is grave danger that this reduction will be restored in the conference committee. This danger will be reduced if the Senate itself, by a decisive vote, approves the action of the Finance Committee in eliminating this section from the House bill. This, in my judgment, should occur early in the Senate proceedings.

There are some grave defects in the bill as presented which I believe the Senate should correct. The bill also fails to effect much needed reforms in our tax system which are long overdue and for which there will not be another opportunity for some years.

Generally speaking, our present tax structure is riddled with injustices and inequities. There are so many loopholes that 20 people with incomes over $500,000 in 1959 paid absolutely no taxes at all while the average amount of taxes actually paid by all those with incomes of $5 million or more came to slightly less than 25 percent instead of the 90 percent they would theoretically be expected to pay. This is less than the amount which a typical American family with a taxable income of $12,000 derived from wages and salaries would be expected to pay or, because of collection at the source, would actually pay.

If we could close the various loopholes and "truckholes" in the Revenue Act, we could reduce the individual income tax rate from the present scale of 20 to 91 percent to a range of from 10 percent as the

minimum to a maximum of 50 percent. In doing so we would raise as much revenue as we do with our apparently high rates which, as a matter of fact, are not paid by the vast majority of those in the upper income tax brackets. In this connection it is appropriate to quote a salient passage from Philip M. Stern's forthcoming book entitled "The Great Treasury Raid" in which that keen student of our tax system, comments as follows:

> For a raid of its magnitude, the time (high noon) and setting (the U.S. Treasury, a stone's throw from the White House) showed a breathtaking boldness of design and planning. From out of nowhere, it seemed, they appeared—old people and young, rich and poor, an oil millionaire here, a factory worker there, a real estate tycoon, a working mother, several well-known movie stars, some corporation presidents, even the chairman of a powerful congressional committee. It was a mixed lot, all right, that converged on the Treasury Building that high noon. Into the building they strolled, gloriously nonchalant. No one stopped them; not a guard looked up to question them. Quickly and quietly they found their way to the vaults; opened them noiselessly with the special passkeys each had brought with him. Like clockwork, with split-second timing, each went to his appointed spot, picked up a bag and walked out as calmly as he had entered. At the exits the guards sat motionless. At precisely 12:04 it was all over. Each of the "visitors" had vanished into thin air.
>
> So had $40 billion from the U.S. Treasury.

The administration initially made a partial but somewhat ineffectual effort at tax reform. But when most of its proposals were rejected by the House Ways and Means Committee, they ceased to fight with any vigor except on two matters, namely (*a*) the abolition of the unjust 4 percent dividend credit inserted under the Eisenhower administration in 1954, and (*b*) the removal of the reduction in the capital gains tax. Neither of these features is in the present bill, and I hope we can hold these gains.

In other words, the great mass of citizens, primarily in the lower income brackets, have to pay high taxes because the laws have been so shaped that a minority are able, by avoidance and evasion and counseled by highly paid and able tax attorneys, to take advantage of every twisting and turning of the laws. I repeat, if we could plug the loopholes and "truckholes," we could collect the same total amount of revenue with half of the present tax rates. Our failure to do so means that the present unfair and unjust system continues. As a consequence, the present bill, except for the unjustifiable provision with respect to utilities, remains neutral with respect to remedying the great injustices in the tax system. Its failures are not, for the most part, acts of commission, but rather acts of omission. Because of the stimulus which the tax cut itself should bring to the economy, there are many like myself who can therefore support the bill because its stimulating features are good, but in the meantime express dissatisfaction over the failure of the House and the Senate committees to remedy many of the well-known and major loopholes in

the tax system. To us, tax reform is as important as tax reduction. But this bill has a great deal of reduction but very little reform.

The major loopholes in the system are (1) the present provisions for capital gains—the biggest loophole of them all. Huge amounts of ordinary income are taxed at a special lower rate, and other gains are not taxed at all, as in the case of the failure to tax capital gains at death.

The abuses involved in the oil depletion allowance, the writeoff of intangible drilling and development costs in the first year, and the ability of the oil industry to count royalties abroad as a tax payment instead of a deduction of expenses, is another area of grave abuse.

There are additional areas such as the unlimited charitable deduction, which is responsible for people with millions of dollars of income escaping any Federal taxation at all, and such other well-known loopholes as stock options, collapsible corporations, and corporate spinoffs, which mean that the favored few pay a smaller proportion of their income in taxes than the many with modest incomes.

Furthermore, State and local systems of taxation are highly regressive. That is to say, those with low incomes pay a higher proportion of their incomes in taxes than do those with high incomes. The progressive features of the Federal system should offset this so that the overall tax system of the country—Federal, State, and local—is at least proportional. But the fact that the Federal system is riddled with loopholes which favor high income groups, plus the fact that about $13 billion a year is collected in excise or sales taxes at the Federal level, means that even the Federal system has very little, if any, progression in it, and the total tax system is probably somewhat regressive in nature. The present bill fails to correct this situation. The repeal of some of the most onerous and least justifiable of the excise taxes could help to make our tax system more fair.

I therefore hope that we may take the following action to improve this bill:

First. We should try to get the Senate, by an overwhelming vote, to uphold the Finance Committee's action in knocking out the new capital gains loophole. This would strengthen the Senate's position in the conference committee. Otherwise, the capital gains provision in the tax law may end up worse than under present law. This should be a minimum position and it would certainly help if the Senate would also try to do something in the area of capital gains at death.

Second. The Senate should eliminate that feature of the tax bill which has no rightful place in a tax bill, namely, section 202(e) which states that the Federal regulatory commissions need not pass through the tax savings from the investment credit to the consumer. Apart from its lack of merit, this is basically a regulatory rather than a tax matter and really has no place in this bill.

Third. We should retain in the law the Long amendment of 1962 with respect to the investment credit. Corporations which invest $100 in investment reduce their taxes by $7. This is the equivalent of a $14 before-tax deduction. The Long amendment in 1962 said that a corporation could not depreciate more than $93 worth of investment, but the bill before us will allow the full depreciation of the asset even though its actual cost was less because of the investment credit. The elimination of the Long amendment will ultimately cost about $600

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million a year and hence raise the investment credit to about 11 percent.

Fourth. The present provisions in the law with respect to stock options should be greatly modified and the provision in the bill with respect to the amount of term insurance which a corporation can purchase for its employees should be reduced at least to the House figure.

Fifth. We should try to repeal some of the retail excise taxes, such as those on leather goods, women's handbags, inexpensive jewelry, cosmetics, and furs, but we should place a limit of $100 on the amount which is free of tax so that we do not reduce the tax on luxury expenditures.

Sixth. Furthermore, we should certainly try to do much more than is done in the bill with respect to the oil depletion allowance. As a minimum, we should prohibit excess depletion from being used to offset income from sources other than direct oil production. This was proposed by Senator Williams in the committee, accepted twice, but finally considerably watered down at the last moment.

We should also consider an amendment to the depletion allowance which, while retaining depletion for the small producer who does take considerable risks, reduces the depletion allowance for those whose income from gas and oil is between $1 and $5 million to 21 percent, and for those with incomes from gas and oil in excess of $5 million to 15 percent. This would save $400 million a year.

Seventh. We should also not undo the minor progress made with respect to travel and entertainment allowance loopholes in 1962. We should not finally adopt some of the provisions either in the bill or which have been proposed to the bill.

Eighth and finally. We should consider the equity of the rate structure itself. The present bill grants about $2½ billion in tax reductions to corporations and over $9 billion to individuals. The latter is done by reducing the rates; namely, from the present 20 to 91 percent to a figure of 14 to 70 percent.

In addition, the bill splits the rates for the first bracket and gives a new minimum standard deduction. These last two features redeem the inequities in the nature of the personal tax reduction so that there is some degree of equity. However, there is neither a strong case nor any equity considerations involved in reducing corporate taxes by $2½ billion. Since 1954, corporations have had tax reductions of almost $5 billion through the 1954 fast tax writeoff and depreciation provisions, and the 1962 investment credit, and revision of Bulletin F. This bill grants another $2½ billion to corporations while individuals receive some reduction for the first time.

Because of this, it would be well to use some of the corporate reduction to increase the minimum standard deduction or to increase the $600 exemption. Personally, I would propose taking at least $1 billion from the corporate reduction and using the funds to increase the personal income tax reduction. This would be more equitable, would make the tax system more just, and, in my judgment, would give a much stronger stimulus to the economy than the present method.

Moreover, the Senate and the Congress should give serious consideration to simplifying the tax structure and making it more equitable

by the simple process of repealing most of the existing loopholes and truckholes in the tax laws and then using the gain in revenue to bring a drastic reduction in income tax rates. By closing most of the present loopholes, the tax rates could be reduced from the present level of 20 to 91 percent to a new level of about half that amount, or from 10 to 50 percent. This would simplify the tax structure, make it more just and equitable, and improve its enforcement, while benefiting the great mass of Americans who pay their taxes and who do not either avoid or evade them. The longer we put off tax reforms the more unjust our system becomes. The time to act is now.

PAUL H. DOUGLAS.

INDIVIDUAL VIEWS OF SENATOR RIBICOFF

This tax bill will have my vote, but not my unqualified approval.

Many unwise provisions have been included, some desirable provisions have been omitted, and the bill as a whole will not achieve all of the results that have been claimed for it.

Rate reduction and reform are the principal needs to which this bill should be directed. It achieves rate reduction. It does not achieve reform.

Unfortunately, the public has been largely unaware that the issues in this bill included anything more than simple rate reduction. To judge from the general reaction to the bill, one would think it contained a single provision saying, "Taxes shall be reduced by $11 billion." The fact is the bill containes more than 300 pages of detailed provisions, making a great number of changes in 37 separate areas of the Internal Revenue Code, in addition to the provisions making reductions in tax rates. In a few instances, these so-called structural changes do make modest reforms. But many needed reforms have not been made, and many of the changes in the bill are the opposite of reform: they are special preferences for a few taxpayers.

I do not agree that we should benefit—

- utility companies by prohibiting the "flowthrough" of the investment credit to consumers;
- department stores by allowing special tax treatment of revolving credit sales;
- iron ore companies by providing capital gain treatment for certain royalty payments;
- companies with foreign subsidiaries by permitting a 10-year carryforward for expropriation losses;
- insurance companies by giving them capital gain treatment of bond discounts in certain situations; and
- purchasers of new equipment by doubling the benefit of the investment credit.

These provisions are all included in the bill. The revenue loss for 1964 is estimated at $305 million.

Left out of the bill are provisions to reduce depletion allowances, end the immediate writeoff of intangible drilling and development costs for oil and gas, and abolish the preferential treatment of stock options. These provisions would have prevented a revenue loss in 1964 of $1,150 million.

These sums of money would more than pay for two other provisions which I believe should be included in this bill. These provisions would benefit the national interest and help millions of individuals. I will offer them as amendments on the Senate floor.

My principal amendment provides an income tax credit for college costs. The amendment provides a credit based on the first $1,500 of tuition, fees, books, and supplies at an institution of higher education. The credit is available to anyone who pays these costs—parents, students, or any other person who wants to pay for the

education of a deserving boy or girl. The credit is 75 percent of the first $200, 25 percent of the next $300, and 10 percent of the next $1,000. The credit is reduced by 1 percent of the amount by which the taxpayer's adjusted gross income exceeds $25,000—in other words, reduced $50 for each $5,000 of income above $25,000.

The financial burdens of high college costs are just as entitled to be eased through tax relief as medical expenses and casualty losses. These college costs hit middle income and lower middle income families with a serious impact. The man earning $8,000, $10,000, or $15,000 is generally not eligible for scholarship or loan funds for his son or daughter, and he faces a heavy burden in paying $2,000, $1,000, or even $500 for college costs.

One of the premises of this bill is that incentives should be given to capital investment. Yet there is no better form of capital investment we can make than investment in education. The investment credit in the 1962 tax bill and the revised depreciation guidelines provide over $2 billion in tax relief for investment in machinery. The pending bill provides millions more for this purpose. I believe we should invest in the education of our youth. In the last analysis, trained minds, not just new machines, will insure the success of this Nation.

Four main objections have been raised against this proposal:

1. It is claimed the amendment helps the wealthy. The fact is the credit benefits the $30,000 man less than the $5,000 man, and does not benefit the $60,000 man at all. Under this amendment, 91 percent of the dollar benefit goes to families with incomes below $20,000, 63 percent to families with incomes below $10,000.

2. It is claimed the amendment discriminates against the poor. The fact is the credit operates exactly like all other tax relief provisions of the Internal Revenue Code: it is available only to those who pay a tax. The medical deduction is not used by nontaxpayers, yet few would oppose it on this ground.

Those in the very low income groups who pay no taxes need a sound program of student aid including scholarships. I am for such a program. It is needed in addition to tax relief for the middle-income families. These are not alterntives. They are both necessities.

3. It is claimed the amendment favors the high tuition colleges, most of which are private colleges. The fact is the amendment favors the low tuition colleges, most of which are public colleges. The credit on a $200 expense is $150. That's 75 percent. The credit on a $1,000 expense is $275. That's only 27 percent. Even where a college charges no tuition, the expense of fees, books, and supplies invariably totals $200 or more.

4. It is claimed all the tax benefit will be absorbed in tuition increases. The fact is that tuitions go up whether tax relief is granted or not. Furthermore, any colleges that want to raise tuition because they know parents have some extra money will take advantage of the rate reductions in this bill. They can absorb the tax dollars that come from rate reductions, whether or not my amendment is added to the bill. Finally, the amendment provides only a 10-percent credit on expenses over $500, so every added $100 of tuition over $500 results in only a $10 saving to the parent—scarcely an incentive to the college.

For years proposals similar to this one have regularly been introduced by many Members of the Senate. I believe there should be an

opportunity for every Senator to vote on this proposal. I intend to see that this opportunity is provided.

My second amendment permits accelerated deductions of expenses for air and water pollution control equipment. If we are ever to make substantial progress in combating air and water pollution, we must recognize that private industry has a major part to play. But playing that part costs money. Since these expenditures are for a public purpose, the public should assume part of the burden through tax relief.

Industry needs financial encouragement to speed the acquisition of this equipment. This equipment produces no revenue to the company that installs it. Yet the Internal Revenue Code and many new amendments provided in this bill provide billions in tax relief for expenditures that are revenue producing. In fact, the Treasury Department last year proposed that fast tax writeoffs be provided for all equipment purchased for research and development expenditures which are clearly revenue producing.

When we are providing hundreds of millions to establish air and water pollution control programs, we should not overlook the need to help industry make the purchases of pollution control equipment which can make the difference between success or failure in cleaning up our environment.

Finally, I must express a word of caution concerning the claims that have been made for this bill as a whole. It can legitimately be called a needed stimulant to an economy that is not operating at full capacity. But it cannot and should not be expected, in and of itself, to spur that economy to full capacity or to solve many of the difficult problems that have been preventing our economy from reaching full capacity. Chief among these is unemployment and while this bill will help create new jobs, I do not believe it will solve the basic problem of structural unemployment. Economists with views as divergent as Leon Keyserling and Roger Freeman agreed on this point in testimony before the committee.

"I doubt that tax reduction can make a major impact on our present type of unemployment," said Freeman. "Even well-designed tax reduction cannot cope with a large portion of the unemployment problem," said Keyserling.

This joint warning should be well heeded. As we enact this tax cut bill, let us not delude ourselves or the country into thinking that it is a cure-all for our problems, especially for our unemployment problem.

We should pass this bill despite its imperfections. Taxes are too high and do act as a deterrent to individual initiative. This bill will be of benefit to all segments of our society and will be helpful to the economy. But we must continually strive toward the goals that remain: tax reform, a meaningful reduction in unemployment, and a fully productive economy.

Abraham Ribicoff.

MINORITY VIEWS OF SENATOR ALBERT GORE

Position in Brief

On balance, in the light of its design and consequences, and in view of its scope and magnitude, this is one of the most important and most ill-advised bills ever to come before the Congress for serious consideration.

Born of ineptitude in economic forecasting, sired by political considerations, and nurtured by the greed of special interests, it creates more inequity in many respects and bears no resemblance to true tax reform. Favoritism in tax law, furthered by H.R. 8363, threatens to erode our economic, political, and social structure.

Specifically, this bill—

(1) Is the embodiment of fiscal folly. While it is generally recognized, and I am no exception, that a balnced budget is not necessary or even desirable in every year, and in all circumstances, debt and deficit cannot be ignored indefinitely. After 3 years of unprecedented prosperity, expansion, and growth, and with nearly all the important economic indicators pointing upward, we certainly should not seek deliberately further to increase debt and deficit and to impair, for all foreseeable time our capacity to meet pressing public problems by a drastic reduction of governmental revenue.

(2) Provides no solution to our economic or social problems. The vast, unfulfilled economic needs of our society lie in the public sector—better housing for low-income groups, better mass transit systems, better educational facilities at all levels, better highways, more and better hospitals and nursing homes, more clean drinking and industrial water. The private sector of our economy is the wellspring of our continued prosperity, but this sector is fat with unused productive capacity. The unemployed and those burdened by poverty need specialized assistance in overcoming specific problems. Those who are so enamored of aggregates and macroeconomics fail to recognize that specific solutions are needed for very specific and pointed problems. The war on poverty is thus far but a skirmish of words—we need a pitched battle, with live and heavy ammunition, aimed at specific targets. Necessary programs require more, not less, revenue.

(3) Would provide the wrong type of tax cut, even if a large reduction in revenues were justified at this time. The tax reduction provided by this bill for the already very rich, through both a drastic reduction in high bracket personal income rates and a cut in corporate rates is unconscionable. Equity aside, sound economic theory is violated. If any shortage exists in our economy in the private sector, it is to be found in an absence of broadly based purchasing power. An equitable solution by way of revenue reduction would dictate a tax cut which would restore some of the prewar purchasing power which has, ever since that

time, been withheld. An increase in the personal exemption, with possible consideration being given to the restoration of some preferential treatment for earned income would be not only more equitable but more defensible from a purely economic standpoint. The reconcentration of wealth directly attributable to the tax cuts as well as indirectly realized from increased interest payments—acting as transfer payments—which will be stepped up by virtue of the built-in deficits created or increased by this bill, poses grave dangers. Political democracy can hardly survive without economic democracy.

Rate Reduction

GENERAL

The subject bill represents one of the most flagrant, obvious, and dangerous attacks of the past 35 years on the ideals, purposes, and underlying machinery of our economic democracy. Economic democracy is one of the hallmarks of our society, without which political democracy, social progress, and national purpose would soon cease to be.

In the name of equity this frontal attack is being made on the graduated income tax. The result will be a reconcentration of income and wealth in the 1929 pattern—an increased inequity.

In the name of economic expansion and employment opportunities, this bill would increase the already high liquidity of corporations, resulting not in increased jobs, but in increased automation, increased outflow of investment funds and jobs to Europe, and increased dividends to line the pockets of the rich and very rich.

In the name of social justice—the war on poverty, ignorance, disease, the hopelessness of those who dwell in city slums or in areas of worked out agricultural and mineral production—this bill would put the Federal Government in a fiscal straitjacket, denying to the Government the revenues required for any successful assault on poverty and its ugly bulwarks.

In the name of tax reform, this bill would, for at least a generation, dull the spur for real reform. Professed liberals will fain surprise in future wars for reform when they find themselves deserted by some of their current allies, even as the armies of David withdrew from Bathsheba's husband, leaving him naked and alone before the walls.

If the pattern of this bill is followed, we will likely witness, within the next few years, a worsening of our economy. We may well find ourselves repeating the 1954–57 pattern of nonsustainable productive capacity and increased unemployment.

Government—society organized for political purposes—does not exist for economic reasons alone, and I would never equate economic prosperity with the good life. But a society does not long live when it supports a politicoeconomic system which gives to the man who has one loaf two, while withholding from the man who has half a loaf or none.

Ideals and attitudes are as important as economics. The cynicism of some of the backers of this bill will be long remembered by those who are now without effective representation in Washington. Propaganda, like morphine, soon wears off. It will not be long before the majority of our citizenry awake to the realization of reality and know

that their bag is still empty and there never really was a snipe in the woods at all.

We decry and deplore waste and inefficiency in Government spending—and rightly so. But those who are so enamored of aggregates and mesmerized by macroeconomic manipulation in the private sector seem to assume that they have discovered in a tax cut economic perpetual motion—without waste, without inefficiency, without friction. All we need to do, we are told, is to release the "brake" of taxation on the economy and the private sector will expand in exactly the right ways to cure unemployment, without inflation of course, and will with perfect equity insure the good life for all, without Government interference or activity.

And all this without error in decisionmaking. Where was Adam Smith's "unseen hand" when the Edsel automobile was stillborn?

The theory behind a tax cut of this type and magnitude, under conditions existing today, will not stand close examination. Indeed, it is difficult to pin down the theory upon which some base their support for this bill.

Regardless of theory, the practical results of a tax cut of the type proposed will be diametrically opposed to the ostensible goals of many of its proponents. The implementation of this fiscal folly is a reckless gamble with our entire national economy.

In theory, assuming we are all Keynesians, and assuming further that conditions today fit the situation envisioned by Lord Keynes when he tried to adapt economic theory to fit the world stagnation of the late 1920's and early 1930's, a deficit will inflate the economy. This deficit can be achieved by increased spending or decreased revenues. But conditions are far different in these days of dynamic expansion.

The result of this bill will be to transfer yet another large slice of national production and wealth from those who produce wealth to those who parasitically participate in its enjoyment.

II. THE ADMINISTRATION POSITION

From the early and recurring rumors of a tax cut which gained wide circulation in the early fall of 1962 to the present time, it has been difficult to understand from statements issued by spokesmen for the administration the specific purposes of this proposed tax reduction.

At times this bill seems to have been regarded as a vehicle for long-range tax reform.

At other times it appers to have been sold as a hedge against more or less imminent recession.

At still other items, it appears to be straight Keynesian deficit financing for the avoidance of low-level equilibrium in the economy.

Under current conditions, and in the form in which this bill now exists. This legislation makes a mockery of any and all these purported positions.

The late President Kennedy in his tax message of January 24, 1963, stated:

> My recommendation for early revision of our tax structure is not motivated by any threat of imminent recession * * *.

But by March, when some of the indicators seemed to hang a bit, he seemed to have something else in mind, telling us:

> If we don't have the tax cut, it substantially, in my opinion, increases the chance of a recession * * *.

By May it became apparent that 1963 would be a good business year, and Secretary Dillon came back to the original theme. On May 7, 1963, the Secretary of the Treasury—a consistent follower of Republican theory and doctrine—told the Chamber of Commerce of New York:

> Above all, it must be borne in mind that the President's program is not intended—and is not designed—merely as a quick and temporary shelter against recession. It was designed—and has always been intended—as a permanent program to raise our long term rate of overall economic growth.

But again, the late President Kennedy on September 9 expressed concern that without a tax cut in 1963 "we may move into a period of economic downturn."

Meanwhile, Dr. Heller was working the Keynesian theme. I must say he has stuck pretty closely to this line, which he set out most explicitly in an article which appeared in November 1962 in Nation's Business:

HOW CUT WOULD SPUR GROWTH

> The U.S. economy has consistently fallen short of its employment, production, income, and profits goals in the past 5 years. A sizable cut in tax liabilities both of households and businesses throughout the Nation would push the economy toward more robust activity in three main ways—ways which would bring business stronger markets, expanded investment opportunities and healthier profits:
>
> 1. Tax reduction would increase the disposable income—the take-home pay of consumers. Careful analysis of past experience indicates that consumers consistently spend from 92 to 94 percent of their disposable income. History also shows that when this income is increased, a high proportion of the increase is promptly spent.
>
> When consumers spend this income, markets strengthen, production rises, new jobs are created, and income and profits rise accordingly. This creates added cycles of private spending. Boosted spending and income results in what economists call the "multiplier effect." It produces an increase in gross national product of perhaps two or three times the original reduction in taxes. Gross national product, the total output of goods and services, is, of course, a major indicator of growth.
>
> 2. By strengthening sales and pushing output closer to capacity, tax reduction spurs investment in inventories and in new equipment and new plants. This impact on investment in productive capacity is called the "accelerator effect." The increased production of capital goods expands gross national product, stimulates further consumption and increases profits. It reduces the deterrent effect of excess capacity,

which has tended to discourage investment in productive facilities during the past 5 years or so.

3. Reducing personal and corporate taxes raises profit margins for businessmen and enlarges the supply of internal business funds available for investment. Tax reduction thus strengthens the incentive to invest in two ways: Businessmen have money available to undertake the risks of new investment. And there is the prospect of larger after-tax returns to be earned on new productive facilities.

So, tax reduction would help business directly by reducing the tax load on business enterprise and indirectly by stimulating demand for both consumer goods and capital goods, thereby boosting the volume of sales and output. Indeed, tax cuts achieve their stimulating effect mainly by inducing business to employ, produce, and innovate.

President Johnson stated in his Economic Report, "The tax cut will give a sustained lift, year in and year out to the American economy." This would seem to indicate that this action is in the nature of some sort of permanent reform.

Its proponents claim this bill will:

1. Stimulate economic growth.
2. Balance the budget.
3. Relieve unemployment.
4. Solve the balance-of-payments problem.
5. Avoid inflation.
6. Promote tax equity.

This is just what the doctor ordered, and it all comes in one little pill which causes the happy patient no pain whatsoever.

III. ECONOMIC EXPANSION

It is claimed that this bill would stimulate the economy in two ways. First, consumers, having more money to spend by virtue of a tax cut, will spend more and thus create additional demand. Second, investors will have more money to invest by virtue of being able to show a better rate of return.

But these are only the first steps. At that point the "multiplier" and the "accelerator" take over and we bootstrap ourselves up to the point where—within a relatively short time, of course—we increase our gross national product by at least three times the amount of the tax cut.

If there were a shortage of funds for investment, a tax cut for corporations might induce more investment. If there were a shortage of spendable personal income, a tax cut for consumers might create increased consumer demand.

But do these conditions prevail? Not at all. Corporations are highly liquid and rarely need to go to the capital markets for outside money. Corporations sold only about $1 billion of new common stock last year. Personal income, although poorly distributed, continues to rise. The irony of the tax cut is that it would give increased spending and purchasing power to those who need it least and who would use it sparingly. The man on the bottom of the poverty pile pays no income taxes now. He needs income, not a tax cut.

Now, what is the likelihood of complete, or nearly complete, and prompt, spending of increased personal income? The prospects are not good.

Already personal savings are high. Increased take-home pay by way of a tax cut is apt to increase savings, at least for several months. Of course, the man who is out of a job, or the man who is trying to get by on such a small income that he has no tax to pay, would spend more money if he could get it, but this bill does nothing for him.

Savings are up 25 percent in the past 3 years. Secretary Dillon, himself, in an interview reported in Banking for May 1963, said, "At present when our economy is not operating at full speed, it is characterized by what one might call an excess of savings."

If there is now an "excess of savings," why would it be thought that marginal income would be largely spent rather than saved?

I am not the only one who questions this aspect of this bill. As long ago as February 26, 1963, an article appeared in the Wall Street Journal emphasizing this point. Here are two paragraphs from that article:

> To many economists, the savings rise suggests that a tax cut to spur consumer spending—as proposed by the Kennedy administration—may not be particularly effective, at least in the middle and upper income brackets. If consumer demand continues to lag, they argue, a considerable part of extra income from reduced taxes would go into savings, rather than be spent.
>
> "The theory behind the tax cut idea is that it will stimulate demand," says J. Walter Thompson's Mr. Johnson. "But the savings accumulation suggests this may not happen." John R. Bunting, vice president of the Philadelphia Federal Reserve Bank, expresses "concern" that income consumers may receive through lower taxes "will be siphoned out of the spending stream" into more savings.

There is now no shortage of investment funds in the corporate structure. On the other hand, corporations are highly liquid. Profits are rising, and cash flows are rising even faster.

I do not see how hard statistics can be overlooked. In 1963, corporate cash flows, after allowing for taxes, amounted to about $60 billion. After record dividend payments, this left well over $40 billion in the hands of corporate management. Investment in plant and equipment amounted to only about $39 billion. Would anyone logically think that increasing cash flows by way of a tax cut would materially increase investment in plant and equipment—given these conditions?

We now have further statistical proof that a tax cut will induce little in the way of increased plant and equipment expenditures.

According to Dr. Heller, in addressing the Printing Industries of Metropolitan New York on May 20, 1963, a McGraw-Hill investment survey reported that business executives attributed $1.2 billion of the planned increase in plant and equipment expenditures for 1963 over actual expenditures for 1962 to the investment credit passed in 1962 by Congress and to the depreciation revisions instituted the same year by the Treasury Department. When one considers that the tax reduction given business as a result of these two changes in taxation amounted to about $2.25 billion, and this reduction in

revenues induced a 50-cent investment of each tax dollar lost, can we expect any better results from an across-the-board tax cut?

I can see no way by which this tax cut can increase the GNP by $30 to $40 billion—not without inflation—even if we accept Keynesian theory as valid and apply it to existing conditions.

The principal results of a tax cut for corporations will be increased dividends and increased foreign investment which adds to balance-of-payments difficulties. A side effect is further to entrench the Big Three's and make it more nearly impossible for new enterprises to grow up and challenge them. Competition will be increasingly a thing of the past.

Certainly a tax cut will have some effect on economic growth. But that effect, under current conditions, will be much smaller, and slower in developing, than we have been led to believe. A tax cut, especially one weighted largely in favor of those who need it least, is the most expensive and least efficient way imaginable to get an economic boost.

IV. BUDGET BALANCING

It is a bit difficult to understand how this proposed tax cut is to balance the budget.

Dr. Heller and other more or less straight Keynesians have reasoned that through the magic of the "multiplier" and "accelerator" a tax cut of about $11 billion will cause an increase in the GNP of $40 billion or so and this increased economic activity will, in turn, bring in enough taxes at the new, lower rates to balance or nearly balance the budget.

President Kennedy seemed to start out on this tack in his tax message to Congress last January. He stated, as I have already pointed out, "It would be a grave mistake to require that any tax reduction today be offset by a corresponding cut in expenditures." This is genuine Keynesian theory. A deficit-creating tax cut will spur the economy, but this stimulating action would be offset and negated by a corresponding cut in Government expenditures. If these two actions were taken at the same time, they would pretty well cancel each other out.

There was, last January, no evidence that the late beloved President Kennedy wanted to cut back on worthwhile programs. Indeed, his budgets emphasized positive programs of development and were partially responsible for our economic expansion since 1961.

Mr. Ford's group issued a pronouncement during last year's "millionaire's march on Washington" which stated:

> We, therefore, believe it possible to hold Federal expenditures in fiscal 1964 below the level set forth in the budget this January. We believe this would have been impossible without the current pressures for economics generated by a proposed tax reduction. We urge the Congress and the administration to work jointly to achieve this goal.

This rationale is interesting. We are urged to cut taxes, reduce revenues, run up larger deficits, and it is argued that this will put additional pressure on the President and the Congress to cut spending. Of course, the spending which some want to cut is in the fields devoted to the social advancement of the whole country, to the attack on poverty, ignorance, disease, and hopelessness.

If we adopt the wrong kinds of expenditure reductions, we will certainly do untold harm to the Nation and to the economy. For we must continue to pursue worthwhile programs. Highways, education, health, etc., must not suffer if the Nation is to make any worthwhile progress. But these are the programs which will suffer under the kind of philosophy embraced by Mr. Ford.

V. THE "BRAKE" THEORY

We are told that our high tax structure acts as a "brake" on the economy, stifling both investment and consumer purchasing. Releasing this "brake" will, according to the argument, promote investment and increase final demand.

A favorite propaganda trick is to state a conclusion as the basis for a second conclusion, hoping that the first conclusion will be uncritically accepted as a proven fact. Those who try to sell this "brake" theory are indulging in just such sleight of hand.

We have heard the European countries praised for their swift postwar recovery, and for their wise fiscal policies which have reportedly promoted high rates of growth. How does the tax take of these countries compare with our own?

Secretary Dillon has testified that total taxes collected by all levels of government in the United States in 1961 amounted to 28 percent of gross national product. No major European country collected a smaller percentage—France, 35 percent; Germany, 35 percent; United Kingdom, 29 percent; Italy, 28 percent.

One might legitimately discuss the incidence of certain taxes, and argue that our tax structure needs to be reformed. But this is no argument for a reduction in total revenues. It is this latter situation which we face in this bill. Will those who now advocate tax cuts for the rich soon come before the Congress to propose replacing the revenue loss by a general excise tax, further to oppress the poor?

What about this "brake" theory so far as high bracket individual taxpayers in this country are concerned?

The regrettable fact is that the rich and the very rich do not now pay their fair share of the tax burden. And this bill makes the situation more, not less, inequitable.

The very rich now pay a low percentage of their realized income in taxes. From table I below, furnished by the Treasury Department, I have developed table II which shows just how light is the taxload at the upper end of the income scale.

The "brake" theory simply does not appear plausible unless one examines the lower end of the tax and income scale. It is here that we may need to restore the broad base of purchasing power which existed prior to World War II.

TABLE I.—*Tax savings and increase in after-tax income under House bill*

[Married couple with 2 dependents, with typical dividends, capital gains and other income,[1] and typical itemized deductions]

Adjusted gross income [1]	Present law		House bill		Tax cut or increase in after-tax income		
	Tax	After-tax income [2]	Tax	After-tax income [2]	Amount	Percentage tax cut	Percentage increase in after-tax income
$3,000	0	$3,131	0	$3,131			
$4,000	$143	3,987	$103	4,027	$40	28	1
$5,000	299	4,827	219	4,907	80	27	2
$6,000	455	5,671	339	5,787	116	26	2
$7,500	719	6,971	569	7,067	150	21	2
$10,000	1,193	8,993	972	9,214	221	19	2
$12,500	1,657	11,079	1,373	11,363	284	17	3
$15,000	2,196	13,189	1,830	13,555	366	17	3
$17,500	2,745	15,288	2,296	15,737	449	16	3
$20,000	3,369	17,344	2,820	17,893	549	16	3
$25,000	4,755	21,271	3,983	22,043	772	16	4
$30,000	6,322	25,139	5,297	26,164	1,025	16	4
$40,000	10,026	32,305	8,392	33,939	1,634	16	5
$50,000	14,254	38,947	12,217	40,984	2,037	14	5
$75,000	23,799	57,421	20,672	60,548	3,127	13	5
$100,000	33,965	79,247	29,670	83,542	4,295	13	5
$200,000	63,318	184,262	56,675	190,905	6,643	11	4
$500,000	154,249	567,116	138,216	583,149	16,033	10	3
$1,000,000	261,929	1,239,659	238,037	1,263,551	23,892	9	2

[1] Includes such income as wages and salaries, interest, rents, business and partnership income, royalties, and typical dividends and capital gains. Estimates of typical dividends and realized capital gains and itemized deductions are based on 1960 tax return data.

[2] After-tax income exceeds adjusted gross income for very-high-income-tax payers because 50 percent of the long-term capital gains, which constitute a high proportion of income for such taxpayers, is included in adjusted gross income under present law and 40 percent is included under the House bill.

Source: Office of the Secretary of the Treasury, Office of Tax Analysis, Oct. 11, 1963.

TABLE II.—*Effective tax rates under H.R. 8363*

[Married couple with 2 dependents, with typical dividends, capital gains, and other income,[1] and typical itemized deductions]

Adjusted gross income [1]	Realized income [2]	Tax under H.R. 8363	Tax as percentage of realized income	Adjusted gross income [1]	Realized income [2]	Tax under H.R. 8363	Tax as percentage of realized income
$3,000	$3,131	0	0	$25,000	$26,026	$3,983	15.3
$4,000	4,130	$103	2.5	$30,000	31,461	5,297	16.8
$5,000	5,126	219	4.3	$40,000	42,331	8,392	19.8
$6,000	6,126	339	5.5	$50,000	53,201	12,217	23.0
$7,500	7,636	569	7.4	$75,000	81,220	20,672	25.5
$10,000	10,186	972	9.5	$100,000	113,212	29,670	26.2
$12,500	12,736	1,373	10.8	$200,000	247,580	56,675	22.9
$15,000	15,385	1,830	11.9	$500,000	721,365	138,216	19.2
$17,500	18,033	2,296	12.7	$1,000,000	1,501,588	238,037	15.9
$20,000	20,713	2,820	13.6				

[1] Includes such income as wages and salaries, interest, rents, business and partnership income, royalties, and typical dividends and capital gains. Estimates of typical dividends and realized capital gains and itemized deductions are based on 1960 tax return data.

[2] Realized income exceeds adjusted gross income largely because adjusted gross income includes only 40 percent of capital gains under H.R. 8363 (50 percent under existing law).

NOTE.—Several items, such as tax-exempt interest, ½ of long-term capital gains, including so-called statutory gains which often have no logical relationship to capital transactions, depletion, and intangible drilling costs, are omitted from adjusted gross income and from realized income.

Source of basic data: Office of the Secretary of the Treasury, Office of Tax Analysis. See table on p. 709 of Finance Committee hearings.

The proponents of this legislation also err when they attempt to apply the "brake" theory to corporate taxation. Although stated corporate rates have not been reduced in recent years, the actual tax burden has been considerably lightened by changes in laws and regulations applicable to depreciation, and to the investment credit. Such

positive Government programs as stepped up research and development expenditures, most of which go to and through industry, have relieved corporations of the necessity for spending their own funds for activities they would otherwise have to budget for and undertake.

But let us look at corporation taxes as they are assessed against corporate gross income, not as they appear to be levied as a percentage of certain bookkeeping figures.

Just as it is necessary to go behind the stated rates and look at total income in order to know just what effective tax rate any individual pays, so is it necessary to look behind the stated 52 percent rate for corporations to determine just what the true tax and profit figures are.

Effective tax rates for corporations have been reduced quite steadily and regularly during the past few years. There were rapid amortization procedures during the Korean war, accelerated depreciation enacted in 1954, administrative changes in depreciation approved by the Treasury last year, the investment credit enacted last year, and the further liberalizing of this credit contained in the subject bill. Of course, we have retained the same stated rates, but the effect of these rates has been drastically altered, thus materially reducing the effective rate.

It seems difficult for some, economists and laymen alike, to understand that these actions have the effect of reducing the burden of income taxation on corporations. But the effect is just as real as is the effect on individuals when a new deduction, or an increase in an exemption, is enacted.

As proof of this, one has merely to look at the profits curve on page 7 of the Economic Indicators. Due to the fact that depreciation guidelines were revised so drastically last year, a new curve had to be started. The corporate profit figures are not now comparable to the figures prior to 1962.

Some facts relative to corporate profits, taxes, and cash flows are shown on table III below.

TABLE III

[In billions of dollars]

	Gross national product	Dividends paid	Corporate profits after tax	Corporate profits after tax plus capital consumption allowances	Dividends as a percent of gross national product	Dividends as a percent of corporate profits after tax	Corporate profits after tax plus CCA as a percent of gross national product	Dividends as a percent of corporate profits after tax plus CCA
1946	210.7	5.8	13.4	18.6	2.8	43.3	8.8	31.2
1947	234.3	6.5	18.2	24.5	2.8	35.7	10.5	26.5
1948	259.4	7.2	20.5	28.2	2.8	35.1	10.9	25.5
1949	258.1	7.5	16.0	24.5	2.9	46.9	9.5	30.6
1950	284.6	9.2	22.8	32.2	3.2	40.4	11.3	28.6
1951	329.0	9.0	19.7	30.7	2.7	45.7	9.3	29.3
1952	347.0	9.0	17.2	29.6	2.6	52.3	8.5	30.4
1953	365.4	9.2	18.1	32.2	2.5	50.8	8.8	28.6
1954	363.1	9.8	16.8	32.7	2.7	58.3	9.0	30.0
1955	397.5	11.2	23.0	41.4	2.8	48.7	10.4	27.0
1956	419.2	12.1	23.5	43.5	2.9	51.5	10.4	27.8
1957	442.8	12.6	22.3	44.1	2.8	56.5	10.0	28.6
1958	444.5	12.4	18.8	41.4	2.8	66.0	9.3	30.0
1959	482.7	13.7	24.5	48.7	2.8	55.9	10.1	28.1
1960	502.6	14.5	22.0	47.6	2.9	65.9	9.5	30.5
1961	518.2	15.3	21.8	48.6	3.0	70.2	9.4	31.5
1962	554.9	16.6	24.6	55.4	3.0	67.5	10.0	30.0
1963	575.7	17.4	26.1	58.0	3.0	66.7	10.1	30.0

Source: Staff of the Joint Committee on Internal Revenue Taxation.

This table shows that corporate profits after taxes just barely doubled between 1946 and 1963, while GNP almost tripled. This has led many to believe, and to state, that corporate profits have not kept pace with GNP. This has been cited as one of the reasons for our alleged slow rate of growth in recent years. It has been said that this is one reason for the lack of sufficient investment in new plant and equipment, and that this has, in turn, been one of the main causes of unemployment. Thus, the need for a tax cut for corporations.

But corporate profits after taxes plus capital consumption allowances have kept pace with GNP, running at a pretty steady 10 percent. Furthermore, dividends have kept pace with GNP, running about 3 percent.

If one claims that only the profit figures are to be considered, then he must of necessity condemn corporate management for paying out too much in dividends. Dividends being paid out today amount to about two-thirds of corporate profit after taxes. As a percentage of corporate profit after taxes, dividends have gone up 50 percent since 1946. If bookkeeping profit is in reality the key figure, then dividend payments are, without question, too high and more earnings ought to be retained.

The fact is that corporations are highly liquid, and cash flows have in recent years exceeded investment in new plant and equipment.

As for effective taxation, corporations got about $2.4 billion in tax reduction under the 1954 Internal Revenue Code. Last year they got another $2.25 billion as a result of changes in depreciation and enactment of the investment credit. What is the effective corporate tax rate? In 1946, corporate taxes amounted to about 33 percent of profits plus capital consumption allowances. Today, the comparable figure is about 29 percent. This is an effective tax reduction of about 12 percent.

Not only have we been cutting tax rates in a disguised form, but these cuts have not really been effective—or they have been inefficient—in promoting investment in plant and equipment. We have concrete proof of this.

The most optimistic statements I have seen about the effects of the $2.25 billion tax reduction given corporations last year have been to the effect that this cut has induced $1.2 billion of increased spending for plant and equipment. This is an efficiency of about 50 percent. Can we expect any better performance from this year's proposed cuts? I think not.

We give corporations a tax cut of $2 to induce them to spend $1 for plant and equipment. Hopefully this kind of expenditure, costly as it is to the Government, will create jobs. Actually it has not, and likely will not, at least not in manufacturing. We have lost about 1 million production jobs in manufacturing during the past 6 or 7 years, despite increased production.

Equity does not dictate a reduction in corporate tax rates, because dividends are maintaining pace with the economy as a whole, and the high income individuals, who own the large blocks of stock, are being given a drastic reduction in their own rates under the bill, H.R. 8363.

Economic reasons also fail to convince. A tax cut is a most inefficient way to induce expenditures by corporations. And plant and equipment expenditures in industry are not likely to create many jobs. Indeed, industry is daily accelerating the trend toward auto-

mation, thereby not only failing to create jobs, but even failing to maintain current job levels.

VI. UNEMPLOYMENT AND POVERTY

One of the more appealing arguments in favor of a mammoth tax cut is that this action will result in a drastic decrease in unemployment. It is a sad commentary on our economic and social system that so many who want and need jobs are unable to find them. Even worse, in some respects, is the fact that in many cases when jobs are available those who need those jobs are not qualified to fill them.

This is an appealing argument, because we want to insure, insofar as we are able, the right and the opportunity for each of our citizens who wants and needs a job to have one. We want our people to be self-supporting, self-reliant, prosperous, and secure.

But it is far from certain that the tax cut will reduce our excessive unemployment. Indeed, in my view, it is more likely, after about 18 months, to cause increased unemployment. A tax cut is not the place to start—or to stop a war on poverty and unemployment.

We need to look squarely at our unemployment and see just what it consists of and what has caused it. In what geographical, age, health, and ethnic areas is it concentrated? Can increased general demand cure it without causing inflation?

To begin with, we are not suffering unemployment because of a recession or depression. On the contrary, the economic indicators are, by and large, at alltime highs. We are not in that desperate condition we faced during the great depression when almost any gamble seemed in order—no matter how inefficient, or how dangerous.

We are not suffering unemployment because of lack of capital or productive capacity. The corporate sector is highly liquid; and about 12 to 15 percent of plant capacity is idle. Certainly our basic productive structure is sound, and we would have no trouble increasing production in almost any area where demand is spurred. But would this put many of the presently unemployed to work? Some confuse poverty and unemployment, and the two are closely linked. But we should always keep in mind that we do not have poverty for lack of production. Our situation economically is almost unique in recorded history. Characteristically and historically, there has been, in every society, a problem of sufficient total production. This is not our problem. We have an almost unlimited capacity to produce. Our basic problem is distribution, and the understanding of this fact is a necessary prerequisite to formulating any workable plan for an attack on unemployment and poverty. There must be a proper distribution of the fruits of national production, and this is best achieved in our society by a proper distribution of jobs which pay a decent wage.

There are two general ways of attacking unemployment. Such an attack can be directed toward increasing production and creating additional jobs. A slightly different type of attack focuses on a more equitable distribution of jobs without materially increasing total national production. We need to launch this two-pronged attack.

A tax cut does not fit into this picture. I am sorry to say that it will likely make matters worse. This is particularly true of the type of tax cut contained in the subject bill.

The first type of attack must be concentrated on increased production in the public sector, for this is where our unfulfilled demands now largely lie—for better rapid transit systems, better housing for low income groups, better educational facilities at all levels, better highways, more and better hospitals and nursing homes, more clean drinking and industrial water. It is here that jobs could readily, directly, and with profit to society, be created. But this takes public funds, which will be less available after passage of the tax bill.

Furthermore, to the extent this tax cut is effective in spurring increased investment, we are likely to build up a capacity which cannot be sustained by demand in the private sector, just as was the case in 1956–57. This may worsen unemployment in the not distant future, and especially so when accompanied by policies of economic retrenchment and monetary squeeze.

Those who would fight unemployment and poverty only by trying to increase overall demand do not understand the nature of the problem or the composition of the unemployed segment of our labor force, and the poverty-stricken in the midst of our affluence.

Present unemployment is largely structural. It is concentrated in certain geographical localities, certain age groups, certain social and ethnic categories. Unemployment is daily being worsened, or at least made more difficult to cure, by technological advances—automation, if one uses the term loosely.

From 1953 to 1962 investment in scientific research and development tripled. As a result, partially, of this effort, we are now losing 2 million jobs each year because of the laborsaving effects of increasing productivity. Manufacturing employs about 1 million fewer production workers than was the case just 6 or 7 years ago, despite vastly increased production.

This may be all to the good, and I know of no latter-day Luddites, but we must recognize the fact that no longer does increased production through increased overall demand create jobs in large numbers for the unskilled. The seeds of inflation would be sown by a shortage of skilled labor long before profitable work could be found for the bulk of presently unemployed. Altogether too large a proportion of our unemployed are not qualified to hold down productive positions in our highly mechanized and automated economy, even if those jobs could, somehow, be created.

Unemployment, and poverty, sprouting from such roots, cannot be cured by a tax cut. The type of unemployment problem we have requires more specific treatment. We must concentrate more on the public sector as well as upon encouraging and assisting private enterprise to play its part as the mainstay of our economy.

The other half of our two-pronged attack centers around encouraging certain types of persons to delay or refrain from entering the labor market—some temporarily, some permanently. After all, unemployment is a product of the participation rate—the numbers of people who say they want a job—as well as of the total number of jobs available.

One obvious place to begin here—and with profit to society—is to set up programs designed to delay the entry of young people into the labor market until they are better qualified. This would not only make for a more stable labor force, but it would also assist these young people individually to achieve a more well-rounded life, as well

as specifically to fit them for more productive jobs when they do enter the labor force. We have been altogether too timid about moving into this area. Education is the key here, not a tax cut. This kind of realistic and highly beneficial attack on unemployment will cost money, thus indicating the need for more, not less, Government revenue.

Another approach of this sort is to assist those wives and mothers who wish to devote more time to their homes and children and who really do not want to work, but who feel they must, to stay out of the active labor force. We could help them in their home life, and society as a whole, if we took steps to insure that the head of the household earned a proper wage so the family could maintain a decent standard of living without the mother having to leave the home every day to seek employment.

It is not generally realized, perhaps, just to what extent women have increasingly come into the labor force since World War II. At the same time, relatively more men have been dropping out of the labor force. This may not be socially desirable.

In 1947, the participation rate for women was 31.0 percent. This figure rose in 1962 to 36.7 percent. During the same period of time, the participation rate for men went down from 84.5 percent in 1947 to 79.3 percent in 1962.

Let me make it very, very plain that I favor full employment opportunities for men and women alike—the opportunity for a decent job for any man or woman who is able and willing to work. But I am opposed to a social and economic structure which forces wives and mothers to leave their homes and children daily to seek work because the head of the household is not paid a wage or salary which will keep the family in decent comfort. I am opposed, too, to a tax system that penalizes the parent as a taxpayer.

A tax cut for corporations and the high income brackets hardly fits in here. If a tax cut must be had, then tax relief for parents of the largest numbers of children would be fairest and of greatest benefit.

In this connection, also, we need to look more closely into the area of the minimum wage, overtime pay, and the length of the workweek.

Unemployment can be partially cured, of course, by increasing production. But, as I have pointed out, the increased production that is needed is not in the private sector where there are neither shortages nor reasonably full utilization of capacity, but in the public sector. A tax cut does not fit in here at all. Worse still, the capacity of the Government to provide for our pressing public needs will be seriously and permanently impaired by a drastic reduction in revenue.

We cannot cure unemployment and poverty by reducing revenues and leaving ourselves defenseless, bereft of our most useful weapon, before the onslaught of the next recession.

VII. BALANCE-OF-PAYMENTS CONSIDERATIONS

Because the economic royalists who are now running the Treasury Department refuse to take positive action to stem the outflow of private capital, or to take such other steps as might be indicated, the balance-of-payments problem persists. Indeed, our situation can hardly be said to have improved at all.

During 1962 there was some apparent improvement—more apparent than real, because there were several special operations, such as advance repayments well ahead of schedule, on obligations of certain foreign governments.

During the first half of 1963, capital flows reached runaway proportions. The apparent improvement during the last half of the year may be illusory, representing only a partially balancing of forces at work earlier in the year.

It is felt by proponents of the subject bill that a tax cut will help materially in solving our balance-of-payments problem. It will not.

It is felt, first, that the cost of production will be lower and our goods will be more competitive in world markets. We have not achieved lower prices as a result of the investment credit and depreciation changes, and both had the effect of reducing corporate taxes. We will not achieve lower prices as a result of this tax cut.

Even if we were to achieve lower prices through any mechanism whatsoever, this would not materially increase exports. Other countries use direct controls to regulate imports of merchandise and exports of capital. Witness the "chicken war." We will certainly not achieve a sufficiently large favorable balance in goods and services to overcome other areas of deficiency.

Proponents of this bill also claim that the economy will be so booming—without inflation, of course—and domestic investment will pay off so handsomely as a result of the enactment of this bill that no longer will money go abroad to find a higher rate of return.

This is an argument which is so fantastic that it is difficult to answer.

Investment decisions are dictated by many considerations—markets, raw materials, costs, taxes—and so long as out investors can earn high rates of return abroad, and build up their investment without the necessity of paying U.S. taxes, there will be continued encouragement to send funds abroad.

In 1962, the Congress took a timid step in the direction of closing off some of the tax haven operations abroad, but this did not really reach the direct investment problem.

In 1963, after it became apparent that interest rates could not be pushed high enough to stop portfoilo outflows without doing untold damage to the domestic economy, the administration proposed the so-called interest equalization bill. The threat of this legislation appears to have had some effect on portfolio outflows, but this effect now appears to be wearing thin.

It seems to be obvious that a positive program of regulation of capital flows is the answer to our direct and portfolio outflow of capital. But it would appear that no action along this line will be taken. Barring such action, the approach of indirect regulation by taxation is the next best thing. It is not sufficiently selective. Methods of avoidance will be found. But if this is the best we can do, let us at least do that.

All other modern industrial countries invoke positive controls whenever it appears to be in their interest to do so. The fact that we do not is difficult to understand or justify.

The most likely effects of the bill on the balance of payments are—

1. Increased imports.
2. No material change in exports. The domestic price level is, to the extent the bill is at all effective, likely to be inflated. This will likely make exports move more slowly.
3. Higher interest rates. This may slow down portfolio outflows, but it will, in turn, slow down the whole domestic economy.

All in all, it would seem that the bill will not help achieve a balance in our international payments.

VIII. TAX REDUCTION AND INFLATION

If I understand correctly the position of the proponents of this bill, it is not that it will help to curb inflation; rather, it will boost economic activity without causing inflation.

It is claimed that, because we now have high unemployment and unused plant capacity, we can have greatly increased production without inflationary pressures.

Although inflation does not seem to be a matter of major concern at the moment, the Consumer Price Index has crept up consistently, and some commodities are now beginning to push upward in price.

But what will happen if the tax cut really does react in the way its proponents hope it will?

Can any really large dent be made in the ranks of the unemployed without putting pressure on certain skills and categories of workers?

There are some relatively scarce categories of trained personnel, and pressures will be felt in these categories even though we still have several million of the unskilled and uneducated unemployed.

But what really concerns me more is the tight rope which must be walked—it is felt—by our money managers. My fear is that, in attempting to guard against monetary inflation, the Federal Reserve Board will raise interest rates and restrict the supply of money so that, having rid our house of the supposed evil spirit of high taxes, we will find it filled with the even more malevolent spirits of high interest rates, tight money, restrictive debt management, and reduced spending. Truly our final state will be worse than our former.

IX. EQUITY

Although economic considerations are important when considering the tax structure, equity must not be ignored.

There is little equity in this bill.

The new minimum standard deduction gives some relief to the lowest income groups, but it is not enough.

There is no better way to show the basic inequity of the changes in the rate structure which this bill makes—by far the most important part of the bill—than to note the increase in after-tax income or take-home pay which this bill gives to various income groups.

The tables below were prepared by the staff of the Joint Committee on Internal Revenue Taxation, and show (col. 8) the treatment which taxpayers in various income groups will receive from the rate reductions.

TABLE IV.—*Individual income tax liability: Under present-law tax rates, under H.R. 8363 tax rates, and under uniform percentage increase in taxable income after present-law tax; selected levels of taxable income, 1965, single person*

Taxable income	Tax		Taxable income after tax		Reduction in tax or increase in taxable income after tax				
					Under H.R. 8363			Under uniform percentage increase in taxable income after tax (5.95 percent)	
	Present law	H.R. 8363	Present law	H.R. 8363	Amount	As percent of present-law tax	As percent of taxable income after present-law tax	Amount	As percent of present-law tax
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
$500	$100	$70	$400	$430	$30	30.0	7.5	$24	24.0
$1,000	200	145	800	855	55	27.5	6.9	48	24.0
$1,500	300	225	1,200	1,275	75	25.0	6.3	71	23.7
$2,000	400	310	1,600	1,690	90	22.5	5.6	95	23.8
$4,000	840	690	3,160	3,310	150	17.9	4.7	188	22.4
$6,000	1,360	1,130	4,640	4,870	230	16.9	5.0	276	20.3
$8,000	1,960	1,630	6,040	6,370	330	16.8	5.5	359	18.3
$10,000	2,640	2,190	7,360	7,810	450	17.0	6.1	438	16.6
$12,000	3,400	2,830	8,600	9,170	570	16.8	6.6	512	15.1
$14,000	4,260	3,550	9,740	10,450	710	16.7	7.3	580	13.6
$16,000	5,200	4,330	10,800	11,670	870	16.7	8.1	643	12.4
$18,000	6,200	5,170	11,800	12,830	1,030	16.6	8.7	702	11.3
$20,000	7,260	6,070	12,740	13,930	1,190	16.4	9.3	758	10.4
$22,000	8,380	7,030	13,620	14,970	1,350	16.1	9.9	810	9.7
$26,000	10,740	9,030	15,260	16,970	1,710	15.9	11.2	908	8.5
$32,000	14,460	12,210	17,540	19,790	2,250	15.6	12.8	1,044	7.2
$38,000	18,360	15,510	19,640	22,490	2,850	15.5	14.5	1,169	6.4
$44,000	22,500	18,990	21,500	25,010	3,510	15.6	16.3	1,279	5.7
$50,000	26,820	22,590	23,180	27,410	4,230	15.8	18.2	1,379	5.1
$60,000	34,320	28,790	25,680	31,210	5,530	16.1	21.5	1,528	4.5
$70,000	42,120	35,190	27,880	34,810	6,930	16.5	24.9	1,659	3.9
$80,000	50,220	41,790	29,780	38,210	8,430	16.8	28.3	1,772	3.5
$90,000	58,620	48,590	31,380	41,410	10,030	17.1	32.0	1,867	3.2
$100,000	67,320	55,490	32,680	44,510	11,830	17.6	36.2	1,944	2.9
$150,000	111,820	90,490	38,180	59,510	21,330	19.1	55.9	2,272	2.0
$200,000	156,820	125,490	43,180	74,510	31,330	20.0	72.6	2,569	1.6
$300,000	247,820	195,490	52,180	104,510	52,330	21.1	100.3	3,105	1.3
$400,000	338,820	265,490	61,180	134,510	73,330	21.6	119.9	3,640	1.1
$600,000	520,820	405,490	79,180	194,510	115,330	22.1	145.7	4,711	.9
$800,000	696,000	545,490	104,000	254,510	150,510	21.6	144.7	6,188	.9
$1,000,000	870,000	685,490	130,000	314,510	184,510	21.2	141.9	7,735	.9

Source: Staff of the Joint Committee on Internal Revenue Taxation, Oct. 4, 1963.

TABLE V.—*Individual income tax liability under present law tax rates, under H.R. 8363 tax rates, and under uniform percentage increase in taxable income after present law tax; selected levels of taxable income; 1965; married couple—joint return*

Taxable income	Tax		Taxable income after tax		Reduction in tax or increase in taxable income after tax				
					Under H.R. 8363			Under uniform percentage increase in taxable income after tax (5.95 percent)	
	Present law	H.R. 8363	Present law	H.R. 8363	Amount	As percent of present law tax	As percent of taxable income after present law tax	Amount	As percent of present law tax
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
$1,000	$200	$140	$800	$860	$60	30.0	7.5	$48	24.0
$2,000	400	290	1,600	1,710	110	27.5	6.9	95	23.8
$3,000	600	450	2,400	2,550	150	25.0	6.3	143	23.8
$4,000	800	620	3,200	3,380	180	22.5	5.6	190	23.8
$8,000	1,680	1,380	6,320	6,620	300	17.9	4.7	376	22.4
$12,000	2,720	2,260	9,280	9,740	460	16.9	5.0	552	20.3
$16,000	3,920	3,260	12,080	12,740	660	16.8	5.5	719	18.3
$20,000	5,280	4,380	14,720	15,620	900	17.0	6.1	876	16.6
$24,000	6,800	5,660	17,200	18,340	1,140	16.8	6.6	1,023	15.0
$28,000	8,520	7,100	19,480	20,900	1,420	16.7	7.3	1,159	13.6
$32,000	10,400	8,660	21,600	23,340	1,740	16.7	8.1	1,285	12.4
$36,000	12,400	10,340	23,600	25,660	2,060	16.6	8.7	1,404	11.3
$40,000	14,520	12,140	25,480	27,860	2,380	16.4	9.3	1,516	10.4
$44,000	16,760	14,060	27,240	29,940	2,700	16.1	9.9	1,621	9.7
$52,000	21,480	18,060	30,520	33,940	3,420	15.9	11.2	1,816	8.5
$64,000	28,920	24,420	35,080	39,580	4,500	15.6	12.8	2,087	7.2
$76,000	36,720	31,020	39,280	44,980	5,700	15.5	14.5	2,337	6.4
$88,000	45,000	37,980	43,000	50,020	7,020	15.6	16.3	2,559	5.7
$100,000	53,640	45,180	46,360	54,820	8,460	15.8	18.2	2,758	5.1
$120,000	68,640	57,580	51,360	62,420	11,600	16.1	21.5	3,056	4.5
$140,000	84,240	70,380	55,760	69,620	13,860	16.5	24.9	3,318	3.9
$160,000	100,440	83,580	59,560	76,420	16,860	16.8	28.3	3,544	3.5
$180,000	117,240	97,180	62,760	82,820	20,060	17.1	32.0	3,734	3.2
$200,000	134,640	110,980	65,360	89,020	23,660	17.6	36.2	3,889	2.9
$300,000	223,640	180,980	76,360	119,020	42,660	19.1	55.9	4,543	2.0
$400,000	313,640	250,980	86,360	149,020	62,660	20.0	72.6	5,138	1.6
$600,000	495,640	390,980	104,360	209,020	104,660	21.1	100.3	6,209	1.3
$800,000	677,640	530,980	122,360	269,020	146,660	21.6	119.9	7,280	1.1
$1,000,000	859,640	670,980	140,360	329,020	188,660	21.9	134.4	8,351	1.0

Source: Staff of the Joint Committee on Internal Revenue Taxation, Oct. 4, 1963.

These tables show some very disturbing results. Whereas a married couple filing a joint return, having a taxable income subject to ordinary income rates of $3,000 per year, will gain $150 from the rate reductions in the bill, the more affluent couple with a taxable income of $300,000 will pick up an extra $42,660. As a percentage of taxable income, this would mean an extra 6.3 percent to this $3,000 couple, but an extra 55.9 percent to the $300,000 couple. For the really rich, the gain would be more than 100 percent in take-home pay after tax income.

It has been pointed out, and I want this clearly understood, that the table does not reflect the full picture insofar as the rich and very rich are concerned. The typical high income taxpayer is able to take advantage of many loopholes in the law. The affluent do not pay taxes in accordance with the regular, ordinary income tax rates. But the table does show the true picture with respect to whatever taxable income any taxpayer has to which the published ordinary income rates apply.

The majority of Americans pay their taxes in accordance with the stated rates. This is not true, however, of the "typical" taxpayer with a very large income. But the gain which would be realized under the tax bill by those in the upper income groups would be tremendous. In my view, it would be grossly unfair.

A far more equitable way of reducing taxes, if we can afford a large reduction in governmental revenue, would be to raise the personal exemption for each taxpayer and each dependent. This would give everyone a more nearly equal and equitable amount of tax benefit.

Referring again to the table, it shows that a taxpayer with a small income would receive a very small percentage increase in take-home pay. It would be a percentage increase of a small amount. But those who have large taxable incomes would receive a large percentage increase in take-home pay. It would be a large percentage of a large amount.

Instead of the pending bill making our tax system more progressive, more equitable, more stimulative primarily of the consumer element of our economy, it would do just the reverse. Its enactment would bring a more regressive tax law, a more unfair tax law, a more unjust tax law, and would allow those with really large incomes, who now do not pay their fair share now to pay less.

X. SUMMARY OF RATE REDUCTION ASPECTS OF THE BILL

With 3 years of rapidly expanding economy behind us and the prospect of another good year—perhaps the best in our history—before us, it would appear that our economy is doing quite well.

From the viewpoint of those who would use fiscal policy actively in a countercyclical way, this would appear to be the worst possible time to initiate and carry through a tax cut.

If a tax cut is indicated, the nature and magnitude of the cut could hardly coincide with the one provided by this bill. The broad base of our consumer purchasing power has not been restored since World War II, and it is this element of our economy, in the private sector, which may possibly need some stimulation. This kind of stimulation can best be brought about by raising the personal exemption. Equity, likewise, would dictate such a change.

We do have high unemployment and pockets of poverty, but the indicated corrective action must take into account specific problems and any acceptable solution must provide specific solutions. Increasing overall demand artificially through a tax cut which is poorly balanced will do little and at great cost.

Positive programs of education, and increased production in the public sector, will accomplish much, and at less cost in money. Moreover the benefits to society would be immeasurable in the long run.

Structural Changes

I. GENERAL

This bill makes a mockery of tax reform. There has been a tremendous slippage in reform from the general tenor of the remarks of administration spokesmen in 1962, to the actual proposals advanced by President Kennedy in January 1963, to the bill as approved by the Ways and Means Committee, and finally to the bill now reported from the Finance Committee.

I think it is not too extreme to say that this bill, providing as it does for enormous tax benefits for the rich and very rich through rate reduction in the upper brackets has rung the death knell for tax reform. What little reform there is in the bill, and it is miniscule when measured by obvious needs, will mark the last serious effort at reform for a generation.

Given a decent amount of time, the Senate might possibly be prevailed upon to make some significant moves toward reform. But the drumfire of propaganda and pressure for passage of this bill without quite taking the time to read it has made any serious discussion difficult if not impossible.

Under the circumstances, it is necessary to concentrate on a very few structural changes. My efforts shall be directed toward defending the public interest against special interest raids. There is so little hope of positive reform. There is such great fear of further damage.

II. THE INVESTMENT CREDIT

As is so often the case, a tax loophole once opened is quickly widened. The crevice deepens and an apparently slight erosion of the tax base soon becomes a great gully. Often this is a process which takes a few years. In the case of the investment credit, however, the ink was hardly dry when the beneficiaries of this tax refund—a refund which must come out of the pockets of average taxpayers—began efforts to fatten themselves further.

I will not here repeat what was stated in minority views signed by Senator Paul Douglas and me when the investment credit was first adopted in 1962. For anyone who might be interested, I would cite the Report of the Committee on Finance on the Revenue Act of 1962, page 396.

Section 203 of the subject bill as reported by the Finance Committee simply makes the investment credit twice as bad as it was when it was enacted. The credit now becomes an outright gift, with not even the pretense of partial recovery through slightly decreased depreciation allowances.

There is one additional provision in this section, however, which does not even relate to revenues, and therefore has no place in this bill, but which is conducive of untold mischief. I refer to section 203(e), which would direct the Federal regulatory agencies not to order any of the benefits of the investment credit "flowed through" to consumers.

Regulatory agencies have two basic choices in handling the treatment of the tax refunds represented by the investment credit.

One method is to "flow through" the tax cut, that is, put the tax savings into the net profit figure, where it would, of course, operate to raise the utility's rate of return. It does so operate, even if the company and the regulatory agency agree to allow it to be hidden somewhere else in the books—or to pretend it does not exist, that all apparent taxes were actually paid. But if logic, equity, and decency prevail, this tax savings will be shown as a reduction of costs, or an increase in profits, and the consumer, the customer of the utility, will eventually benefit through reduced rates.

The other choice, and the one which would in effect be ordered by this bill, is to "normalize" the tax savings, that is, to permit the utility to use this tax refund as it sees fit, while continuing to charge its customers the full price it would be allowed to charge if these taxes were, in fact, actually paid.

I think it is not putting the matter too strongly to say that the Congress is, with the passage of this bill with this section intact, ordering the regulatory agencies to participate in the perpetration of a fraud on the consumers of electricity, gas, and other goods and services which come to them from these favored companies which have been given monopolies, and against whom the consumer has no recourse—there is no competitive choice available to him.

On January 23, 1964, the Federal Power Commission announced its decision in favor of "flow through." Other Federal regulatory agencies are reluctant and indecisive, and are dawdling in the hope the Congress will prohibit them from performing their duty. They have been standing by since the investment credit was enacted in 1962.

But even industry spokesmen have, in some instances, spoken out against this unconscionable theft from their customers.

Mr. Donald C. Cook, president of American Electric Power Co., Inc., in a letter to the chairman of the Finance Committee, a copy of which was very kindly sent to me, and I am sure to all members of the committee, by Mr. Cook, has set out his views on this subject.

Here is a paragraph from Mr. Cook's letter:

> It is my view that the investment credit does in fact represent a reduction in current Federal income tax expense, and therefore a reduction in current operating expenses; that the investment credit will stimulate capital expenditures by utilities even if all or part of the tax saving is passed on to customers, or if the tax saving forestalls or reduces an otherwise necessary increase in rates; and, indeed, that the use of this tax saving to reduce or avoid an increase in the price of the taxpayer's product is best calculated to increase demand and in turn to stimulate plant investment, and thus to carry out the basic objectives underlying the adoption of the credit.

Mr. Cook went on to say that he understood that his views were shared by many other utility companies and regulatory agencies.

The question of equity and forced, if not false, bookkeeping aside, there are tremendous sums of money involved. By the passage of this section, the Congress is taking away from consumers some $300 million per year by forcing higher rates on the customers of natural gas pipelines and electric utilities under the jurisdiction of the Federal Power Commission alone, considering both their interstate and intrastate business. And this is just one segment of regulated activities.

If the matter would stop with the handling of the investment credit, the situation would be bad enough. But already proposals have been advanced to have the Congress order the Federal regulatory agencies to allow regulated monopolies to "normalize" with respect to other funds.

During the Korean war, rapid amortization certificates were issued to many companies. In the 1954 Code, accelerated depreciation was approved. As a consequence, the sums of money collected from consumers by the monopolies operating in the utility field—supposedly regulated—are truly astronomical.

Amendment No. 350 to this bill has already been offered and may well be brought up during floor debate. This amendment would order the Federal regulatory agencies to give the same treatment this bill accords the investment credit to amounts set aside under liberalized depreciation provisions.

Accumulated deferred taxes of companies under the jurisdistion of the Federal Power Commission amounted to some $2 billion at the end of 1962.

These amounts, set aside under provisions of section 167 and 168 of the code, have given rise to sizable tax-free dividends. With the enactment of the principle enunciated in this bill, section 203(e), consumers will be denied the benefit of past rate reductions. They will continue to pay rates based on phantom, nonexistent taxes which show on the books, but which are never, in actuality, paid.

III. CAPITAL GAINS TREATMENT

In one major respect, the Finance Committee has improved the bill. The committee decided to delete the provision in the House-passed version of this measure which provided for an inclusion factor of only 40 percent (50 percent under present law) and a maximum rate of 21 percent (25 percent under present law) for capital gains on assets held for 2 years or longer.

It is in the capital gains area that muchof the tax dodging takes place, and this action on the part of the committee is highly commendable. At least, it is commendable in that the committee did not make a sorry situation sadder. The committee did not, of course, go so far as to make any real improvement in existing law. Holding the line, however, is a noteworthy accomplishment.

It has become customary to reduce effective tax rates by allowing many transactions which are not logically capital transactions to be so classified. One often hears of a highly compensated executive "running his money through" oil or timber or cattle. Hopefully the time will come when some real progress can be made toward correcting the many abuses associated with capital gains. In the

meantime, it is important that things not be made even more unwholesome by reducing capital gains rates.

It is through the capital gains route that the rich and very rich are often able to reduce their effective tax rates. In this connection, the table prepared by the Treasury and which appears on page 2606 of the Finance Committee hearings, is most revealing.

This table shows that, under existing law, a taxpayer with adjusted gross income of $700,000 may pay an effective tax rate which will vary from 20.1 percent to 47.6 percent, according to whether he has a high or low proportion of capital gains in his income. Under the House bill, of course, the situation is worse, his rates varying from 18.1 to 39.9 percent.

What ever happened to the 91 percent, so-called "confiscatory" tax rate?

This table also shows that the taxpayer with adjusted gross income of $2 million might pay a rate as high as 46 percent if he has little capital gains, or as low as 18.5 percent if he has a lot of capital gains, under terms of the bill.

Incidentally, although the Treasury elsewhere has tried to show that the rich and very rich gain little from the bill's rate reductions for ordinary income, this table shows that this $2 million man with little capital gains keeps a full 10 percentage points more after taxes under the bill, and would have his effective rate cut from 56.7 percent under existing law to 46 percent under the House bill. This is a pretty good measure of the benefits he receives from the rate reduction part of this bill—upward of $200,000.

IV. STOCK OPTIONS

So much has been said by me and others on the evils of the restricted stock option that it would serve no useful purpose to repeat it here. I would call attention, for those who might be interested, to remarks which I made on the Senate floor during 1961, specifically on April 14, April 24, April 27, May 4, June 8, and August 8. The hearings held by the Finance Committee on this subject on July 20 and 21, 1961, also contain useful information, as do the hearings on the subject bill.

There are some basic objections to the restricted stock option.

First, it is a device which enables corporate insiders to take money from the corporation which rightfully belongs to the stockholders.

Second, it is another of the many gimmicks associated with capital gains by which ordinary income, in this case compensation, is treated as a capital gain for income tax purposes.

Third, it encourages manipulation on the part of corporate insiders which will work harm, in varying degrees, to the whole economy, and specifically to the securities markets.

The recently publicized Chrysler Corp. incident involving options is a good case in point, and I commend to my colleagues as interesting reading the report prepared by the Treasury for the Finance Committee on this maneuver.

The subject bill makes some improvement in the option area. It will, if enacted into law, cure some abuses. It will not cure all abuses, however, and I shall renew my efforts to remove from the bill the new "qualified" stock option which replaces the old section 421 type of "restricted" stock option.

ALBERT GORE.

Calendar No. 805

88TH CONGRESS
2d Session

SENATE

REPORT No. 830
Part 2

REVENUE ACT OF 1964

SUPPLEMENTAL REPORT

OF THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

TO ACCOMPANY

H.R. 8363

A Bill To Amend the Internal Revenue Code of 1954 To Reduce Individual and Corporate Income Taxes, To Make Certain Structural Changes With Respect to the Income Tax, and for Other Purposes

JANUARY 31, 1964.—Ordered to be printed

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Calendar No. 805

88TH CONGRESS
2d Session

SENATE

REPT. 830
Part 2

REVENUE ACT OF 1964

JANUARY 31, 1964.—Ordered to be printed

Mr. LONG of Louisiana, from the Committee on Finance, submitted the following

SUPPLEMENTAL REPORT

[To accompany H.R. 8363]

TECHNICAL EXPLANATION OF THE BILL

SECTION 1. SHORT TITLE, ETC.

(*a*) *Short title.*—Subsection (a) of section 1 of the bill (sec. 2 of the bill as passed by the House) provides that the bill may be cited as the "Revenue Act of 1964."

(*b*) *Amendment of 1954 Code.*—Subsection (b) of section 1 of the bill provides that whenever in the bill an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference is considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE I—REDUCTION OF INCOME TAX RATES AND RELATED AMENDMENTS

PART I—INDIVIDUALS

SECTION 111. REDUCTION OF TAX ON INDIVIDUALS

This section has been approved by your committee without change. For the technical explanation of this section of the bill, see page A–9 of the report of the Committee on Ways and Means on the bill (H. Rept. 749, 88th Cong., 1st sess.).

SECTION 112. MINIMUM STANDARD DEDUCTION

This section has been approved by your committee without change. For the technical explanation of this section of the bill, see page A-10 of the report of the Committee on Ways and Means on the bill.

SECTION 113. RELATED AMENDMENTS

This section has been approved by your committee without change. For the technical explanation of this section of the bill, see page A-12 of the report of the Committee on Ways and Means on the bill.

SECTION 114. CROSS REFERENCES TO TAX TABLES, ETC.

Section 114 of the bill contains cross references to the provisions of the bill relating to optional tax if adjusted gross income is less than $5,000 (sec. 301) and income tax collected at source (sec. 302).

Part II—Corporations

SECTION 121. REDUCTION OF TAX ON CORPORATIONS

Your committee has approved this section except for a technical clarifying change discussed below.

Section 121 of the bill amends section 11 of the code (relating to tax on corporations). Under the bill as passed by the House, subsection (d) of section 11 of the code provided that for purposes of subtitle A of the code (relating to income tax) the surtax exemption for any taxable year was to be $25,000 or the amount determined under section 1561 of the code (relating to surtax exemptions in case of certain controlled corporations), as added by section 237 of the bill (section 223 of the bill as passed by the House). Your committee has made a clarifying amendment, and as amended subsection (d) of section 11 provides that for purposes of subtitle A the surtax exemption for any taxable year is $25,000, except that, with respect to a corporation to which section 1561 applies, the surtax exemption is the amount determined under such section.

For the technical explanation of this section of the bill, see page A-12 of the report of the Committee on Ways and Means on the bill.

SECTION 122. CURRENT TAX PAYMENTS BY CORPORATIONS

This section has been approved by your committee without change. For the technical explanation of this section of the bill, see page A-13 of the report of the Committee on Ways and Means on the bill.

SECTION 123. RELATED AMENDMENTS

This section has been approved by your committee without change. For the technical explanation of this section of the bill, see page A-16 of the report of the Committee on Ways and Means on the bill.

Part III—Effective Dates

SECTION 131. GENERAL RULE

This section has been approved by your committee without change. For the technical explanation of this section of the bill, see page A–17 of the report of the Committee on Ways and Means on the bill.

SECTION 132. FISCAL YEAR TAXPAYERS

Except for conforming changes referring to the "Revenue Act of 1964" (instead of the "Revenue Act of 1963"), this section has been approved by your committee without change. For the technical explanation of this section of the bill, see page A–17 of the report of the Committee on Ways and Means on the bill.

TITLE II—STRUCTURAL CHANGES

SECTION 201. DIVIDENDS RECEIVED BY INDIVIDUALS

This section has been approved by your committee without change. For the technical explanation of this section of the bill, see page A–20 of the report of the Committee on Ways and Means on the bill.

SECTION 202. LIMITATION ON RETIREMENT INCOME

Section 202 of the bill, which is a new section added to the bill as passed by the House, amends section 37 of the code by inserting a new subsection (i) therein. Section 37 relates to the retirement income credit.

Under existing law eligible taxpayers 65 or over who receive taxable pensions or annuities, interest, rents, dividends, etc., and eligible taxpayers, regardless of age, who receive taxable pensions or annuities under public retirement systems (as defined in section 37(f)), are allowed a retirement income credit. To be eligible for the retirement income credit, a taxpayer must have received in each of any 10 calendar years before the taxable year earned income (as defined in section 37(g)) in excess of $600. The amendments made by section 202 of the bill make no change in existing law with respect to the foregoing.

Under existing law, the retirement income credit is computed by multiplying the amount of retirement income, limited to a maximum of $1,524, by the rate of tax on the first $2,000 of taxable income. The amendments made by your committee increase the limitation on retirement income under certain circumstances and are discussed below. Also under subsection (a) of section 113 of the bill, the rate against which retirement income (as defined in subsection (c) and as limited by subsection (d) of section 37) is to be multiplied for purposes of computing the retirement income credit is established as 15 percent.

Under existing law, the maximum retirement income of an individual on which the credit may be based ($1,524) is reduced by amounts received as a pension or annuity either under title II of the Social Security Act or under the Railroad Retirement Act of 1935 or 1937, and by amounts received from other pensions or annuities which

are exempt from tax. In the case of an individual who has attained the age of 62 but who has not attained the age of 72 before the close of the taxable year, the maximum retirement income on which credit may be based is also reduced by the sum of one-half the amount of earned income received during the taxable year in excess of $1,200 but not in excess of $1,700 and the amount of earned income in excess of $1,700. In the case of an individual who has not attained the age of 62 before the close of the taxable year, the maximum retirement income is reduced by the amount of earned income received during the taxable year in excess of $900.

Under existing law, the retirement income credit is computed separately for each spouse and each spouse is required to meet the earned income test in section 37(b) ($600 of earned income in each of any 10 prior years); except that in the case of a widow or widower whose spouse had received such earned income, such widow or widower is considered to have received earned income.

Subsection (a) of section 202 of the bill adds a new subsection (i) to section 37 of the code. The new subsection (i) provides for an increase, in certain cases, in the limitation on retirement income in the case of married taxpayers both of whom have attained the age of 65 before the close of the taxable year and who file a joint return for the taxable year.

Paragraph (1) of new section 37(i) provides that if both spouses meet the earned income test in subsection (b) of section 37 and if the sum of the retirement income and the amounts described in paragraphs (1) and (2) of subsection (d) of such section received by either spouse during the taxable year is less than $762, the $1,524 amount referred to in subsection (d) shall, with respect to the other spouse, be increased by an amount equal to the amount by which such sum is less than $762. If such sum is equal to or greater than $762, no such adjustment shall be made. The application of the provisions of paragraph (1) of new section 37(i) may be illustrated by the following example:

Example 1.—H and W, each of whom are 66 years of age and each of whom meets the earned income test in section 37(b), file a joint return for the calendar year 1964. During 1964, H receives as his only income $8,000 of retirement income and no social security benefits or other amounts described in paragraph (1) of section 37(d). During 1964, W receives as her only income $100 of retirement income and $500 under title II of the Social Security Act.

Under existing law, H is entitled to a retirement income credit computed on the maximum retirement income of $1,524. W is entitled to a retirement income credit computed on $100 of retirement income.

Under the new section (i), the $1,524 limitation on the retirement income of H would be increased by $162. The $162 increase is computed under paragraph (1) of new subsection (i) by subtracting from $762 the sum of the retirement income received by W ($100) and the social security benefits received by W ($500). The retirement income credit of W is not affected.

Paragraph (2) of new section 37(i) provides that if either spouse does not meet the earned income test in subsection (b) of section 37, the $1,524 amount referred to in subsection (d) of such section shall, with respect to the other spouse, be increased by $762 minus the sum of the amounts described in paragraphs (1) and (2) of subsection (d) received by the spouse who did not meet the earned income test.

The application of the provisions of paragraph (2) of new section (i) may be illustrated by the following example:

Example 2.—Assume the same facts as in example 1 above except that W does not meet the earned income test in section 37(b). Under existing law, H is entitled to a retirement income credit computed on the maximum retirement income of $1,524. (W is not entitled to any retirement income credit.)

Under the new section 37(i), the $1,524 limitation on the retirement income of H would be increased by $262. The $262 increase is computed under paragraph (2) of new subsection (i) by subtracting from $762 the social security benefits received by W ($500).

Subsection (b) of section 202 of the bill provides that the amendments made by section 202 of the bill apply to taxable years beginning after December 31, 1963.

SECTION 203. REPEAL OF REQUIREMENT THAT BASIS OF SECTION 38 PROPERTY BE REDUCED BY 7 PERCENT; OTHER PROVISIONS RELATING TO INVESTMENT CREDIT

Your committee has approved subsection (a) of section 203 of the bill (section 202(a) of the bill as passed by the House) with changes in the effective dates (discussed below); and has approved subsections (b) through (f) without change. For the technical explanation of subsections (b) through (f) of section 203 (sec. 202 of the bill as passed by the House) of the bill, see page A–25 of the report of the Committee on Ways and Means on the bill.

(*a*) *Repeal of requirement that basis be reduced.*—Subsection (a) of section 203 of the bill repeals section 48(g) of the code, which relates to adjustments to basis of section 38 property (that is, property with respect to which an investment credit is allowable), with respect to such property placed in service after December 31, 1963. In the case of property placed in service before January 1, 1964, subsection (a) of section 203 of the bill repeals section 48(g) with respect to taxable years beginning after December 31, 1963, and provides for an increase in basis as of the first day of the taxpayer's first taxable year which begins after December 31, 1963. Subsection (a) of section 203 also makes certain related amendments to the code.

Repeal of reduction in basis under section 48(g)(1)

Paragraph (1) of section 203(a) of the bill repeals paragraph (1) of section 48(g) of the code. (See below for discussion of repeal of paragraph (2) of sec. 48(g).) Under paragraph (1) of section 48(g), the basis of any section 38 property is reduced by an amount equal to 7 percent of the qualified investment (as determined under sec. 46(c)) with respect to such property. This reduction in basis is taken into account for purposes of subtitle A of the code, relating to income tax, except for purposes of computing, or recomputing, the investment credit. Thus, the reduction in basis is taken into account for purposes of computing depreciation deductions and for purposes of computing gain or loss on the sale or other disposition of the property.

This repeal is effective (under par. (4) of sec. 203(a) of the bill), in the case of section 38 property placed in service after December 31,

1963, with respect to taxable years ending after December 31, 1963; and in the case of property placed in service before January 1, 1964, with respect to taxable years beginning after December 31, 1963. Thus, a taxpayer who makes his return on the basis of a fiscal year ending March 31, must reduce the basis of any section 38 property placed in service before January 1, 1964, but is not required to reduce the basis of any section 38 property placed in service after December 31, 1963. No reduction in basis is to be made in the case of section 38 property the construction, reconstruction, or erection of which is completed, or which is acquired, before January 1, 1964, but which is placed in service after December 31, 1963.

Repeal of increase in basis under section 48(g)(2)

Paragraph (1) of section 203(a) of the bill also repeals paragraph (2) of section 48(g) of the code. Under paragraph (2) of section 48(g), if the tax under chapter 1 of the code is increased for any taxable year under paragraph (1) or (2) of section 47(a) of the code (relating to certain dispositions, etc., of sec. 38 property) or an adjustment in carrybacks or carryovers is made under paragraph (3) of such section, the basis of the property described in such paragraph (1) or (2) of section 47(a) is increased by an amount equal to the portion of such increase in tax, or the portion of such adjustment to carrybacks or carryovers, attributable to such property. The increase in basis is made immediately before the event which causes paragraph (1) or (2) of section 47(a) to apply. Thus, the increase in basis is taken into account for purposes of determining gain or loss on a disposition of the property.

This repeal is effective (under par. (4) of sec. 203(a) of the bill), in the case of section 38 property placed in service after December 31, 1963, with respect to taxable years ending after December 31, 1963; and in the case of property placed in service before January 1, 1964, with respect to taxable years beginning after December 31, 1963. Thus if, in February 1964, section 47(a) (1) or (2) applies to increase the tax of a taxpayer who makes his return on the basis of a fiscal year ending March 31, under chapter 1 of the code with respect to property placed in service in 1962, the basis of such property is increased under section 48(g)(2) by the amount of such increase in tax.

Increase in basis of property on account of prior reduction

Paragraph (2)(A) of section 203(a) of the bill provides, in general, that the basis of any section 38 property (as defined in sec. 48(a) of the code) placed in service before January 1, 1964, is to be increased, under regulations prescribed by the Secretary of the Treasury or his delegate, by an amount equal to 7 percent of the qualified investment with respect to such property. In determining the amount of such increase in basis, any prior increase in basis with respect to the property under section 48(g)(2) (in taxable years beginning before Jan. 1, 1964) is to be taken into account. Thus, the amount of the increase in basis under paragraph (2)(A) of section 203(a) of the bill is equal to the amount of the reduction in basis under section 48(g)(1) less any increase in basis under section 48(g)(2) with respect to such property. The basis of any section 38 property is not increased under paragraph (2)(A) of section 203(a) of the bill if the taxpayer dies in a taxable year beginning before January 1, 1964.

The increase in basis provided by paragraph (2)(A) of section 203(a) of the bill is to be made, under paragraph (2)(C) of section 203(a), as of the first day of the first taxable year of the taxpayer which begins after December 31, 1963. Generally, such increase in basis is to be taken into account by the person whose basis of the property was reduced under section 48(g)(1). Thus, in the case of partnership section 38 property, the increase in basis is to be taken into account by the partnership as of the first day of its first taxable year which begins after December 31, 1963. If a transaction to which section 381(a) of the code applies or a mere change in the form of conducting a trade or business (within the meaning of sec. 47(b) of the code) occurs before the increase in basis has been taken into account by the transferor, the increase in basis is taken into account by the transferee. For example, if calendar-year individual A, who placed section 38 property in service before January 1, 1964, transfers the section 38 property to calendar-year corporation X on September 1, 1963, in a transaction to which section 47(a) does not apply because such transaction constitutes a mere change in the form of conducting the trade or business, the increase in basis is to be taken into account by corporation X as of January 1, 1964.

The increase in basis is to be taken into account for purposes of computing depreciation deductions for the taxpayer's first taxable year which begins after December 31, 1963, and for all subsequent periods, and for purposes of computing gain or loss on the sale or other disposition of the property.

The provisions of paragraph (2)(A) of section 203(a) of the bill are illustrated by the following example:

Example.—X corporation, which makes its returns on the basis of the calendar year, acquires and places in service on January 1, 1962, an item of new section 38 property with a basis of $10,000 and an estimated useful life of 10 years. For the taxable year 1962, X is allowed a credit of $700 (7 percent of $10,000). Under section 48(g)(1) of the code, the basis of the property is reduced by $700. Under paragraph (2)(A) of section 203(a) of the bill, the basis of the property is increased on January 1, 1964, by $700 (7 percent of $10,000, the qualified investment). However, if such property had been sold by X on December 1, 1963, on such date the basis of such property is increased under section 48(g)(2) by $700, and there would be no further increase on January 1, 1964. If X was a partnership and if a partner had disposed of his partnership interest on December 1, 1963, and on such date the basis of such property had been increased under section 48(g)(2) by $500, the basis of the property would be increased on January 1, 1964, by only $200 ($700 minus $500). If X was an individual who died on December 1, 1963, there would be no increase under section 203(a)(2)(A) of the bill in the basis of such property.

Increase in rental deductions

Paragraph (2)(B) of section 203(a) of the bill provides that if, with respect to any section 38 property placed in service before January 1, 1964, a lessor made the election (provided by sec. 48(d) of the code) to treat the lessee as having purchased such property for purposes of the investment credit, the basis of such property is not to be increased under paragraph (2)(A) of section 203(a) of the bill. However, under regulations prescribed by the Secretary of

the Treasury or his delegate, the deductions otherwise allowable under section 162 of the code to the lessee with respect to such property for amounts paid to the lessor under the lease (hereinafter referred to as rental deductions) are to be adjusted in a manner consistent with paragraph (2)(A). The amount of the increase in rental deductions with respect to a leased property placed in service before January 1, 1964, may not exceed the sum of the actual decreases made (under the last sentence of sec. 48(d)) in the rental deductions with respect to such property. In determining the amount of the increase in such rental deductions, any prior increase in such deductions under the last sentence of section 48(d) because of the application of section 47(a) (in taxable years beginning before Jan. 1, 1964) is to be taken into account. The rental deductions with respect to any section 38 property are not to be increased under paragraph (2)(B) of section 203 (a) of the bill if the lessee dies in a taxable year beginning before January 1, 1964.

The amount of the increase in rental deductions with respect to a leased property is to be taken into account, commencing with the first taxable year beginning after December 31, 1963, over the remaining portion of the useful life used in making the decreases in rental deductions with respect to such property. Generally, if the lessee terminates the lease during this period, the portion of the increase which has not yet been taken into account is allowed as a deduction in the taxable year in which such termination occurs. If the lessee actually purchases the leased property during this period, the portion of the increase which has not yet been taken into account is added to the basis of the property at the date of purchase.

If a lessor of property makes the election under section 48(d) to treat the lessee as having purchased section 38 property for purposes of the investment credit and if such lessee in a taxable year beginning before January 1, 1964, actually purchases such property, the basis of such property is increased by 7 percent of the qualified investment with respect to such property (in a manner consistent with par. (2)(A) of sec. 203(a) of the bill) as of the first day of the first taxable year beginning after December 31, 1963.

The provisions of paragraph (2)(B) of section 203(a) of the bill are illustrated by the following example:

Example.—X corporation constructs a machine after December 31, 1961, and on February 1, 1962, leases the machine to Y, a calendar year taxpayer, who places it in service. The fair market value of the machine on the date on which possession is transferred to Y is $25,200 and the machine has an estimated useful life to X of 12 years. X elects to treat Y as the purchaser of the property for purposes of the investment credit. For purposes of computing qualified investment under section 46(c) of the code, the basis of the property to Y is $25,200 and Y's credit earned for 1962 with respect to such machine is $1,764 (7 percent of $25,200). Y's rental deductions with respect to such machine are decreased by $12.25 each month ($1,764 divided by 144 months). Under paragraph (2)(B) of section 203(a) of the bill, Y's rental deductions are increased by $281.75 ($12.25 multiplied by 23 months). Such increase is taken into account over the remaining 121 months of the useful life of the machine commencing with the taxable year 1964. If Y had actually purchased the machine from X on January 1, 1963, and had reduced the basis of the machine on such date by $1,629.25

($1,764 minus $134.75), the basis of such machine in Y's hands would be increased, on January 1, 1964, by $1,764 (7 percent of the qualified investment).

Certain leased property

Paragraph (3)(A) of section 203(a) of the bill repeals the last sentence of section 48(d) of the code. Under the last sentence of section 48(d), if a lessor makes an election to treat the lessee of section 38 property as having acquired such property for purposes of the investment credit, section 48(g) (relating to adjustments to basis) does not apply with respect to such property and the deductions otherwise allowable to the lessee under section 162 of the code for amounts paid to the lessor under the lease must be adjusted in a manner consistent with the provisions of section 48(g).

This repeal is effective (under par. (4) of sec. 203(a) of the bill), in the case of section 38 property placed in service after December 31, 1963, with respect to taxable years ending after December 31, 1963; and in the case of property placed in service before January 1, 1964, with respect to taxable years beginning after December 31, 1963. Thus, if lessor X elects to treat calendar year lessee Y, who placed section 38 property in service in July 1962, as the purchaser of the property for purposes of the investment credit, Y reduces his deductions for rental payments under section 162 of the code for his 1962 and 1963 taxable years, but does not reduce his rental deductions for any subsequent taxable year. If in December 1963 section 47(a) (1) or (2) of the code applies to increase Y's tax with respect to such property, Y's rental deductions with respect thereto are adjusted, under the last sentence of section 48(d), in a manner consistent with section 48(g)(2). However, if Y had placed the property in service on January 1, 1964, Y would not reduce or otherwise adjust his deductions for rental payments for any taxable year.

Deduction for certain unused investment credit

Paragraph (3)(B) of section 203(a) of the bill repeals section 181 of the code. Under section 181, if the amount of the credit earned for any taxable year exceeds the limitation provided by section 46(a)(2) (relating to limitation based on amount of tax) for such year and if any portion of such excess is not allowed as a credit after the application of the 3-year carryback and the 5-year carryover provisions, then the portion of such excess not so allowed as a credit in any of such taxable years is allowed to the taxpayer as a deduction in the sixth taxable year following the taxable year in which the credit was earned. Section 181 further provides that if a taxpayer dies or ceases to exist prior to such sixth taxable year, such taxpayer is allowed as a deduction, for the taxable year of such death or cessation, an amount equal to the proper portion of such excess.

This repeal is effective (under par. (4) of sec. 203(a) of the bill), in the case of section 38 property placed in service after December 31, 1963, with respect to taxable years ending after December 31, 1963; and in the case of property placed in service before January 1, 1964, with respect to taxable years beginning after December 31, 1963.

Adjustments to basis under section 1016

Paragraph (3)(C) of section 203(a) of the bill makes a technical amendment to section 1016(a)(19) of the code (relating to adjustments to basis).

Clerical amendment

Paragraph (3)(D) of section 203(a) of the bill amends the table of sections for part VI of subchapter B of chapter 1 of the code.

Effective date

Paragraph (4) of section 203(a) of the bill provides effective dates for the amendments made by paragraphs (1) and (3) of section 203(a). Paragraph (4)(A) provides that if the property involved is placed in service after December 31, 1963, then the amendments made by paragraphs (1) and (3) apply with respect to taxable years ending after December 31, 1963. Paragraph (4)(B) provides that if the property is placed in service before January 1, 1964, then the amendments made by paragraphs (1) and (3) apply with respect to taxable years beginning after December 31, 1963.

SECTION 204. GROUP-TERM LIFE INSURANCE PURCHASED FOR EMPLOYEES

(*a*) *Inclusion in income.*—Subsection (a)(1) of section 204 of the bill (sec. 203 of the bill as passed by the House) adds a new section 79 to part II of subchapter B of chapter 1 of the code (relating to items specifically included in gross income).

SECTION 79. GROUP-TERM LIFE INSURANCE PURCHASED FOR EMPLOYEES

(*a*) *General rule.*—The new section 79(a) has been approved by your committee with one change. In the bill as passed by the House, an exclusion was provided for the cost of the first $30,000 of group-term life insurance provided for an employee. Your committee has increased such exclusion to the cost of the first $70,000 of such insurance. For the technical explanation of the new section 79(a) of the code (other than the amendment made by your committee), see page A–29 of the report of the Committee on Ways and Means on the bill.

(*b*) *Exceptions.*—The new section 79(b) has been approved by your committee without change. For a technical explanation of this section, see page A–31 of the report of the Committee on Ways and Means on the bill.

(*c*) *Determination of cost of insurance.*—The new section 79(c) as passed by the House provides rules for determining the cost of group-term life insurance protection with respect to an employee. Your committee has modified this section to eliminate one of the two alternative methods of determining cost. As passed by the House, section 79(c) contains three paragraphs, paragraph (1), (2), and (3). Your committee has deleted paragraph (2) and has combined without substantive change the provisions contained in paragraphs (1) and (3) into section 79(c).

Uniform premium table method

Under the bill as passed by the House, paragraph (1) of section 79(c) provides that the cost of group-term life insurance protection on the life of an employee provided during any period is determined on the basis of uniform premiums (computed on the basis of 5-year age brackets) to be set forth in a table prescribed in regulations by the Secretary of the Treasury or his delegate. Your committee has made

this method the sole method of determining the cost of group-term life insurance with respect to any employee. Under the bill as amended by your committee, this method of determining cost is now set forth in the first sentence of the new section 79(c).

Policy cost method

Under the bill as passed by the House, paragraph (2) of section 79(c) provides that, in lieu of using the uniform premium table, the employer may elect, with respect to any employee, to determine the cost of such employee's group-term life insurance on the basis of the average premium cost under the policy for the ages included within the age bracket which is applicable to the employee under the provisions of paragraph (1). Your committee has deleted this provision from the bill.

Employed individuals over age 64

Under the bill as passed by the House, paragraph (3) of section 79(c) provides that in the case of an employee who has attained age 64, the prescribed cost cannot exceed the cost with respect to the individual if he were age 63. Under the bill as amended by your committee this provision is incorporated in the second sentence of the new section 79(c).

Example.—The operation of the new section 79 as amended by your committee may be illustrated by the following example. Assume that for a full taxable year an employee, age 52, is provided (under a policy carried by his employer) with $110,000 of group-term life insurance on his life and that his spouse is the beneficiary. Assume further that the uniform premium applicable at his age is $10.87 per $1,000 of protection and that the employee contributes $1 per $1,000 of protection. Based on these facts, the amount includible in the employee's income is computed as follows:

Total group-term life insurance protection	$110, 000
Less $70,000 exclusion	70, 000
	40, 000
Cost of $40,000 of insurance (40×$10.87)	434. 80
Less employee's contributions (110×$1)	110. 00
Amount includible in employee's gross income	324. 80

SECTION 204. GROUP-TERM LIFE INSURANCE PURCHASED FOR EMPLOYEES—Continued

Full-time life insurance salesmen

Subsection (a)(3) of section 204 of the bill amends section 7701(a)(20) of the code to provide that a full-time life insurance salesman who is considered an employee for purposes of chapter 21 of the code shall also be considered an employee for purposes of the new section 79. This subsection has been approved by your committee with a clerical change.

Certain contributions by employees for group-term life insurance

Subsection (b) of section 203 of the bill as passed by the House added a new section 218 to part VII of subchapter B of chapter 1 of the code (relating to additional itemized deductions for individuals). Your committee has deleted this subsection from the bill.

(*b*) *Withholding.*—Subsection (b) of section 204 of the bill (subsec. (c) of sec. 203 of the bill as passed by the House) amends section 3401(a) of the code (relating to definition of wages) by adding a new paragraph (14) at the end thereof. Under this new paragraph (14), as passed by the House, the term "wages" (for purposes of withholding of income tax at source on wages) includes remuneration paid in the form of group-term life insurance on the life of an employee, but only to the extent that the cost of such insurance is includible in the employee's gross income under the provisions of section 79(a) of the code (added to the code by this section of the bill). Your committee has amended the new paragraph (14) to provide that the term "wages" (for purposes of withholding of income tax at source on wages) does not include remuneration paid in the form of group-term life insurance on the life of an employee. In lieu of the deleted withholding provision, your committee has provided an information reporting requirement.

(*c*) *Information reporting.*—Subsection (c)(1) of section 204 of the bill adds a new section 6052 to subpart C of part III of subchapter A of chapter 61 of the code (relating to information concerning transactions with other persons).

The new section 6052(a) provides that every employer who, during any calendar year, provides group-term life insurance on the life of an employee during part or all of such calendar year under a policy (or policies) carried directly or indirectly by such employer shall make a return according to the forms or regulations prescribed by the Secretary of the Treasury or his delegate setting forth the cost of such insurance and the name and address of the employee on whose life such insurance is provided, but only to the extent that the cost of such insurance is includible in the employee's gross income under section 79(a). For purposes of the new section 6052(a), the cost of group-term life insurance is determined with reference to the cost of the life insurance (computed as provided in sec. 79(c)) provided to the employee, without regard to the time when the premium is paid by the employer. Under the provisions of the new section 6052(a), each employer paying remuneration to an employee in the form of group-term life insurance determines the amount includible in such employee's gross income under section 79(a) of the code as if such employer were the only employer paying the employee remuneration in the form of such insurance. Thus, an employer computes the amount includible in the gross income of an employee by applying a full $70,000 exclusion, without regard to whether another employer may also be furnishing group-term life insurance for the same employee during the same period.

The new section 6052(b) provides that every employer making a return under subsection (a) is to furnish to each employee whose name is set forth in such return a written statement showing the cost of the group-term life insurance shown on such return. The written statement required under the preceding sentence is to be furnished to the employee on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

Your committee has also provided that the penalties imposed by section 6652(a) of the code (relating to penalty for failure to file certain information returns) and section 6678 of the code (relating to penalty for failure to furnish certain statements) are to apply in the

case of each failure to file, with respect to an employee, a return or statement required by the new section 6052. See paragraph (2) of section 204(c), and paragraph (2) of section 222(b), of the bill.

(*d*) *Effective dates.*—Subsection (d) of section 204 of the bill provides that the amendments made by subsections (a) and (c) of this section of the bill, and paragraph (2) of section 222(b) of the bill, apply with respect to group-term life insurance provided after December 31, 1963, in taxable years ending after such date. The amendment made by subsection (b) applies with respect to remuneration paid after December 31, 1963, in the form of group-term life insurance provided after such date.

SECTION 205. AMOUNTS RECEIVED UNDER WAGE CONTINUATION PLANS

This section has been approved by your committee without change. For the technical explanation of this section of the bill, see page A–35 of the report of the Committee on Ways and Means on the bill.

SECTION 206. EXCLUSION FROM GROSS INCOME OF GAIN ON SALE OR EXCHANGE OF RESIDENCE OF INDIVIDUAL WHO HAS ATTAINED AGE 65

This section has been approved by your committee without change. For the technical explanation of this section of the bill, see page A–36 of the report of the Committee on Ways and Means on the bill.

SECTION 207. DENIAL OF DEDUCTION FOR CERTAIN STATE, LOCAL, AND FOREIGN TAXES

Section 207 of the bill as passed by the House consisted of three subsections. Subsection (a) of such section 207 revised subsections (a), (b), and (c) of section 164 of the code (relating to deduction for taxes). Subsection (b) of such section 207 made a number of technical amendments to the code and subsection (c) thereof contained the effective date provisions.

Your committee has made changes in subsection (a) of section 207 of the bill which affect subsections (a) and (b) of section 164 of the code. Subsection (b) of section 207 of the bill, as passed by the House, has been approved by your committee without change. Your committee has changed subsection (c) of section 207 of the bill by adding a new paragraph (2) thereto.

For the technical explanation of section 207 of the bill (other than the amendments made by your committee), see page A–40 of the report of the Committee on Ways and Means on the bill.

Section 164(a) as amended

Subsection (a) of section 164 of the code, as amended by the bill as passed by the House, provided, in part, that the following taxes would be allowed as a deduction for the taxable year within which paid or accrued:

(1) State and local, and foreign, real property taxes.
(2) State and local personal property taxes.

(3) State and local, and foreign, income, war profits, and excess profits taxes.

(4) State and local general sales taxes.

Your committee has added to the foregoing list State and local taxes on the sale of gasoline, diesel fuel, and other motor fuels and State and local taxes on the registration or licensing of highway motor vehicles and on licenses for the operation of highway motor vehicles. As a result of your committee's amendment, any State and local taxes within the scope of the amendment which are now deductible under section 164 remain so; any such taxes which are not presently deductible are not made deductible by such amendment.

Section 164(b) as amended

Your committee has added a new paragraph (5) to section 164(b) of the code, as amended by the bill as passed by the House, to provide a special rule in the case of separately stated general sales taxes and any tax on the sale of gasoline, diesel fuel, or other motor fuel. This provision corresponds to section 164(b)(2)(E) as passed by the House except that its scope has been broadened to apply to taxes on the sale of gasoline, diesel fuel, and other motor fuel. If a tax to which this special rule has application is imposed on the seller, but the amount of such tax is separately stated, then (as under existing law), to the extent that the amount so stated is paid by the consumer (otherwise than in connection with the consumer's trade or business) to his seller, such amount is treated as a tax imposed on, and paid by, such consumer.

Subsection (c) of section 207

Under the bill as passed by the House, paragraph (1) of section 164(c) of the code denied a deduction for taxes assessed against local benefits of a kind tending to increase the value of the property assessed, except for the portion of such taxes properly allocable to interest or maintenance charges. Such paragraph (1) retained the rules of present law now contained in paragraph (5) of section 164(b) of the code but did not retain the exception to those rules now contained in section 164(b)(5)(B) which allow the deduction of local benefit taxes levied by a special taxing district if the taxes meet the tests specified therein.

Your committee has made no change in the language of paragraph (1) of section 164(c) of the code as contained in the House bill. However, your committee has added a new paragraph (2) to section 207(c) of the bill which provides that section 164(c)(1), as amended, shall not prevent the deduction under section 164, of taxes levied by a special taxing district—

(1) which is described in section 164(b)(5) of the code (as in effect for a taxable year ending on Dec. 31, 1963), and

(2) which was in existence on December 31, 1963,

but only in the case of taxes levied for the purpose of retiring indebtedness which existed on December 31, 1963.

SECTION 208. PERSONAL CASUALTY AND THEFT LOSSES

This section has been approved by your committee without change. For the technical explanation of this section of the bill, see page A-45 of the report of the Committee on Ways and Means on the bill.

SECTION 209. CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS

(*a*) *Certain organizations added to additional 10-percent charitable limitation.*—Subsection (a) of section 209 of the bill as passed by the House has been approved by your committee without change. For the technical explanation of this subsection of the bill, see page A–47 of the report of the Committee on Ways and Means on the bill.

(*b*) *Limitation of unlimited charitable contribution deduction.*—Your committee has added a new subsection (b) to section 209 of the bill to provide a limitation on the existing unlimited charitable contribution deduction.

Existing law

An individual taxpayer is presently allowed an unlimited charitable contribution deduction if in the taxable year, and in 8 of the 10 preceding taxable years, the charitable contributions and income taxes paid by the taxpayer during such year exceed 90 percent of his taxable income computed without deduction for charitable contributions, personal exemptions, and net operating loss carrybacks. Under existing law, the charitable contributions which may be used to satisfy the 90-percent requirement include contributions to both publicly and privately supported organizations.

Changes made by your committee

Subsection (b) of section 209 of the bill, as reported, amends section 170(b)(1) of the code by redesignating subparagraph (D) as (E) and by inserting a new subparagraph (D). The new subparagraph provides that only contributions described in subparagraph (A) of section 170(b)(1) (i.e., contributions to those organizations to which the additional 10-percent limitation is applicable) will qualify as charitable contributions for purposes of the unlimited charitable contribution deduction provisions. In general, these organizations include churches, certain educational organizations, certain hospitals and medical research organizations, certain organizations affiliated with State colleges and universities, certain governmental units, and certain other publicly supported organizations. Thus, for taxable years begining after December 31, 1963, only contributions to such organizations shall be taken into account in determining whether the taxpayer has satisfied the 90-percent requirement of section 170(b)(1)(C) for the current taxable year and for those taxable years preceding the current taxable year which begin after December 31, 1963. Contributions not described in section 170(b)(1)(A), such as contributions to private foundations, will not qualify as charitable contributions for purposes of the unlimited charitable contribution deduction provisions.

The new section 170(b)(1)(D) also provides that for purposes of section 170(b)(1)(C), the amount of charitable contributions shall be determined without regard to new paragraph (5) of section 170(b) of the code (added by sec. 209(c) of the bill, as reported). Therefore, in determining whether a taxpayer has satisfied the 90-percent requirement of subparagraph (C) for a current taxable year which begins after December 31, 1963, and for those taxable years preceding the current taxable year which begin after December 31, 1963, contributions made in prior years, but which under the provisions of

new paragraph (5) are treated as having been paid in subsequent years, shall not be taken into account.

The new section 170(b)(1)(D) provides that section 170(b)(1)(C) shall apply only if the taxpayer so elects. Such election can only be made by those taxpayers who satisfy the requirements of section 170(b)(1)(C), as modified by new section 170(b)(1)(D). The time and manner of such election shall be prescribed under regulations promulgated by the Secretary of the Treasury or his delegate. If a taxpayer makes such election, subsection (a) of section 170 shall apply only with respect to contributions described in subparagraph (A) of section 170(b)(1). Thus, a taxpayer who elects to apply section 170(b)(1)(C) and thus to deduct contributions to a publicly supported charitable organization in excess of the generally applicable 30-percent limitation may not also deduct contributions which he makes to private foundations. In addition, the new section 170(b)(1)(D) provides that if a taxpayer elects to apply section 170(b)(1)(C), contributions made in the current taxable year, or in any prior taxable year, may not be treated under new paragraph (5) of section 170(b) of the code as having been made in the current taxable year or in any succeeding taxable year.

Effective date

New section 170(b)(1)(D) shall apply with respect to contributions which are paid in taxable years beginning after December 31, 1963.

(*c*) *Five-year carryover of certain charitable contributions made by individuals.*—Subsection (c) of section 209 of the bill, as reported, adds a new paragraph (5) to section 170(b) of the code (relating to limitations on charitable contribution deduction) to provide a carryover of certain excess contributions made by individuals.

Subparagraph (A) of new section 170(b)(5) provides, in general, that in the case of an individual, if the amount of charitable contributions described in paragraph (1)(A) of section 170(b) (relating to contributions to churches, certain educational organizations, certain hospitals and medical research organizations, certain organizations affiliated with State colleges or universities, certain governmental units, and certain other publicly supported organizations), payment of which is made within a taxable year, exceeds 30 percent of the taxpayer's adjusted gross income for such year (computed without regard to any net operating loss carryback to such year under section 172), such excess shall be treated as a charitable contribution described in paragraph (1)(A) paid in each of the 5 succeeding taxable years in order of time. However, with respect to any such succeeding taxable year, the amount which is to be treated as paid in such succeeding taxable year is limited to the extent of the lesser of two amounts: (*i*) the amount by which 30 percent of the taxpayer's adjusted gross income for such succeeding taxable year (computed without regard to any net operating loss carryback to such succeeding taxable year under section 172) exceeds the sum of the charitable contributions described in paragraph (1)(A) payment of which is made by the taxpayer within such succeeding taxable year (determined without regard to new paragraph (5)) and the charitable contributions described in paragraph (1)(A) payment of which was made in taxable years before the contribution year which are treated under this new rule as having been paid in such succeeding taxable year; or (*ii*) in the case of the first succeeding taxable year, the amount of such excess contribution, and in the

case of the second, third, fourth, or fifth succeeding taxable year, the portion of such excess not treated under new paragraph (5) as a charitable contribution described in paragraph (1)(A) paid in any taxable year intervening between the contribution year and such succeeding taxable year.

Under the provisions of new paragraph (5), no excess contribution carryover will be allowed with respect to contributions to organizations not described in subparagraph (A) of section 170(b)(1), such as private foundations.

The new paragraph (5) of section 170(b) does not apply with respect to estates or trusts.

The application of new paragraph (5) is illustrated by the following examples:

Example 1.—Taxpayer A has adjusted gross income for 1964 of $50,000. In 1964 A contributes $16,500 to a church and $1,000 to a private foundation. Under existing law, A could claim a charitable contribution deduction of $15,000 (30 percent of $50,000). Under the bill, as approved by your committee, A could claim a charitable contribution deduction of $15,000 in 1964 and would have a charitable contribution carryover of $1,500 (excess of $16,500 contribution to the church over 30 percent of adjusted gross income of $50,000) to succeeding taxable years. No carryover would be allowed with respect to the $1,000 contribution to the private foundation.

Example 2.—Assume the same facts as in example 1. Assume further that for 1965 A has adjusted gross income of $40,000, and in 1965 contributes $11,000 to a church and $400 to a private foundation. Under existing law, A could claim a charitable contribution deduction of $11,400. Under the bill, as approved, by your committee, $1,000 ($40,000×30 percent=$12,000−$11,000 contribution paid to church in 1965) of the $1,500 excess contribution to the church which was paid in 1964 would be treated as paid in 1965 and therefore A could claim a total charitable contribution deduction of $12,000 for 1965. The remaining $500 of the excess contribution paid to the church in 1964 would be available for purposes of computing the carryover from 1964 to 1966, 1967, 1968, and 1969. No carryover would be allowed with respect to the $400 contribution to the private foundation.

Subparagraph (B) of new section 170(b)(5) provides that in the application of subparagraph (A), the excess determined under such subparagraph for the contribution year shall be reduced to the extent that such excess reduces taxable income as computed for purposes of the second sentence of section 172(b)(2) (relating to amount of net operating loss carrybacks and carryovers) and increases the net operating loss deduction for a taxable year succeeding the contribution year. To prevent a double deduction which might arise from the interrelationship of the charitable contribution carryover and the net operating loss carryover, subparagraph (B) of new section 170(b)(5) provides, in effect, that an excess charitable contribution shall reduce taxable income only once.

Paragraph (2) of section 209(c) of the bill contains technical amendments. Section 545(b)(2) (relating to deductions for charitable contributions by personal holding companies) and section 556(b)(2) (relating to deductions for charitable contributions by foreign personal holding companies) are each amended, in effect, to provide that new

paragraph (5) of section 170(b) shall not apply for purposes of computing the deduction for charitable contributions provided under section 170 with respect to these organizations.

Effective date

New paragraph (5) of section 170(b) shall apply with respect to charitable contributions which are paid in taxable years beginning after December 31, 1963.

(*d*) *Five-year carryover of certain charitable contributions made by corporations.*—Subsection (b) of section 209 of the bill as passed by the House has been redesignated as subsection (d) and, with the exception of a change made in the effective date of this subsection, has been approved by your committee without change.

Under the bill as passed by the House, the 5-year corporate carryover applied only with respect to contributions which are paid (or treated as paid under sec. 170(a)(2) of the Internal Revenue Code of 1954) in taxable years beginning after December 31, 1963. Under the bill, as approved by your committee, the 5-year corporate carryover shall apply to taxable years beginning after December 31, 1963, with respect to contributions which are paid (or treated as paid under sec. 170(a)(2) of the Internal Revenue Code of 1954) in taxable years beginning after December 31, 1961.

For the technical explanation of this subsection of the bill, see page A–48 of the report of the Committee on Ways and Means on the bill.

(*e*) *Future interests in tangible personal property.*—Subsection (c) of section 209 of the bill as passed by the House has been redesignated as subsection (e) and has been approved by your committee with an amendment.

As passed by the House, a new subsection (f) was added to section 170 of the code. Section 170(a) of the code provides that a charitable contribution is allowable as a deduction for the taxable year during which payment thereof is made. The new section 170(f) adds a special rule to determine when a charitable contribution consisting of a future interest in tangible personal property is considered to be paid. Under the bill as reported, the new section 170(f) provides, in effect, that the gift of such an interest will be considered to be incomplete for so long as the contributor (or a person standing in a relationship to the contributor described in sec. 267(b) of the code (relating to losses, expenses, and interest with respect to transactions between related taxpayers)) retains an intervening interest or right to the actual possession or enjoyment of the property. Under this special rule, a charitable contribution of a future interest in tangible personal property is deemed paid only when (1) all intervening interests in, and rights to the actual possession or enjoyment of, the property have expired, or (2) all intervening interests in, and rights to the actual possession or enjoyment of, the property are held by a person or persons other than the contributor or related parties.

The bill as passed by the House also contains an exception which was stated in the last two sentences of new subsection (f). Such exception provided that the special rule of section 170(f) does not apply to a contribution in which the sole intervening interest or right is a nontransferable interest reserved by the donor which expires upon the donor's death, or, in the case of a joint gift by husband and wife, the sole intervening interest or right is a nontransferable interest reserved by the donors which expires upon the death of whichever of such donors

dies later. However, the right to transfer the reserved life interest to the donee of the future interest (i.e., the charity which receives the future interest contributed) was not treated as making a life estate transferable.

New subsection (f), as approved by your committee, eliminates this exception.

The application of new subsection (f), as approved by your committee, may be illustrated by the following example. If a taxpayer contributes a remainder interest in a painting which he owns to a charity, reserving to himself the right to possession of the painting during his lifetime, the retention of the right to possession is treated as a postponement in the payment of such contribution until his right to possession terminates. Thus, if the taxpayer subsequently transfers his intervening right to possession to the charity, or to an unrelated person (a person who does not stand in a relationship to the donor which is set forth in sec. 267(b)), payment of the remainder interest is thereupon deemed to have been completed and the value of such interest (computed as of the date the contribution is deemed to have been completed) is allowed as a deduction, subject to the limitations imposed by subsection (b) of section 170, in the year the donor's intervening right to possession is transferred. On the other hand, if the taxpayer retains any right to possession of the painting until his death, he is not entitled to an income tax deduction with respect to the remainder interest transferred on any return during his lifetime or on his final return. However, the retention of the right to possession until death would result in the inclusion of the painting in the taxpayer's gross estate and a deduction for the included value would be allowed to his estate, as a charitable transfer, for estate tax purposes.

Effective date

The amendments made by subsection (e) of the bill shall apply to transfers of future interests made after December 31, 1963, in taxable years ending after such date.

SECTION 210. LOSSES ARISING FROM EXPROPRIATION OF PROPERTY BY GOVERNMENTS OF FOREIGN COUNTRIES

Section 210 of the bill, which is a new section added to the bill as passed by the House, amends section 172 of the code to provide a 10-year carryover of certain expropriation losses.

(*a*) *Net operating loss carryover.*—Under the existing section 172(b)(1) of the code, relating to years to which a net operating loss may be carried, generally a net operating loss for any taxable year is a net operating loss carryback to each of the 3 taxable years preceding the taxable year of such loss and is a net operating loss carryover to each of the 5 taxable years following the taxable year of such loss.

Paragraph (1) of section 210(a) of the bill, as added by your committee, amends subparagraph (A)(i) of section 172(b)(1) of the code, relating to years to which a net operating loss may be carried, to provide that the 3-year carryback rule does not apply to the portion of a net operating loss for a taxable year attributable to a foreign expropriation loss.

Paragraph (2) of section 210(a) of the bill, as added by your committee, amends subparagraph (B) of section 172(b)(1) of the code

to provide that the 5-year carryover rule does not apply to the portion of a net operating loss for a taxable year attributable to a foreign expropriation loss.

Paragraph (3) of section 210(a) of the bill, as added by your committee, amends section 172(b)(1), relating to years to which a net operating loss may be carried, by adding to such section a new subparagraph (D). The new subparagraph (D) of section 172(b)(1) of the code provides that in the case of a taxpayer which has a foreign expropriation loss for any taxable year ending after December 31, 1958, the portion of the net operating loss for such year attributable to such foreign expropriation loss shall not be a net operating loss carryback to any taxable year preceding the taxable year of such loss and shall be a net operating loss carryover to each of the 10 taxable years following the taxable year of such loss. The term "foreign expropriation loss" is defined in a new subsection (k) added to section 172 of the code by paragraph (5) of section 210(a) of the bill, as added by your committee.

Paragraph (4) of section 210(a) of the bill, as added by your committee, amends section 172(b)(3), relating to special rules for net operating loss carrybacks and carryovers, by adding to such section new subparagraphs (C) and (D). Clause (i) of the new subparagraph (C) provides that the new subparagraph (D) of section 172(b)(1) of the code which allows the portion of a net operating loss for a taxable year attributable to a foreign expropriation loss to be carried forward for 10 years shall apply only if the foreign expropriation loss for the taxable year equals or exceeds 50 percent of the net operating loss for the taxable year.

Clause (ii) of the new subparagraph (C) provides that, in the case of a foreign expropriation loss for a taxable year ending after December 31, 1963, the new 10-year carryover provision shall apply only if the taxpayer elects (at such time and in such manner as the Secretary of the Treasury or his delegate by regulations prescribes) to have such new subparagraph (D) of section 172(b)(1) of the code apply.

Clause (iii) of the new subparagraph (C) provides that, in the case of a foreign expropriation loss for a taxable year ending after December 31, 1958, and before January 1, 1964, the new 10-year carryover provision shall apply only if the taxpayer elects (in such manner as may be prescribed by the Secretary of the Treasury or his delegate) on or before December 31, 1965, to have such new subparagraph (D) of section 172(b)(1) of the code apply.

The new subparagraph (D) of section 172(b)(3) of the code provides that if a taxpayer makes an election under such subparagraph (C)(iii), then (notwithstanding any law or rule of law), with respect to any taxable year ending before January 1, 1964, affected by such election (1) the time for making or changing any choice or election under subpart A of part III of subchapter N (relating to foreign tax credit) shall not expire before January 1, 1966, (2) any deficiency attributable to the election under subparagraph (C)(iii) of section 172(b)(3) of the code or the application of clause (i) of section 172(b)(3)(D) of the code may be assessed at any time before January 1, 1969, and (3) refund or credit of any overpayment attributable to the election under subparagraph (C)(iii) of section 172(b)(3) of the code or the

application of clause (i) of section 172(b)(3)(D) of the code may be made or allowed if claim therefor is filed before January 1, 1969. In the event that the period within which a deficiency may be assessed or a claim for refund filed would expire at a date subsequent to January 1, 1969, under section 6501 or 6511 of the code, then such later date shall apply.

Paragraph (5) of section 210(a) of the bill, as added by your committee, amends section 172, relating to net operating loss deduction, by redesignating the existing subsection (k) as subsection (l) and by adding to such section a new subsection (k). The new subsection (k) provides that (1) the term "foreign expropriation loss" means, for any taxable year, the sum of the losses sustained with respect to property by reason of the expropriation, intervention, seizure, or similar taking of such property by the government of any foreign country, any political subdivision thereof, or any agency or instrumentality of the foregoing, and (2) the portion of the net operating loss for such year attributable to a foreign expropriation loss is the amount of the foreign expropriation loss for such year (but not in excess of the net operating loss for such year). The amount of any loss sustained is determined under section 165 of the code.

(*b*) *Technical amendments.*—Paragraph (1) of section 210(b) of the bill, as added by your committee, amends subparagraph (B) of section 172(b)(2) of the code, relating to amount of carrybacks and carryovers, by placing the existing provisions of such subparagraph (B) in a new subparagraph (B)(i) and by adding to such section a new subparagraph (B)(ii). Under existing section 172(b)(2) of the code the portion of a net operating loss which shall be carried to each of the taxable years other than the earliest taxable year to which such loss may be carried shall be the excess, if any, of the amount of such loss over the sum of the taxable income for each of the prior taxable years to which such loss may be carried. The new subparagraph (B)(ii) provides that, in computing taxable income for any such prior taxable year, the amount of the net operating loss deduction shall be determined without regard to that portion, if any, of a net operating loss for a taxable year attributable to a foreign expropriation loss, if such portion may not, under paragraph (1)(D) of section 172(b) of the code, be carried back to such prior taxable year.

Paragraph (2) of section 210(b) of the bill, as added by your committee, amends section 172(b)(2), relating to amount of carrybacks and carryovers, by adding at the end of such section a new sentence. The new sentence provides, in effect, that the portion of a net operating loss for a loss year attributable to a foreign expropriation loss shall be considered to be a separate net operating loss for such loss year. Such portion attributable to a foreign expropriation loss is to be applied after the other portion of such net operating loss for such loss year, but prior to any net operating losses for subsequent taxable years.

(*c*) *Effective date.*—Subsection (c) of section 210 of the bill, as added by your committee, provides that the amendments made by such section 210 shall apply in respect of foreign expropriation losses sustained in taxable years ending after December 31, 1958.

SECTION 211. ONE-PERCENT LIMITATION ON MEDICINE AND DRUGS

Section 211 of the bill (sec. 210 of the bill as passed by the House) has been approved by your committee without change. For the technical explanation of this section of the bill, see page A–51 of the report of the Committee on Ways and Means on the bill.

SECTION 212. CARE OF DEPENDENTS

Section 212 of the bill (sec. 211 of the bill as passed by the House) amends section 214 of the code (relating to expenses for care of certain dependents). Subsections (a), (c), and (d) of section 214 of the code as amended by the bill as passed by the House and the effective date provision for this section of the bill have been approved by your committee without change. For the technical explanation of this section of the bill (other than the amendments made by your committee), see page A–52 of the report of the Committee on Ways and Means on the bill.

Subsection (b) of section 214, as amended by the bill as passed by the House, prescribed certain limitations on the allowability of the deduction otherwise authorized by subsection (a) of such section. The changes made by your committee in respect of these limitations are discussed below.

Dollar amount

Under the bill as passed by the House, subsection (b) of section 214 limited the deduction under section 214(a) to $600 for any taxable year except that such limit would be increased (to an amount not above $900) by the amount of expenses incurred by a taxpayer for any period during which the taxpayer had two or more dependents (within the meaning of amended sec. 214(d)(1) of the code). However, in the case of a woman who is married, the $600 limit would be increased only in respect of expenses incurred during a period while her husband was incapable of self-support because mentally or physically defective.

As amended by your committee, subsection (b) of section 214 limits the deduction under section 214(a) to $600 for any taxable year, except that such $600 limit—

(1) shall be increased (to an amount not above $900) by the amount of expenses incurred by the taxpayer for any period during which the taxpayer had two dependents (within the meaning of amended sec. 214(d)(1) of the code), and

(2) shall be increased (to an amount not above $1,000) by the amount of expenses incurred by the taxpayer for any period during which the taxpayer had three or more dependents (within the meaning of amended sec. 214(d)(1) of the code).

The provision of the bill as passed by the House dealing with the increase in the $600 limit in the case of a married woman (see the last sentence of the preceding paragraph) has been deleted.

Working wives and husbands with incapacitated wives

Under the bill as passed by the House, subsection (b) of section 214 further provided, in the case of a woman who is married and a husband whose wife is incapacitated, that the deduction otherwise allowable under section 214(a)—

(1) would not be allowed unless the couple files a joint return; and

(2) would be reduced dollar for dollar to the extent that the couple's combined adjusted gross income exceeds $4,500.

These conditions, however, were made inapplicable in certain specified situations.

The foregoing provisions of the bill as passed by the House have been approved by your committee and have been combined into one paragraph with an amendment providing that the deduction otherwise allowable under section 214(a) is to be reduced dollar for dollar to the extent that the couple's combined adjusted gross income exceeds $7,000 (rather than $4,500 as provided in the bill as passed by the House).

SECTION 213. MOVING EXPENSES

Section 213 of the bill (sec. 212 of the bill as passed by the House) has been approved by your committee except for a change in the effective date provision in subsection (d). The amendment made by subsection (c) of section 213 (relating to the definition of "wages" for withholding purposes) applied, under the bill as passed by the House, with respect to remuneration paid after December 31, 1963. As amended by your committee, such provision applies with respect to remuneration paid after the seventh day following the date of enactment of the bill.

For the technical explanation of this section of the bill, see page A–57 of the report of the Committee on Ways and Means on the bill.

SECTION 214. DEDUCTION FOR POLITICAL CONTRIBUTIONS

Section 214 of the bill, which is a new section added to the bill as passed by the House, relates to a deduction for certain political contributions in computing taxable income.

(*a*) *Allowance of deduction.*—Subsection (a) of section 214 of the bill amends part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) of the Internal Revenue Code of 1954 by inserting after section 217 (as added by sec. 213(a)(1) of the bill) a new section 218.

SECTION 218. CONTRIBUTIONS TO POLITICAL CANDIDATES AND POLITICAL COMMITTEES

Subsection (a) of section 218 allows an individual a deduction for any political contribution (as defined in subsec. (c)), payment of which is made during the taxable year. The deduction will be allowable only for the taxable year in which the contribution is paid. The method of accounting employed by the taxpayer and the time when the contribution is pledged are immaterial.

Subsection (b)(1) of section 218 limits the deduction under subsection (a) to an aggregate of $50 for any taxable year except that in the case of husband and wife filing a joint return, the deduction for any year is limited to $100. The amount of the deduction in the case of a joint return will not be affected even though the contributions are made by only one spouse.

Subsection (b)(2) of section 218 provides that the deduction under subsection (a) shall be allowed only if the political contribution is verified in accordance with regulations prescribed by the Secretary of the Treasury or his delegate.

The term "political contribution" is defined in subsection (c) of section 218 as a contribution or gift to a political candidate or a political committee for the purpose of furthering the candidacy of one or more individuals in a general, special, or primary election or in a convention of a political party. A contribution to an organization which engages in activities in addition to influencing the election of political candidates, such as general political education, could qualify if such contribution is made to further the candidacy of one or more individuals in a general, special, or primary election or in a convention of a political party and if the funds received from such contributions are segregated from funds for such other activities. The principles applicable under section 170 of the code (relating to charitable contributions) will be followed in determining what constitutes a contribution or gift and the amount thereof. Thus, only that portion of the cost of tickets to fund-raising dinners which represents the excess of the price of the ticket over the amount which would ordinarily be paid for the dinner will qualify as a contribution. In addition, the value of services rendered to a candidate or committee will not qualify as a contribution.

(*b*) *Technical amendment.*—Subsection (b) of section 214 of the bill amends section 642 of the code (relating to special rules for credits and deductions of estates and trusts) by redesignating subsection (i) as subsection (j) and inserting a new subsection (i) which provides that an estate or trust is not allowed the deduction for political contributions provided under section 218.

(*c*) *Effective date.*—Under subsection (c) of section 214 of the bill, only contributions or gifts payment of which is made on or after the date of the enactment of the bill in taxable years ending after such date will be allowable as a deduction under new section 218 of the code.

SECTION 215. 100 PERCENT DIVIDENDS RECEIVED DEDUCTION FOR MEMBERS OF ELECTING AFFILIATED GROUPS

Section 215 of the bill, which is a new section added to the bill as passed by the House, amends section 243 of the code (relating to the deduction for certain dividends received by corporations), and makes conforming technical amendments.

(*a*) *100 percent dividends received deduction.*—Subsection (a) of section 243, as amended, in substance incorporates the provisions of subsections (a) and (b) of existing section 243. Paragraph (1) of subsection (a) corresponds to subsection (a) of existing section 243 and paragraph (2) of subsection (a) corresponds to subsection (b) of existing section 243. Paragraph (3) of subsection (a), which has no counterpart in existing law, provides for a 100 percent deduction in the case of "qualifying dividends."

Qualifying dividends

Subsection (b)(1) of section 243, as amended, defines the term "qualifying dividends" to mean dividends received by a corporation which, at the close of the day the dividends are received, is a member of the same affiliated group of corporations (as defined in par (5)

of sec. 243(b)) as the corporation distributing the dividends, provided that the conditions prescribed in subparagraphs (A) and (B) of section 243(b)(1) are met.

Subparagraph (A) of section 243(b)(1) provides that such affiliated group which includes the distributing and recipient corporations must have made an election (under par. (2) of sec. 243(b)) which is effective for the taxable years of its member corporations which include the day of receipt.

Subparagraph (B) of section 243(b)(1) provides that such dividends must have been distributed out of earnings and profits of a taxable year which ends after December 31, 1963, and with respect to which two requirements are satisfied. First, under clause (i) of subparagraph (B), on each day of such taxable year the distributing corporation and the recipient corporation must have been members of such affiliated group. Second, under clause (ii) of subparagraph (B), an election under section 1562 (relating to election of multiple surtax exemptions) must not be effective for such taxable year.

The application of the provisions of section 243(b)(1) may be illustrated by the following examples:

Example (1).—On March 1, 1964, corporation P, a publicly owned corporation, acquires all the stock of corporations S and S–1 and continues to hold such stock throughout the remainder of 1964 and all of 1965. Corporations P, S, and S–1 are domestic corporations which file separate returns on the basis of a calendar year. An election under section 1562 was not effective for their taxable years ending December 31, 1964, and December 31, 1965. Corporation S makes a $5,000 distribution with respect to its stock on February 1, 1965, which is received by corporation P on the same date. Before taking into account this distribution, corporation S had earnings and profits for its taxable years ending December 31, 1964, and December 31, 1965, of $7,000 and $4,000, respectively. An election under section 243(b)(2) is effective for the taxable years of corporations P, S, and S–1 which include February 1, 1965. Accordingly, corporation P will be entitled to a 100 percent dividends received deduction under section 243(a)(3) with respect to $4,000 of the $5,000 distribution received from corporation S on February 1, 1965. Since $1,000 of the $5,000 distribution was made out of earnings and profits of corporation S for its taxable year ending December 31, 1964, and since corporations P and S were not members of the same affiliated group of corporations on each day of such year, $1,000 of the February 1, 1965, distribution would not constitute a qualifying dividend as defined in section 243(b)(1) (but would constitute a dividend entitled to an 85 percent dividends received deduction under sec. 243(a)(1)).

Example (2).—Assume the same facts as in example (1), except that corporation P held all the stock of corporations S and S–1 on each day of 1964 and sold the stock of S on November 1, 1965. Since an election under section 243(b)(2) is effective for the taxable years of corporations P, S, and S–1 which include February 1, 1965, corporation P will be entitled to a 100 percent dividend received deduction under section 243(a)(3) with respect to $1,000 of the $5,000 distribution received from corporation S on February 1, 1965. The $1,000 amount represents the portion of the February 1, 1965, distribution which was made out of the earnings and profits of corporation S for its taxable year ending December 31, 1964, a year for which the

requirements of section 243(b)(1) are met. Since $4,000 of the $5,000 distribution was made out of the earnings and profits of corporation S for its taxable year ending December 31, 1965, and since corporations P and S were not members of the same affiliated group of corporations on each day of such year, $4,000 of the February 1, 1965, distribution would not constitute a qualifying dividend as defined in section 243(b)(1) (but would constitute a dividend entitled to an 85 percent dividends received deduction under sec. 243(a)(1)).

Election

Paragraph (2) of section 243(b), as amended, provides that an election (referred to in subpar. (A) of sec. 243(b)(1)) is to be made by the common parent corporation for the affiliated group of corporations. The election is to be made with respect to a particular taxable year of the common parent corporation and is to be made at such time and in such manner as the Secretary of the Treasury or his delegate by regulations prescribes. An election may not be made for an affiliated group for any taxable year of the common parent corporation for which an election under section 1562 (relating to election of multiple surtax exemptions) is effective. A consent is required from each corporation which is a member of the affiliated group at any time during its taxable year which includes the last day of the particular taxable year of the common parent corporation with respect to which the election is made. The consent is to be made at such time and in such manner as the Secretary of the Treasury or his delegate by regulations prescribes.

Under subparagraph (A) of paragraph (2), an election will be effective for the taxable year of each member of the affiliated group which includes the last day of the taxable year of the common parent corporation with respect to which the election is made. However, in the case of a taxable year of a member beginning in 1963 and ending in 1964, if an election is made with respect to a taxable year of the common parent corporation which includes the last day of such taxable year of such member, then the election will be effective with respect to such taxable year of such member if it consents to such election with respect to such taxable year. Under subparagraph (B) of paragraph (2), an election will also be effective (unless terminated under par. (4) of subsec. (b)) for the taxable year of each member which ends after the last day of the taxable year of the common parent corporation with respect to which the election is made but which does not include such last day.

The application of the provisions of section 243(b)(2) may be illustrated by the following example:

Example.—Corporation P is a common parent corporation of an affiliated group of corporations consisting of corporations P and S. Corporation P files its income tax return on the basis of a fiscal year ending June 30 and corporation S uses a calendar year as the basis for its tax return. Corporation P makes an election under section 243(b)(2) with respect to its taxable year ending June 30, 1965. If the election is properly consented to by P and S, the election will be effective with respect to the fiscal year of corporation P ending June 30, 1965, and with respect to the calendar year of corporation S ending December 31, 1965 (the year including June 30, 1965, the last day of the common parent corporation's taxable year with respect to

which the election was made). Further, if corporation Y, which has a fiscal year ending September 30, becomes a member of such affiliated group on June 15, 1966, the election will be effective with respect to corporation Y's taxable year ending September 30, 1966, as well as P's taxable year ending June 30, 1966, and S's calendar year ending December 31, 1966, unless the election is terminated under paragraph (4) of section 243(b).

Effect of election

Paragraph (3) of section 243(b), as amended, provides that if an election, made for an affiliated group of corporations under paragraph (2) of section 243(b), is effective with respect to any taxable year of the common parent corporation, then under regulations prescribed by the Secretary of the Treasury or his delegate—

(1) no member of such affiliated group may consent to an election under section 1562 for such taxable year;

(2) the members of such group will be treated as one taxpayer for purposes of making the elections under section 901(a) (relating to allowance of foreign tax credit) and section 904(b)(1) (relating to election of overall limitation); and

(3) the members of such affiliated group will be limited to (i) one $100,000 mimimum accumulated earnings credit under section 535(c) (2) or (3); (ii) one $100,000 limitation for exploration expenditures under section 615 (a) and (b); (iii) one $400,000 limitation for exploration expenditures under section 615(c)(1); (iv) one $25,000 limitation on small business deductions of life insurance companies under sections 804(a)(4) and 809(d)(10); and (v) one $100,000 exemption for purposes of estimated tax filing requirements under section 6016 and the addition to tax under section 6655 for failure to pay estimated tax.

Termination

Paragraph (4) of section 243(b), as amended, provides for the termination of an election under paragraph (2). Such termination, if made, is effective with respect to a taxable year of the common parent corporation and with respect to the taxable years of the members of the affiliated group which includes the last day of such taxable year of the common parent corporation. Under subparagraph (A) of paragraph (4), an election will be terminated if the affiliated group files, with respect to a particular taxable year of the common parent corporation, a termination of such election (at such time and in such manner as the Secretary of the Treasury or his delegate by regulations prescribes). Each corporation which is a member of the affiliated group at any time during its taxable year which includes the last day of such taxable year of the common parent corporation must consent to the termination of the election.

Under subparagraph (B) of paragraph (4), an election will be terminated with respect to a taxable year of the common parent corporation if with respect to such year the affiliated group includes a member which was not a member of such group during such common parent corporation's immediately preceding taxable year, and if such member files a statement that it does not consent to the election at such time and in such manner as the Secretary of the Treasury or his delegate by regulations prescribes.

Definition of affiliated group

Paragraph (5) of section 243(b), as amended, defines the term "affiliated group" for purposes of subsection (b) of section 243. The term is to have the same meaning assigned to it by section 1504(a) except that section 1504(b)(2) and section 1504(c) will not apply. Thus, for purposes of section 243(b), an affiliated group includes those domestic corporations (including a corporation which is treated as a domestic corporation under sec. 1504(d)) which meet the stock-ownership test contained in section 1504(a), and which are "includible corporations" within the meaning of section 1504(b); however, any domestic insurance company subject to taxation under section 802 or 821 will be treated for this purpose as an includible corporation.

Special rules for insurance companies

Paragraph (6) of section 243(b), as amended, provides special rules for certain insurance companies. Subparagraph (A) of paragraph (6) provides that if an election under subsection (b) of section 243 is effective for the taxable year of an insurance company subject to taxation under section 802 or 821 of the code, then part II of subchapter B of chapter 6 of the code (relating to certain controlled corporations) will be applied without regard to section 1563(a)(4) (relating to certain insurance companies) and section 1563(b)(2)(D) (relating to certain excluded members) with respect to such company and the other corporations which are members of the controlled group of corporations (as determined under sec. 1563 without regard to subsecs. (a)(4) and (b)(2)(D)) of which such company is a member. Subparagraph (B) of paragraph (6) provides that if an insurance company subject to taxation under section 802 or 821 distributes a dividend out of earnings and profits of a taxable year with respect to which the company would have been a component member of a controlled group of corporations within the meaning of section 1563 except for subsection (b)(2)(D) thereof, such dividend will not be treated as a qualifying dividend unless an election under subsection (b) of section 243 is effective for such taxable year.

The application of the provisions of paragraph (6) of section 243(b) may be illustrated by the following example:

Example.—Throughout 1965 corporation M owns all the stock of corporations L, X, and Y. Corporation M is a domestic mutual insurance company subject to tax under section 821 of the code, corporation L is a domestic life insurance company subject to tax under section 802 of the code, and corporations X and Y are subject to tax under section 11 of the code. Each corporation uses the calendar year for its taxable year. Corporation L pays a dividend to corporation M in 1965 which is out of the earnings and profits of L's taxable year ending on December 31, 1965. Corporation M makes an election under section 243(b)(2) for 1965 for the affiliated group consisting of corporations M, L, X, and Y which is properly consented to by such corporations. The application of paragraph (6) of section 243(b) results in the following tax consequences:

(1) As a result of applying part II of subchapter B of chapter 6 in the manner described in subparagraph (A) of section 243(b)(6), corporations M, L, X, and Y will be limited to a single $25,000 surtax exemption for their taxable years ending December 31, 1965 (to be apportioned among such corporations in accordance with sec. 1561).

Although M and L are excluded members of the controlled group of corporations consisting of corporations M, L, X, and Y, by reason of the application of the excluded member rule contained in subparagraph (D) of section 1563(b)(2), subparagraph (A) of section 243(b)(6) requires that part II of subchapter B of chapter 6 of the code be applied with respect to M and L and the other members of the controlled group without regard to such rule.

(2) The distribution by corporation L to corporation M is a qualifying dividend within the meaning of paragraph (1) of section 243(b). Since the distribution is out of the earnings and profits of L for its taxable year ending December 31, 1965 (a year in which L would have been a component member of a controlled group of corporations within the meaning of sec. 1563 except for the excluded member rule contained in subsec. (b)(2)(D)), and an election under paragraph (2) of section 243(b) is in effect for such taxable year, the dividend is not disqualified by operation of subparagraph (B) of section 243(b)(6).

Subsection (c) of section 243, as amended, includes a new paragraph (4). New paragraph (4) provides that any dividend received which is described in section 244 (relating to dividends received on preferred stock of a public utility), as amended by subsection (b)(1) of this section of the bill, shall not be treated as a dividend for purposes of section 243, as amended. The corresponding provisions of existing law appear as parenthetical phrases in existing subsections (a) and (b) of section 243.

Subsection (d) of section 243, as amended, is the same as existing section 243(d) except for a conforming change.

(*b*) *Technical amendments.*—Subsection (b) of section 215 of the bill makes technical amendments to several sections of the code to conform them to the amendments made by subsection (a) of this section of the bill.

(*c*) *Effective date.*—Subsection (c) of section 215 of the bill provides that the amendments made by subsections (a) and (b) of such section shall apply with respect to dividends received in taxable years ending after December 31, 1963.

SECTION 216. INTEREST ON LOANS INCURRED TO PURCHASE CERTAIN INSURANCE AND ANNUITY CONTRACTS

Section 216 of the bill (section 213 of the bill as passed by the House) amends section 264 of the code to provide that, under certain circumstances, no deduction is allowed for interest on loans incurred or continued to purchase or carry certain life insurance, endowment, or annuity contracts. For a technical explanation of this section of the bill (other than the amendment made by your committee), see page A–60 of the report of the Committee on Ways and Means on the bill.

Subsection (a)(2) of this section of the bill as passed by the House provided that new paragraph (3) of section 264(a) of the code (added by subsec. (a)(1) of sec. 216 of the bill) would apply only in respect of contracts purchased after August 6, 1963. Under your committee's amendment, new paragraph (3) of section 264(a) of the code applies only in respect of contracts purchased after December 31, 1963.

SECTION 217. INTEREST ON INDEBTEDNESS INCURRED OR CONTINUED TO PURCHASE OR CARRY TAX-EXEMPT BONDS

Section 217 of the bill, which is a new section added to the bill as passed by the House, amends section 265(2) of the code by adding a new sentence at the end thereof.

Section 265(2) presently provides that no deduction shall be allowed for interest on indebtedness incurred or continued to purchase or carry obligations (other than certain obligations of the United States) the interest from which is wholly exempt from the taxes imposed by subtitle A of the code (relating to income taxes).

(*a*) *Application with respect to certain financial institutions.*—Section 217(a) limits the application of section 265(2) in the case of interest expense in respect of face-amount certificates issued by a financial institution (other than a bank) which is subject to the banking laws of the State in which such institution is incorporated. The amendment does not affect the application of section 265(2) in the case of banks.

Under section 265(2), as amended, interest expense incurred by such an institution—

> (1) on face-amount certificates (as defined in sec. 2(a)(15) of the Investment Company Act of 1940 (15 U.S.C. 80a–2)) issued by the institution, and
>
> (2) on amounts received by such institution to be applied toward the purchase of such face-amount certificates to be issued by the institution

is not to be considered as interest on indebtedness incurred or continued to purchase or carry obligations the interest on which is wholly exempt from the taxes imposed by subtitle A of the code to the extent that the average amount of such obligations held by such institution during the taxable year does not exceed 25 percent of the average of the total assets of the institution during the taxable year.

The Secretary of the Treasury or his delegate is required to prescribe by regulations the manner of computing the average amount of tax-exempt obligations held by such institution during the taxable year, and the manner of determining the average amount of the total assets held by such institution during the taxable year.

The computation of the average amount of tax-exempt obligations and the average amount of total assets is to be made not more frequently than weekly. Thus, if the Secretary or his delegate prescribes that such averages are to be computed as of the end of each week of the institution's taxable year, the percentage which the average amount of tax-exempt obligations is of the average amount of total assets of the institution for any taxable year shall be computed by dividing—

> (1) the sum of the investments of the institution, as of the end of each week of its taxable year, in obligations the interest on which is wholly tax-exempt, by
>
> (2) the sum of the total assets of the institution as of the end of each week of its taxable year.

If this computation results in a percentage figure in excess of 25 percent, there is interest on indebtedness which is subject to the first sentence of section 265(2). The amount thereof is obtained by multi-

plying the total interest expense for the taxable year on face-amount certificates and on amounts received for the purchase of such certificates by the percentage equal to the excess of such percentage figure over 25 percent.

In addition, any other interest expense of such institution is subject to the first sentence of section 265(2).

(*b*) *Effective date.*—Section 217(b) provides that the amendment made by section 217(a) shall apply with respect to taxable years ending after the date of enactment of the bill.

SECTION 218. REPEAL OF REQUIREMENT OF ALLOCATION OF CERTAIN TRAVELING EXPENSES

(*a*) *Repeal of section 274(c).*—Subsection (a) of section 218 of the bill, which is a new section added to the bill as passed by the House, amends section 274 of the code by repealing subsection (c) thereof. Section 274(c) provides that in the case of any individual who is traveling away from home in pursuit of a trade or business or in pursuit of an activity described in section 212, no deduction shall be allowed under section 162 or section 212 for that portion of the expenses of such travel otherwise allowable under such section which, under regulations prescribed by the Secretary of the Treasury or his delegate, is not allocable to such trade or business or to such activity. Such provision, however, does not apply to the expenses of any travel away from home which does not exceed 1 week or where the portion of the time away from home which is not attributable to the pursuit of the taxpayer's trade or business or to an activity specified in section 212 is less than 25 percent of the total time away from home on such travel.

(*b*) *Effective date.*—Subsection (b) of section 218 of the bill provides that the repeal made by this section shall apply with respect to taxable years ending after December 31, 1962, but only in respect of periods after such date.

SECTION 219. ACQUISITION OF STOCK IN EXCHANGE FOR STOCK OF CORPORATION WHICH IS IN CONTROL OF ACQUIRING CORPORATION

(*a*) *Definition of reorganization.*—Subsection (a) of section 219 of the bill, which is a new section added by your committee to the bill as passed by the House, amends subparagraph (B) of section 368(a)(1) of the code, relating to definition of a stock-for-stock reorganization. Under the existing section 368(a)(1)(B), the acquisition by one corporation, in exchange solely for all or a part of its voting stock, of stock of another corporation qualifies as a "reorganization" if, immediately after the acquisition, the acquiring corporation has control of such other corporation (whether or not such acquiring corporation had control immediately before the acquisition).

Subparagraph (B) of section 368(a)(1) of the code, as amended by this section of the bill, allows an acquiring corporation to exchange either its voting stock or the voting stock of a corporation which is in control of the acquiring corporation for the stock of another corporation.

(*b*) *Technical amendments.*—Paragraph (1) of section 219(b) of the bill, as added by your committee, amends subparagraph (C) of section 368(a)(2) of the code, relating to special rules. Under the existing section 368(a)(2)(C), a transaction otherwise qualifying as a "reorganization" under subparagraph (A) or (C) of section 368(a)(1), which relate respectively to statutory mergers or consolidations and stock-for-property reorganizations, is not disqualified by reason of the fact that part or all of the assets which were acquired in the transaction are transferred to a corporation controlled by the corporation acquiring such assets.

Subparagraph (C) of section 368(a)(2) of the code, as amended by this section of the bill, allows a corporation acquiring stock in a transaction otherwise qualifying as a "reorganization" under section 368(a)(1)(B), as amended by this section of the bill, to transfer part or all of such stock to a corporation controlled by the corporation acquiring such stock.

Paragraph (2) of section 219(b) of the bill, as added by your committee, amends the last two sentences of subsection (b) of section 368, relating to definition of a party to a reorganization.

The next to last sentence of section 368(b) of the code, as amended by this section of the bill, provides that in the case of a reorganization qualifying under subparagraph (B) or (C) of section 368(a)(1), if the stock exchanged for the stock or properties is stock of a corporation which is in control of the acquiring corporation, the term "a party to a reorganization" includes the corporation so controlling the acquiring corporation. The last sentence of the amended section 368(b) of the code provides that in the case of a reorganization qualifying under subparagraph (A), (B), or (C) of section 368(a)(1) by reason of subparagraph (C) of section 368(a)(2), the term "a party to a reorganization" includes the corporation controlling the corporation to which the acquired assets or stock are transferred.

(*c*) *Effective date.*—Subsection (c) of section 219 of the bill, as added by your committee, provides that the amendments made by such section shall apply with respect to transactions after December 31, 1963, in taxable years ending after such date.

SECTION 220. RETROACTIVE QUALIFICATION OF CERTAIN UNION-NEGOTIATED MULTIEMPLOYER PENSION PLANS

(*a*) *Beginning of period as qualified trust.*—Subsection (a) of section 220 of the bill, which is a new section added by your committee to the bill as passed by the House, amends section 401 of the code by redesignating subsection (i) as (j), and by inserting a new subsection (i). Section 401 relates to qualified pension, profit-sharing, and stock bonus plans.

In general, under existing law, employer contributions to a pension trust are deductible only under the provisions of section 404 of the code. Deductibility under that section in effect requires, if the employees do not have a nonforfeitable right to the contributions at the time they are made, that the trust be part of a pension plan of an employer which qualifies under section 401(a) of the code. One of the requirements for qualification included in the Treasury Department's regulations under that section is that the plan be in

the form of "a definite written program and arrangement which is communicated to the employees." However, under a multiemployer collective bargaining agreement, employer contributions are often made to or for a pension trust before a complete schedule of benefits has been adopted, so that such contributions are not made to a qualified trust and, if not vested, are not deductible.

The new subsection (i) applies to a trust forming part of a pension plan which has been determined by the Secretary of the Treasury or his delegate to constitute a qualified trust under section 401(a), and to be exempt from taxation under section 501(a), for a period beginning after contributions were first made to or for such trust. The new subsection (i) provides that where such a trust meets certain conditions, then it shall be considered as having constituted a qualified trust under section 401(a), and as having been exempt from taxation under section 501(a), for the period beginning on the date on which contributions were first made to or for such trust and ending on the date such trust first constituted (without regard to the new subsection) a qualified trust.

The conditions referred to in the preceding paragraph require that it be shown to the satisfaction of the Secretary of the Treasury or his delegate that: (1) such trust was created pursuant to a collective bargaining agreement between employee representatives and two or more employers who are not related (determined under regulations prescribed by the Secretary of the Treasury or his delegate); (2) any disbursements made prior to the period for which the trust was determined to be qualified (without regard to the new subsection) substantially comply with the terms of the trust (and plan) as so qualified; and (3) prior to the period for which the trust was determined to be qualified (without regard to the new subsection) contributions were not used in a manner which jeopardized the interests of the beneficiaries.

In some cases, employer contributions are held in escrow until such time as a trust is created. For purposes of applying the new subsection (i), such employer contributions which are held in escrow and later transferred to a qualified trust are "contributions made to or for such trust."

(*b*) *Effective date.*—Subsection (b) of section 220 of the bill provides that the amendments made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1953, and ending after August 16, 1954, but only with respect to contributions made after December 31, 1954. However, no provision of this section extends the period of limitations within which a claim for credit or refund may be filed for any taxable year.

SECTION 221. QUALIFIED PENSION, ETC., PLAN COVERAGE FOR EMPLOYEES OF CERTAIN SUBSIDIARY EMPLOYERS

Section 221 of the bill, which is a new section added to the bill as passed by the House, relates to the provision of qualified pension, profit-sharing, etc., plan coverage for certain employees of subsidairy corporations.

(*a*) *Employees of foreign subsidiaries covered by social security agreements.*—Subsection (a) of section 221 of the bill adds a new section 406 to part I of subchapter D of chapter 1 of the Internal Revenue

Code of 1954 (relating to pension, profit-sharing, stock bonus plans, etc.). The new section 406 relates to qualified pension, profit-sharing, etc., plan coverage for certain employees of foreign subsidiaries.

SECTION 406. QUALIFIED PENSION, PROFIT SHARING, ETC., PLAN COVERAGE FOR CERTAIN EMPLOYEES OF FOREIGN SUBSIDIARIES

(*a*) *Treatment as employees of domestic corporation.*—The new section 406(a) sets forth the rules relating to the treatment of certain employees of foreign subsidiaries who are covered under a social security agreement described in section 3121(l) of the code, entered into at the request of the domestic corporation, as employees of such domestic corporation. The new section 406(a) only applies in the case of a plan established and maintained by a domestic corporation which is a pension, profit-sharing, or stock bonus plan described in section 401(a) of the code, an annuity plan described in section 403(a) of the code, or a bond purchase plan described in section 405(a) of the code. The new section 406(a) provides that in the case of such a plan an individual who is a citizen of the United States and who is also an employee of a foreign subsidiary (as defined in section 3121(l)(8) of the code) of the domestic corporation shall be treated as an employee of such domestic corporation if certain requirements are satisfied. Under the new section 406(a), the deemed employer-employee relationship can only exist if the plan of the domestic employer is qualified. However, if the plan of the domestic employer is qualified, then the fact that the trust which forms a part of such plan is not exempt from tax under section 501(a) of the code does not affect such employer-employee relationship.

The first of the requirements of the new section 406(a) is that the domestic corporation has entered into an agreement described in section 3121(l) of the code, relating to agreements entered into by domestic corporations with respect to foreign subsidiaries, and such agreement covers the foreign subsidiary of the domestic corporation in which the individual is employed. Therefore, there is brought into play, as a condition precedent to obtaining the benefits of section 406, the rules set forth in section 3121(l) which relate to the circumstances under which a domestic corporation may enter into an agreement for the purpose of extending the benefits provided by title II of the Social Security Act to certain services performed outside the United States, and to the obligations of the domestic corporation which enters into such an agreement.

The second requirement is that the qualified plan of the domestic employer must expressly provide coverage for the U.S. citizen employees of all foreign subsidiaries which are covered under the agreement described in section 3121(l) of the code which has been entered into by the domestic corporation. However, such requirement does not modify the requirements for qualification set forth in section 401(a) of the code which are applicable to such plan. Thus, such plan must satisfy the requirements of section 401(a) after such plan is amended to cover individuals who are employees within the meaning of section 406(a). The plan need not provide actual benefits for all citizen employees of all such foreign subsidiaries; for example, some such employees may not receive benefits if they are excluded by reason of a nondiscriminatory classification or other provision of the plan.

The third requirement for qualification of an individual as an employee is that contributions under a funded plan of deferred compensation are not provided by any other person with respect to the remuneration paid to such individual by the foreign subsidiary. Contributions are provided under a funded plan of deferred compensation; for example, if contributions are provided for such individual under a plan described in section 401(a) of the code, section 403(a) of the code, or section 405(a) of the code. If any portion of such remuneration is covered under another plan by a person other than the domestic parent, such employee cannot be treated as the employee of the domestic corporation.

(*b*) *Special rules for application of section 401*(*a*).—The new section 406(b) provides certain special rules for the application of section 401(a) of the code in the case of a plan which covers an individual who is treated as an employee of a domestic corporation under the new section 406(a).

Paragraph (1) of such section 406(b) provides certain rules regarding the application of section 401(a) (3)(B) and (4) of the code in the case of a plan which covers such an individual. Paragraph (1)(A) of section 406(b) provides that if such an individual is an officer, shareholder, or person whose principal duties consist in supervising the work of other employees of a foreign subsidiary of such domestic corporation, he shall be treated as having such capacity with respect to the domestic corporation. Thus, for example, if an individual who is an employee within the meaning of section 406(a) is an officer of a foreign subsidiary, he is considered to be an officer of the domestic corporation treated as his employer for the purpose of determining whether the plan of such domestic employer satisfies the nondiscrimination requirements of section 401(a) (3)(B) and (4).

Paragraph (1)(B) of section 406(b) provides that the determination of whether an individual who is treated as an employee under the new section 406(a) is a highly compensated employee for purposes of section 401(a) (3)(B) and (4) of the code is made by treating such individual's total compensation (as computed in accordance with the provisions of par. (2) of sec. 406(b)) as compensation paid by the domestic corporation and by determining such individual's status as a highly compensated employee with regard to such domestic corporation.

Paragraph (2) of the new section 406(b) sets forth the rules regarding determination of the compensation of an individual who is treated as an employee of a domestic corporation under section 406(a) of the code. Such rules are applicable whenever the compensation of such an individual is to be determined for the purpose of determining whether the plan satisfies the requirements for qualification set forth in section 401(a). Paragraph (2)(A) of section 406(b) provides that, for the purpose of applying section 401(a)(5) with respect to such an individual, his total compensation is the remuneration paid to him by the foreign subsidiary which would constitute his total compensation if his services had been performed for the domestic corporation treated as his employer. In addition, such paragraph (2)(A) provides that the portion of the individual's total compensation which constitutes his basic or regular rate of compensation shall be determined under regulations prescribed by the Secretary of the Treasury or his delegate.

Paragraph (2)(B) of section 406(b) provides that an individual who is treated as an employee under section 406(a) shall be treated as having paid the amount paid by such domestic corporation which is equivalent to the tax imposed by section 3101 of the code (relating to the tax imposed on employees) with respect to such individual. Thus, the administrative rules relating to the determination of the contributions or benefits provided by the employer under the Social Security Act apply for purposes of determining whether the plan meets the requirements of section 401.

(*c*) *Termination of status as deemed employee not to be treated as separation from service for purposes of capital gains provisions.*—The new section 406(c) provides that the termination of status as an employee within the meaning of section 406(a) shall not be treated as separation from service for purposes of sections 402(a)(2) and 403(a)(2) of the code which provide capital gains treatment for certain distributions which take place after an employee's separation from the service. Section 406(c) provides that for purposes of applying section 402(a)(2) and section 403(a)(2) with respect to the distribution of the total amounts payable to an individual who is treated as an employee of a domestic corporation under section 406(a), such individual is not treated as separated from the service of the domestic corporation solely by reason of the occurrence of certain events.

The provisions of section 406(c) are in addition to the rules of existing law regarding the determination as to whether an employee is separated from service. In general, these provisions take into account the deemed employer-employee relationship which is established under the new section 406 of the code and provide that the termination of such deemed relationship does not result in a separation from service.

Section 406(c) provides that for purposes of applying section 402(a)(2) and section 403(a)(2) of the code with respect to an individual who is treated as an employee of a domestic corporation under section 406(a), such individual shall not be treated as separated from the service solely by reason of the fact that—

(1) The agreement entered into by such domestic corporation under section 3121(l) which covers the employment of such individual is terminated under the provisions of such section;

(2) Such individual becomes an employee of a foreign subsidiary (as defined in sec. 3121(l)(8)) with respect to which an agreement described in section 3121(l) does not apply;

(3) Such individual ceases to be an employee within the meaning of section 406(a) and becomes an employee of another corporation controlled by the domestic corporation; or

(4) The provision of the plan described in section 406(a)(2) is terminated.

For purposes of paragraph (3), above, a corporation is considered to be controlled by a domestic corporation if such domestic corporation owns directly or indirectly more than 50 percent of the voting stock of the corporation.

(*d*) *Deductibility of contributions.*—The new section 406(d) relates to the deductibility of contributions made on behalf of an individual who

is treated as an employee of a domestic corporation by reason of the provisions of section 406(a). The new section 406(d) provides that for purposes of applying sections 404 and 405(c) with respect to contributions made to a qualified plan on behalf of an individual who is treated as an employee of a domestic corporation under section 406(a), no domestic corporation is allowed a deduction. The amount which would be deductible under section 404 or 405(c) by the domestic corporation if the individual who is an employee within the meaning of section 406(a) were its own employee is allowed as a deduction to the foreign subsidiary. Thus, the foreign subsidiary is allowed the deduction under section 404(a) or 405(c), but such deduction is available to the foreign corporation only to the extent otherwise allowed under chapter 1 (see, for example, sec. 863 of the code).

Whether contributions on behalf of an individual who is treated as an employee under section 406(a), or forfeitures with regard to such employee, will result in an inclusion in the income of the domestic corporation, or an adjustment in the basis of such corporation's stock in the foreign corporation, will depend upon the rules of existing law. For example, an unreimbursed contribution by the domestic parent corporation to a plan under which each employee's rights to the contributions are nonforfeitable, will be treated as a contribution of capital to the foreign subsidiary to the extent that such contributions are made on behalf of such subsidiary's employees.

Paragraph (3) of the new section 406(d) provides that for the purpose of computing the amount deductible under section 404 or 405(c) any reference to compensation shall be considered to be a reference to the total compensation of such individual determined with the application of the rules set forth in the new section 406(b)(2).

The new section 406(d) also provides that any amount deductible by a foreign subsidiary under this section shall be deductible for its taxable year with or within which the taxable year of the domestic corporation ends.

(e) *Treatment as employee under related provisions.*—The new section 406(e) provides that, for purposes of applying certain related provisions of the code, an individual who is treated as an employee of a domestic corporation under the new section 406(a) is also to be treated as an employee of the domestic corporation with respect to certain related provisions dealing with the tax treatment of qualified plans. This section permits employees of subsidiaries covered under the qualified plan of the domestic corporation and their beneficiaries to receive the same tax treatment afforded other employees of such corporation and their beneficiaries with respect to the taxation of annuities, the death benefit exclusion, the exemption from gross estate of annuities under certain trusts and plans, and the exclusion from gift tax in the case of certain annuities under qualified plans. The provisions specifically designed under subsection (e) are: (1) Section 72(d), relating to employees' annuities; (2) section 72(f), relating to special rules for computing employees' contributions; (3) section 101(b), relating to employees' benefits; (4) section 2039, relating to annuities; and (5) section 2517, relating to certain annuities under qualified plans.

SECTION 221. QUALIFIED PENSION, ETC., PLAN COVERAGE FOR EMPLOYEES OF CERTAIN SUBSIDIARY EMPLOYERS—Continued

(*b*) *Employees of domestic subsidiaries engaged in business outside the United States.*—Subsection (b) of section 221 of the bill amends part I of subchapter D of chapter 1 of the code (relating to pension, profit-sharing, stock bonus plans, etc.) by adding after section 406 of the code a new section 407. The new section 407 relates to certain employees of domestic subsidaries engaged in business outside the United States.

SECTION 407. CERTAIN EMPLOYEES OF DOMESTIC SUBSIDIARIES ENGAGED IN BUSINESS OUTSIDE THE UNITED STATES

(*a*) *Treatment as employees of domestic parent corporation.*—The new section 407(a) sets forth the requirements which must be satisfied for a U.S. citizen who is employed by a domestic subsidiary engaged in business outside the United States to be treated as an employee of the domestic parent corporation. Paragraph (1) of section 407(a) provides that for purposes of applying this part, with respect to a qualified plan described in either section 401(a), 403(a), or 405(a), of a domestic parent corporation, an individual who is a citizen of the United States and an employee of a domestic subsidiary (as defined in paragraph (2) of section 407(a)) of a domestic parent corporation shall be treated as an employee of the domestic parent corporation if two requirements are satisfied.

The first of these requirements is that the plan of the domestic parent corporation must expressly provide coverage for U.S. citizen employees of every domestic subsidiary (as defined in paragraph (2) of section 407(a)). The second requirement is that contributions must not be provided for the employee by any other person under a funded plan of deferred compensation (whether or not such plan is a qualified plan). Contributions are not provided under a funded plan, for example, merely because the domestic subsidiary employer pays the tax imposed by section 3111 with respect to an employee.

Paragraph (2) of the new section 407(a) provides certain definitions for purposes of section 407. Paragraph (2)(A) of section 407(a) defines the term "domestic subsidiary" for purposes of section 407. Such paragraph (2)(A) sets forth three requirements which must be satisfied in order for a domestic corporation to be classified as a "domestic subsidiary." First, the domestic parent corporation must own 80 percent or more of the outstanding voting stock of the subsidiary corporation. Second, 95 percent or more of the subsidiary corporation's gross income for the 3 taxable years of such subsidiary immediately preceding the close of the taxable year of the domestic parent corporation (or for such part of such period during which the corporation was in existence) must be derived from sources without the United States. The third requirement is that 90 percent or more of the subsidiary corporation's gross income for such period (or such part) must be derived from the active conduct of a trade or business.

Paragraph (2)(B) of section 407(a) defines the term "domestic parent corporation" for purposes of section 407. A domestic parent

corporation for purposes of such section is the domestic corporation which owns 80 percent or more of the outstanding voting stock of a domestic subsidiary (as defined in paragraph (2)(A)).

(*b*) *Special rules for application of section 401(a).*—The new section 407(b) provides special rules for the application of section 401(a). The rules are substantially the same as those prescribed in the new section 406(b) (1) and (2)(A), except that the provisions of section 407(b) relate to individuals who are employees within the meaning of section 407(a), and the technical explanation of the provisions of section 406(b) (1) and (2)(A) is applicable to the provisions of section 407(b).

(*c*) *Termination of status as deemed employee not to be treated as separation from service for purposes of capital gains provisions.*—The new section 407(c) relates to certain occasions when the termination of the status as an employee within the meaning of section 407 shall not be treated as separation from service for purposes of sections 402(a)(2) and 403(a)(2) of the code. The new section 407(c) provides that an individual who is an employee of a domestic subsidiary but who is treated as an employee of a domestic parent corporation under the new section 407(a) shall not be considered as separated from the service of the domestic parent corporation solely by reason of the fact that the domestic subsidiary ceases, for any taxable year, to be a subsidiary within the meaning of section 407(a)(2)(A). Thus, for example, even though an individual who is an employee of a domestic subsidiary could not be covered under the plan of the domestic parent corporation for any taxable year in which the domestic parent corporation owned only 72 percent of the utstanding voting stock of such domestic subsidiary, such individual would not be treated as separated from service of the domestic corporation for purposes of sections 402(a)(2) and 403(a)(2) of the code.

Section 407(c) also provides that an individual shall not be treated as separated from the service by reason of the fact that—

(1) such individual ceases to be an employee of a domestic subsidiary corporation and becomes an employee of another corporation controlled by the domestic parent corporation; or

(2) the plan no longer contains the provision described in section 407(a)(1)(A).

For purposes of paragraph (1), above, a corporation is considered to be controlled by a domestic parent corporation if such domestic parent corporation owns directly or indirectly more than 50 percent of the voting stock of the corporation.

(*d*) *Deductibility of contributions.*—The new section 407(d) provides rules relating to the deductibility of contributions made on behalf of an individual who is an employee within the meaning of section 407(a). These rules are substantially the same as the rules in the new section 406(d), except that the provisions of section 407 relate to contributions on behalf of employees of domestic subsidiaries.

(*e*) *Treatment as employee under related provisions.*—The substantive provisions of the new section 407(e) are the same as the new section 406(e), except that the provisions of section 407 relate to the tax treatment of employees of domestic subsidiaries.

SECTION 221. QUALIFIED PENSION, ETC., PLAN COVERAGE FOR EMPLOYEES OF CERTAIN SUBSIDIARY EMPLOYERS—Continued

(*c*) *Technical amendments.*—Subsection (c) of section 221 of the bill sets forth certain technical amendments. Paragraph (1) of section 221(c) amends the table of sections for part I of subchapter D of chapter 1 of the Internal Revenue Code of 1954 to reflect the addition of new sections 406 and 407 of the code. Paragraph (2) of section 221(c) amends section 3121(a)(5) of the code, relating to definition of wages, to conform such definition to the provisions relating to the qualification of plans of deferred compensation which are contained in part I of subchapter D of chapter 1. Paragraph (3) of section 221(c) amends section 209(e) of the Social Security Act, relating to the definition of wages, in order to conform the provisions of this section to the provisions of section 3121(a)(5) of the code, as amended by paragraph (2) of section 221(c) of the bill.

(*d*) *Effective date.*—Subsection (d) of section 221 of the bill provides that the amendments made by subsections (a), (b), and (c)(1) of section 221 will be applicable to taxable years ending after December 31, 1963, and that the amendments made by subsections (c) (2) and (3) of section 221 shall apply to remuneration paid after December 31, 1962.

SECTION 222. EMPLOYEE STOCK OPTIONS AND PURCHASE PLANS

Section 222 of the bill (sec. 214 of the bill as passed by the House) has been approved by your committee with the amendments explained hereinafter. For the technical explanation of this section of the bill (other than the amendments made by your committee), see page A–63 of the report of the Committee on Ways and Means on the bill.

(*a*) *In general.*—Subsection (a) of this section of the bill as passed by the House has been amended by your committee as follows:

SECTION 422. QUALIFIED STOCK OPTIONS

(*a*) *Qualified stock option.*—Under the bill as passed by the House, section 422(b) of the code defined the term "qualified stock option" as an option granted to an individual after June 11, 1963 (other than a restricted stock option granted pursuant to a contract described in sec. 424(c)(4)(A) (sec. 424(c)(3)(A) of the code under the bill as amended by your committee)), for any reason connected with his employment by the corporation, if granted by the employer corporation or its parent or subsidiary corporation, to purchase stock of any of such corporations, but only if the requirements of paragraphs (1) through (7) of section 422(b) are met.

Your committee has amended this provision by changing the date contained therein from June 11, 1963, to December 31, 1963.

(*b*) *Special rules.*—

Certain options treated as outstanding

Under the bill as passed by the House, section 422(c)(2) of the code provided that, for purposes of section 422(b)(5) (relating to prior outstanding options)—

(A) any restricted stock option which is not terminated before January 1, 1965, and

(B) any qualified stock option granted after June 11, 1963,

shall be treated as outstanding until such option is exercised in full or expires by reason of the lapse of time. The bill as passed by the House further provided that for purposes of the preceding sentence, a restricted stock option granted before June 12, 1963, shall not be treated as outstanding for any period before the first day on which (under the terms of the option) it may be exercised.

Your committee has amended this provision by changing the dates June 11, 1963, and June 12, 1963, contained therein to December 31, 1963, and January 1, 1964, respectively.

Certain disqualifying dispositions where amount realized is less than value at exercise

Under the bill as passed by the House, section 422(c)(4) of the code provided that if an individual who has acquired a share of stock by the exercise of a qualified stock option disposes of such share within 3 years of the transfer of such share to him and if such disposition is a sale or exchange with respect to which a loss (if sustained) would be recognized to the individual, then the amount includible in the gross income of such individual, and deductible from the income of his employer corporation, as compensation attributable to the exercise of such option cannot exceed the excess, if any, of the amount realized on such sale or exchange over the amount paid for such share.

Your committee has amended this provision in order to provide that the amount of compensation recognized to the individual, or deductible from the income of his employer corporation, is to be limited to the excess, if any, of the amount realized on such sale or exchange over the adjusted basis of such share. Thus, your committee's amendment changes the effect of this provision as passed by the House only if the adjusted basis of the share differs from the amount paid for the share, as might result in the case of the exercise of an option to which section 422(c)(1) (relating to exercise of option when price is less than value of stock) applies.

Exception to application of subsection (b)(5)

Under the bill as passed by the House, paragraphs (1) through (5) of section 422(c) of the code contained five special rules relating to qualified stock options. Your committee has amended section 422(c) by adding a new paragraph (6) at the end thereof. The new section 422(c)(6) (relating to exception to application of subsec. (b)(5)) provides, in effect, that a new qualified stock option being granted to an individual need not contain the limitation on exercise otherwise required by section 422(b)(5), if the new option and all the outstanding qualified (or restricted) stock options previously granted to the individual, are options to purchase stock of the same class in the same corporation, and if the price payable under each such outstanding option (determined as of the date of grant of the new qualified stock option being granted to the individual) is not more than the option price of the option being granted.

The operation of the new paragraph (6) of section 422(c) is illustrated by the following examples:

Example (1).—Assume that on January 2, 1964, A, an employee of M corporation, is granted a qualified stock option entitling him to

purchase 100 shares of M stock at a price of $5 per share (the fair market value of M stock on such date). On June 2, 1964, M grants A another qualified stock option with respect to the same class of stock as the January option, entitling him to buy 100 shares of such stock at a price of $6 per share (the fair market value of such stock on such date).

Under the bill as passed by the House, the option granted A in June must contain a provision that such option is not exercisable until the option granted in January has either been exercised in full, or has lapsed. Under the bill as amended by your committee, the June option may be exercisable before the January option since both options are to purchase the same class of stock in the same corporation and the option price of the January option ($5) is not greater than the option price of the June option ($6).

Example (2).—The facts are the same as in example (1) except that the option price of the June option is $4, the fair market value of the stock on June 2, 1964. The new rule of section 422(c)(6) (relating to exception to the application of sec. 422(b)(5)) is not applicable in this case since the price payable for the stock under the January option ($5) is greater than the option price of the June option ($4). Similarly, the exception to the application of section 422(b)(5) provided by the new section 422(c)(6) would not be applicable if the June option were granted with respect to a different class of M stock, or with respect to the stock of a parent or subsidiary of M corporation. In such a situation, the provisions of section 422(b)(5) remain applicable and the outstanding option must either be exercised in full or lapse before the more recently granted option may become exercisable.

SECTION 423. EMPLOYEE STOCK PURCHASE PLANS

(*a*) *General rule.*—Under the bill as passed by the House, section 423(a) of the code provided that the special tax treatment of the new section 421(a) shall apply to a transfer of a share of stock to an individual pursuant to his exercise of an option, if the option is granted after June 11, 1963 (other than a restricted stock option granted pursuant to a plan described in sec. 424(c)(4)(B) (sec. 424(c)(3)(B) of the code under the bill as amended by your committee)), under an employee stock purchase plan (as defined in sec. 423(b)), and if the holding period and employment requirements set forth in paragraphs (1) and (2) of section 423(a) are met.

Your committee has amended this provision by changing the date contained therein from June 11, 1963, to December 31, 1963.

SECTION 424. RESTRICTED STOCK OPTIONS

(*a*) *Restricted stock option.*—Under the bill as passed by the House, section 424(b) of the code continued the definition of the term "restricted stock option" presently contained in section 421(d)(1) for options granted before June 12, 1963 (or after June 11, 1963, if granted in accordance with sec. 424(c)(4) (sec. 424(c)(3) of the code under the bill as amended by your committee)).

Your committee has amended this provision by changing the dates contained therein from June 12, 1963, to January 1, 1964, and from June 11, 1963, to December 31, 1963.

(*b*) *Special rules.*—Under the bill as passed by the House, section 424(c) of the code provided three special rules relating to restricted stock options, all of which are identical to provisions of existing section 421, and a fourth special rule relating to certain options granted after June 11, 1963. Your committee has amended these special rules in the following respects:

Stockholder approval

Under the bill as passed by the House, the applicability of section 424(c)(2) of the code (relating to stockholder approval) was limited to restricted stock options. Your committee has extended the rule contained in section 424(c)(2) to qualified stock options and options granted under employee stock purchase plans by striking paragraph (2) of section 424(c), and by inserting a comparable provision as subsection (i) under section 425 (relating to definitions and special rules). A technical explanation of the new section 425(i) may be found, in place, below.

Certain options granted after December 31, 1963

Under the bill as passed by the House, paragraph (4) of section 424(c) of the code (sec. 424(c)(3) of the code under the bill as amended by your committee) provided the additional requirements that must be met by options granted after June 11, 1963, in order for such options to be treated as restricted stock options. In general, under the bill as passed by the House, an option granted after June 11, 1963, that otherwise meets the requirements of the new section 424(b) of the code is treated as a restricted stock option for purposes of the revised part II of subchapter D if it was granted pursuant to—

(A) a binding written contract entered into before June 12, 1963, or

(B) a written plan adopted and approved before June 12, 1963, which (as of June 12, 1963, and as of the date of the granting of the option) either met the requirements of paragraphs (4) and (5) of section 423(b) or was being administered in a way that did not discriminate in favor of officers, persons whose principal duties consist of supervising the work of other employees, or highly compensated employees.

Your committee has amended this provision by changing the dates contained therein from June 11, 1963, to December 31, 1963, and from June 12, 1963, to January 1, 1964. In determining whether an option is granted pursuant to a plan described in subparagraph (B) of the provision, the terms of any written offering that was made on or before January 1, 1964, will be treated as a part of the plan.

SECTION 425. DEFINITIONS AND SPECIAL RULES

(*a*) *Modification, extension, or renewal of option.*—

Special rules for sections 423 and 424 options

Under the bill as passed by the House, subparagraph (B) of section 425(h)(2) of the code continues the rule of the existing section 421(e)(1) that provides an exception to the rule of section 425(h)(2)(A) if the average fair market value of the stock for the 12 months prior to the modification, extension, or renewal is less than 80 percent of the fair market value at the date of the original granting or any intervening

modification, extension, or renewal, whichever is higher. Under the bill as passed by the House, this exception only applies to modifications, extensions, or renewals of restricted stock options made before June 12, 1963 (or made pursuant to a binding written contract entered into before June 12, 1963).

Your committee has amended this provision by changing the date contained therein from June 12, 1963, to January 1, 1964.

Definition of modification

Under the bill as passed by the House, paragraph (3) of section 425(h) of the code defined the term "modification" in the same manner as existing section 421(e). Thus, under the bill as passed by the House, the term "modification" was defined as any change in the terms of the option which gives the employee additional benefits; but such term does not include a change in the terms of the option which is attributable to the issuance or assumption of an option under section 425(a), or to permit the option to qualify under section 422(b)(6), 423(b)(9), or 424(b)(2) if, in the case of a restricted stock option, the period during which the option may be exercised is restricted to 10 years from the date of the grant of the option.

Your committee has amended this provision by adding a new subparagraph (C) to section 425(h)(3) as set forth in the bill as passed by the House. The new subparagraph (C) added by your committee provides an additional exception to the definition of the term "modification." This new exception provides that a change in the terms of an option which is not immediately exercisable in full to accelerate the time at which the option may be exercised is not a modification for purposes of section 425(h). Thus, your committee's amendment allows an option which is exercisable only in installments, or after the expiration of a fixed period of time, or on the happening of an event, to be amended to permit acceleration of the time for exercising any (or all) of the installments, or to permit an acceleration in the time for exercising all or any portion of the option, without treating such amendment as a modification of the option.

(*b*) *Stockholder approval.*—Under the bill as passed by the House, paragraph (2) of section 424(c) of the code provided that for purposes of section 424 (relating to restricted stock options), if the grant of an option is subject to approval by stockholders, the date of grant of the option shall be determined as if the option had not been subject to such approval. Thus, under the bill as passed by the House, the applicability of section 424(c)(2) was limited to restricted stock options.

Your committee has extended the rule of section 424(c)(2) to qualified stock options and options granted under employee stock purchase plans by striking paragraph (2) of section 424(c) as set forth in the bill as passed by the House, by redesignating section 425(i) (relating to cross references) as section 425(j) and by inserting a new section 425(i). The new section 425(i) provides that for purposes of part II of subchapter D of chapter 1 of the code (relating to certain stock options), if the grant of an option is subject to approval by stockholders, the date of grant of the option shall be determined as if the option had not been subject to such approval.

SECTION 222. EMPLOYEE STOCK OPTIONS AND PURCHASE PLANS—Continued

(*b*) *Administrative provisions.*—Subsection (b) of this section of the bill as passed by the House has been amended by your committee as follows:

Penalties for failure to file information returns

Subsection (b)(2) of this section of the bill as passed by the House amends section 6652(a) of the code (relating to failure to file certain information returns) to provide a penalty for the failure to file the return required by section 6039(a). Your committee has revised section 6652 as amended by the bill as passed by the House in order to make clear that the penalty provided under section 6652(a) is imposed for each failure to file the statement referred to in section 6652(a)(1), and for each failure to file a return with respect to a transfer referred to in section 6652(a)(2). Thus a penalty is incurred under section 6652(a)(2) with respect to each transfer described in the new section 6039 which the taxpayer fails to report on the return required by such section. The penalty is $10 for each such failure, not to exceed $25,000 for all failures described in section 6652(a) in any one calendar year.

Your committee has also amended section 6652(a) of the code to provide that the penalty provided by such section shall be imposed in the case of each failure to make a return required by section 6052(a) (relating to reporting payment of wages in the form of group-term life insurance) with respect to group-term life insurance on the life of an employee. (The new sec. 6052 is added to the code by sec. 204 of the bill as reported by your committee.)

(*c*) *Effective date.*—Subsection (e) of this section of the bill as passed by the House provided that the amendments made by this section apply to taxable years ending after June 11, 1963; except that the new section 6039 of the code added by subsection (b) of this section (relating to administrative provisions), and paragraph (2) of section 6652(a) of the code as amended by such subsection, apply only to stock transferred pursuant to options exercised on or after January 1, 1964.

Your committee has amended subsection (e) of this section of the bill as passed by the House by changing the general effective date of the provisions relating to employee stock options and purchase plans as passed by the House from June 11, 1963, to December 31, 1963, and by adding a special rule for certain options granted after December 31, 1963, and before January 1, 1965. The special rule is contained in a new paragraph (3) added to subsection (e) of this section of the bill as passed by the House. The new paragraph provides that paragraphs (1) and (2) of section 422(b) of the code shall not apply to an option granted after December 31, 1963, and before January 1, 1965, and that paragraph (1) of section 425(h) shall not apply to any change in the terms of such an option made before January 1, 1965, to permit the option to qualify under paragraphs (3), (4), and (5) of section 422(b).

Subparagraph (A) of the new paragraph (3) permits the transfer of a share of stock pursuant to an individual's exercise of a stock option granted after December 31, 1963, and before January 1, 1965, to

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qualify for the special tax treatment provided by the revised section 421 of the code without regard to whether the option is granted pursuant to a plan, as required by section 422(b)(1), or whether the plan was approved by the shareholders. In addition, since the option need not be granted pursuant to a plan at all, the option need not be granted within 10 years from the date such plan is adopted or approved, whichever is earlier, as provided under section 422(b)(2).

Subparagraph (B) of paragraph (3) allows options granted after December 31, 1963, and before January 1, 1965, to be amended at any time before January 1, 1965, to meet the requirements of paragraphs (3), (4), and (5) of section 422(b), without such amendments being treated as a modification under section 425(h). Amendments to options under subparagraph (B) of paragraph (3) are to be retroactive to the date of grant of the option.

SECTION 223. INSTALLMENT SALES BY DEALERS IN PERSONAL PROPERTY

Section 223 of the bill, which was added by your committee to the bill as passed by the House, amends section 453(a) of the code (relating to the reporting of income by dealers in personal property from sales on the installment plan).

(*a*) *Installment plans.*—Subsection (a) of section 223 amends section 453(a) of the code by placing the existing provisions thereof in a new paragraph (1) of such subsection and by adding new paragraphs (2) and (3). The new paragraph (2) provides that for purposes of determining whether a dealer in personal property is selling such property on the installment plan so that he may return on the installment method (as described in par. (1)) the income from such sales, the term "installment plan" includes any plan which provides that the purchaser is to pay for such sales in a series of periodic installments of the debt due such dealer.

Paragraph (3) of revised section 453(a) provides that for purposes of computing the income from sales of personal property to be reported on the installment method by a dealer in personal property under paragraph (1), the term "total contract price" includes all charges relative to such sales including the time price differential which represents the amount paid or payable by the purchaser for the privilege of paying for such property in installments. Charges relative to the sale of personal property do not include charges for service contracts or warranties, or other charges for services unless such services are incidental to and rendered contemporaneously with the sale of the personal property.

(*b*) *Effective date.*—Subsection (b) of section 223 provides that the amendment made by subsection (a) of such section shall apply to taxable years beginning after December 31, 1963.

SECTION 224. TIMING OF DEDUCTIONS AND CREDITS IN CERTAIN CASES WHERE ASSERTED LIABILITIES ARE CONTESTED

Section 224 of the bill, which was added by your committee to the bill as passed by the House, amends section 461 of the 1954 Code (relating to general rule for taxable year of deduction) and section 43

of the 1939 Code (relating to period for which deductions and credits taken), and provides certain transitional rules. No provision of this section of the bill extends the period of limitations within which a claim for credit or refund may be filed for any taxable year.

(*a*) *Taxable year of deduction or credit.*—Paragraph (1) of section 224(a) of the bill, which was added by your committee to the bill as passed by the House, amends section 461 of the 1954 Code, relating to general rule for taxable year of deduction, by adding to such section a new subsection (f). In G.C.M. 25298, 1947–2 C.B. 39, the Internal Revenue Service took the position that a taxpayer may deduct the amount of taxes paid to local authorities not later than for the year of payment even though he contests liability for such taxes. In 1961, the U.S. Supreme Court held that, where an accrual basis taxpayer contested taxes paid to local authorities, the contested amount was deductible for the taxable year in which the contest was settled rather than for the taxable year in which such amount was paid (*U.S.* v. *Consolidated Edison Co.* (1961) 366 U.S. 380). The new subsection (f), in the case of contested taxes, provides that the contested amount is deductible for the year of payment.

The new subsection (f) provides in effect that if (1) a taxpayer contests an asserted liability (such as a tax assessment); (2) such taxpayer transfers money or other property to provide for the satisfaction of the asserted liability; (3) the contest with respect to the asserted liability exists after the time of the transfer; and (4) but for the fact that the asserted liability is contested, a deduction or credit would be allowed for the taxable year of the transfer (or, in the case of an accrual method taxpayer, for an earlier taxable year for which such amount would be accruable), then the deduction or credit shall be allowed for the taxable year of the transfer.

The new subsection (f) is not limited to an asserted liability for taxes, but applies to any asserted liability where the requirements of the new subsection (f) are met. A taxpayer may provide for the satisfaction of an asserted liability by transferring money or other property to the person who is asserting the liability, or by a transfer to an escrow agent provided that the money or other property is beyond the control of the taxpayer. However, purchasing a bond to guarantee payment of the asserted liability, an entry on the taxpayer's books of account, or a transfer to an account which is within the control of the taxpayer is not a transfer to provide for the satisfaction of an asserted liability.

The new subsection (f) applies only if the contest with respect to the asserted liability exists after the time of payment. Thus, the new subsection (f) does not apply to Z corporation in the following example:

Example.—Z corporation uses the accrual method of accounting. In 1964 a $100 liability is asserted against Z. Z contests the asserted liability. In 1967 the contested liability is settled as being $80 which Z accrues and deducts for such year. In 1968 Z pays the $80.

If any portion of the contested amount, which is deducted in the year of payment, is refunded when the contest is settled, such portion is includible in gross income except as provided in section 111 of the 1954 Code, relating to recovery of bad debts, prior taxes, and delinquency amounts.

The new subsection (f) may be illustrated by the following examples:

Example (1).—X corporation, which uses the cash method of accounting, in 1964 contests $20 of a $100 asserted real property tax liability but pays the entire $100 to the taxing authority. In 1968, the contest is settled and X receives a refund of $5. Under the new subsection (f) of section 461 of the 1954 Code, for the taxable year 1964 X deducts $100 and for the taxable year 1968 X includes $5 in gross income (assuming sec. 111 of the 1954 Code does not apply to such amount).

Example (2).—Y corporation, which uses the accrual method of accounting, in 1964 contests $20 of a $100 asserted real property tax liability but pays the entire $100 to the taxing authority. In 1968, the contest is settled and Y receives a refund of $5. Under the new subsection (f) of section 461 of the 1954 Code, for the taxable year 1964 Y deducts $100 and for the taxable year 1968 Y includes $5 in gross income (assuming sec. 111 of the 1954 Code does not apply to such amount).

Paragraph (2) of section 224(a) of the bill, as added by your committee, amends section 43 of the 1939 Code, relating to period for which deductions and credits taken, by adding at the end of such section a new sentence. The new sentence is the same as the new subsection (f) added to section 461 of the 1954 Code by paragraph (1) of section 224(a) of the bill.

(*b*) *Effective dates.*—Subsection (b) of section 224 of the bill, as added by your committee, provides that except as provided in subsections (c) and (d) of section 224 of the bill—

> (1) the new subsection (f) of section 461 of the 1954 Code, as added by paragraph (1) of section 224(a) of the bill, shall apply to transfers of money or other property in taxable years beginning after December 31, 1953, and ending after August 16, 1954, and
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> (2) the new sentence added to section 43 of the 1939 Code by paragraph (2) of section 224(a) of the bill shall apply to transfers of money or other property in taxable years to which the Internal Revenue Code of 1939 applies.

(*c*) *Election as to transfers in taxable years beginning before January 1, 1964.*—Paragraph (1) of section 224(c) of the bill, as added by your committee, provides that the amendments made to section 461 of the 1954 Code and section 43 of the 1939 Code by paragraphs (1) and (2), respectively, of section 224(a) of the bill shall not apply to any transfer of money or other property described in such section 224(a) made in a taxable year beginning before January 1, 1964, if the taxpayer elects, in the manner provided by regulations prescribed by the Secretary of the Treasury or his delegate, to have such paragraph (1) apply. Such an election (1) must be made within 1 year after the date of enactment of the bill, (2) may not be revoked after the expiration of such 1-year period, and (3) shall apply to all transfers of money or other property described in section 224(a) of the bill made in a taxable year beginning before January 1, 1964 (other than transfers described in par. (2) of sec. 224(c) of the bill). In the case of any transfer to which paragraph (1) of section 224(c) of the bill applies, the deduction or credit shall be allowed only for the taxable year in which the contest with respect to such transfer is settled.

Paragraph (2) of section 224(c) of the bill, as added by your committee, provides that paragraph (1) of such section 224(c) shall not

apply to any transfer if the assessment of any deficiency which would result from the application of the election in respect of such transfer is, on the date of the election under such paragraph (1), prevented by the operation of any law or rule of law.

Paragraph (3) of section 224(c) of the bill, as added by your committee, provides that if the taxpayer makes an election under paragraph (1) of section 224(c) of the bill, and if, on the date of such election, the assessment of any deficiency which results from the application of the election in respect of any transfer is not prevented by the operation of any law or rule of law, the period within which assessment of such deficiency may be made shall not expire earlier than 2 years after the date of enactment of this bill.

(*d*) *Certain other transfers in taxable years beginning before January 1, 1964.*—Subsection (d) of section 224 of the bill, as added by your committee, provides that the amendments made to section 461 of the 1954 Code and section 43 of the 1939 Code by paragraphs (1) and (2), respectively, of section 224(a) of the bill shall not apply to any transfer of money or other property described in such section 224(a) made in a taxable year beginning before January 1, 1964, if (1) no deduction or credit has been allowed in respect of such transfer for any taxable year before the taxable year in which the contest with respect to such transfer is settled, and (2) refund or credit of any overpayment which would result from the application of such amendments to such transfer is prevented by the operation of any law or rule of law. In the case of any transfer to which subsection (d) of section 224 of the bill applies, the deduction or credit shall be allowed only for the taxable year in which the contest with respect to such transfer is settled. Thus, if, at any time when a refund or credit of any overpayment, which would result from the application of the new subsection (f) of section 461 of the 1954 Code to a transfer of money or other property described in such new subsection (f) made in a taxable year beginning before January 1, 1964, is prevented by the operation of any law or rule of law, no deduction has been allowed in respect of such transfer for any taxable year before the taxable year in which the contest with respect to such transfer is settled, then a deduction shall be allowed to the taxpayer for the taxable year in which such contest is settled.

SECTION 225. INTEREST ON CERTAIN DEFERRED PAYMENTS

Section 225 of the bill (sec. 215 of the bill as passed by the House) has been approved by your committee with two modifications. For the technical explanation of this section of the bill (other than the amendments made by your committee), see the report of the Committee on Ways and Means starting at page A–84.

Your committee has deleted subsection (c) of this section of the bill as passed by the House, which related to deduction as interest of certain carrying charges on certain sales of services.

Under subsection (c) of this section (subsec. (d) of the bill as passed by the House) relating to effective dates, the amendments made by subsections (a) and (b) of section 225 apply to payments made after December 31, 1963, on account of sales or exchanges of property occurring after June 30, 1963. Your committee's amendment provides that the amendments made by subsections (a) and (b) will not

be applicable to payments made on account of a sale or exchange made pursuant to a binding written contract (including an irrevocable written option) entered into before July 1, 1963. Thus, if before such date a taxpayer has committed himself to a sale or exchange of property either by entering into a binding written sales contract or by granting an irrevocable written option entitling another person to purchase the property, any sale or exchange made pursuant to such contract or option will not be affected by the rules of new section 483.

SECTION 226. PERSONAL HOLDING COMPANIES

Section 226 of the bill (sec. 216 of the bill as passed by the House) deals with the treatment of personal holding companies and shareholders of such companies. This section of the bill as passed by the House consisted of 12 subsections, designated (a) through (l). Your committee has adopted the following subsections of this section without change: (a) relating to the personal holding company tax rate, (b) relating to the definition of a personal holding company, (e) relating to foreign personal holding company income and stock ownership, (f) relating to the dividends-paid deduction, and (h) relating to an exception for certain liquidated corporations. Your committee has rejected in its entirety subsection (j), relating to an increase in basis with respect to certain foreign personal holding company holdings, of the bill as passed by the House, has redesignated subsections (k) and (l), respectively, as subsection (j) relating to technical amendments, and subsection (k) relating to effective dates, and has made some technical amendments in redesignated subsection (k) to reflect this elimination.

The changes made by your committee in remaining subsections (c), (d), (g), and (i) of this section are discussed below. For the technical explanation of this section (other than the amendments made by your committee), see page A–88 of the report on the bill by the Committee on Ways and Means.

Section 226(c), relating to excluded corporations

Subsection (c) of section 226 of the bill has been approved by your committee with four modifications. For the technical explanation of subsection (c) of the bill (except for the amendments explained below), see page A–89 of the report on the bill by the Committee on Ways and Means.

Under the bill as passed by the House, a lending or finance company is excluded from the definition of a personal holding company if it meets four requirements: (1) At least 60 percent of its ordinary gross income must be derived directly from the active and regular conduct of a lending or finance business; (2) its personal holding company income (computed (a) without regard to income qualifying under the 60-percent test, (b) by including as personal holding company income the entire amount of the gross income from rents, royalties, produced film rents, and compensation for the use of corporate property by shareholders, and (c) without regard to certain income from domestic subsidiaries described in sec. 542(d)(3) of the code), plus the interest described in section 543(b)(2)(C) of the code, must not exceed 20 percent of ordinary gross income; (3) business deductions directly allocable to the active and regular conduct of its lending or finance business must equal or exceed the sum of (i) 15

percent of its ordinary gross income up to $500,000, plus (ii) 5 percent of its ordinary gross income between $500,000 and $1,000,000; and (4) loans to substantial shareholders must not exceed $5,000 in principal amount.

In applying the 20-percent-of-ordinary-gross-income test of section 542(c)(6)(B), your committee has deleted the provision that interest described in section 543(b)(2)(C) be included with the corporation's personal holding company income. This change conforms the treatment of such interest under section 542(c)(6)(B) to the treatment thereof for all other personal holding company tax purposes.

Under the bill as passed by the House, section 542(d)(3) of the code provides that the lawful income received by a lending company which is in the small loan business (consumer finance business) from domestic subsidiary corporations which are themselves excepted from the definition of a personal holding company under section 542(c)(6), is not included for purposes of the 20-percent-of-ordinary-gross-income test of section 542(c)(6)(B). Your committee has amended this provision in two respects. First, the corporation receiving such income may be any lending or finance company which meets the 60-percent requirement of section 542(c)(6)(A). It does not have to meet the more restrictive requirement of being in the small loan (consumer finance) business. Second, the payor corporation may be any member of the same affiliated group (as defined in sec. 1504) as the corporation receiving such income. Thus the corporation receiving such income is not required to be the parent corporation of the payor corporation. The payor corporation must still meet the requirements of section 542(c)(6).

Under the bill as passed by the House, section 542(d)(1)(A) of the code defines a lending or finance business, generally, as a business of making loans, or purchasing or discounting accounts receivable, notes, or installment obligations.

Your committee has amended the definition of a lending or finance business in section 542(d)(1) to include therein the business of rendering services or making facilities available to another member of the same affiliated group (as defined in sec. 1504) that is also in the lending or finance business.

Under the 60-percent-of-ordinary-gross-income test provided in section 542(c)(6)(A) of the code the corporation's income must be derived "directly" from the active and regular conduct of a lending or finance business. In addition, a reference to this provision is made in section 542(c)(6)(B). The use of the term "directly" is intended to emphasize that the 60-percent test is limited to income "derived from the active and regular conduct" of a lending or finance business, and excludes income that is unrelated to the conduct of the lending or finance business itself. Thus, for example, under section 542(c)(6)(A) as approved by your committee, interest income earned by the lending or finance company from loans to customers would qualify under the 60-percent test, but interest earned from the investment of its idle funds in short-term securities would not qualify under the 60-percent test.

The phrase "directly allocable to the active and regular conduct of its lending or finance business" is used in section 542(c)(6)(C) (business expense test) and, with a minor difference in language, in section 542(d)(2)(B) (relating to deductions for depreciation and real property

taxes). As used in these provisions, the term "directly" is intended to exclude expenses unrelated to the conduct of the finance or lending business. It is not intended to exclude completely deductions allocable only in part to such business. Thus, for example, to the extent that general overhead expenses of a corporation are properly allocable to the lending and finance business, they qualify as business deductions under section 542(d)(2).

Section 226(d), relating to personal holding company income

Subsection (d) of section 226 of the bill amends section 543(a) of the code (relating to personal holding company income). It also amends section 543(b) to provide definitions of the new terms "ordinary gross income," "adjusted ordinary gross income," "adjusted income from rents," and "adjusted income from mineral, oil, and gas royalties."

The amended section 543(a) provides that for purposes of subtitle A, the term "personal holding company income" means the portion of the adjusted ordinary gross income (as defined in sec. 543(b)(2)) which consists of the items described in paragraphs (1) through (8) of such section.

Your committee has approved subsection (d) of section 226 of the bill except for changes in paragraph (2) of section 543(a) as amended (relating to rents), in subparagraph (A) of section 543(b)(2) as amended (relating to required adjustments in the amount of gross income from rents includible in adjusted ordinary gross income), and in paragraph (4) of section 543(b) as amended (defining "adjusted income from mineral, oil, and gas royalties").

Rents

Section 543(a)(7) of existing law provides that rents are personal holding company income unless such rents constitute 50 percent or more of gross income.

The bill as passed by the House provides in paragraph (2) of section 543(a) as amended, which corresponds to the existing section 543(a)(7), that only so much of the gross income from rents as is equal to the adjusted income from rents (as defined in sec. 543(b)(3)) is personal holding company income and that the adjusted income from rents shall not be treated as personal holding company income if (A) it constitutes 50 percent or more of the corporation's adjusted ordinary gross income (as defined in sec. 543(b)(2)), and (B) the corporation's personal holding company income for the taxable year, computed without regard to such rents and compensation for the use of the corporation's property by its shareholders, and computed by treating copyright royalties and adjusted income from mineral, oil, and gas royalties as personal holding company income, is not more than 10 percent of the ordinary gross income as defined in section 543(b)(1). Thus, under the bill as passed by the House, even though adjusted income from rents constitutes more than 50 percent of a corporation's adjusted ordinary gross income, this income will still be treated as personal holding company income if the corporation's other income which is classified as personal holding company income exceeds 10 percent of its total ordinary gross income. For examples and the technical explanation of these tests in the bill (except for the amendment made by your committee), see page A–93 of the report on the bill by the Committee on Ways and Means.

Your committee has modified the 10-percent test in subparagraph (B) of section 543(a)(2) in the bill passed by the House to provide that adjusted income from rents which meets the 50-percent requirement of subparagraph (A) thereof shall not be treated as personal holding company income if the sum of the consent dividends (determinded under sec. 565) and the dividends paid or considered as paid (determined under secs. 562 and 563) during the taxable year by the corporation to its shareholders equals or exceeds the amount, if any, by which the corporation's personal holding company income for the taxable year, computed without regard to such rents and compensation for the use of the corporation's property by its shareholders, and computed by treating copyright royalties and adjusted income from mineral, oil, and gas royalties as personal holding company income, exceeds 10 percent of the ordinary gross income as defined in section 543(b)(1).

The effect of this modification in the 10-percent test applicable to rents is that this test shall be deemed to be met if the corporation pays dividends to its shareholders in an amount which is at least equal to its other personal holding company income which is in excess of 10 percent of total ordinary gross income. The difference in this test in the bill as passed by the House and as modified by your committee may be illustrated by the following example:

Example.—Corporation F receives $40 in dividends and $150 of gross income from rents. Corporation F also realizes $10 in capital gain on the sale of securities. Corporation F's deductions for depreciation, interest, and real property taxes allocable to the rents equal $100. Under existing law the rents are not personal holding company income and corporation F is not a personal holding company, since its gross income from rents ($150) constitutes 50 percent or more of its gross income ($200). Under the 50-percent requirement of the new provisions, the adjusted income from rents, $50 ($150 less $100), is 55.5 percent of adjusted ordinary gross income of $90 ($200 less the sum of $100 of adjustments and $10 of capital gains). Accordingly the adjusted income from rents meets the new 50-percent requirement. However, other personal holding company income (the dividend income of $40) is $21 in excess of the allowable 10 percent of ordinary gross income ($190: $200 less $10). Under the bill as passed by the House, the adjusted income from rents is personal holding company income and, therefore, all of corporation F's adjusted ordinary gross income is personal holding company income. However, with the modification in the 10-percent test made by your committee, the adjusted income from rents would not be treated as personal holding company income if corporation F pays a dividend of $21 to its shareholders during the taxable year. On the other hand, if the amount of the dividend paid by corporation F is less than $21, the adjusted income from rents would be personal holding company income as under the bill as passed by the House.

Adjustments to rents included in adjusted ordinary gross income

The bill as passed by the House defines in paragraph (2) of section 543(b) of the code, as amended, the term "adjusted ordinary gross income" as the ordinary gross income adjusted as provided in subparagraphs (A), (B), and (C) of such paragraph. Adjusted ordinary gross income as so defined replaces the concept of gross income of

existing law as the denominator in the fraction used in computing certain percentages involved in determining a corporation's status as a personal holding company. With one exception relating to the adjustments required for gross income from rents, your committee has approved proposed section 543(b)(2). For the technical explanation of these provisions of the bill (except the amendment explained below), see page A-100 of the report on the bill by the Committee on Ways and Means.

Subparagraph (A) of section 543(b)(2) provides that from the gross income from rents (as defined in the second sentence of sec. 543(b)(3)) there is to be subtracted the amounts allowable as deductions for exhaustion, wear and tear, obsolescence, and amortization as well as deductions for property taxes, interest, and rent to the extent that such deductions are allocable, under regulations prescribed by the Secretary of the Treasury or his delegate, to the gross income from rents. In no case may the amounts subtracted under subparagraph (A) exceed the gross income from rents.

Your committee has amended subparagraph (A)(i) of section 543(b)(2) to provide that the gross income from rents derived from leases of tangible personal property which is not customarily retained by any one lessee for a period of more than 3 years shall not be reduced by allowable deductions for exhaustion, wear and tear, obsolescence, and amortization of such property. It is the period of customary retention or use by lessees, rather than the term of the lease of the property in any one case, which is determinative of whether the adjustment shall be required.

Adjusted income from mineral, oil, and gas royalties

The bill as passed by the House provides in paragraph (3) of section 543(a) of the code as amended, which corresponds to section 543(a)(8) of existing law, tests for determining whether the "adjusted income from mineral, oil, and gas royalties", as defined in paragraph (4) of section 543(b), is personal holding company income. For the technical explanation of these provisions (except the amendment explained below), see page A-95 of the report on the bill by the Committee on Ways and Means. These provisions have been approved by your committee but an amendment has been added to section 543(b)(4) to specifically include production payments and overriding royalties as mineral, oil, and gas royalties for purposes of classification as personal holding company income under section 543(a).

The Treasury regulations interpreting section 543(a)(8) of existing law currently define the term "mineral, oil, or gas royalties" as including production payments and overriding royalties. (See Reg. § 1.543-1(b)(11)(ii).) However, it has been brought to the attention of your committee that this interpretation of existing section 543(a)(8) is disputed by some taxpayers. Your committee's amendment would make it clear that production payments and overriding royalties are to be treated as mineral, oil, and gas royalties under proposed section 543(b)(4). This amendment is not intended to affect any case involving interpretations of section 543(a)(8) of existing law.

Section 226(g), relating to 1-month liquidations

Subsection (g) of section 226 of the bill adds a new subsection (g) to section 333 of the code. The existing section 333 provides that in certain corporate liquidations gain is recognized to qualified electing

shareholders only to the extent of earnings and profits accumulated by the corporation after February 28, 1913, and cash, stock, and securities acquired by the corporation after December 31, 1953, and, with respect to accumulated earnings and profits, is taxable as a dividend to noncorporate shareholders.

Subsection 333(g) as added by the bill as passed by the House consists of three paragraphs. Paragraph (1) provides that if a corporation which is referred to in paragraph (3) of the new subsection is liquidated before January 1, 1966, no gain will be recognized to a qualifying electing shareholder with respect to the distribution of stock and securities acquired by the liquidating corporation before January 1, 1963, and gain realized by a noncorporate shareholder with respect to the corporation's accumulated earnings and profits generally is to be treated as "class B capital gain" rather than as a dividend. Paragraph (2) of subsection (g) provides special rules for liquidations after December 31, 1965, of corporations referred to in paragraph (3) of the new subsection which owe qualified indebtedness (as defined in sec. 545(c)(3)) on August 1, 1963. Paragraph (3) of subsection (g) describes the corporations to which paragraphs (1) and (2) of section 333(g) may apply. Such a corporation in the bill as passed by the House is one which was not a personal holding company under section 542 of existing law for at least one of its two most recent taxable years ending before the date of enactment of section 333(g), but which would have been a personal holding company under section 542 for such taxable year if the law applicable for the first taxable year beginning after December 31, 1963, had been applicable to such preceding taxable year.

Your nmittee has approved in substance the provisions of paragraphs (1), (2), and (3) of section 333(g) as added by the bill as passed by the House but has modified some of the applicable dates therein and has added a new paragraph (4) to new section 333(g) of the code. These modifications and new paragraph (4) of section 333(g) are discussed below. For the technical explanation of section 226(g) of the bill (except for the amendments made by your committee), see page A-107 of the report on the bill by the Committee on Ways and Means.

Your committee has amended paragraph (1) of section 333(g) to provide that it shall be applicable to corporate liquidations occurring before January 1, 1967 (instead of January 1, 1966) and has amended paragraph (2) of section 333(g) to provide that it shall be applicable to liquidations occurring after December 31, 1966 (instead of Dec. 31, 1965) of corporations which owe qualified indebtedness (as defined in sec. 545(c)) on January 1, 1964 (instead of Aug. 1, 1963). Your committee has made conforming amendments in these two paragraphs of section 333(g) to reflect these changes and also changes made in other parts of the bill as approved by your committee.

Your committee has amended paragraph (3) of section 333(g), which describes the corporations to which paragraphs (1) and (2) of the new subsection may apply, to provide that such a corporation is one which was not a personal holding company under section 542 of existing law for at least one of its two most recent taxable years ending before December 31, 1963 (instead of the date of enactment of new subsec. (g)) but which would have been a personal holding company under section 542 for such taxable year if the law applicable for the first

taxable year beginning after December 31, 1963, had been applicable to such preceding taxable year.

Your committee has added a new paragraph (4) to subsection (g) of section 333 which provides that if an election is made under such section by a qualified electing shareholder (as defined in sec. 333(c)) of a corporation and the shareholder states in such election that it is made on the assumption that the corporation is a corporation referred to in paragraph (3) of subsection (g), the election under section 333 shall have no force or effect if it is determined that the corporation is not a corporation referred to in section 333(g)(3). A qualified electing shareholder who does not include such a statement in an election made and filed under section 333 will be considered to have made an election under the general rule of subsection (a) of such section with respect to recognition of gain on the shares owned by him in the liquidating corporation in the event that the special rule of subsection (g) is inapplicable because the corporation is not a corporation referred to in paragraph (3) thereof.

Section 226(i), relating to deduction for amortization of indebtedness

Subsection (i) of section 226 of the bill adds a new subsection (c) to section 545 of the code which provides a new deduction from taxable income for purposes of determining undistributed personal holding company income (as defined in sec. 545(a)).

Section 545(c) of the code as added by subsection (i) consists of six paragraphs. Paragraph (1) of the new section 545(c) provides the general rule that, except as otherwise provided in such section, there shall be allowed as a deduction (in computing undistributed personal holding company income) amounts used, or amounts irrevocably set aside (to the extent reasonable with reference to the size and terms of the indebtedness), to pay or retire qualified indebtedness (as defined in sec. 545(c)(3)). Paragraph (2) describes the corporations which may qualify for the deduction provided in paragraph (1) of section 545(c). Paragraph (3) defines the term "qualified indebtedness," subject to certain exceptions, as the outstanding indebtedness incurred by the taxpayer after December 31, 1933, and before August 1, 1963, and the outstanding indebtedness (if not otherwise deducted) incurred after July 31, 1963, for the purpose of making a payment or set-aside referred to in section 545(c)(1) in the same taxable year. Paragraph (4) provides that a corporation may elect to treat as nondeductible an amount otherwise deductible under paragraph (1) of section 545(c). Paragraph (5) provides certain limitations on the amount of the deduction otherwise allowed by section 545(c)(1). Paragraph (6) provides that the total amounts of the taxpayer's qualified indebtedness (as defined in sec. 545(c)(3)(A)) are reduced if property (of a character which is subject to the allowance for exhaustion, wear and tear, obsolescence, or amortization) is disposed of after July 31, 1963.

Your committee has approved in substance the provisions of subsection (i) of the bill as passed by the House. For the technical explanation of subsection (i) of the bill, other than the amendments explained below, see page A–113 of the report on the bill by the Committee on Ways and Means. However, your committee has amended paragraph (3) of proposed section 545(c) to provide that the term "qualified indebtedness" shall include the outstanding indebtedness incurred by the taxpayer before January 1, 1964, and has made conforming amendments in the other paragraphs of section 545(c).

Your committee has also amended paragraphs (5) and (6) of section 545(c) to provide that allowable deductions for depletion shall be taken into account to reduce the deduction allowed by section 545(c) and qualified indebtedness under certain circumstances. Your committee has also amended paragraph (2)(A) of section 545(c), which describes a category of corporations to which paragraph (1) of the new subsection may apply, to provide that such a corporation is one which was not a personal holding company under section 542 of existing law for at least one of its two most recent taxable years ending before December 31, 1963 (instead of the date of enactment of this subsection) but which would have been a personal holding company under section 542 for such taxable year if the law applicable for the first taxable year beginning after December 31, 1963, had been applicable to such preceding taxable year.

SECTION 227. TREATMENT OF PROPERTY IN CASE OF OIL AND GAS WELLS

Section 227 of the bill (sec. 217 of the bill as passed by the House) has been approved by your committee without change. For the technical explanation of this section of the bill, see page A–122 of the report of the Committee on Ways and Means on the bill.

SECTION 228. TREATMENT OF CERTAIN IRON ORE ROYALTIES

(*a*) *In general.*—Subsection (a) of section 228 of the bill (sec. 218 of the bill as passed by the House) has been approved by your committee except that your committee has (1) restricted its application to iron ore mined in the United States, and (2) provided that the treatment provided by the bill shall not apply to any disposal of iron ore to certain related persons. For the technical explanation of section 228(a) of the bill (other than the amendments made by your committee), see page A133 of the report of the Committee on Ways and Means on the bill.

Under your committee's amendments two types of dispositions of iron ore to related persons will not qualify for treatment under section 631(c) of the code. The first type of such disposition occurs in any disposal to a person whose relationship to the party disposing of such iron ore is such that a loss would be disallowed under section 267 (relating to losses, etc., with respect to transactions between related taxpayers) or section 707(b) (relating to certain sales or exchanges of property with respect to controlled partnerships). Thus, iron ore royalty payments made under a lease between a father and his son would not qualify for treatment under section 631(c). The second type of such disposition occurs in any disposal to a person owned or controlled directly or indirectly by the same interests which own or control the person disposing of such iron ore. The test for determining the presence or absence of control is the same test as is presently applied in section 482 of the code (relating to the allocation of income and deductions between taxpayers).

(*b*) *Clerical amendments.*—Subsection (b) of section 228 of the bill contains the various clerical and conforming amendments to the code and to the Social Security Act which are required as a result of the amendments made by subsection (a) of such section.

(*c*) *Effective date.*—Subsection (c) of this section as passed by the House provided that the amendments made by such section shall apply to iron ore mined in taxable years beginning after December 31, 1963. Your committee has amended this subsection to provide that such amendments shall apply to amounts received or accrued in taxable years beginning after December 31, 1963, attributable to iron ore mined in such taxable years.

SECTION 229. INSURANCE COMPANIES

Section 229 of the bill, which is a new section added to the bill as passed by the House, contains amendments to subchapter L of chapter 1 of the code (relating to insurance companies).

(*a*) *Certain mutualization distributions made in 1962.*—Subsection (a) of section 229 of the bill relates to stock life insurance companies which adopted a plan of mutualization before January 1, 1958.

Allowance of deduction

Paragraph (1) of section 229(a) of the bill amends section 809(d)(11) of the code (relating to certain mutualization distributions) to allow as a deduction in the computation of gain from operations, distributions made in 1962 to shareholders, in acquisition of stock, pursuant to a plan of mutualizaton adopted by the company before January 1, 1958.

Thus, your committee's amendment allows life insurance companies which adopted a plan of mutualization before January 1, 1958, an additional year (1962) to complete their plan of mutualization by acquiring their stock out of annual earnings, and to receive a deduction for amounts paid for that purpose. The amount deductible is limited to amounts actually paid to shareholders in 1962, and does not include accruals paid in subsequent years. In addition, the deduction allowed by the revised section 809(d)(11) is subject to the limitations of section 809(g) of the code (relating to limitations on deductions for certain mutualization distributions).

Application of section 815

Paragraph (2) of section 229(a) of the bill amends section 809(g)(3) of the code (relating to application of sec. 815) to extend the special rules of section 815(e) to include mutualization distributions deductible under the revised section 809(d)(11).

(*b*) *Accrual of bond discount.*—Subsection (b) of section 229 of the bill relates to the accrual of bond discount by insurance companies subject to tax under parts I and II of subchapter L of chapter 1 of the code (relating to life insurance companies, and mutual insurace companies (other than life, marine, and certain fire or flood insurance companies) etc., respectively).

Life insurance companies

Paragraph (1) of section 229(b) of the bill amends section 818(b) of the code (relating to amortization of premium and accrual of discount) by adding a new paragraph (3) at the end thereof. The new section 818(b)(3) provides that for taxable years beginning after December 31, 1962, no accrual of discount shall be required under section 818(b)(1) on any bond (as defined in section 171(d)) except as otherwise provided under subparagraphs (A) and (B) of section 818(b)(3).

Subparagraph (A) of the new section 818(b)(3) relates solely to discount on tax-exempt obligations and provides that discount which is interest described in section 103 (relating to interest on certain governmental obligations) must still be accrued. Thus, your committee's amendment makes no change in existing law with respect to issue discount (the difference between issue price and the stated redemption price at maturity) on tax-exempt obligations. Such discount must still be accrued under section 818(b)(1) of the code. On the other hand, your committee's amendment changes existing law with respect to discount on tax-exempt obligations which is not "issue discount." The accrual of such discount will no longer be required.

Subparagraph (B) of the new section 818(b)(3) relates solely to bonds which are not tax-exempt obligations within the meaning of section 103, and provides that orginal issue discount (as defined in sec. 1232(b)) must be accrued under section 818(b)(1).

Under existing law, section 818(b)(1) requires life insurance companies to accrue all discount, regardless of whether it is "issue discount," original issue discount, or "market discount." The new paragraph (3) of section 818(b) of the code changes existing law only with respect to "market discount." Such discount is no longer required to be accrued. Thus, the recognition of gain attributable to market discount is postponed until the disposition of the bond. Upon the disposition of the bond, gain attributable to market discount will ordinarily be taxable as capital gain. The adjustment to basis for the accrual of market discount will no longer be allowed to the extent such discount is not accrued by reason of the new section 818(b)(3).

The new section 818(b)(3) also provides that for purposes of section 805(b)(3)(A), the current earnings rate for any taxable year beginning before January 1, 1963, shall be determined as if the first sentence of the new section 818(b)(3) applied to such taxable year.

Mutual insurance companies

Paragraph (2) of section 229(b) of the bill amends section 822(d)(2) of the code (relating to amortization of premium and accrual of discount) by adding a new sentence at the end thereof. This sentence provides that for taxable years beginning after December 31, 1962, no accrual of discount shall be required under section 822(d)(2) of the code on any bond (as defined in sec. 171(d)). Under the new sentence neither "issue discount," original issue discount, nor "market discount," is required to be accrued under section 822(d)(2). This provision has the effect of postponing until disposition of the bond any recognition of income attributable to bond discount, at which time the provisions of section 1232 may be applicable. No adjustment in the basis of any bond attributable to discount shall be permitted for taxable years beginning after December 31, 1962, to the extent such discount is not accrued by reason of the amended section 822(d)(2).

For taxable years beginning after December 31, 1962, no discount shall be required to be accrued pursuant to section 282(d)(2) regardless of when the bond to which the discount is attributable was acquired.

(*c*) *Contributions to qualified, etc., plans.*—Subsection (c) of section 229 of the bill amends section 832(c)(10) of the code (relating to deductions allowed in computing taxable income of insurance com-

panies (other than life or mutual), mutual marine insurance companies, and certain mutual fire or flood insurance companies) by adding a new phrase at the end thereof. The new phrase provides that, in computing the taxable income of insurance companies subject to the tax imposed by section 831, there shall be allowed the deduction provided in part I of subchapter D of chapter 1 of the code (sec. 401 and following, relating to pension, profit-sharing, stock bonus plans, etc.). In allowing these companies to deduct their contributions to an employees' trust or annuity plan and compensation under a deferred-payment plan under section 404 of the code, subsection (c) of section 229 of the bill is in accord with existing administrative practice.

(*d*) *Effective dates.*—Subsection (d) of section 229 of the bill provides that the amendment made by subsection (a) of the bill (relating to certain mutualization distributions made in 1962) shall apply to taxable years beginning after December 31, 1961, and that the amendment made by subsection (c) of the bill (relating to contributions to qualified, etc., plans) shall apply to taxable years beginning after December 31, 1953, and ending after August 16, 1954. No provision of this section extends the period of limitations within which a claim for credit or refund may be filed for any taxable year.

SECTION 230. REGULATED INVESTMENT COMPANIES

Section 230 of the bill, which is a new section added to the bill as passed by the House, relates to regulated investment companies.

(*a*) *Time for mailing certain notices to shareholders.*—Subsection (a) of section 230 of the bill amends several provisions of part I, subchapter M, chapter 1 of the code (relating to regulated investment companies) by increasing from 30 days to 45 days after the close of a taxable year the time within which a regulated investment company must give certain notices to its shareholders.

Under section 852(b)(3)(C) of existing law, a capital gain dividend is defined, in general, as any dividend, or part thereof, which is designated by the company as a capital gain dividend in a written notice mailed to its shareholders not later than 30 days after the close of its taxable year. Under the bill, a 45-day period is substituted for the 30-day period.

Under section 852(b)(3)(D)(i) of existing law, a shareholder of a regulated investment company, in computing his long-term capital gains for his taxable year in which the last day of the regulated investment company's taxable year falls, must include such amount as the company designates as his share of undistributed capital gains in a written notice mailed to its shareholders at any time prior to the expiration of 30 days after the close of the regulated investment company's taxable year. Under the bill, the 30-day period is changed to a 45-day period.

Section 853 of existing law provides that, if certain conditions are met, a regulated investment company may elect to treat as having been distributed to its shareholders any income, war profits, and excess profits taxes paid by it to any foreign country or to any possession of the United States. The shareholders of the company must include the amount of such taxes in gross income and must treat such amount as paid by them for purposes of the deduction under section

164(a) and the foreign tax credit under section 901. Under section 853(c), the amounts to be so treated by the shareholders may not exceed the amounts so designated by the company in a written notice mailed to its shareholders not later than 30 days after the close of its taxable year. The bill changes the 30-day period to a 45-day period.

Section 854(b)(1) of existing law provides limitations to be applied in determining the extent to which any dividend (other than a capital gain dividend) may be taken into account by a shareholder of a regulated investment company for purposes of the credit under section 34, the exclusion under section 116, and the deduction under section 243. Section 854(b)(2) provides that the amount of any distribution which may be taken into account as a dividend for such purposes may not exceed the amount so designated by the regulated investment company in a written notice to its shareholders mailed not later than 30 days after the close of its taxable year. The bill changes the 30-day period to a 45-day period.

Section 855 provides that, if certain conditions are met, a dividend which is paid by a regulated investment company, after the close of a taxable year, may be considered by the company as having been paid during such taxable year. Section 855(c) provides that any notice to shareholders required under part I of subchapter M with respect to such a dividend must be mailed not later than 30 days after the close of the taxable year in which the distribution of such dividend is made. The bill changes the 30-day period to a 45-day period.

(*b*) *Certain redemptions by unit investment trusts.*—Subsection (b) of section 230 of the bill amends section 852 of the code (relating to taxation of regulated investment companies and their shareholders) by adding a new subsection (d) at the end thereof.

Under section 852(b) of existing law, a regulated investment company is allowed a deduction for dividends paid (as defined in sec. 561), other than capital gains dividends, in determining its investment company taxable income, and is allowed a deduction for dividends paid (as defined in sec. 561), determined with reference to capital gains dividends only, in computing that part of the excess of its net long-term capital gain over net short-term capital loss on which it must pay a capital gains tax. Section 561(b) provides that in determining the deduction for dividends paid, the rules provided in section 562 are applicable. Section 562(c) (relating to preferential dividends) provides that the amount of any distribution shall not be considered as a dividend unless such distribution is pro rata, with no preference to any share of stock as compared with other shares of the same class, and with no preference to one class of stock as compared with another class except to the extent that the former is entitled to such preference.

New subsection (d) of section 852 provides that in the case of a unit investment trust—

(1) which is registered under the Investment Company Act of 1940 and issues periodic payment plan certificates (as defined in such act), and

(2) substantially all of the assets of which consist of securities issued by a management company (as defined in such act)—

section 562(c) shall not apply to a distribution by such trust to a holder of an interest in such trust in redemption of part or all of such interest, with respect to the net capital gain of the trust attributable to such redemption. Thus, assume that a holder of an interest in

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such a trust requests that part or all of such interest be redeemed. In order to obtain the amount of cash required to redeem such interest, the trust liquidates part of its portfolio, represented by shares in a management company, and realizes a long-term capital gain on such liquidation. That amount of the cash distributed to the redeeming interest holder which represents a distribution of such realized long-term capital gain is considered to be a distribution by the trust which qualifies for the deduction for dividends paid with reference to capital gains dividends under section 852(b)(3)(A).

(*c*) *Effective dates.*—Subsection (c) of section 230 of the bill provides that the amendments made by subsection (a) shall apply to taxable years of regulated investment companies ending on or after the date of the enactment of the bill, and that the amendment made by subsection (b) shall apply to taxable years of regulated investment companies ending after December 31, 1963.

SECTION 231. FOREIGN TAX CREDIT WITH RESPECT TO CERTAIN FOREIGN MINERAL INCOME

Section 231 of the bill, which is a new section added to the bill as passed by the House, amends section 901 (relating to credit for foreign taxes) by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) a new subsection (d) relating to foreign taxes on mineral income.

(*a*) *Foreign taxes on mineral income.*—Paragraph (1) of new subsection (d) provides that in certain cases the amount of foreign taxes described in section 901(b) (relating to amount of foreign tax allowed as a credit) which are paid or accrued during the taxable year with respect to mineral income to any foreign country (if the per-country limitation applies), or to all foreign countries (if the overall limitation applies), is to be reduced for purposes of computing the foreign tax credit. The reduction, if any, is equal to the amount by which the U.S. tax computed under chapter 1 of the code with respect to the same mineral income and computed before the allowance of any tax credit (such tax hereinafter referred to as the "U.S. tax") is exceeded by the lesser of the following two amounts: (1) The amount of such foreign taxes paid or accrued with respect to such income, or (2) the U.S. tax with respect to such income computed without the deduction for percentage depletion under section 613 but with the deduction for cost depletion determined with reference to the basis for cost depletion under section 612. The computation described in item (2) is made only to determine the amount of foreign taxes to be taken into account in computing the foreign tax credit and does not affect the manner in which a taxpayer actually computes the allowance for depletion under chapter 1 in determining the U.S. tax. In no case will the foreign tax on mineral income under new subsection (d) be reduced to an amount which is less than the U.S. tax on such mineral income. The credit for taxes paid or accrued to possessions of the United States is not affected by this provision.

Paragraph (2) of the new subsection (d) defines the term "mineral income" for purposes of subsection (d). The term means income derived from sources without the United States from mineral activities including dividends received from corporations in which 5 percent or more of the voting stock is owned directly or indirectly by the tax-

payer, to the extent such dividends are attributable to mineral activities, and that portion of the taxpayer's distributive share of partnership income attributable to mineral activities. For such purpose the term "mineral activities" includes the extraction of minerals from mines, wells, or other natural deposits, the processing of such minerals into their primary products, and the transportation, distribution, or sale of such minerals or primary products. For example, in the case of oil, mineral activities of a taxpayer would include the extraction of the crude oil from the ground, transportation of the crude oil by pipeline or ship to a refinery, refining of the crude oil to obtain gasoline and other products resulting from such refining, and the sale of such products. However, the manufacture of chemical products from oil would not be considered the processing of oil into its primary products, and thus would not be considered a mineral activity. Similarly, the transportation, distribution, or sale of the chemical products would not be considered a mineral activity. If primary products of oil, such as gasoline, are sold through outlets of the taxpayer which also sell other products, only the sale of the primary products would be a mineral activity.

(*b*) *Effective date.*—The amendments made by section 231 of the bill are applicable to taxable years beginning after December 31, 1963.

SECTION 232. AMOUNTS RECEIVED FROM EMPLOYER ON SALE OF RESIDENCE OF EMPLOYEE IN CONNECTION WITH TRANSFER TO NEW PLACE OF WORK

(*a*) *Treatment of certain amounts received from employer on sale of residence of employee in connection with transfer to new place of work.*—Subsection (a)(1) of section 232 of the bill, which is a new section added to the bill as passed by the House, adds a new section 1003 to part I of subchapter O of chapter 1 of the code (relating to determination of amount of and recognition of gain or loss).

It has been held that an amount received by an employee from his employer, in respect of the sale of the employee's residence in connection with his transfer to a new place of work, is taxable as compensation. (*Harris W. Bradley*, 39 T.C. 652 (1963), aff'd 324 F. 2d 610 (4th Cir. 1963); *Arthur J. Kobacker*, 37 T.C. 882 (1962).)

SECTION 1003. AMOUNTS RECEIVED FROM EMPLOYER ON SALE OF RESIDENCE OF EMPLOYEE IN CONNECTION WITH TRANSFER TO NEW PLACE OF WORK

(a) *General rule.*—Subsection (a) of new section 1003 provides the general rule that if, in connection with the transfer of the taxpayer as as an employee to a new place of work, the taxpayer or his spouse sells property used as his principal residence "old residence" pursuant to a sales contract entered into within the forced sale period, and within 1 year after the date of such contract his employer pays part or all of the "sale differential," then the amount so paid shall be treated by the taxpayer or his spouse as an additional amount realized on the sale of the old residence to the extent that it does not exceed the lesser of (A) the "sale differential," or (B) 15 percent of the gross sales price of the old residence.

Section 1003 is applicable only with respect to the sale of a taxpayer's principal residence. Whether or not property is used by the taxpayer as his residence, and whether or not property is used by the taxpayer as his principal residence (in the case of a taxpayer using more than one property as a residence), depends upon all the facts and circumstances in each individual case. Property which qualifies as a principal residence for purposes of section 1034 will be considered a principal residence for purposes of section 1003.

Where property is used by the taxpayer partially as his principa residence and partially for business purposes or in the production of income (as in the case where a part of the building in which the taxpayer resides is used as an office or is rented), then only that portion of the reimbursement, appraised value, gross sales price, and selling expenses attributable to that part of the property used as the taxpayer's principal residence shall be considered for purposes of section 1003.

The gross sales price of the old residence is the total consideration received upon the sale by the taxpayer, and includes the amount of any mortgage, trust deed, or other indebtedness to which the property is subject in the hands of the purchaser whether or not the purchaser assumes such indebtedness. It also includes the face amount of any liabilities of the purchaser which are part of the consideration for the sale. Commissions, and other selling or fixing up expenses paid or incurred by the taxpayer in connection with the sale of the old residence, are not to be deducted or taken into account in determining the gross sales price of the old residence.

(b) *Limitations.*—Subsection (b) of new section 1003 provides certain limitations on the applicability of section 1003.

Period of employment

Paragraph (1) of subsection (b) limits the application of section 1003 to those cases where the taxpayer was employed for the 6-month period ending on the day on which he commences work at the new principal place of work by the employer who makes the reimbursement.

Location of new place of work

Paragraph (2) of subsection (b) provides that section 1003 shall not apply unless the distance between the taxpayer's new principal place of work and his old residence exceeds by at least 20 miles the distance between the taxpayer's former principal place of work and his old residence. If the taxpayer, prior to his transfer, had no principal place of work, section 1003 shall not apply unless the distance between his new principal place of work and his old residence is at least 20 miles. For purposes of measuring distances under section 1003(b)(2), all computations are to be made on the basis of a straight-line measurement.

(c) *Definitions; special rules.*—Subsection (c) of new section 1003 provides definitions and special rules for the application of section 1003.

Forced sale period

The term "forced sale period," as defined in paragraph (1) of subsection (c), is the period which begins 90 days before, and ends 180 days after, the date on which the taxpayer commences work as an employee at the new principal place of work. The term has reference

only to a period of time, and not to the nature of, or reason for, the sale.

Sale differential

The term "sale differential" is defined in paragraph (2) of subsection (c) as the amount by which (A) the appraised value of the old residence exceeds (B) the gross sales price of the old residence reduced by the selling commissions, legal fees, and other expenses incident to the transfer of ownership of the old residence. Expenses incident to the transfer of ownership refer to direct transfer costs borne by the employee. For example, such expenses do not include fixing-up expenses or traveling expenses of the employee or members of his family from or to the location of the old residence for purposes of its sale. In order for section 1003 to apply, the payment must be made by the employer to the employee as a sale differential. Thus, if an employer pays an employee a lump sum for miscellaneous costs relating to a transfer to a new place of work, only so much of such sum as is related to the sale of the old residence qualifies for treatment under section 1003.

Appraised value

The term "appraised value of the old residence", as defined in paragraph (3) of subsection (c), is the average of two or more appraisals of fair market value made, on or after the valuation date and on or before the date on which the sales contract is entered into, by independent real estate appraisers selected by the employer. Such paragraph (3) provides that the appraised value shall not exceed the fair market value of the old residence. The appraisals shall be made as of the valuation date.

Valuation date

The term "valuation date" is defined in paragraph (4) of subsection (c) as the date selected by the employer for purposes of determining the amount to be paid with respect to the sale differential. The date selected by the employer shall be a date which occurs (1) on or before the date the sales contract is entered into and (2) within the forced sale period.

Employer

The term "employer," as defined in paragraph (5) of subsection (c), means the person who employs the taxpayer as an employee at the new principal place of work. The term also includes any predecessor or successor corporation and any parent or subsidiary corporation. The determination of whether a corporation is a parent corporation or a subsidiary corporation shall be made under subsections (e) and (f) of section 425 of the code (added by sec. 222(a) of the bill) but by reference to the date on which the taxpayer commences work as an employee at the new principal place of work rather than as of the time of the granting of the option to which such section 425 relates. Thus, where a 50-percent voting stock relationship exists between the corporation for which the employee worked prior to his transfer and the corporation for which he works after his transfer, he is considered as having been employed by the same employer.

Exchanges

Paragraph (6) of subsection (c) provides that an exchange by the taxpayer or his spouse of an old residence for other property shall be treated as a sale.

Tenant-stockholder in a cooperative housing corporation

Paragraph (7) of subsection (c) provides that "property used by the taxpayer as his principal residence" includes stock held by a tenant-stockholder in a cooperative housing corporation, as those terms are defined in section 216 of the code, but only if the house or apartment which the taxpayer was entitled to occupy by reason of such stockownership was used by the taxpayer as his principal residence.

(d) *Regulations.*—Subsection (d) of new section 1003 provides that the Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of section 1003.

SECTION 232. AMOUNTS RECEIVED FROM EMPLOYER ON SALE OF RESIDENCE OF EMPLOYEE IN CONNECTION WITH TRANSFER TO NEW PLACE OF WORK—Con.

Subsection (a)(2) of section 232 of the bill amends the table of sections of part I of subchapter O of chapter 1 of the code to reflect the addition of section 1003 added by the bill.

(b) *Effective date.*—Subsection (b) of section 232 of the bill provides that the amendments made by subsection (a) shall apply to amounts paid with respect to sales contracts entered into after December 31, 1963, in taxable years ending after such date.

SECTION 233. GAIN FROM DISPOSITIONS OF CERTAIN DEPRECIABLE REALTY

Section 233 of the bill (sec. 220 of the bill as passed by the House) was approved by your committee without change. For the technical explanation of this section of the bill, see page A–148 of the report of the Committee on Ways and Means on the bill.

SECTION 234. AVERAGING

Section 234 of the bill (sec. 221 of the bill as passed by the House) has been approved by your committee with three exceptions. For the technical explanation of this section of the bill (other than the amendments made by your committee), see page A–168 of the report of the Committee on Ways and Means on the bill.

First, your committee has made technical changes in the definition of the term "capital gain net income" and in the provisions relating to the computation of the alternative tax to reflect the elimination of section 219 (relating to capital gains and losses) of the bill as passed by the House.

Second, your committee has added a provision to the bill as passed by the House to allow an individual whose adjusted gross income for the computation year is under $5,000 and who chooses the benefits of income averaging to elect the standard deduction under section 144 of the code.

Third, your committee has added a provision to the bill as passed by the House restricting, in certain cases, the application of section 170(b)(5) of the code as added by section 209(c) of the bill (relating to 5-year carryover of certain excess charitable contributions by individuals).

Capital gain net income

Paragraph (1) of section 1302(d) of the code, as amended by your committee, provides that the term "capital gain net income" means the amount which is equal to 50 percent of the excess of the net long-term capital gain over the net short-term capital loss. An individual's capital gain net income for any taxable year cannot be less than zero.

Computation of alternative tax

Paragraph (2) of section 1304(e) deals with the method by which an individual computes his alternative tax under section 1201 of the code for any computation year. Paragraph (2), as amended by your committee, provides that if an individual has capital gain net income for the computation year, then section 1201(b) of the code is treated as imposing a tax on the individual's income which is equal to the tax imposed by section 1 of the code, reduced by the amount (if any) by which the amount of the tax imposed by section 1 of the code which is attributable to an individual's capital gain net income for such year (as determined under paragraph (1) of section 1304(e)) exceeds the amount equal to 25 percent of the excess of the net long-term capital gain over the net short-term capital loss.

Amendment of section 144.—Subsection (c) of section 234 of the bill, as approved by your committee, amends section 144 of the code (relating to election of standard deduction) by adding after section 144(c) (as added by sec. 112(c)(2) of the bill) a new subsection (d).

Individuals electing income averaging

Subsection (d) of section 144 provides that if a taxpayer chooses to have the benefits of part I of subchapter Q (relating to income averaging) for a taxable year, section 144(a) of the code (relating to method and effect of election of standard deduction) shall not apply for such taxable year and the standard deduction under section 141 of the code shall be allowed if the taxpayer so elects in his return for such taxable year. The Secretary of the Treasury or his delegate shall prescribe by regulations the manner of signifying such election in the return. If the taxpayer on making his return fails to signify, in the manner prescribed by regulations, his election to take the standard deduction, such failure shall be considered his election not to take the standard deduction.

Effective date.—Subsection (g)(2) of section 234 of the bill, as approved by your committee, provides, in effect, that, in a taxable year beginning after December 31, 1963, if a taxpayer elects to apply both sections 1301 and 1307(e) of the code, as such sections were in effect immediately before the enactment of the bill, then section 170(b)(5) of the code as added by section 209(c) of the bill shall not apply to charitable contributions paid in such taxable year.

SECTION 235. SMALL BUSINESS CORPORATIONS

Section 235 of the bill, which is a new section added to the bill as passed by the House, relates to small business corporations.

(*a*) *Ownership of certain stock disregarded.*—Subsection (a) of section 235 of the bill amends section 1371 of the code (relating to the definition of a small business corporation) by adding a new subsection (d) to permit a corporation to be a small business corporation while owning the stock of certain inactive subsidiary corporations.

Under section 1371(a) of existing law, a small business corporation is not permitted to be a member of an affiliated group. New subsection (d) provides that, for purposes of section 1371(a), a corporation shall not be considered to be a member of an affiliated group at any time during any taxable year by reason of the ownership of stock in another corporation if such other corporation meets the requirements provided in new paragraphs (1) and (2) of section 1371(d).

Paragraph (1) provides that the subsidiary corporation must not have begun business at any time on or after the date of its incorporation and before the close of the parent corporation's taxable year with respect to which status as a small business corporation is being sought. An example of a corporation which "has not begun business" is a corporation which is incorporated for the sole purpose of reserving a corporate name in a State or States in which the parent corporation is not doing business.

Paragraph (2) of section 1371(d) provides, in effect, that the subsidiary corporation must not have taxable income for the portions of any of its taxable years which are included within the taxable year of the parent corporation with respect to which status as a small business corporation is being sought.

Thus, for example, assume that corporation P wishes to elect to be treated under the provisions of sections 1371 through 1377 of the code for its calendar year 1964 and subsequent years. Corporation P owns all of the stock of corporation S, which is on a June 30 taxable year. Corporation P would not be precluded from making an election under section 1372 if corporation S had not begun business before January 1, 1965, and had no taxable income for either the period January 1, 1964, through June 30, 1964, or the period July 1, 1964, through December 31, 1964. Assuming that corporation P so elected with respect to its calendar year 1964, it would cease to be a small business corporation for any subsequent taxable year if corporation S either begins business before the close of such subsequent year, or has taxable income for any period included within such subsequent year.

The enactment of section 1371(d) does not relax or otherwise change the requirements of any of the provisions of subchapter S other than with respect to the requirement that a small business corporation may not be a member of an affiliated group. Thus, in the above example, the election made by corporation P under section 1372 must have been made either during the month of December 1963 or January 1964.

(*b*) *Certain distributions of money after close of taxable year.*—Subsection (b) of section 235 of the bill amends section 1375 of the code (relating to special rules applicable to distributions of electing small business corporations) by adding a new subsection (e).

Paragraph (1) of new section 1375(e) provides that, for purposes of chapter 1 of the code, a corporation which sold capital assets or property described in section 1231(b) of the code during a taxable year with respect to which it was an electing small business corporation may elect to treat as a distribution of money made on the last day of such taxable year, a distribution of money representing all or part of the proceeds of such sales of assets or property which such corporation makes to its shareholders on or before the 15th day of the third month following the close of such year, if such distribution is made pursuant to a resolution of its board of directors adopted before the close of such taxable year. Thus, if a corporation makes such an election, such distribution will be treated as actually distributed and received on the last day of such taxable year and will be taken into account in computing undistributed taxable income (as defined in sec. 1373(c)) for such taxable year to the extent that such distribution is a distribution out of earnings and profits of such taxable year as specified in section 316(a)(2).

Paragraph (2) of new section 1375(e) provides, in effect, that in order for a corporation to make an election under paragraph (1) of new section 1375(e) with respect to any distribution, each person who is a shareholder on the day the distribution is received must own as of the close of such day the same proportion of stock of such corporation as he owned as of the close of the last day of the taxable year of such corporation preceding the taxable year of the distribution, and each such shareholder must consent to such election at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe by regulations.

Paragraph (3) of new section 1375(e) provides that the election under paragraph (1) of new section 1375(e) shall be made in such manner as the Secretary of the Treasury or his delegate shall prescribe by regulations. Such election shall be made not later than the time prescribed by law for filing the return for the taxable year during which the sale was made (including extensions thereof), except that, with respect to any taxable year ending on or before the date of enactment of the bill, such election shall be made within 120 days after such date.

(*c*) *Effective dates.*—Subsection (c) of section 235 of the bill provides that the amendment made by subsection (a) of such section shall apply with respect to taxable years of corporations beginning after December 31, 1962, and that the amendment made by subsection (b) of such section shall apply with respect to taxable years of corporations beginning after December 31, 1957. No provision of this section of the bill extends the period of limitations within which a claim for credit or refund may be filed for any taxable year.

SECTION 236. REPEAL OF ADDITIONAL 2-PERCENT TAX FOR CORPORATIONS FILING CONSOLIDATED RETURNS

Section 236 of the bill (sec. 222 of the bill as passed by the House) was approved by your committee without change. For the technical explanation of this section of the bill, see page A–186 of the report of the Committee on Ways and Means on the bill.

SECTION 237. REDUCTION OF SURTAX EXEMPTION IN CASE OF CERTAIN CONTROLLED CORPORATIONS, ETC.

Section 237 of the bill (sec. 223 of the bill as passed by the House) was approved by your committee with minor technical changes. For the technical explanation of this section (except for the amendments made by your committee), see page A–187 of the report of the Committee on Ways and Means on the bill.

(*a*) *In general.*—Subsection (a) of section 237 adds a new part II (relating to certain controlled corporations) to subchapter B of chapter 6 of the code.

SECTION 1562. PRIVILEGE OF GROUPS TO ELECT MULTIPLE SURTAX EXEMPTIONS

Additional tax imposed

The bill as passed by the House provides certain exceptions to the general rule that a corporation which is a component member of a controlled group of corporations which has made an election under new section 1562(a) of the code is subject to the additional tax imposed by section 1562(b):

1. New section 1562(b)(1) provided that the additional tax is not to apply to the taxable year of the corporation if such corporation is the only member of the controlled group which has taxable income for the taxable year.
2. Subsection (c) of section 1551 of the code (relating to disallowance of surtax exemption and accumulated earnings credit), as amended by the bill as passed by the House, provided that if the surtax exemption is disallowed to a transferee corporation under section 1551(a) for any taxable year the additional tax is not to apply with respect to such transferee for such taxable year.
3. The bill as passed by the House added a new subsection (d) to section 269 of the code (relating to acquisitions made to evade or avoid income tax) to provide that if the surtax exemption is disallowed under section 269(a) to an acquired corporation for any taxable year the additional tax is not to apply with respect to such acquired corporation for such taxable year.

Your committee has stricken out the provisions referred to in paragraphs (2) and (3), and has added to the provision referred to in paragraph (1) a general rule that the additional tax is not to apply to the taxable year of a corporation if its surtax exemption is disallowed under any provision of subtitle A of the code for such taxable year.

Tolling of statute of limitations

Your committee has made a change in subsection (g) of new section 1562 in order to make it clear that neither the Secretary of the Treasury nor his delegate nor the taxpayer may invoke such subsection for the purpose of overturning closing or compromise agreements. Thus, paragraph (2) of new section 1562(g) relating to the tolling of the statute of limitations for allowing or making claim for credit or refund of any overpayment of tax has been changed by your committee to conform to the provisions of paragraph (1) of such section, relating to the tolling of the statute of limitations for assessment of deficiencies.

SECTION 1563. DEFINITIONS AND SPECIAL RULES

Special rules

Your committee has adopted a new special rule by adding a new subparagraph (C) to new section 1563(f)(3). By reason of this addition, your committee has deleted as unnecessary a provision contained in the first parenthetical expression of section 1563(c)(2)(A)(ii). The new subparagraph (C) of section 1563(f)(3) provides that if stock is owned by a person within the meaning of section 1563(d) and such ownership results in the corporation being a component member of a controlled group, such stock shall not be treated as excluded stock under section 1563(c)(2) if by reason of treating such stock as excluded stock the result is that such corporation is not a component member of a controlled group. Thus, for example, assume corporation P owns directly 50 of the 100 shares of the only class of stock of corporation S. Also assume that O, an officer of corporation P, owns directly 30 shares of such stock and corporation P owns an option to acquire such 30 shares from O. The remaining shares of corporation S (20) are owned by unrelated persons. In the absence of the new special rule adopted by your committee, one possible construction of the applicable provisions of the House bill is that the 30 shares of stock of corporation S owned by O would be treated as excluded stock under section 1563(c)(2)(A)(ii), and corporation P would be treated as owning only 71 percent (50 divided by 70) of the stock of corporation S. Thus, corporation S would not be a component member of a controlled group of corporations within the meaning of section 1563(b). The special rule added by your committee insures, however, that the stock ownership rules contained in section 1563(d) take precedence over the excluded stock rules contained in section 1563(c)(2) when the result is to include a corporation as a component member of a controlled group of corporations which, in the absence of the new special rule, would not be the case. Thus, in the preceding example, O's stock would not be treated as excluded stock with the result that P is treated as owning 80 percent of the stock of corporation S (50 percent directly, and 30 percent constructively under sec. 1563(e)(1)) and corporation S would be a component member of a controlled group of corporations consisting of corporations P and S.

Your committee has also made minor conforming and clarifying changes in new section 1563.

(*b*) *Disallowance of surtax exemption and accumulated earnings credit.*—Subsection (b) of the bill contains amendments to section 1551 of existing law. Subsection (b)(2) of section 1551 as amended by the bill, defines the term "control" in the case of a transferee corporation described in subsection (a)(3) of such section. Subparagraph (B) of section 1551(b)(2) provides, in part, that with respect to voting stock, five or fewer individuals must own stock possessing *more than* 50 percent of the total combined voting power of all classes of stock entitled to vote. However, a slightly different test is provided with respect to the ownership requirements relating to the value of the outstanding stock. The test is that the five or fewer individuals must own stock possessing *at least* 50 percent of the total value of shares of all classes of stock. Your committee has made the voting stock and the value stock tests identical by requiring that in each case the individuals must own more than 50 percent of the particular stock in question.

(c) *Technical amendments.*—Subsection (c) of the bill as reported is the same as subsection (c) of the bill as passed by the House except for a conforming change.

(d) *Effective date.*—Subsection (d) of the bill as reported is the same as subsection (d) of the bill as passed by the House.

SECTION 238. VALIDITY OF TAX LIENS AGAINST MORTGAGEES, PLEDGEES, AND PURCHASERS OF MOTOR VEHICLES

Section 238 of the bill, which is a new section added to the bill as passed by the House, relates to the validity of tax liens on certain motor vehicles.

(a) *Mortgagees, pledgees, and purchasers without actual notice or knowledge of lein.*—Subsection (a) of section 238 of the bill amends section 6323(c) of the code (relating to exception in case of securities) to grant, in the case of the mortgage, pledge, or purchase of a motor vehicle, the same treatment which is now available in the case of the mortgage, pledge, or purchase of a security after notice of a tax lien has been filed. Thus, even though notice of a tax lien imposed by section 6321 has been filed, such lien will not be valid with respect to any mortgagee, pledgee, or purchaser of a motor vehicle, for an adequate and full consideration in money or money's worth, if at the time of such mortgage, pledge, or purchase such mortgagee, pledgee, or purchaser was without notice or knowledge of the existence of such lien.

Paragraph (1) of section 238(a) of the bill amends the heading of section 6323(c) of the code to reflect the extension of the exception contained in such subsection to cover motor vehicles.

Paragraphs (2) and (3) of section 238(a) of the bill amend paragraph (1) of section 6323(c) of the code to extend the exception contained in paragraph (1) to any mortgagee, pledgee, or purchaser of a motor vehicle without notice or knowledge of the existence of a tax lien.

Paragraph (4) of section 238(a) of the bill adds a new paragraph (3) to section 6323(c) of the code. Paragraph (3) defines the term "motor vehicle", as used in section 6323(c), as a vehicle (other than a house trailer) which is registered for highway use under the laws of any State or foreign country.

(b) *Liens for estate and gift taxes.*—Subsection (b) of section 238 of the bill amends section 6324 of the code (relating to special liens for estate and gift taxes) to grant, in the case of the mortgage, pledge, or purchase of a motor vehicle, the same treatment which is now available in the case of the mortgage, pledge, or purchase of a security after a lien for estate or gift tax has arisen. Thus, even though a special lien for estate or gift tax has arisen, such lien will not be valid with respect to any mortgagee, pledgee, or purchaser of a motor vehicle, for an adequate and full consideration in money or money's worth, if at the time of such mortgage, pledge, or purchase such mortgagee, pledgee, or purchaser was without notice or knowledge of the existence of such lien.

Paragraph (1) of section 238(b) of the bill amends section 6324(a) of the code (relating to liens for estate tax) and section 6324(b) of the code (relating to lien for gift tax) to extend the exception for securities now contained in those subsections to motor vehicles.

Paragraph (2) of section 238(b) of the bill amends section 6324(c) of the code (relating to exception in case of securities) by revising such subsection to cover both securities and motor vehicles.

(c) *Effective date.*—Subsection (c) of section 238 of the bill provides that the amendments made by this section apply only with respect to mortgages, pledges, and purchases made after the date of the enactment of the bill.

TITLE III—OPTIONAL TAX ON INDIVIDUALS; COLLECTION OF INCOME TAX AT SOURCE ON WAGES

SECTION 301. OPTIONAL TAX IF ADJUSTED GROSS INCOME IS LESS THAN $5,000

This section has been approved by your committee without change. For the technical explanation of this section of the bill see page A–214 of the report of the Committee on Ways and Means on the bill.

SECTION 302. INCOME TAX COLLECTED AT SOURCE

Section 302 of the bill amends section 3402 of the code (relating to income tax collected at source) and section 1441 of the code (relating to withholding of tax on nonresident aliens).

(*a*) *Percentage method of withholding.*—Subsection (a) of section 302 of the bill amends section 3402(a) of the code (relating to income tax collected at source). Under the bill as passed by the House, section 3402(a) of the code provided for a 15-percent withholding rate in the case of wages paid during the calendar year 1964 and a 14-percent withholding rate in the case of wages paid after December 31, 1964. Your committee has amended section 3042(a) to provide for a 14-percent withholding rate in the case of wages paid after the seventh day following the date of the enactment of the bill.

(*b*) *Wage bracket withholding.*—Subsection (b) of section 302 of the bill amends section 3402(c)(1) of the code (relating to wage bracket withholding). Under the bill as passed by the House, section 3402(c)(1) of the code provided new withholding tables for wages paid during the calendar year 1964, and new tables for wages paid after December 31, 1964. Your committee has amended section 3402(c)(1) to provide that the new withholding tables which would have become effective for wages paid after December 31, 1964, under the bill as passed by the House will become effective for wages paid after the seventh day following the date of the enactment of the bill.

(*c*) *Withholding of tax on certain nonresident aliens.*—Subsection (c) of section 302 of the bill amends sections 1441 (a) and (b) of the code (relating to withholding of tax on nonresident aliens). Under the bill as passed by the House, section 1441(a) of the code provided a 15-percent withholding rate in the case of certain payments made during the calendar year 1964 and a 14-percent withholding rate in the case of certain payments made after December 31, 1964. Your committee has amended section 1441(a) to provide a 14-percent withhold-

ing rate in the case of these payments made after the seventh day following the date of the enactment of the bill.

Under the bill as passed by the House, section 1441(b) of the code referred to the rates of 15 percent or 14 percent provided by the amended section 1441(a). Your committee has amended section 1441(b) to refer to the new 14-percent rate which is provided by amended section 1441(a).

(*d*) *Effective dates.*—Subsection (d) of section 302 of the bill as passed by the House provided that the amendments made by subsections (a) and (b) of such section apply with respect to remuneration paid after December 31, 1963, and that the amendment made by subsection (c) applies with respect to payments made after December 31, 1963. Your committee's amendment provides that the amendments made by subsections (a) and (b) of such section apply with respect to remuneration paid after the seventh day following the date of the enactment of the bill, and that the amendment made by subsection (c) of such section applies with respect to payments made after the seventh day following the date of the enactment of the bill.

SECTION 17

BRIEF SUMMARY OF THE PROVISIONS OF H.R. 8363 AS REPORTED BY THE SENATE COMMITTEE ON FINANCE

BRIEF SUMMARY OF THE PROVISIONS OF H.R. 8363, "THE REVENUE ACT OF 1964"

AS REPORTED BY

THE COMMITTEE ON FINANCE

UNITED STATES SENATE

EIGHTY-EIGHTH CONGRESS

SECOND SESSION

Prepared by the Staff of the Joint Committee on Internal Revenue Taxation and printed for the use of the Committee on Finance

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BRIEF SUMMARY OF REVENUE ACT OF 1964 AS AMENDED BY THE SENATE COMMITTEE ON FINANCE (H.R. 8363)

(1) *Section 1: Title.*—The title of the bill is the Revenue Act of 1964.

(2) *Section 111: Individual rates.*—This reduces the rates of tax for individuals from a range of 20 to 91 percent to a range of 16 to 77 percent for 1964 and to a range of 14 to 70 percent for 1965 and subsequent years. This splits the first bracket into four segments of $500 each, taxed at 14, 15, 16, and 17 percent, respectively.

(3) *Section 112: Minimum standard deduction.*—This provides that, if higher than the 10-percent standard deduction, the "minimum standard deduction" is to be $200 plus $100 for each exemption. Thus, the exemption and minimum standard deduction for a single person will be $900; for a married couple, $1,600; and, for a married couple with two children, $3,000.

(4) *Section 113: Related amendments.*—This conforms the tax rate applicable to the retirement income credit with the new rate schedules. Thus, it makes the rate applicable to the retirement income 15 percent instead of 20 percent. This also conforms the floor on the tax on nonresident aliens with the new rate schedule by raising from $15,400 to $19,000 in 1964 and $21,200 in 1965 and subsequent years the income level to which the regular, rather than the flat 30-percent rate, may be applicable.

(5) *Section 114.*—This is a cross-reference.

(6) *Section 121: Corporate rates.*—This reduces the overall corporate tax rate from the present 52 percent to 50 percent in 1964 and 48 percent in subsequent years. It also reduces the rate applicable to the first $25,000 of corporate income, from the present 30 percent, to 22 percent for 1964 and subsequent years.

(7) *Section 122: Acceleration of corporate tax.*—This section provides for a speedup in the payment of corporate taxes. It applies only to tax liability in excess of $100,000. At present, 50 percent of tax liability over $100,000 is payable in two installments in September and December (for a calendar year corporation) in the current year of liability. This accelerates the other two payments now made after the end of the year with respect to this liability over $100,000 so that by 1970 these two 25-percent payments also will be made in the current year of liability in April and June (for a calendar year corporation). This speedup is provided on a gradual basis. Thus, 1 percent of this liability in April and June will be reported for 1964, 4 percent for 1965, 9 percent for 1966, 14 percent for 1967, 19 percent for 1968, 22 percent for 1969, and the full 25 percent for 1970.

(8) *Section 123: Related amendments.*—This conforms other provisions in the Internal Revenue Code to the changes made with respect to corporate rates in section 121. The conforming amendments relate to the tax on mutual insurance companies (other than life) and receipts

of minimum distributions for domestic corporations from their foreign subsidiaries.

(9) *Section 131: Effective date.*—This provides that the corporate and individual rate changes are to be effective generally for taxable years beginning after December 31, 1963.

(10) *Section 132: Fiscal year taxpayers.*—This provides that the individual and corporate rate changes for fiscal year taxpayers are to apply to that portion of their years ending after December 31, 1963.

(11) *Section 201: Dividend credit and exclusion.*—The 4-percent dividends received credit available to individuals is reduced to 2 percent for 1964 and repealed for subsequent years. The $50 dividend exclusion is increased to $100 for 1964 and subsequent years. In practical effect, this increase is from $100 to $200 for married couples.

(12) *Section 202: Retirement income credit.*—The maximum limitation on the retirement income credit is raised up to $762, or from $1,524 to $2,286 for a married couple, where both are over 65 and one spouse is not eligible for the retirement credit, or can take only a small credit. (This is a committee amendment.)

(13) *Section 203: Investment credit.*—In the case of the investment credit, the provision requiring a downward adjustment in the basis of property eligible for depreciation, to the extent of the 7-percent investment credit, is repealed. Also Federal regulatory commissions are prohibited from requiring the "flowthrough" of any of the benefits of the investment credit to the customers of the regulated industries in the case of property eligible for the full 7-percent credit (mainly the transportation industries such as railroads, airlines, and pipelines). In the case of public utilities eligible only for the 3-percent credit (principally telephone and electric companies), the regulatory commissions are not to require the "flowthrough" of the benefits of the investment credit in any period of time shorter than the useful life of the asset involved. Other changes make the investment credit available in the case of elevators and escalators and increase the base on which the credit of the lessee is to be computed where dealers lease property eligible for the credit.

(14) *Section 204: Group-term insurance.*—The employee exclusion for premiums on group term insurance furnished through the employer is limited to premiums paid on the first $70,000 of coverage. (The committee amendments increased this level from $30,000 to $70,000.)

(15) *Section 205: Sick pay exclusion.*—The sick pay exclusion of up to $100 a week is made available only to those absent from work for more than 30 days and available to them only for the period after that time.

(16) *Section 206: Sale of residence.*—An exclusion from taxable income is provided for any capital gain attributable to the first $20,000 of the sale price of a personal residence in the case of an individual age 65 or over.

(17) *Section 207: State and local taxes.*—A deduction is denied in computing income subject to Federal tax for State and local taxes other than property taxes, income taxes, general sales taxes, gasoline

taxes, and automotive license taxes. The principal taxes for which this denies a deduction are alcoholic beverage taxes, cigarette taxes, and selective excise taxes. (Under the House bill, no deductions were allowed for gasoline and automotive licenses.)

(18) *Section 208: Casualty losses.*—The deduction for personal casualty and theft losses is limited to the amount in excess of $100 per loss, in a manner somewhat similar to the treatment of "$100 deductible" insurance.

(19) *Section 209: Charitable contributions.*—The following changes are made in the charitable contribution deduction:

(*a*) The additional 10-percent maximum deduction (above the 20-percent generally available) is made available generally for contributions to publicly supported organizations other than private foundations (presently it is available chiefly for churches, schools, and hospitals);

(*b*) The unlimited charitable contribution deduction is restricted to contributions to publicly supported organizations (this is a committee amendment);

(*c*) A 5-year carryover of charitable contributions (in excess of the amount currently deductible) is provided for individuals with respect to contributions to publicly supported organizations (this is a committee amendment);

(*d*) The 2-year carryover of charitable contribution deductions for corporations is extended to 5 years (the committee made this available for contributions made in 1962 and 1963 as well as subsequent years);

(*e*) Charitable contribution deductions for gifts of future interest in tangible personal property are denied until the gifts are completed (the House bill would have applied this rule only where the life interest was retained in other than the donor).

(20) *Section 210: Expropriation losses.*—Businesses which have sustained substantial "foreign expropriation losses" after 1958 are permitted to carry such losses forward and apply them against income for a 10-year period. This is in place of the regular 3-year carryback and 5-year carryforward for net operating losses. (This is a committee amendment.)

(21) *Section 211: Medicines and drugs.*—The 1-percent limitation, or floor, on medicines and drugs, which must be taken into account in determining deductible medical expenses, is made inapplicable where the taxpayer or his wife is over 65 and also with respect to expenses for dependent parents over 65. This conforms the treatment with respect to the 1-percent limitation with that provided in the case of the 3-percent limitation for medical expenses generally.

(22) *Section 212: Child care.*—The child care deduction is revised—

(*a*) to make it available in the case of a husband whose wife is incapacitated or institutionalized;

(*b*) to make it available with respect to care for children up to age 13 (instead of 12);

(*c*) the maximum deduction allowable where there are two or more children is increased from $600 to $900 and where there are three or more children, to $1,000 (the $1,000 maximum is added by the committee); and

(*d*) the present limitation on family income in the case of a working wife eligible for this deduction is raised from $4,000 to $7,000 (this is a committee amendment).

(23) *Section 213: Moving expenses.*—A deduction is allowed for certain moving expenses—transportation of household goods, transportation of the persons involved, and meals and lodging of the persons while in transit—for employees who are not reimbursed for these expenses and also for new employees. An exclusion for these items is already available in the case of old employees who are reimbursed.

(24) *Section 214: Political contributions.*—Individuals are allowed a deduction of up to $50 a year ($100 in the case of a joint return) for contributions to a political candidate or political committee to further the candidacy of individuals in primaries, conventions, general elections, and special elections. This applies to elections at all levels of government. (This is a committee amendment.)

(25) *Section 215: 100-percent dividend deduction.*—Affiliated groups of corporations, where there is an 80-percent common ownership, which are eligible to file a consolidated return but do not do so, are permitted to take a 100-percent deduction for intercorporate dividends received from other members of the group if the group agrees to be treated as a single entity for certain purposes, such as the $25,000 surtax exemption. (This is a committee amendment.)

(26) *Section 216: Bank loan insurance.*—An interest deduction is denied for amounts borrowed under a systematic plan to pay premiums on life insurance. The deduction is denied only if four of the first seven annual premiums are borrowed, the interest exceeds $100 a year, the amounts borrowed were not for unforeseen emergencies, or the amounts borrowed were not incurred in connection with a business.

(27) *Section 217: Face-amount certificate companies.*—Financial institutions subject to State banking laws and issuing face-amount certificates are not to be denied a deduction for interest paid on these certificates under section 265(2) of the code (relating to interest indebtedness to carry tax-exempt obligations) to the extent the tax-exempt obligations do not constitute more than 25 percent of the average of the institutions total assets. (This is a committee amendment.)

(28) *Section 218: Travel expenses.*—The rule adopted in 1962 which disallows a portion of travel expenses for certain business trips combined with a vacation is repealed. (This is a committee amendment.)

(29) *Section 219: Reorganizations.*—Tax-free status is provided for a stock-for-stock reorganization where the corporation acquiring the stock exchanges the voting stock of its parent corporation for the stock of the corporation being acquired. (This is a committee amendment.)

(30) *Section 220: Multiemployer pension plans.*—Provision is made for the retroactive qualification of a pension plan under a multiemployer agreement with unions where the pension plan subsequently becomes qualified. (This is a committee amendment.)

(31) *Section 221: Pension coverage of employees abroad.*—U.S. corporations are to be permitted to extend coverage under their qualified pension, profit-sharing, et cetera, plans to U.S. citizens employed by foreign subsidiaries or by domestic subsidiaries operating outside the United States. Generally, this treatment will not be available unless these employees are also covered for social security purposes. (This is a committee amendment.)

(32) *Section 222: Stock options.*—The present tax treatment of employee stock options is further restricted, the principal additional restrictions being—

(*a*) the stock when acquired must be held for 3 years or more;

(*b*) the options must not be for a period of more than 5 years;

(*c*) the option price must at least equal the market price of the stock when the option is granted;

(*d*) stockholders' approval of the options must be obtained; and

(*e*) the extent to which new options may be exercised when the old options are outstanding is restricted (the committee modified this latter point slightly).

Separate tax treatment is provided for employee stock purchase plans which are available to all employees on a nondiscriminatory basis under rules which are substantially the same as under present law.

(33) *Section 223: Revolving credit.*—Installment sales treatment, under which the income is reported as the installment is received, is fully extended to revolving credit sales and also to time payment charges associated with revolving credit sales. (This is a committee amendment.)

(34) *Section 224: Contested items.*—Where a taxpayer contests a tax or other liability, he is, nevertheless, to be permitted a deduction for the item in the year in which he makes the payment if this is earlier than the year in which the contest is settled. (This is a committee amendment.)

(35) *Section 225: Unstated interest.*—Where property is sold on an installment basis and either no, or very little, interest is charged on the installments, an appropriate amount of each installment is to be treated as if it were an interest payment.

(36) *Section 226: Personal holding companies.*—The percentage of passive income which may result in a company being classified as a personal holding company is reduced from 80 percent to 60 percent and amendments are made so that the personal holding company tax cannot be avoided by using rental income or oil or gas or mineral royalties (or working interests) to shelter substantial amounts of investment income, such as dividends and interest, from the personal holding company tax. (The committee modified somewhat the rules

applying to rental income.) Other restrictive amendments are also made. In addition, relief is provided for those companies which are not now personal holding companies, but would be under the new definitions. They are permitted favorable liquidation treatment in certain cases and also permitted a deduction in computing the personal holding company income for paying off existing debts. (Committee amendments allow 1 additional year to qualify for this treatment; a House amendment relating to foreign personal holding companies was deleted by the committee.)

(37) *Section 227: Aggregations of property.*—For the future, oil and gas leases and acquisitions are no longer to be aggregated in determining what constitutes a property for purposes of computing the 50-percent net income limitation in the case of the percentage depletion deduction.

(38) *Section 228: Iron ore royalties.*—Capital gains treatment is extended to iron ore royalties where the iron ore is mined in the United States and the persons acquiring the ore are not related to the persons owning the property.

(39) *Section 229: Insurance companies.*—Three changes are made with respect to the income tax of insurance companies:

(*a*) The present rule providing for the deduction of certain distributions in 1958 through 1961 to shareholders pursuant to "mutualizations" of stock life insurance companies are extended to cover distributions in 1962;

(*b*) The requirement of present law that life insurance companies, and small mutual casualty insurance companies taxed on investment income only, are to ratably accrue market discount on purchased bonds as ordinary income is removed with the result that this will be treated as capital gains; and

(*c*) A change is made to assure the deductibility of qualified pension plan contributions of mutual casualty insurance companies.

(All three of these changes are committee amendments.)

(40) *Section 230: Mutual funds.*—Regulated investment companies (i.e., mutual funds meeting certain requirements) are to be given 45 days after the close of their taxable year rather than 30 days to give notices to their shareholders as to the treatment by the shareholders of income received from the companies. (This is a committee amendment.) In addition, a provision is added to the effect that distributions by a unit investment trust liquidating an individual's interests in the trust are not to be considered as giving rise to capital gains tax with respect to interests of other investors still in the trust. (This is a committee amendment.)

(41) *Section 231: Foreign tax credit.*—Any excess foreign tax credit which arises from mineral extraction, because of the percentage depletion allowance under U.S. law, may not be used to offset U.S. tax on other foreign income not related to mineral extraction, processing, transportation, marketing, or similarly related activity. (This is a committee amendment.)

(42) *Section 232: Houses sold by employees.*—Where old employees are moved by an employer from one location to another, to the extent the employer reimburses them for selling expenses and the receipt of less than the fair price of the house because the sale had to occur in a short period of time, such amounts are to be treated as proceeds from the sale of the house rather than as compensation to the employee. As a result, to the extent they result in tax, these amounts will be treated as capital gain rather than as ordinary income. (This is a committee amendment.)

(43) *Section 233: Gains on real estate.*—In the case of real estate sold in the future, any depreciation deduction, to the extent the deductions exceed the depreciation which would have been allowable under the straight line method (but only to the extent of any gain), are to be treated as giving rise to ordinary income. However, in the case of property held more than 20 months, the amount treated as ordinary income is to be reduced by 1 percent for each month of holding over 20, with the result that these amounts are taxed as capital gains, rather than as ordinary income, in the case of real property held more than 10 years.

(44) *Section 234: Averaging.*—In place of the various specialized averaging provisions available under present law, what in effect amounts to averaging of income over a 5-year period is to be available for the income in the current year which exceeds the average of the income of the 4 prior years by more than one-third but only if the excess over this 1⅓ amounts to more than $3,000.

(44) *Section 235: Subchapter S corporations.*—In the case of subchapter S corporations, the income of which is treated essentially like partnership income, it is provided that certain distributions of money after the close of a taxable year may be treated as made during the year, in order to prevent the double inclusion of this income in the tax base of a shareholder (this is a committee amendment); and that a corporate member of an affiliated group may elect subchapter S treatment if the only other members of the group are inactive subsidiary corporations (this is a committee amendment).

(45) *Section 236: Consolidated returns.*—The 2-percent penalty tax which presently must be paid by corporations for the privilege of filing consolidated returns is repealed.

(46) *Section 237: Multiple surtax exemptions.*—For corporations where there is common control to the extent of 80 percent or more, the corporations involved may, as under present law, file a consolidated return, or may claim one $25,000 surtax exemption for the group, or alternatively may continue to each claim their own surtax exemption if a special tax of 6 percent is paid upon the first $25,000 of the income of each of these corporations. In addition, under present law, corporations may not transfer directly all or part of their property (other than money) to another corporation if the other corporation was created for the purpose of acquiring the property and was not actively engaged in business at the time of the acquisition and still have each of these corporations eligible for its own surtax exemption.

This treatment is extended to cover cases where the same result is obtained indirectly as well as directly and also where the result is obtained where five or fewer individuals who control a corporation transfer property directly or indirectly to a transferee corporation.

(47) *Section 238: Tax liens.*—A purchaser, a mortgagee, or pledgee of a motor vehicle will not be subject to a Federal tax lien against the motor vehicle, notice of which has been publicly filed unless the purchaser, mortgagee, or pledgee has actual knowledge of the existence of the lien. (This is a committee amendment.)

(48) *Section 301: Optional tax tables.*—Optional tax tables are provided for those with adjusted gross income of less than $5,000 for the year 1964 and for 1965 and for subsequent years. These tables reflect the rate reductions for individuals referred to in section 111 above.

(49) *Section 302: Withholding.*—Provision is made for a withholding rate of 14 percent in lieu of the 18 percent applicable under present law. This is to apply to payments made after the seventh day following the date of enactment of this bill. (Under the House bill, the withholding rate for 1964 would have been 15 percent and for 1965 and subsequent years, 14 percent.) Withholding rate tables to reflect this 14-percent withholding rate are also provided.

House Provisions Deleted by Committee Action

(1) *Sickness and accident policies.*—The committee deleted a provision which would provide that where an individual is covered by more than one sickness or accident policy and receives payments under two or more such policies with respect to the same accident or illness, the excess of any amount received over the cost of these expenses would have been treated as taxable income.

(2) *Carrying charges.*—The committee deleted a provision providing that an interest deduction is to be available for so much of separately stated "carrying charges" as do not exceed a 6-percent interest charge on the declining balance for payments with respect to services, in the same manner as present law provides in the case of purchases of tangible personal property.

(3) *Foreign personal holding companies.*—The committee deleted a House provision which would provide an increase in basis for a shareholder of a foreign personal holding company upon his death equal to the estate taxes he pays with respect to the appreciation in value on his stock in the foreign personal holding company. In addition, under the deleted provision the liquidation of foreign personal holding companies for a limited period of time would be permitted under section 333 which provides for the taxation of accumulated earnings and profits to the shareholder as dividends but provides no tax to him with respect to the appreciation in value of property before December 31, 1953.

(4) *Capital gains and losses.*—The committee deleted a House provision which would subdivide long-term capital gains into two categories: (A) Those held for more than 2 years; and (B) those held for between 6 months and 2 years. Only 40 percent of the gains

attributable to assets held more than 2 years would be includible in the tax base, and these gains would be subject to a maximum rate of 21 percent. For the other assets, present law would continue with the present 50-percent inclusion factor and the 25-percent maximum rate. Certain assets not considered "true" capital assets would receive this treatment without regard to how long they were held. In addition, the committee deleted a House provision which would have provided an indefinite loss carryover for capital losses in the case of individuals in lieu of the 5-year carryover under present law.

REVENUE AND RATE TABLES

TABLE 1.—*Revenue bill of 1964, H.R. 8363—Estimated decrease in tax liability*[1] *(−) and increase (+) (before feedback) of provisions of bill*

[In millions of dollars]

AS APPROVED BY SENATE COMMITTEE ON FINANCE

	Calendar year 1964 liability			Calendar year 1965 liability			Longrun liability		
	Individual	Corporate	Total	Individual	Corporate	Total	Individual	Corporate	Total
A. Tax program:									
Rate changes: Basic rates	−6,310	−1,320	−7,630	−9,470	−2,190	−11,660	−9,470	−2,190	−11,660
Structural changes:									
(*a*) Revenue raising:									
1. Group term insurance	(2)		(2)	(2)		(2)	(2)		(2)
2. Bank loan insurance	+5		+5	+5		+5	+10		+10
3. Sick pay inclusion	+110		+110	+110		+110	+110		+110
4. Deduction of personal taxes	+190		+190	+190		+190	+190		+190
5. Casualty loss deduction	+50		+50	+50		+50	+50		+50
6. Aggregation of mineral properties		+40	+40		+40	+40		+40	+45
7. Personal holding companies	+15		+15	+15		+15	+15		+15
8. Repeal of dividend credit and increase in exclusion	+120		+120	+300		+300	+300		+300
9. Multiple corporation provisions		+30	+30		+30	+30		+30	+30
Total, revenue raising	+490	+70	+560	+670	+70	+740	+675	+70	+745
(*b*) Revenue reducing:									
10. Medical expense deduction	−10		−10	−10		−10	−10		−10
11. Child care allowance	−20		−20	−20		−20	−20		−20
12. Moving expenses	−105		−105	−105		−105	−105		−105
13. Income averaging	−40		−40	−40		−40	−40		−40
14. Minimum standard deduction	−320		−320	−320		−320	−320		−320
15. Repeal 2-percent tax on consoildated returns		−50	−50		−50	−50		−50	−50
16. Political contributions	−25		−25	−5		−5	−15		−15
17. Travel expenses	−5		−5	−5		−5	−5		−5
18. Installment sales treatment		[3] −140	−140		−10	−10		−10	−10
19. Expropriation loss carryover		(2)	(2)		−5	−5		−5	−5
20. Retirement income credit	−10		−10	−10		−10	−10		−10
Total, revenue reducing	−535	−190	−725	−515	−65	−580	−525	−65	−590

	1	2	3	4	5	6	7	8	9
Total, structural changes	−45	−120	−165	+155	+5	+160	+150	+5	+155
Total, rate and structural changes, tax program	−6,355	−1,440	−7,795	−9,315	−2,185	−11,500	−9,320	−2,185	−11,505
Capital gains revisions (including induced effects):									
1. Unlocking of capital gains from general rate reduction	+130		+130	+130		+130	+50		+50
2. Sale or exchange of real estate		(2)	(2)		+5	+5		+15	+15
3. Sales of residences by taxpayers aged 65 or over	−10		−10	−10		−10	−10		−10
4. Capital gains treatment of iron ore royalties		−5	−5		−5	−5		−5	−5
Total, capital gains revisions	+120	−5	+115	+120	0	+120	+40	+10	+50
Total, tax program	−6,235	−1,445	−7,680	[3] −9,195	−2,185	−11,380	−9,280	−2,175	−11,455
B. Revision of 1962 legislation:									
1. Repeal of requirement to reduce basis by investment credit	−20	−140	[4] −160	−25	−170	[4] −195	−25	−170	−195
2. Allow investment credit for elevators and escalators		−10	−10		−10	−10		−10	−10
Total, revision of 1962 legislation	−20	−150	−170	−25	−180	−205	−25	−180	−205
C. Total, revenue bill of 1964	−6,255	−1,595	−7,850	−9,220	−2,365	−11,585	−9,305	−2,355	−11,660

[1] At levels of income estimated for the calendar year 1963.
[2] Less than $2,500,000.
[3] Includes relatively small loss attributable to individuals.
[4] Treasury Department estimate; estimate of Staff of Joint Committee on Internal Revenue Taxation is $245,000,000 for 1964, and $305,000,000 for 1965.

TABLE 2.—*Revenue bill of 1964, H.R. 8363—Estimated decrease in fiscal year receipts* [1] (−) *and increase* (+) *(before feedback) of provisions of bill*

[In millions of dollars]

AS APPROVED BY SENATE COMMITTEE ON FINANCE

	Fiscal year 1964 receipts			Fiscal year 1965 receipts		
	Individual	Corporation	Total	Individual	Corporation	Total
A. Tax program:						
Rate changes:						
Basic rates	[2] −2,200		−2,200	[2] −7,760	−1,320	−9,080
Acceleration of corporate payments		+260	+260		+900	+900
Total	−2,200	+260	−1,940	−7,760	−420	−8,180
Structural changes:						
(*a*) Revenue raising:						
1. Group term insurance				(3)		(3)
2. Bank loan insurance				+5		+5
3. Sick pay exclusion				+110		+110
4. Deduction of personal taxes				+190		+190
5. Casualty loss deduction				+50		+50
6. Aggregation of mineral properties					+40	+40
7. Personal holding companies				+15		+15
8. Repeal of dividend credit and increase in exclusion				+120		+120
9. Multiple corporation provisions					+30	+30
Total, revenue raising				+490	+70	+560
(*b*) Revenue reducing:						
10. Medical expense deduction				−10		−10
11. Child care allowance				−20		−20
12. Moving expenses				−105		−105
13. Income averaging				−40		−40
14. Minimum standard deduction				−320		−320
15. Repeal 2-percent tax on consolidated returns					−50	−50
16. Political contributions				−25		−25
17. Travel expenses				−5		−5
18. Installment sales treatment					[4] −140	−140
19. Expropriation loss carryover					(3)	(3)
20. Retirement income credit				−10		−10
Total, revenue reducing				−535	−190	−725

Total, structural changes				−45	−120	−165
Total, rate and structural changes, tax program	−2,200	+260	−1,940	−7,805	−540	−8,345
A. Capital gains revisions (including induced effects):						
1. Unlocking of capital gains from general rate reduction				+130		+130
2. Sale or exchange of real estate					(3)	(3)
3. Sales of residences by taxpayers aged 65 or over				−10		−10
4. Capital gains treatment of iron ore royalties					−5	−5
Total, capital gains revisions				+120	−5	+115
Total, tax program	−2,200	+260	−1,940	−7,685	−545	−8,230
B. Revision of 1962 legislation:						
1. Repeal of requirement to reduce basis by investment credit				−20	−140	[5] −160
2. Allow investment credit for elevators and escalators					−10	−10
Total, revision of 1962 legislation				−20	−150	−170
C. Total, revenue bill of 1964	−2,200	+260	−1,940	−7,705	−695	−8,400

[1] At levels of income estimated for the calendar year 1963.
[2] Assumes effective date for withholding change of Feb. 22, 1964.
[3] Less than $2,500,000.
[4] Includes relatively small loss attributable to individuals.
[5] Treasury Department estimate; estimate of Staff of Joint Committee on Internal Revenue Taxation is $245,000,000.

TABLE 3.—*Revenue bill of 1964, H.R. 8363—Change in tax liability*[1] *resulting from rate and structural changes for individuals when fully effective*

AS APPROVED BY SENATE COMMITTEE ON FINANCE

Adjusted gross income class (thousands of dollars)	Rate change	Structural changes															Total rate and structural changes
		Group term and other insurance	Sick pay exclusion	Limitation of deductions	Casualty loss deduction	Personal holding companies	Dividend credit and exclusion	Medical care deduction (aged)	Child care allowance	Moving expenses	Income averaging	Minimum standard deduction	Political contribution	Travel and entertainment	Retirement income credit expense	Total structural changes	
	[In millions of dollars]																
0 to 3	−400	(2)	5	5	(2)	(2)	(2)	(2)	(2)	(2)	--------	−170	(2)	(2)	(2)	−160	−560
3 to 5	−1,020	(2)	20	20	5	(2)	10	(2)	−10	−25	--------	−100	(2)	(2)	(2)	−80	−1.100
5 to 10	−3,905	(2)	55	80	25	(2)	30	(2)	−10	−40	(2)	−50	(2)	(2)	−5	+85	−3,820
10 to 20	−2,285	(2)	25	45	15	(2)	50	(2)	(2)	−25	−10	--------	(2)	−5	−5	+90	−2,195
20 to 50	−1,150	(2)	5	20	5	(2)	85	−5	(2)	−10	−20	--------	−10	(2)	(2)	+70	−1,080
50 and over	−710	10	(2)	20	(2)	15	125	−5	(2)	−5	−10	--------	−5	(2)	(2)	+145	−565
Total	−9,470	10	110	190	50	15	300	−10	−20	−105	−40	−320	−15	−5	−10	+150	−9,320
	Change as a percent of present tax																
0 to 3	−27.6	(2)	0.3	0.3	(2)	(2)	(2)	(2)	(2)	(2)	--------	−11.7	(2)	(2)	(2)	−11.0	−38.6
3 to 5	−25.3	(2)	.5	.5	0.1	(2)	0.2	(2)	−0.2	−0.6	--------	−2.5	(2)	(2)	(2)	−2.0	−27.3
5 to 10	−21.3	(2)	.3	.4	.1	(2)	.2	(2)	−.1	−.2	(2)	−.3	(2)	(2)	(2)	+.5	−20.9
10 to 20	−18.0	(2)	.2	.4	.1	(2)	.4	(2)	(2)	−.2	0.1	--------	(2)	(2)	(2)	+.7	−17.3
20 to 50	−17.0	(2)	.1	.3	.1	(2)	1.3	−0.1	(2)	−.1	−.3	--------	−0.1	(2)	(2)	+1.0	−16.0
50 and over	−17.0	0.2	(2)	.5	(2)	0.4	3.0	−.1	(2)	−.1	−.2	--------	−.1	(2)	(2)	+3.5	−13.5
Total	−20.0	(2)	.2	.4	.1	(2)	.6	(2)	(2)	−.2	−.1	.7	(2)	(2)	(2)	+.3	−19.7

[1] Excludes effect of capital gains provisions and repeal of the requirement to reduce basis by amount of investment credit.

[2] Less than $2,500,000 or 0.05 percent.

TABLE 4.—*Action by Senate Finance Committee on H.R. 8363 resulting in significant change in tax liability over House bill, calendar years 1964 and 1965 and long run.*

In millions

	Change in tax liability from House bill		
	1964	1965	Long run
1. Deduction for political contributions	−$25	−$5	[1] −$15
2. Liberalized deduction for child care expense	−15	−15	−15
3. Elimination of allocation of travel expenses	−5	−5	−5
4. 100 percent intercorporate dividend deduction for certain affiliated groups	−5	−5	−5
5. Restoration of deduction of State and local gas tax and auto registration fees	−330	−330	−330
6. Allowance to reimbursed employee, as part of sales price, of selling costs and loss on forced sale of house	−45	−45	−45
7. Elimination of general capital gains provision	−100	+40	+260
8. Allowance of installment sales treatment for revolving credit plans	−140	−10	−10
9. Permitting election of 10-year carryforward without carryback for expropriation losses	(2)	−5	[2] −5
10. Increasing from $50,000 to $70,000 the minimum group-term life insurance subject to tax	−5	−5	−5
11. Liberalize retirement income credit on certain joint returns	−10	−10	−10
Total	−680	−395	−185

[1] $25,000,000 for presidential election year; 50 percent of that amount for congressional election year and 25 percent for off year: average about $15,000,000 per year.
[2] Less than $2,500,000 in 1964 and practically exhausted by 1970.

TABLE 5.—*Individual income tax rates under present law and schedules provided by House and committee bill for 1964 and 1965*

Taxable income brackets (in thousands of dollars)		Present rates	Rates provided under House and committee bill—	
Single person	Married (joint)		1964 [1]	1965
		Percent	*Percent*	*Percent*
0 to 0.5	0 to 1	20	16.0	14
0.5 to 1	1 to 2	20	16.5	15
1 to 1.5	2 to 3	20	17.5	16
1.5 to 2	3 to 4	20	18.0	17
2 to 4	4 to 8	22	20.0	19
4 to 6	8 to 12	26	23.5	22
6 to 8	12 to 16	30	27.0	25
8 to 10	16 to 20	34	30.5	28
10 to 12	20 to 24	38	34.0	32
12 to 14	24 to 28	43	37.5	36
14 to 16	28 to 32	47	41.0	39
16 to 18	32 to 36	50	44.5	42
18 to 20	36 to 40	53	47.5	45
20 to 22	40 to 44	56	50.5	48
22 to 26	44 to 52	59	53.5	50
26 to 32	52 to 64	62	56.0	53
32 to 38	64 to 76	65	58.8	55
38 to 44	76 to 88	69	61.0	58
44 to 50	88 to 100	72	63.5	60
50 to 60	100 to 120	75	66.0	62
60 to 70	120 to 140	78	68.5	64
70 to 80	140 to 160	81	71.0	66
80 to 90	160 to 180	84	73.5	68
90 to 100	180 to 200	87	75.0	69
100 to 150	200 to 300	89	76.5	70
150 to 200	300 to 400	90	76.5	70
200 and over	400 and over	91	77.0	70

[1] Provides ⅔ of tax cut in 1964.

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SECTION 18

SENATE FLOOR DEBATE

(From the Daily Congressional Record)

[*January 31, 1964*]

[*P. 1409*]

REVENUE ACT OF 1964

Mr. SMATHERS. Mr. President, I ask that the unfinished business be laid before the Senate.

The PRESIDENT pro tempore. The Chair lays before the Senate the unfinished business.

The Senate resumed the consideration of the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes.

The PRESIDENT pro tempore. Under the rule, the 3-hour period for germaneness of debate is now in effect.

Mr. SMATHERS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. DIRKSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOUGLAS. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from Illinois will state it.

Mr. DOUGLAS. I should like to inquire of the Senator in charge of the bill, the distinguished junior Senator from Louisiana [Mr. LONG], whether any motion or request has been made to accept the committee amendments en bloc as a basis for discussion and action.

Mr. LONG of Louisiana. The request has not been made because it would not be agreed to. I expect to make such a unanimous-consent request later today, or perhaps on Monday. I have discussed this subject with a number of Senators. There would be objection if the request were made at the present moment. That being the case, I see no reason to make a futile request.

Mr. DOUGLAS. Speaking for myself, the Senator from Tennessee [Mr. GORE], the Senator from Wisconsin [Mr. PROXMIRE], and I believe the Senator from Connecticut [Mr. RIBICOFF], we are ready to accept the committee amendments as text, with one exception—namely, the provision with respect to capital gains. We wish that provision to be put to a vote, in order to support the committee's position. I suggest that the Senate get on with the business of voting on the bill.

Mr. LONG of Louisiana. As far as I am concerned, I am perfectly content to do that, but a number of Senators are not.

Mr. DOUGLAS. Who is holding up the bill?

Mr. LONG of Louisiana. I am not holding up the bill, but there are others——

Mr. DOUGLAS. We is holding it up?

Mr. LONG of Louisiana. I do not know, but various Senators are out of the city.

Mr. DOUGLAS. Let us test it by moving to adopt the committee's amendments as original text with the exception of the capital gains provision and if no objection is heard, let that amendment be brought up.

Mr. LONG of Louisiana. I do not wish to vote until they can return to Washington. As far as I am concerned, I am willing to accommodate them. I have no choice.

Mr. DOUGLAS. The Senator states he does not know who the Senators are, but he is ready to accommodate them. Who are these mysterious strangers who are holding up action on the bill?

Mr. LONG of Louisiana. I have no choice. As far as I am concerned, the pending business would be to vote on striking the preamble; and on that issue I am ready to vote now. I hope it may be done by unanimous consent.

Mr. DOUGLAS. Why not try a unanimous-consent request that the committee amendments be agreed to en bloc, and that the bill, as amended, be treated as original text for purposes of amendment? Ask unanimous consent.

Mr. DIRKSEN. Mr. President, I would object to the request.

Mr. RIBICOFF. Mr. President, I have received expressions of cooperation and courtesy from the Senator in charge of the bill, the Senator from Louisiana [Mr. LONG], and also the minority leader. Without question, one of the major amendments to the bill will be my proposed tax credit for education expenses of youngsters in college.

I was interested in the considerable amount of attention paid to the so-called Ribicoff amendment at the start of the debate on the tax bill yesterday. I am honored by my distinguished colleagues' interest in my proposal to give a break to those who foot the bill for the education of our Nation's college youngsters.

But I was surprised at the amount of misinformation that crept into the discussion. In the public interest, I feel it is necessary to correct this misinformation. Therefore, I will discuss the amendment on the floor of the Senate in detail on Monday, if I can get the floor.

Meanwhile I will simply state a few facts. The senior Senator from Oregon,

my eminent colleague and good friend, Senator MORSE, called my amendment a "rich man's amendment."

It is anything but this.

Fact No. 1: My amendment provides not one dollar of benefit to the millionaire.

Fact No. 2: Families with incomes between $3,000 and $10,000 are 62 percent of our population.

Fact No. 3: Families with incomes between $3,000 and $10,000 get 62 percent of the dollar benefit under my amendment.

My amendment is an average man's amendment. It benefits the average American family. It helps them at a time when they need help.

By benefiting education, it would benefit America.

People—average people—seem to sense this. Everywhere I go nowadays, they stop to tell me they are rooting for my proposal. At home in Connecticut, here in Washington, and in other parts of the country where I have had speaking engagements, men, women—and youngsters too—speak to me about it.

College costs hit a family in just a few short years—and they hit with an impact that hurts. A $3,000 college expense is a staggering burden for a man earning $8,000, or $12,000, or $15,000. That is why when I was riding the elevator with the distinguished minority leader the other day, the elevator operator said, "Gee, Mr. RIBICOFF, you really are doing a job for all of us who are trying to get a college education. I hope your amendment passes."

[*P. 1410*]

The distinguished chairman of the Foreign Relations Committee, Senator FULBRIGHT, inserted editorials from the Washington newspapers about my amendment. Mr. President, I ask unanimous consent to insert in the RECORD at this point the letters I wrote in response to two of these editorials.

And, Mr. President, I also ask unanimous consent to insert in the RECORD at this point, editorials from across the land—where people live—supporting this measure. They show why it would further the cause of education in our land by helping to make college education realistically available to all boys and girls with a capacity for it.

There being no objection, the letters and editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 19, 1963]

TAX CREDIT FOR EDUCATION?

The Washington Post's opposition to my amendment giving tax credits for college costs deserves further discussion. Let me deal with your three objections in order.

"First," you write, "it discriminates against those families who cannot in any case help their children through college." If this is a criticism, it applies with equal force to every deduction and credit now allowed by the Internal Revenue Code, for it simply means that those who pay no expenses and have nothing to deduct, get no deduction. Surely, that is not discrimination.

The man too poor to pay his hospital bill gets no benefit from the medical deduction available to his neighbor who does pay his bill. That proves we need to help those who cannot pay their hospital bills; it does not prove that we should deny tax relief to those who pay these costs.

"Unlike direct Federal grants," you continue, "tax credits would provide no assistance to talented young people of limited means who must work their way through college." Not true. My amendment provides a credit for any person who pays for a student's tuition, including the student himself. A student working full-time in summers and part time during the school year will pay, even under the new lower rates, $225 in taxes on $2,400 income. If his tuition and books are $500 or more, my credit proposal would wipe out that tax.

"Worse still," you conclude, "the granting of tax credits would encourage private and public institutions to raise tuition and other fees." First, colleges have been raising their tuitions anyway. A recent study showed that in just 4 years a group of private colleges raised student costs 29 percent and the increase for a group of public colleges was 21 percent.

Furthermore, you assume that colleges set their costs by what the traffic will bear. I do not. I believe their student charges reflect the increased costs they face, not the increased ability of parents to pay. But if you are right, then tuition costs are going up anyway, because every college will know that the basic rate reductions in the pending bill give parents funds, which can be absorbed through increased tuitions.

I think it unlikely that colleges would raise tuitions to cover the entire tax relief given to parents by the pending bill, with or without my amendment. Conceivably, there would be possibility of a slight increase due to tax relief, if the tuition increase were fully or even substantially deductible.

But under my amendment, the major share of the credit is based on the first $500 of tuition and books. The credit is 10 percent on the next $1,000. So every $100 increase in tuition above $500 gives the taxpayer only a $10 credit. There is no more reason to oppose this 10 percent credit because of tuition increase than there was to oppose last year's 7 percent investment credit on the ground that equipment manufacturers would raise their prices.

In sum, I believe those who pay the high costs of a college education are as entitled to some tax relief as those who receive a deduction for medical expenses or casualty losses. There is no doubt that we also need aid to the colleges, as provided in the bill signed by the President this week. And we also need scholarship aid. But it is time to

extend some relief to the middle income person who pays in a short span of years a high cost that benefits the entire Nation.

The middle income families are generally not eligible for financial aid. They are the ones my amendment benefits: 51 percent of the dollar benefit goes to families with incomes between $5,000 and $10,000, and 91 percent goes to families with incomes below $20,000.

ABRAHAM RIBICOFF.

[From the Evening Star, Jan. 24, 1964]

COLLEGE TAX RELIEF

I am very pleased the Star agrees that college costs, like medical expenses, are entitled to tax relief. And if, as your editorial said, some changes should be made in the amendment 16 Senators and I have proposed, we would be glad to have suggestions for improving it.

The college tax credit amendment I proposed has already benefited from the suggestions that have been made to improve the various proposals that have been introduced in prior years. For example, earlier proposals had been criticized for giving a preference to private colleges as against public colleges. We therefore adopted the idea of a sliding scale credit so that proportionately greater tax relief is given for the low tuition costs generally found at public colleges.

Even where the public college charges no tuition, the fees, books, and supplies generally add up to $200. My amendment would provide a credit of $150. That's 75 percent. Compare that to the $275 credit that would be available at a private college where tuition is $1,000; this comes to only 27 percent. Costs at low tuition colleges would get the greatest share of the benefit under my amendment.

Another criticism concerned the very wealthy person who benefited under prior proposals. My amendment reduces the credit in upper income groups and excludes the high income groups completely; 91 percent of the dollar benefit would go to families with incomes below $20,000. The millionaire would get no benefit at all.

Even with these points already written into the amendment, there may well be other suggestions worth adding. I would certainly give them careful consideration. In any event, I am glad you recognize that a basic problem exists and view with approval the general approach I have taken. You may be sure that every Senator will have a chance to vote on this proposal when I call it up on the Senate floor as an amendment to the tax bill.

ABRAHAM RIBICOFF.

[From the New York Daily News, Jan. 23, 1964]

HOPE RIBICOFF KEEPS FIGHTING

As a rule, we think pretty well of the Senate Finance Committee. We think anything but well of its vote Tuesday to leave out of the tax cut bill a provision for special income tax credits on college students' expenses.

This carefully thought out plan was offered by Senator ABRAHAM RIBICOFF, Democrat, of Connecticut. It blueprints only a modest amount of tax-deduction aid to college students and their parents.

We know of no fairer deductions—and we hope Senator RIBICOFF will take this fight to the Senate floor.

[From the Baltimore Sun, Jan. 23, 1964]

COLLEGE TAX CREDIT

It used to be that a family's biggest expense in the lifetime of its chief wage earner was the cost of buying a home—something that is entered into with many safeguards and paid off slowly over many years. Now the biggest expense may be the cost of sending three or four children to college, something that must be paid off more quickly and hits—as a rule—within a short period of time. Even at a State or other public college, the cost of 4 years of education can run as high as $6,600; an education at a good private college can cost double that sum.

Hence, millions of parents will watch anxiously the fate of Senator RIBICOFF's proposal to allow families special income tax credits (to a maximum of $325 a year) for each student in college. The administration is opposed to this amendment to its tax bill, but Mr. RIBICOFF, a former Secretary of Health, Education, and Welfare, feels that there is enough support for his plan to override an unfavorable vote by the Senate Finance Committee. The committee majority opposes the Ribicoff proposal following the administration's contention that education can be financed more efficiently through grants and loans.

But can it? The administrative costs involved in any Federal (or, for that matter, State) scholarship plan, the general tendency of scholarships to be restricted to levels below the middle-income group and the inevitable selectivity of Federal support for college scholarship systems provide less help for the average student, and at higher cost, than would a straightforward modest tax reduction. Mr. RIBICOFF's proposal, which would help a great number of families in the most direct way, is likely to be approved if it gets to the floor.

[From the Hartford (Conn.) Courant, Oct. 8, 1963]

WHY NOT TAX RELIEF FOR COLLEGE EXPENSES?

Senator RIBICOFF will find warm supporters among parents of children who are now in college, or who plan to go soon. Mr. RIBICOFF is hoping to introduce an amendment to the tax cut bill that will give some relief to those who are sending their children through college, and are footing the bills. He hopes to introduce a measure that would give these parents full tax relief for all expenditures up to $1,500. It is estimated that this relief would cost the Treasury around $750 million a year at this point, and that in a few years the figure will climb to $1 billion.

Even so, there are all kinds of relief measures built into the tax law that permit allowances for depreciation and depletion. For years some businessmen have had all kinds of extravagances deductible from their tax bills. Of all the citizens the one group that has never been recognized for tax relief

is that great middle class that politicians like to call the backbone of their country. And these are the ones who pay their way, and try to give their children a decent education.

The Government itself has recognized the need for superior education, and stimulates higher education by a wide variety of grants and subsidies. But the one area where there is no relief is that where it pinches most. The man of moderate means whose children have not earned scholarships is doomed to at least 4 years of deprivation as he sends his boy or girl through college. And the parent of modest means who has two or more can look forward to a long period of shabby clothing and beat-up cars. It is not a nice feeling for these people to survey the tender, loving care that owners of oil wells, gold

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mines, or big industries get in contrast to their own shabby lot.

A part of this neglect stems from a now outmoded bit of folklore that only the rich send their children to college. The corollary is that a college education is a luxury. That is untrue now on both counts. A college education is as necessary now in earning a livelihood as high school education used to be 50 years ago. And today the colleges are filled with earnest and intelligent children from moderate income homes—or sometimes indeed from the homes of immigrants. Quality is the watchword, and our colleges were never so filled with intelligence as they are today. Only the most illiterate person would say that a college education is a luxury.

Still, the Ribicoff proposal may not have easy going. For one thing, the parents of these children who would profit are not organized the way the oil industry is. And many Congressmen still are moved by ignorant prejudices. Despite these bad omens, let us hope for the best.

[From the White Plains Reporter Dispatch, Dec. 26, 1963]

TAX CREDIT FOR TUITION

Gathering momentum in Washington is the proposal for a tax credit for college tuition. It is being offered as an amendment to the pending tax-cut bill.

The proposal isn't new. What makes it impressive at the moment is that 14 Senators who had introduced their own bills have now consolidated forces by cosponsoring the measure being pushed by Senator ABRAHAM RIBICOFF, Democrat, of Connecticut. Senatorial support is broad, including even such unlikely bedmates as HUBERT HUMPHREY and BARRY GOLDWATER.

The scale of tax credits that would be granted to parents of college students ranges from $150 for the first $200 at tuition up to a maximum of $325 for tuition of $1,500. That would apply to parental income up to $25,000.

The scale for parents with larger incomes slides the other way, until income exceeding $57,500 would exclude any credit.

Senator RIBICOFF contends this works out equitably, with 51 percent of the credit helping families in the $5,000 to $10,000 bracket, and 91 percent going to families with incomes under $20,000.

One big obstacle is that this arrangement would cost the Treasury more than $1 billion a year. Besides the revenue loss, there is the argument that it creates a new loophole at a time when Congress is being urged to close loopholes.

Ordinary mortals may, however, find it hard to get excited about the loophole of a tuition tax credit when Congress shows no discernible interest in doing a thing about truck-size loopholes that enable some of the highest income people to avoid paying a cent in taxes.

That, of course, doesn't make further loopholes any more desirable, per se. But is it fair to term a tuition tax credit a loophole? Is it any more of a loophole than certain dependency, age or illness exemptions with which there is no moral or practical argument?

We'd say the answer is no—particularly when the tuition tax credit is considered as an alternative to proposed multibillion dollar Federal programs designed to help pay faculty salaries and operating costs—in other words, via a roundabout tuition subsidy.

The difference is that the tax credit would be granted directly and without administrative expense. As we well know, the dollar that goes to Washington suffers shrinkage from the standard bureaucratic "handling charge" before it returns as Federal aid.

If the Government proposes to help parents meet the high cost of today's college education, why not do it the most efficient and inexpensive way? At that, $325 won't go far—but it'll go a lot farther if deducted at the source.

[From the Newark News, Jan. 23, 1964]

HELP TO PARENTS

Senator RIBICOFF's efforts to amend the tax-cut bill to permit deductions for college costs have suffered a setback in the Senate Finance Committee. Undaunted, Mr. RIBICOFF plans to carry the amendment to the Senate floor, where he views its chance as "excellent."

The Connecticut Democrat's optimism stems from the 10-to-7 vote, which found all 6 Republicans on the committee joining him in favor of the amendment. The deserting Democrats reflect the administration's feeling that Federal aid to education is best provided through grants and loans, rather than tax relief. But Senator RIBICOFF thinks he can convince his party colleagues to the contrary.

Mr. RIBICOFF argues that the Federal assistance programs benefit only the low-income family. His plan is designed to help parents who are neither wealthy enough to absorb the high cost of college education without hardship, nor poor enough to qualify for financial aid under existing scholarship programs. It would allow maximum credit of $325 for each student, with a descending scale for taxpayers in higher brackets.

Considering Congress' liberal policy toward business expense deductions, parents would seem entitled to some relief from the financial burden of sending their children to college. But they have no lobby in Washington and, along with Senator RIBICOFF, can only hope the Senate will view their plight with more sympathy than either the administra-

tion or the Finance Committee majority has shown.

[From the Denver Post, Oct. 8, 1963]

COULD HELP THE KIDS, COLLEGES AND PARENTS

A tax idea that strikes us as quite worth while is gaining support on Capitol Hill in Washington. It should appeal to every parent burdened with the expense of putting a child through college.

The idea is simply that parents would be allowed to add to their itemized Federal income tax deductions the cost of their children's college tuition, books and fees, up to a maximum of $1,500 a year.

This is the way a bill sponsored by Senator ABE RIBICOFF, Democrat, of Connecticut, reads, and RIBICOFF, as a member of the tax-writing Senate Finance Committee, is in a potent position to do something about it. The extent of support for the idea is shown by the fact that more than 120 bills of this general type have been introduced in Congress this session, and their sponsors range from liberals such as RIBICOFF to conservatives such as BARRY GOLDWATER.

RIBICOFF said this week that when the House-passed $11 billion tax cut bill comes up in the Finance Committee, he will try to get the college expenses tax deduction plan written into it.

The idea has been around for some years now, and was opposed by both the Eisenhower and Kennedy administrations on grounds that (1) direct student aid is better, and (2) tax deductions are no help to low-income families who pay no income tax.

Both administrations seem to have preferred direct support—loans or grants—presumably because these could be restricted to worthy students, whereas tax deductions might go to parents of children loafing their way through college for social status.

This was a more valid argument 5 or 6 years ago—before the sputnik era—than it is now. The better colleges are weeding out goof-offs more ruthlessly every year.

The other argument—that tax relief is no help to low-income families—doesn't impress us much. The Federal tax bite starts at $3,000 for a couple with one child, $4,000 for the parents of two children. Hence there aren't going to be many parents, who are interested in having a child go to college, who wouldn't get tax relief under this proposal. And for those in this bracket who are interested, such a tax deduction might well make the difference as to whether they could afford it or not.

Certainly, for the vast middle class, from which most collegians come, a college expenses tax deduction would be a real boon.

We checked with one father of a full-scholarship winner, who nevertheless has to foot a $750-per-year bill for books and other expenses for his son. His reaction was blunt:

"If wealthy people can get a tax break for their contributions to college endowment funds, why shouldn't I get one for my sizable—to me—contributions toward meeting college expenses?"

Why not indeed? Any proposal that has the backing of people as politically different as ABE RIBICOFF and BARRY GOLDWATER must have nonpolitical merit. We hope the Senate Finance Committee gives it an A-plus.

[From the Herald-Advertiser, Nov. 17, 1963]

AID FOR PARENTS

Parents with college-age children may be divided into three groups: Those who can afford, without question, to send their children to college; those who, without question, cannot afford to do so; and those who cannot afford to but who manage, somehow, to do it.

Interested lawmakers who sympathize with the last group and would like to make their sacrifices a little less painful, have sought for years to get these parents a better break with the tax collector.

West Virginia's Senator JENNINGS RANDOLPH is one Member of the Congress who repeatedly offered bills that would give parents with children in college larger deductions or tax credit to offset the high costs of higher education. Others have been equally solicitous and equally unsuccessful.

Senator ABRAHAM RIBICOFF, Democrat, of Connecticut, tried to interest the administration in some kind of tax relief for the parents of college students when he was Secretary of Health, Education, and Welfare. Now that he is in the Senate, he is reported to be trying to coordinate the efforts of individual Senators in a concerted move to get a tax-relief bill through Congress.

According to a copyrighted article in the Washington Star by Charles Bartlett, the bipartisan bill will have good support in Congress, but will be opposed by the administration, the Treasury Department, and even some education groups. Their opposition is explained as follows:

It would cost the Treasury about half a billion tax bollars on top of the anticipated $11 billion deficit involved in a general tax reduction:

Tax "purists" dislike the idea because it moves in the opposite direction of their drive to remove the "gimmicks" from the tax laws.

The education groups are afraid that enactment of such a bill will reduce chances of getting a Federal program of undergraduate scholarships to match the present program of Federal loans. They say scholarships would go only to deserving students, whereas tax relief would benefit both the deserving and the undeserving.

The Ribicoff compromise bill would offer a graduated scale of benefits to parents based on their incomes. The maximum tax credit, $325, would be available to parents with incomes up to $20,000. Then it would taper off, ending entirely if parental income was $60,000 or more.

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As Mr. RIBICOFF is discovering, it is not an easy bill to write or to defend against charges that it favors the middle-income and high-income groups. But the fact that there is general recognition of the painful sacrifices which middle-class parents must make—and do make—in order to send their children to college, gives hope that a satisfactory solution to this urgent problem will be found.

[From the Montgomery (Ala.) Advertising Journal]

FEDERAL AID THAT'S SOUND

Why not give special tax consideration to parents who are trying to put children through college? A Democratic Senator sponsored this plan and a Democratic administration is opposing it, but it makes more sense than most other education measures that originate in Washington.

Senator RIBICOFF's is simplicity itself. For each child in college, a parent would be allowed a tax credit of 75 percent of the first $200 in tuition, books, fees, and supplies, 25 percent of the second $300 and 10 percent of the next $1,000—a total of $325 for each student. This amount would be directly subtracted from the amount of taxes due, except that parents in higher income tax brackets would be entitled to a smaller deduction or, above $60,000 a year income, none at all.

The Senate Finance Committee turned down RIBICOFF's proposal by a vote of 10 to 7. RIBICOFF's opposition included the Treasury Department, which estimated that the tax-credit scheme would cost the Government $750 million the first year and more than $1 billion by the third year.

So it might, but that's no greater than the 3-year $1 billion college aid bill approved by Congress last month and is considerably less than some other aid-to-education bills that have been proposed.

Better yet, it's a step toward making it easier for the States to sustain their educational systems without Federal help—by leaving more money at home.

If the Federal Government weren't sitting astride most of the productive tax sources, there would be no reason for the tax dollar to make that wearing, eroding trip to Washington and back, and the States could solve their own problems more easily.

Mr. RIBICOFF. Now, Mr. President, I have talked with the distinguished Senator in charge of the bill about the prospect of considering my college credit amendment on Monday. My hope that the Senate will enter into a unanimous-consent agreement to call up the amendment at about 4 o'clock on Monday afternoon and vote on the amendment some time late on Tuesday. I have discussed the subject with the distinguished minority leader. He said he would be more than willing to agree to that arrangement and he has indicated a desire to expedite the major amendments.

Mr. LONG of Louisiana. Mr. President, I am perfectly willing to make the request that the Senator from Connecticut be recognized as soon as the Senate has concluded its consideration of whatever amendment is pending at 4 o'clock on Monday.

I am not prepared to enter into a unanimous consent request that the vote be taken at that time, because the amendment is a very important amendment and is one which should be discussed long enough so that Senators on both sides will feel that their arguments have been fully heard and that their answers to the opposing arguments have been heard. I assume that the Senate could vote on the question some time on Tuesday; but not knowing how the debate would go, I would not wish to ask unanimous consent that the Senate vote at any particular time.

I ask unanimous consent that the Senator from Connecticut [Mr. RIBICOFF] be recognized immediately after the disposition of whatever amendment is pending on Monday at 4 o'clock for the purpose of offering his amendment related to tax credit for education expenses.

Mr. SMATHERS. Mr. President, reluctantly I am obliged to object to the unanimous consent request at this time. I make the objection not because I believe that the Senate cannot get to the Ribicoff amendment, and not because I do not believe it should get to it. We have made great progress. We have proceeded with the bill within the committee in a fashion and at a rate that was much greater than any of us originally thought possible.

We discovered that rather than try to force any hard rules on the Senate, the best thing to do was to let the matter take its course. We would not try to set up any hard, fast, and rigid rules, but let the committee work its will.

The bill was reported from the committee considerably sooner than we expected. Every Senator knows that. The bill is now before the Senate. We desire to dispose of it as quickly as we can. At the moment the majority leader is in his own State, I believe, on necessary business. Other Senators who are interested in the bill are not present at this particular moment. There has been no disposition on the part of the Senator from Florida, the Senator from Louisiana [Mr. LONG], the Senator from Connecticut [Mr. RIBICOFF], the Senator from Wisconsin [Mr. PROXMIRE], or the Senator from Tennessee [Mr. GORE] to delay the bill. The Senator from Tennessee, who opposes the bill, has been the very soul of courtesy and cooperation on the whole question, even while he expressed his views. Nor has the bill been delayed by the Senator from Illinois [Mr. DOUGLAS] or any other Senator. I do not believe it would be. A number of Senators are deeply concerned about the question. It would be a mistake at this particular time for the Senate to enter into any unanimous-consent agreement as to the time that the Senate would vote on the amendment.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield.

Mr. LONG of Louisiana. I am not in the least perturbed because the unanimous-consent request was objected to. Since the Senate proceeded to the consideration of the bill we have not been able to get 100 Senators to agree on anything. That is not unusual in this body. When we reach the point at which the Senate will be ready to vote, it will vote. That is the way we proceed on major proposed legislation. A number of Senators wish to make speeches for or against the bill, or desire to explain their positions against various amendments. Those speeches could be made today.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield.

Mr. RIBICOFF. It is interesting to me that the Senator from Illinois [Mr. DOUGLAS], the Senator from Tennessee [Mr. GORE], and myself, who are unhappy with many parts of the bill and intend to offer amendments, are anxious to expedite the procedure. Yet Senators who are in charge of the bill and those who are supposed to be anxious to expedite it do not seem to be disposed to expedite the measure. At best that situation seems to be ironical.

Mr. SMATHERS. It seems that way to the Senator. It merely seems that way. The fact is that, through hard experience, we have learned that matters are expedited a little better when the leadership, in addition to the Senator in charge of the bill, gets the troops who have some interest in it in the Senate Chamber so that there can be some general accommodation. We know where we stand on the bill. There is no doubt in the mind of any Senator present. There are certain provisions in the bill of which I am not totally in favor. But I believe the bill is a good one. I voted for it, and I expect to vote for it again. I expect to continue to support it, although it is not exactly what I would like.

I believe that consideration of the bill will have been finished by the end of next week. I believe there is little doubt about that. I certainly hope so. But I do not believe that in order to succeed in that endeavor we need to enter into a unanimous-consent agreement in the absence of so many Senators who have a great interest in it, without at least checking with some of those Senators. Having told a number of Senators that they could be about other affairs and other business matters in connection with their duties in the Senate, I have some responsibility at least to discuss that particular point with them.

Mr. RIBICOFF and Mr. DOUGLAS addressed the Chair.

The PRESIDING OFFICER (Mr. JORDAN of Idaho in the chair). To whom does the Senator yield?

Mr. SMATHERS. I yield to the Senator from Connecticut.

Mr. RIBICOFF. I do not see how any commitment the Senator might have made to any Senators for today, Friday, would interfere with the endeavor to bring before the Senate late on Monday the amendment to which I have referred, and then continue the discussion on the amendment into Tuesday and Wednesday, if necessary.

I talked with the Senator in charge of the bill about that point. Then I went to the distinguished minority leader to clear it with him. There was willingness on the part of both the minority leader and the Senator in charge of the bill to expedite its consideration. It was apparent from the statement yesterday of the Senator in charge of the bill that this amendment is worthy of discussion, and that it will require considerable time. I certainly do not wish to be accused of delaying the bill. I am ready to proceed to consider the major amendments as early as possible. I had cleared the question with the distinguished minority leader, who said that the procedure was

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satisfactory with him, and with the Senator in charge of the bill, who said that it was satisfactory with him. Obviously, a few major amendments will be offered, and if we get those major amendments out of the way, we shall be in a position to expedite consideration of minor amendments to make sure that the bill is cleared before the Lincoln Day recess.

Mr. SMATHERS. I thank the Senator. Everything he has said is crystal clear. It is exactly correct. He is ready to proceed. So is the Senator from Illinois [Mr. DOUGLAS], the Senator from Tennessee [Mr. GORE], and, in some respects, as an individual, the Senator from Florida. But our problem is that other Senators in this body of 100 Senators have necessary business elsewhere at this particular time.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. SMATHERS. I should like to finish my statement first. Those Senators have necessary business elsewhere. They are greatly interested in the amendment. Some are for and some are opposed to the amendment that will be offered.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. SMATHERS. I will yield in a moment. Certain Senators are interested in the Ribicoff amendment. We have made some commitments to them.

Therefore I am in no position at this time to agree to any unanimous-consent request without at least checking with some of them. Perhaps later in the day we could enter into a unanimous-consent agreement, but we would have to get on the telephone and talk with some of them. It may be that they would favor the request. In the absence of those Senators or checking with them, I would have to object to the unanimous-consent request, as much as I dislike doing so.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield.

Mr. DOUGLAS. Abundant notice has been given to every Senator that the debate and action on the bill was to be started today, Friday, the 31st of January. The initial statement on the schedule was that the Senate would meet on Saturday and work through the evenings, if necessary, in order to complete consideration of the bill by nightfall on February 8, so that Republican Senators could then go out over the country and praise the memory of Abraham Lincoln.

I had hoped action could begin today. In order to facilitate action, in the previous days and weeks I have put several speeches in the RECORD at the conclusion of the day's business lest they take time on the floor during the discusison of the bill. In spite of that fact, a leading Member of this body from across the aisle declared a few days ago on a national television program, that Senator DOUGLAS and GORE intended to filibuster the bill. That is not our intention at all. We are anxious for action on the bill. I believe there should be a showdown as to who is delaying action on the bill. I want to see the Senate move into a discussion of it and take action upon it as rapidly as possible. I suggest, therefore, that the leadership propose the capital gains amendment. I can assure the Senate that the Senator from Tennessee [Mr. GORE], the Senator from Wisconsin [Mr. PROXMIRE], and I will support the leadership vigorously, and we can then get the bill off to a good start.

I would be willing to make the motion, myself, but I would perhaps be thought to be brash if I did, because it would be usurping the function of the leadership.

Mr. LONG of Louisiana. I have no objection to the Senator's doing so.

Mr. DOUGLAS. I think before discussion or action on the amendment, there should be a quorum call, which I think should be a "live" quorum call. Then we can see where Senators stand. And who are here and who have been encouraged to absent themselves from the city.

Mr. SMATHERS. Mr. President, if the Senator wants to look for someone to blame for delaying the bill, the Senator from Florida is willing to assume that responsibility.

Mr. DIRKSEN. Mr. President, let me share that responsibility.

Mr. SMATHERS. That is what we are doing, if the Senator wants to call it delay. The fact is that we are not delaying action. Actually, we are trying to facilitate action on the bill. But we are human. We are different from those who have all the answers to all the questions all the time.

In any event, we think that is what will happen. We can make mistakes. But the idea at the moment is that this is a better way to do it. We may be entirely wrong. For the time being I suppose we are responsible for a slowdown, if the Senator wants to call it such, for a couple of hours. I want to make a speech about the tax bill. I am sure some questions will be asked me, which will take a little time. In any event, we think that, overall, action on the bill will proceed with greater rapidity if we consult with some of the other Members of this 100-membered body who have some interest in the bill.

Mr. DIRKSEN. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield.

Mr. DIRKSEN. First of all, I am glad to share with my friend from Florida the responsibility for what is happening. There were a good many discussions yesterday with respect to consideration of the amendments en bloc. All that will be taken care of in good time.

Open confession is good for the soul, and we may as well spread the facts on the RECORD. Twenty-nine Members of the Senate are out of the city or elsewhere. Six or seven of those are from my side of the aisle. Frankly, after this discussion, I intend to protect them by every rule in the book that I can use. I may have to sharpen my knowledge of the rulebook in order to do it, although I have a decent familiarity with the book. But Senators were given assurance that there would be no yea and nay votes today, and I propose, by calling for live quorums and otherwise, and by any other dilatory method that I can use, to see that it is not done. So I rest my statement. I fully share responsibility with the Senator from Florida. My shoulders are broad enough.

Mr. SMATHERS. I thank the Senator from Illinois. I appreciate his statement. The Senator stated, frankly, that a number of Senators are absent. We did not think we would reach a vote on the so-called major amendments. As the Senator from Louisiana [Mr. LONG] knows, we had discussed the matter of

trying to have the committee amendments accepted en bloc, and members of the committee said they would not agree to that on Friday, but that it might be done on Monday. So, if we can have 150 amendments agreed to en bloc by delaying action on them until Monday, we are going to make better time than if it is necessary to discuss 100 or 150 amendments now, some of which are very technical.

We are trying to accomplish a speedup of the bill. Some persons might say that it seems peculiar to say we are speeding up by slowing down, but this is the way the Senate works its will. Certain Senators are not present. They are Senators in their own right, and they want to be here when action is taken. It is only fair, after giving them the assurance we did, that we protect them.

I thank the Senator from Illinois for sharing this responsibility with me. I appreciate it because he is a man of good character.

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REVENUE ACT OF 1964

The Senate resumed the consideration of the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes.

Mr. SMATHERS. Mr. President, prompt enactment of the pending tax bill is, in my opinion, vitally essential to provide a dynamic and vibrant economy, to strengthen the national security and economic well-being of this Nation.

The measure will provide an $11.6 billion tax reduction over a 2-year period for individuals and corporations.

When fully effective in 1965, it will reduce tax liabilities of individuals by $9.2 billion and corporations by $2.4 billion. Individual rates are reduced from the present range of 20 to 91 percent to a new range of 16 to 77 percent in 1964 and 14 to 70 percent in 1965.

Corporate rates will be reduced from 52 to 50 percent in 1964, and from 50 to 48 percent in 1965.

The withholding tax rate will be reduced from 18 to 14 percent effective 1 week after enactment. This action will give an immediate effect to the greater portion of the tax relief provided for in the bill.

The new budget recently submitted to this Congress gives clear testimony that the administration is determined to hold Government spending to the minimum necessary for essential needs.

The pending measure emphasizes that henceforth it shall be private spending—rather than Government spending—that serves as the larger and expanding force in stimulating the economic life of this Nation.

Together the new budget and the tax program make up a carefully considered and closely knit fiscal policy.

This policy is based on the assumption that in the long run Government should not usurp the prerogatives nor the responsibilities of the private sector of the economy.

As Secretary of Treasury Douglas Dillon put it recently:

> The tax bill represents a firm decision to rely upon greater private spending rather than upon greater Government spending as the prime factor in our economic growth.

By April 1 the present recovery will be 37 months old. That will make it the longest peacetime recovery since the turn of the century with the sole exception of the 1933–37 recovery from the great depression. Every succeeding hour thereafter is an hour of borrowed time—an hour in which the likelihood of continued recovery becomes less likely—if we do not have a tax bill on the books.

Another recession even of the fairly mild character of the last two downturns, could easily cost between $5 and $10 billion in lost tax revenue alone. Much worse, it would bring with it skyrocketing unemployment which in turn would inevitably lead to greater Government spending.

The result would be a deficit that could range as high as $15 to $20 billion.

The more we delay on the tax cut, the less time there is to choose. The choice before us today is whether to pass the tax bill now and promptly expand the role of the private sector in achieving economic growth and meeting national needs, or to delay and seriously impair the opportunity of choosing for ourselves which road to take. Let us make no mistake of the fact that another recession will require heavy Federal spending.

President Johnson's budget is almost $1 billion below the budget of the previous year. It cuts the Federal deficit more than in half. Yet—because of the tax bill—it provides for a fiscal stimulus greater by more than $3 billion than that of any other peacetime year in the history of the United States.

Despite the sharp spending cuts, the combination of tax reduction and prudent Federal expenditures will provide a stimulus to the economy this year, three times as great as any in the last 3 years.

There is no doubt in anyone's mind,

I believe, that the performance of our economy since 1957, despite some rather optimistic statistics with respect to corporate profits and personal income, has been, on the whole, unsatisfactory, for our unemployment rate has averaged roughly 6 percent, about half again as high as the average for the first 10 years, after World War II. Our growth rate in that time has also been overall un-

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satisfactory, dropping well below 4 percent a year, for several years; and while in the last 2 years investment in new capital equipment has improved considerably, yet overall the best thinking of our most respected economists is that the levels of capital investment should be improved.

The Government has been well aware of the problem of lagging investment. That was the basis for the 7-percent investment credit which formed the principal provision of the Revenue Act of 1962. That was also why the Government hastened to complete in that same year its sweeping revision of the rules and guidelines governing the tax treatment of depreciable assets.

These two measures alone reduced business taxes by some $2½ billion a year, and significantly improved the investment outlook. They will prove more effective in the future. But with an ever-increasing population and an ever-increasing labor supply, more jobs for our people must be created. The late beloved President Kennedy recognized this fact a year ago when he sent his tax message to the Congress recommending a substantial reduction in the corporate and individual tax rates designed to spur investment and create consumer demand.

Unless we can increase the level of private investment in plant and equipment, it will be extremely difficult to produce more jobs, or achieve a lasting improvement in our national economic performance.

The investment level has shown a disappointing decline in recent years. It has dropped from 11 percent of gross national product in 1956 and 1957 to about 9 percent. The rate of increase in our stock of business plant and equipment has risen since 1957 by less than 2 percent a year. That is only half the rate of increase during the first postwar decade. Naturally, in this situation the proportion of our machinery and equipment over 10 years has risen significantly.

In that connection, sometimes we hear people talk about the fact that in our society today there is a great deal of idle plant capacity. Economists state that there is a 14-percent idle plant capacity. Approximately half of that results from the fact that much of our machinery and equipment is obsolete. Because there has been so little modernization until recent years in our industrial capacity we find it extremely difficult to compete with more modern machinery, which has been produced, with our financial help, in countries like Japan, West Germany, Italy, and other areas of the world.

Recently, the Finance Committee was told by the Business Committee for Tax Reduction, a group of 2,800 business leaders, that over a period of years corporate profits after taxes have come down. This was true whether measured as a percentage of investment capital, of sales, or of the corporate portion of gross national product.

The business group presented to the Finance Committee figures on the three major sources of economic growth—Government spending, consumer demand, and private investment.

These figures clearly show that, since 1957, the investment lag has played a major role in the failure of our economy to move closer to full employment.

The figures indicated that, from 1957 to 1962, Federal purchases of goods and services rose more than 13 percent, the gross national product went up more than 16 percent, consumer expenditures went up more than 17 percent, State and local government purchases went up 28 percent, but plant and equipment spending declined by more than 1 percent of the gross national product. The business group also made the following point:

> As a percent of stockholders' equity, profits of manufacturing corporations are far below the levels of 1955–57 and earlier postwar periods of prosperity. In fact, after-tax profit as a percent of stockholders' equity for the period since 1957 is below the recession level of 1953–54.

One of the most important aspects of creating a sustained economic expansion is the need to utilize the fruits of new technology in the form of new products or the adaptation of existing products to new markets.

Increasing the profitability of new investment is the most effective way to make more attractive the investment decisions which are not being taken today. It is the most effective way to make today's marginal project the acceptable venture of tomorrow. It is the most effective way to maximize the benefits of the tremendous technological, educational, and human resources of the United States.

As new techniques and new products

are developed and as new markets are opened up, new demand will be created, new investment will be fostered, and most important of all, new jobs will be available that would never have been available otherwise.

Parenthetically, approximately 1 million young people are entering the labor force at the present time. It is estimated that that number will increase to 1,500,000 within the next 4 years. Some persons have estimated that the need for jobs will be even greater than that because of the increasing number of young people who will be entering the labor market for the first time.

In short, unless we get a substantial increase in investment, we are not going to create the jobs that are needed to reduce unemployment, the jobs that are needed to withstand automation or the jobs that are needed to provide productive work for the huge number of young people who are already beginning to enter the labor force.

Mr. LONG of Louisiana. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I am happy to yield to the distinguished Senator from Louisiana.

Mr. LONG of Louisiana. As the Senator well knows, the traditional Democratic argument for stimulating the economy, an argument which is usually supported by organized labor, takes the approach that generally if consumer spending power is stimulated by directing cash into the hands of the workingman, that will put people to work.

The argument that businessmen usually make, and which perhaps has more appeal to the Republican side of the aisle, is that the way to put more people to work is to provide some incentive to encourage persons to invest money to build or expand industry; that this will assist business to make money; and that by doing so, generally, society will be benefited by the creation of jobs and the improvement of industry and commerce.

Does not the tax bill now before the Senate really support both arguments?

Mr. SMATHERS. The Senator is correct. The bill supports both arguments. Of the $11,600 million which will be left, so to speak, in the private sector of the economy, to stimulate the economy and to provide jobs, $9,200 million will go to individuals in order to stimulate consumer demand.

The remaining $2.4 billion will go into the business and industrial community, so that it may invest money in modernization of plant and equipment or in the erection of new plants and the purchase of new equipment, which in itself will provide more jobs.

Mr. LONG of Louisiana. So, in effect, the bill answers the arguments of the person who says that the way to provide more jobs and get full production is to place more money in the pockets of the workingman. The bill, in effect, provides that $9.2 billion will go into the pockets of the workingman, to enable him to spend his tax reduction in whatever way he thinks is necessary, whether it be to educate his child or to buy something that his family needs, and which they have been denied for some time.

For persons who say that the way to get the economy rolling is to give business some tax adavntage, if it is willing to risk its capital and build new plants or modernize old ones or expand existing ones, the bill provides that that argument will be accepted, too. The bill will provide advantages and benefits which the business community says will be good for the country, and that we agree will be good for the country.

Mr. SMATHERS. The Senator from Louisiana is correct. That has been established by the consensus of a large number of economists, who say that a dollar spent in the private sector of the economy will have a greater multiplier effect than a dollar spent by the Government. In other words, rather than to collect a tax dollar from the citizen and bring it to Washington and have it administered, washed up, and sent out to a WPA project, or even to a big dam or a flood control project, perhaps in my State of Florida—and Florida would like to have more of them—that Federal tax dollar will not do as much good in stimulating the economy as a dollar left in the hands of private or corporate business, on the one hand, or a private individual, on the other hand.

If the dollar is left in the taxpayer's pocket rather than taken from him in taxes, it will have a greater multiplier effect and will do the economy more good. The great weight of economic

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opinion agrees with that view. That is the theory of the bill before the Senate. It is believed that if $1,600 million is left in the private sector, it will do more good than if it were administered by the Federal Government. We are always talking about free enterprise and saying that we believe in it. Why not give free enterprise an opportunity to work?

In 1954, after the tax reduction bill had been passed, the budget was balanced and revenue was increased within the two succeeding years. I do not say this to start an argument or to compare what happened 8 years ago with what is happening today, but there

were a number of deficits, but one of the few times the budget was balanced in the Eisenhower administration was 2 years following the tax reduction of 1954.

The Senator from Louisiana is absolutely correct.

Mr. GORE. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I yield to the Senator from Tennessee.

Mr. GORE. If the way to balance the budget is to reduce taxes, we should have made a substantial reduction in the national debt by now, because the tax cut in 1954 was approximately the same percentage of gross national product as the tax cut in the bill today. But, instead of that reduction resulting in a balanced budget and a reduction in the national debt, as the Senator from Virginia [Mr. BYRD] pointed out yesterday, since that time the national debt has been increased by more than $40 billion. So the nostrum of which the distinguished Senator from Florida seems to be enamored has not worked very well.

Since he is now advocating a tax reduction of $11,700 million as a means of balancing the budget, I wonder if he does not think that if a tax cut of $11,700 million would balance the budget in the near but as yet indefinite future, the addition of the excise tax reduction to the bill would accomplish this great feat a little more readily and a little sooner. If this magic formula works, why stop at an $11 billion or $12 billion tax cut? Why not make the reduction $22 billion and make a substantial reduction in the national debt?

Mr. SMATHERS. I have deep affection and respect for the distinguished Senator from Tennessee. I am sure he recognizes that when a patient is sick, a blood transfusion of a pint or a quart can sometimes be beneficial. But if the patient were given a transfusion of a gallon of blood, the effect might be severely in the reverse. It is often possible to carry a good thing too far. It is possible to destroy one's health even with steak. Steak is good for us. But it is possible to overextend anything to the point of diminishing return. We believe that in this bill we have struck a fairly good balance.

The Senator from Tennessee used the term "nostrum." I agree with him that actually we do not know precisely how much benefit will be derived from it. However, we are taking the best advice we can obtain from most of the economists, and also from the A.F. of L. and the CIO. They approve of this bill, although they would like to have a little more emphasis placed on consumption—a course which the Senator from Tennessee also favors. We are also taking the best advice of the business community and of everyone else who could possibly be affected. We have tried to arrive at a consensus. It is their consensus that the pending bill is the best way to proceed.

Three different courses are advocated to improve economic conditions. The able Senator from Virginia [Mr. BYRD] has consistently advocated the course in which he believes; and no one is more consistent than he. He wants the budget to be balanced; and he is convinced that so long as the budget is not balanced, Government expenditures should not be increased, nor should Congress pass a bill which would cause a decrease in the Treasury's revenues. The Senator from Virginia wants the budget to be balanced; and he believes that the best way to balance the budget is to have Congress refuse to pass a tax reduction bill of this sort, and also to reduce Government spending.

I know the Senator from Tennessee does not agree with the Senator from Virginia, even though from time to time the Senator from Tennessee quotes the Senator from Virginia. However, I know the Senator from Tennessee does not agree with the conviction of the Senator from Virginia in regard to the best means of dealing with the fact that in 24 of the last 30 years our Government has had deficits.

Both the Senator from Virginia and the Senator from Tennessee ask how we are to put an end to chronic deficits—which is what we seek to do by means of this bill. I do not subscribe to the view of the Senator from Virginia as to the best course for us to follow.

The second theory is the one subscribed to by Leon Keyserling; it is the so-called Keyserling theory. I do not subscribe to his view, although I know the Senator from Tennessee does. Mr. Keyserling believes that the best way is, not to decrease taxes, but to have high taxes, and use them for WPA projects, and so forth—in other words, to have the Government, not the private sector of the economy, spend that money.

The third course is the one the Senator from Tennessee calls a nostrum. However, we hope it is not; and it is the judgment of most people—including President Johnson and, I believe, two former Presidents, many Senators, and many other persons in the United States—that it is not a nostrum. This course is the one which accomplishes this result through private enterprise, which believes that we can end the chronic deficits by doing two things: First, by reducing the amount of the

Government's expenditures, and—as the President advocates—by making the best possible use of every dollar of revenue. In this manner the estimated deficit has been reduced by 50 percent. Second, by releasing into the private sector of the economy approximately $11,600 million as a result of the tax reductions to be made by this bill. Of course, the exact amount of the tax reductions will be determined only after the conference report on the bill is written and is agreed to by both Houses. In that way, we release the private sector of the economy to give it a chance to achieve the result which all of us want achieved. We favor this course and most of the economists to whom I have listened, or whose works I have read, agree—although, as I have previously stated, not all of them do. The dollars spent by private business or by private individuals have a multiplying effect, and thus are definitely more effective than Government expenditures of the same amount.

Mr. GORE. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I am happy to yield to the Senator from Tennessee.

Mr. GORE. Mr. President, the distinguished junior Senator from Florida has made some very astute observations. He has said it is possible to eat too much steak—however good the steak may be. I agree. But I suggest to the able Senator from Florida that unless one examines the substance with some care, it is also possible to mistake leather for steak, and then very little nourishment will be had.

The Senator from Florida says he wants us to try this nostrum, in order to attempt to achieve a balanced budget. But I can suggest a much easier way. I am not sure it would be easier for him, but certainly it is a much quicker and a much more certain way to balance the budget; namely, to defeat this bill.

This is a budget-busting bill. The President's budget calls for a deficit, next year, of $4.9 billion, including the amount by which that deficit would be increased as a result of the enactment of this $11.7 billion tax-reduction bill. So if the distinguished Senator from Florida wants to balance the budget, and wants to balance it quickly, we should reject this bill. That would balance the budget next year.

If the Senator from Florida will let me go one step further, I point out that he has said he took the advice of certain economists and experts, and that this bill is the result of their recommendations.

This nostrum was recommended by the same men—Dr. Heller and Secretary Dillon—who forecast a recession in 1964. Indeed, this bill was urged as insurance against recession in 1964.

This bill is not particularly new; the same thing that Secretary Dillon says now, can be found almost verbatim in the book of the former Secretary of the Treasury, Andrew Mellon, in the late 1920's. That course was tried then, but with sad and disastrous results. So this bill is not based on a new notion; instead, it is based on one which has been advocated many times.

The same thing was said in 1954. We had a big tax cut then; we also had a big tax cut the year before last, with the passage of the investment credit and adoption of liberalized depreciation procedures.

These three actions, when taken together, add up to tax reduction of $5 billion annually, and largely for the

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benefit of the same segment of our society which would be the principal beneficiary of the pending bill.

But have those actions resulted in balanced budgets and a solution of the unemployment problem? Indeed, no. As the Senator from Virginia cited yesterday, the national debt has gone up more than $40 billion in that length of time. What has happened to the unemployment? True, we have seen much improvement in plants and facilities, and our factories are turning out many new products and much more production. But despite the fact that the production of our factories has greatly increased, today almost 1 million fewer men and women are working at production jobs in factories, as compared to the number who were working there 7 years ago.

So it does not automatically follow that the provision of Treasury funds for the purchase of labor-saving devices will create more jobs. I would not stop progress or automation, but I certainly will resist any phony argument to the effect that speeding up automation by taking funds out of the Treasury is the way to create more jobs. The result may well be fewer jobs.

I thank the distinguished Senator from Florida [Mr. SMATHERS] for yielding so generously of his time.

Mr. SMATHERS. I thank the Senator from Tennessee. I shall respond briefly to his remarks, and then shall yield to the Senator from Louisiana.

As to the predictions of Dr. Heller and Secretary of the Treasury Dillon, I do not believe they said that. What they said was that we might run into a recession in 1964, and that since World War II we have had an average period of 34 or 35 months during which the economy has risen.

If we can get safely through the next few months, the period will be the longest period during which the economy has been steady since the end of World War II. It has gone up slightly in the past 2 years, by virtue of investment credit and by virtue of the depreciation changes with respect to machinery and depreciable property. It has improved to the extent that the deficit has been cut in half this year, compared with what it was last year.

So there is evidence that the so-called "nostrums" are already working. The belief that we will pass this well-balanced tax bill has already lead to an improvement. The tax cut we had in 1954 was only helpful temporarily, because it was not the right kind. The report of the Ways and Means Committee of the House states, on page 7:

> In 1954 Congress allowed the individual income tax increases imposed during the Korean war to expire, made certain excise tax reductions, allowed the excess profits tax to expire and made certain other tax reductions as well. The total of these reductions amounted to about $7.4 billion. Yet, only 2 years later, in 1956, receipts were $3.2 billion above the level existing before the reductions were made.

That proves that some stimulus was gained from that reduction. The report continues:

> However, these reductions did not get to the root of the matter, the high World War II rates, with the result that the poor economic performance of the economy since 1956 has left a heavy mark on the Federal debt.

I agree with the Senator from Tennessee that we do have unemployment, which he has talked about, and we do have automation, which he has also talked about. This bill is advocated in an endeavor to increase employment. Even though we build more machines—machines which will throw workers out of jobs—we must employ them in the increased activity resulting both from increased investment and from increased consumption.

The theory of the bill is that we hope to be able to stimulate the economy in a way to make possible greater capital investment to create more jobs. The $9.2 billion reduction provided in this bill to the consumer also will stimulate demand. Because of the increased consumer demand and investment stimulants, there will be additional plant expansion and modernization, and that will create more jobs. That is what we are working for.

Mr. LONG of Louisiana. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I yield.

Mr. LONG of Louisiana. The Senator will be interested to know that more than 400 leading academic economists in 43 major universities and colleges of America agree with his argument.

Mr. SMATHERS. How many?

Mr. LONG of Louisiana. More than 400 leading academic economists in 43 major universities and colleges agree with with the arguments of the Senator from Florida.

Mr. SMATHERS. Is it not a fact, when one looks at the various elements in our economic, political, and working life, that ranging from the labor movement at one end of the spectrum to business councils on the other, they all approve of this approach?

Mr. LONG of Louisiana. Labor agrees that this is a good bill. The AFL and the CIO came before our committee to testify in its support. The bankers agree that it is a good bill. The chamber of commerce agrees that it is a good bill. The National Association of Manufacturers agrees that it is a good bill. The insurance interests agree that it is a good bill. Any time a crowd of that size gets together under one tent, there is a real combination working to agree that this is a good idea. That does not mean, of course, that we can get everyone to agree.

The overwhelming majority of people who think about these questions, and are paid to think about them, agree that this is a good bill.

Mr. SMATHERS. As I recall, Lou Harris, who I understand is one of the most respected pollsters in the United States, conducted a poll which showed that the people of America favor the bill by well over 2 to 1. Yet certain highly respected Senators, some of whom serve on the Finance Committee with the Senator from Louisiana, who still continue to wish to save the people in the fashion in which those Senators wish to save them, even if the people do not wish to be saved in that fashion. That is how it goes. That is what makes debate. But in response to the Senator from Tennessee [Mr. GORE], I believe that the approach we have taken in the bill, which puts the emphasis upon private enterprise and the private sector of the economy, will be much more effective than anything we have tried thus far. In the final analysis, it will prove to be the remedy which this country needs so badly, in order to reduce the number of unemployed and at the same time increase business activity so that the country will be strong, with plenty of jobs for everyone.

Mr. President, let me state what the bill is expected to do for corporate investment. It is expected, as the President indicated in his Budget Message,

to increase corporate profits to about $56 billion—more than $12 billion above the level for 1961.

That figure, of course, does not reflect the $2½ billion a year in tax benefits from the investment credit and depreciation reform. Neither does it reflect the $1½ billion which the tax cut will provide in after-tax business profits this year, or the $2⅓ billion it will provide next year.

UNANIMOUS-CONSENT REQUEST

Mr. LONG of Louisiana. Mr. President, will the Senator from Florida yield for a unanimous-consent request?

Mr. SMATHERS. I am glad to yield.

Mr. LONG of Louisiana. I have discussed the proposed unanimous-consent request with all Senators on both sides of the aisle who to my knowledge are interested in it. Therefore, as far as I know, it should be agreeable.

On the pending measure, H.R. 8363, I ask unanimous consent that the committee amendments, with the exception of those relating to capital gains taxes beginning on page 233 of the bill, be agreed to en bloc, and that the bill as amended be considered as original text for the purpose of amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendments agreed to en bloc are as follows:

On page 1, after the enacting clause, to strike out:

"SECTION 1. DECLARATION BY CONGRESS.

"It is the sense of Congress that the tax reduction provided by this Act through stimulation of the economy, will, after a brief transitional period, raise (rather than lower) revenues and that such revenue increases should first be used to eliminate the deficits in the administrative budgets and then to reduce the public debt. To further the objective of obtaining balanced budgets in the near future, Congress by this action, recognizes the importance of taking all reasonable means to restrain Government spending and urges the President to declare his accord with this objective."

On page 2, at the beginning of line 6, to strike out "SEC. 2." and insert "SECTION 1.".

On page 2, line 8, after the word "of", to strike out "1963" and insert "1964".

On page 13, at the beginning of line 21, to strike out "or the amount determined under section 1561 (relating to surtax exemptions in case of certain controlled corporations)" and insert a comma and "except that, with respect to a corporation to which section 1561 (relating to surtax exemptions

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in case of certain controlled corporations) applies for the taxable year, the surtax exemption for the taxable year is the amount determined under such section."

On page 26, line 13, after the word "of", to strike out "1963" and insert "1964".

On page 26, line 22, after the word "of", to strike out "1963" and insert "1964".

On page 32, after line 2, to insert a new section, as follows:

"SEC 202. LIMITATION ON RETIREMENT INCOME.

(a) INCREASE IN LIMITATION IN CASE OF CERTAIN MARRIED COUPLES.—Section 37 (relating to retirement income) is amended by redesignating subsection (i) as subsection (j) and inserting after subsection (h) the following new subsection:

"'(i) EXCEPTIONS TO LIMITATION ON AMOUNT OF RETIREMENT INCOME IN CASE OF CERTAIN JOINT RETURNS.—In the case of a joint return of a husband and wife both of whom have attained the age of 65 before the close of the taxable year—

"'(1) BOTH SPOUSES HAVE RECEIVED EARNED INCOME.—If both spouses are individuals who have received earned income before the beginning of the taxable year (within the meaning of subsection (b)) and if the sum of the retirement income and the amounts described in paragraphs (1) and (2) of subsection (d) received by either spouse during the taxable year is less than $762, the $1,524 amount referred to in subsection (d) shall, with respect to the other spouse, be increased by an amount equal to the amount by which such sum is less than $762.

"'(2) ONE SPOUSE HAS NOT RECEIVED EARNED INCOME.—If either spouse is an individual who has not received earned income before the beginning of the taxable year (within the meaning of subsection (b)), the $1,524 amount referred to in subsection (d) shall, with respect to the other spouse, be increased by $762, minus the sum of the amounts described in paragraphs (1) and (2) of subsection (d) received by his spouse.'"

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1963."

On page 33, at the beginning of line 10, to change the section number from "202" to "203".

On page 33, line 21, after the word "before", to strike out "July 1, 1963" and insert "January 1, 1964".

On page 33, line 24, after the word "before", to strike out "July 1, 1963" and insert "January 1, 1964".

On page 34, line 13, to strike out "July 1, 1963" and insert "January 1, 1964".

On page 35, line 1, after the word "after", to strike out "June 30, 1963" and insert "December 31, 1963".

On page 35, line 11, after the word "section", to strike out "202" and insert "203", and in the same line, after the word "of", where it appears the second time, to strike out "1963" and insert "1964".

On page 35, line 20, after the word "after", to strike out "June 30, 1963" and insert "December 31, 1963".

On page 35, line 23, after the word "before", to strike out "July 1, 1963" and insert "January 1, 1964", and on page 36, line 1, after the word "after", to strike out "June 30, 1963" and insert "December 31, 1963".

On page 40, line 1, to change the section number from "203" to "204".

On page 40, after line 16, to strike out:

"(1) the cost of so much of such insurance as does not exceed $30,000 of protection, and".

And, in lieu thereof, to insert:

"(1) the cost of $70,000 of such insurance, and".

On page 41, after line 19, to strike out:

"(c) DETERMINATION OF COST OF INSURANCE.—

"(1) UNIFORM PREMIUM TABLE METHOD.—For purposes of this section and chapter 24, the cost of group-term life insurance on the life of an employee provided during any period shall be determined on the basis of uniform premiums (computed on the basis of 5-year age brackets) prescribed by regulations by the Secretary or his delegate.

"(2) POLICY COST METHOD.—If the employer so elects (at such time and in such manner as the Secretary or his delegate prescribes) with respect to any employee for any period, the cost of group-term life insurance on the life of such employee shall (in lieu of being determined under paragraph (1)) be determined on the basis of the average premium cost under the policy for the ages included within the age bracket which would be applicable to such employee under paragraph (1). The preceding sentence shall not apply for purposes of determining the cost of insurance provided under a policy if the premium on such policy is not computed on the basis of the cost of such insurance at the ages (or at the age brackets applicable under paragraph (1)) of the individuals comprising the group.

"(3 EMPLOYED INDIVIDUALS OVER AGE 64.—In the case of an employee who has attained age 64, the cost determined under paragraph (1) or (2), as the case may be, shall not exceed the cost which would be determined under such paragraph with respect to such individual if he were age 63."

And, in lieu thereof, to insert:

"(c) DETERMINATION OF COST OF INSURANCE.—For purposes of this section and section 6052, the cost of group-term insurance on the life of an employee provided during any period shall be determined on the basis of uniform premiums (computed on the basis of 5-year age brackets) prescribed by regulations by the Secretary or his delegate. In the case of an employee who has attained age 64, the cost prescribed shall not exceed the cost with respect to such individual if he were age 63."

On page 43, at the beginning of line 17, to strike out "sections 79 and 218" and insert "section 79".

On page 43, after line 19, to strike out:

"(b) CERTAIN CONTRIBUTIONS BY EMPLOYEES FOR GROUP TERM LIFE INSURANCE.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by inserting after section 217 the following new section:

"SEC. 218. CERTAIN CONTRIBUTIONS BY EMPLOYEES FOR GROUP-TERM LIFE INSURANCE

" 'In the case of an employee on whose life group term life insurance in excess of $30,000 is provided for part or all of the taxable year under a policy (or policies) carried directly or indirectly by his employer (or employers), there shall be allowed as a deduction for such taxable year an amount equal to the excess (if any) of—

" '(1) the amount paid by the employee toward the purchase of such insurance in excess of $30,000, over

" '(2) the cost (determined in the manner provided by paragraph (1) of section 79(c), without regard to paragraph (3) thereof) of such insurance in excess of $30,000.

For purposes of this seciton, there shall not be taken into account any insurance the cost of which is excepted from the application of subsection (a) of section 79 by subsection (b) thereof.' "

On page 44, at the beginning of line 24, to strike out "(c)" and insert "(b)".

On page 45, line 5, after the word "employee", to strike out the comma and "but only to the extent the cost of such insurance is not includible in the employee's gross income under section 79(a). For purposes of this paragraph, the extent to which the cost of group-term life insurance is includible in the employee's gross income under section 79(a) shall be determined as if the employer were the only employer paying such employee remuneration in the form of such insurance" and insert a semicolon.

On page 45, after line 13, to insert:

"(c) INFORMATION REPORTING.—

"(1) REQUIREMENT.—Subpart C of part III of subchapter A of chapter 61 (relating to information and returns) is amended by adding at the end thereof the following new section:

" 'SEC. 6052. RETURNS REGARDING PAYMENT OF WAGES IN THE FORM OF GROUP-TERM LIFE INSURANCE.

" '(a) REQUIREMENT OF REPORTING.—Every employer who during any calendar year provides group-term life insurance on the life of an employee during part or all of such calendar year under a policy (or policies) carried directly or indirectly by such employer shall make a return according to the forms or regulations prescribed by the Secretary or his delegate, setting forth the cost of such insurance and the name and address of the employee on whose life such insurance is provided, but only to the extent that the cost of such insurance is includible in the employee's gross income under section 79(a). For purposes of this section, the extent to which the cost of group-term life insurance is includible in the employee's gross income under section 79(a) shall be determined as if the employer were the only employer paying such employee remuneration in the form of such insurance.

" '(b) STATEMENTS TO BE FURNISHED TO EMPLOYEES WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Every employer making a return under subsection (a) shall furnish to each employee whose name is set forth in such return a written statement showing the cost of the group-term life insurance shown on such return. The written statement required under the preceding sentence shall be furnished to the employee on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.'

"(2) PENALTIES FOR FAILURE TO FURNISH STATEMENTS TO PERSONS WITH RESPECT TO WHOM RETURNS ARE FILED.—Section 6678 (relating to failure to furnish certain statements) is amended—

"(A) by striking out 'or 6049(c)' and inserting in lieu thereof '6049(c), or 6052(b)'; and

"(B) by striking out 'or 6049(a)(1),' and inserting in lieu thereof '6049(a)(1), or 6052(a),'.

"(3) CLERICAL AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following:

"'SEC. 6052. Returns regarding payment of wages in the form of group-term life insurance.'

"(4) CROSS REFERENCE.—

"For penalty for failure to file information returns required by section 602(a) of the Internal Revenue Code of 1954 (added by paragraph (1) of this subsection), see section 6652(a)(3) of such Code (as amended by section 222(b)(2) of this Act)."

On page 47, line 11, after the word "and", to strike out "(b)" and insert "(c), and paragraph (3) of section 6652(a) of the Internal Revenue Code of 1954 (as amended by section 222(b)(2) of this Act)", and in line 16, after the word "subsection", to strike out "(c)" and insert "(b)".

At the top of page 48, to strike out:

"SEC. 204. INCLUSION IN GROSS INCOME OF REIMBURSED MEDICAL EXPENSES TO THE EXTENT THAT THE REIMBURSEMENT EXCEEDS THE EXPENSES.

"(a) GENERAL RULE.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

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"'SEC. 80. REIMBURSEMENT OF MEDICAL EXPENSES IN EXCESS OF SUCH EXPENSES.

"'Notwithstanding any other provision of this subchapter, amounts received through accident or health insurance for medical expenses shall be included in gross income to the extent the aggregate of such amounts received for any personal injury or sickness exceeds the aggregate amount of the medical expenses incurred by the taxpayer for such personal injury or sickness. For purposes of this section, the term "medical expenses" means expenses for medical care as defined in section 213(e), except that it does not include amounts paid for accident or health insurance.'

"(b) CLERICAL AMENDMENT.—The table of sections for such part II is amended by adding at the end thereof the following:

"SEC. 80. Reimbursement of medical expenses in excess of such expenses'.

"(c) TECHNICAL AMENDMENT.—Subsection (c) of section 105 (relating to the definition of accident and health plans) is amended by striking out 'this section' and inserting in lieu thereof 'this section, section 80,'.

"(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1963."

On page 55, after line 21, to insert:

"(5) State and local taxes on the sale of gasoline, diesel fuel, and other motor fuels."

On page 55, after line 23, to insert:

"(6) State and local taxes on the registration or licensing of highway motor vehicles and on licenses for the operation of highway motor vehicles."

On page 57, after line 23, to strike out:

"(E) SEPARATELY STATED GENERAL SALES TAXES.—If the amount of any general sales tax is separately stated, then, to the extent that the amount so stated is paid by the consumer (otherwise than in connection with the consumer's trade or business) to his seller, such amount shall be treated as a tax imposed on, and paid by, such consumer."

On page 58, after line 12, to insert:

"(5) SEPARATELY STATED GENERAL SALES TAXES AND GASOLINE TAXES.—If the amount of any general sales tax or of any tax on the sale of gasoline, diesel fuel, or other motor fuel is separately stated, then, to the extent that the amount so stated is paid by the consumer (otherwise than in connection with the consumer's trade or business) to his seller, such amount shall be treated as a tax imposed on, and paid by, such consumer."

On page 62, after line 5, to strike out:

"(c) EFFECTIVE DATE. The amendments made by this section shall apply to taxable years beginning after December 31, 1963."

And, in lieu thereof, to insert:

"(c) EFFECTIVE DATE.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1963.

"(2) SPECIAL TAXING DISTRICTS.—Section 164(c)(1) of the Internal Revenue Code of 1954 (as amended by subsection (a)) shall not prevent the deduction under section 164 of such Code (as so amended) of taxes levied by a special taxing district which is described in section 164(b)(5) of such Code (as in effect for a taxable year ending on December 31, 1963) and which was in existence on December 31, 1963, for the purpose of retiring indebtedness existing on such date."

On page 64, after line 19, to insert:

"(b) LIMITATION OF UNLIMITED CHARITABLE CONTRIBUTION DEDUCTION.—Section 170(b)(1) (relating to limitations on amount of deduction for charitable contributions by individuals) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"'(D) APPLICATION OF SUBPARAGRAPH (C) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1963.—If the taxable year begins after December 31, 1963—

"'(i) subparagraph (C) shall apply only if the taxpayer so elects (at such time and in such manner as the Secretary or his delegate by regulations prescribes), and

"'(ii) for purposes of subparagraph (C), the amount of the charitable contributions for the taxable year (and for all prior tax-

able years beginning after December 31, 1963) shall be determined without the application of paragraph (5) and solely by reference to charitable contributions described in subparagraph (A).

If the taxpayer elects to have subparagraph (C) apply for the taxable year, then for such taxable year subsection (a) shall apply only with respect to charitable contributions described in subparagraph (A), and no amount of charitable contributions made in the taxable year or any prior taxable year may be treated under paragraph (5) as having been made in the taxable year or in any succeeding taxable year.'

"(c) 5-YEAR CARRYOVER OF CERTAIN CHARITABLE CONTRIBUTIONS MADE BY INDIVIDUALS.—

"(1) IN GENERAL.—Section 170(b) (relating to limitations on amount of deduction for charitable contribution) is amended by adding at the end thereof the following new paragraph:

"'(5) CARRYOVER OF CERTAIN EXCESS CONTRIBUTIONS BY INDIVIDUALS.—

"'(A) In the case of an individual, if the amount of charitable contributions described in paragraph (1)(A) payment of which is made within a taxable year (hereinafter in this paragraph referred to as the "contribution year") beginning after December 31, 1963, exceeds 30 percent of the taxpayer's adjusted gross income for such year (computed without regard to any net operating loss carryback to such year under section 172), such excess shall be treated as a charitable contribution described in paragraph (1)(A) paid in each of the 5 succeeding taxable years in order of time, but, with respect to any such succeeding taxable year, only to the extent of the lesser of the two following amounts:

"'(i) the amount by which 30 percent of the taxpayer's adjusted gross income for such succeeding taxable year (computed without regard to any net operating loss carryback to such succeeding taxable year under section 172) exceeds the sum of the charitable contributions described in paragraph (1)(A) payment of which is made by the taxpayer within such succeeding taxable year (determined without regard to this subparagraph) and the charitable contributions described in paragraph (1)(A) payment of which was made in taxable years (beginning after December 31, 1963) before the contribution year which are treated under this subparagraph as having been paid in such succeeding taxable year; or

"'(ii) in the case of the first succeeding taxable year, the amount of such excess, and in the case of the second, third, fourth, or fifth succeeding taxable year, the portion of such excess not treated under this subparagraph as a charitable contribution described in paragraph (1)(A) paid in any intervening year between the contribution year and such succeeding taxable year.

"'(B) In applying subparagraph (A), the excess determined under subparargraph (A) for the contribution year shall be reduced to the extent that such excess reduces taxable income (as computed for purposes of the second sentence of section 172(b)(2)) and increases the net operating loss deduction for a taxable year succeeding the contribution year.'

"(2) TECHNICAL AMENDMENTS.—Section 545(b)(2) (relating to deductions for charitable contributions by personal holding companies) and 556(b)(2) (relating to deductions for charitable contributions by foreign personal holding companies) are each amended by striking out 'section 170(b)(2)' and inserting in lieu thereof 'section 170(b)(2) and (5)'.

On page 68, at the beginning of line 11, to strike out "(b)" and insert "(d)".

On page 70, at the beginning of line 7, to strike out "(c)" and insert "(e)".

On page 70, line 23, after the word "property.", to strike out "This subsection shall not apply to any charitable contribution where—

"'(1) the sole intervening interest or right is a non-transferable life interest reserved by the donor, or

"'(2) in the case of a joint gift by husband and wife, the sole intervening interest or right is a nontransferable life interest reserved by the donors which expires not later than the death of whichever of such donors dies later.

For purposes of the preceding sentence, a right to make an earlier transfer of the reserved life interest to the donee of the future interest shall not be treated as making a life interest transferable.'

"(d) EFFECTIVE DATES.—The amendments made by subsections (a) and (b) shall apply with respect to contributions which are paid (or treated as paid under section 170(a)(2) of the Internal Revenue Code of 1954) in taxable years beginning after December 31, 1963. The amendments made by subsection (c) shall apply to transfers of future interests made after December 31, 1963, in taxable years ending after such date."

On page 71, after line 19, to insert:

"(f) EFFECTIVE DATES.—

"(1) The amendments made by subsections (a), (b), and (c), shall apply with respect to contributions which are paid in taxable years beginning after December 31, 1963.

"(2) The amendments made by subsection (d) shall apply to taxable years beginning after December 31, 1963, with respect to contributions which are paid (or treated as paid under section 170(a)(2) of the Internal Revenue Code of 1954) in taxable years beginning after December 31, 1961.

"(3) The amendments made by subsection (e) shall apply to transfers of future interests made after December 31, 1963, in taxable years ending after such date."

On page 72, after line 9, to insert:

"SEC. 210. LOSSES ARISING FROM EXPROPRIATION OF PROPERTY BY GOVERNMENTS OF FOREIGN COUNTRIES.

"(a) NET OPERATING LOSS CARRYOVER.—Section 172 (relating to net operating loss deduction) is amended—

"(1) by striking out 'Except as provided in clause (ii)' in subsection (b)(1)(A)(i) and inserting in lieu thereof 'Except as provided in clause (ii) and in subparagraph (D)';

"(2) by striking out 'Except as provided in subparagraph (C)' in subsection (b)(1)(B) and inserting in lieu thereof 'Except as provided in subparagraphs (C) and (D)';

"(3) by adding at the end of subsection (b)(1) the following new subparagraphs:

"'(D) In the case of a taxpayer which has a foreign expropriation loss (as defined in subsection (k)) for any taxable year ending after December 31, 1958, the portion of the net operating loss for such year attributable to such foreign expropriation loss shall not be a net operating loss carryback to any taxable year preceding the taxable year of such loss and shall be a net operating loss carryover to each of the 10 taxable years following the taxable year of such loss.';

"(4) by adding at the end of subsection (b)(3) the following new subparagraphs:

"'(C) Paragraph (1)(D) shall apply only if—

"'(i) the foreign expropriation loss (as defined in subsection (k)) for the taxable

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year equals or exceeds 50 percent of the net operating loss for the taxable year,

"'(ii) in the case of a foreign expropriation loss for a taxable year ending after December 31, 1963, the taxpayer elects (at such time and in such manner as the Secretary or his delegate by regulations prescribes) to have paragraph (1)(D) apply, and

"'(iii) in the case of a foreign expropriation loss for a taxable year ending after December 31, 1958, and before January 1, 1964, the taxpayer elects (in such manner as may be prescribed by the Secretary or his delegate) on or before December 31, 1965, to have paragraph (1)(D) apply.

"'(D) If a taxpayer makes an election under subparagraph (C)(iii), then (notwithstanding any law or rule of law), with respect to any taxable year ending before January 1, 1964, affected by the election—

"'(i) the time for making or changing any choice or election under subpart A of part III of subchapter N (relating to foreign tax credit) shall not expire before January 1, 1966,

"'(ii) any deficiency attributable to the election under subparagraph (C)(iii) or to the application of clause (i) of this subparagraph may be assessed at any time before January 1, 1969, and

"'(iii) refund or credit of any overpayment attributable to the election under subparagraph (C)(iii) or to the application of clause (i) of this subparagraph may be made or allowed if claim therefore is filed before January 1, 1969.';

"(5) by redesignating subsection (k) as (l), and by inserting after subsection (j) the following new subsection:

"'(k) FOREIGN EXPROPRIATION LOSS DEFINED.—For purposes of subsection (b)—

'"(1) The term "foreign expropriation loss" means, for any taxable year, the sum of the losses sustained with respect to property by reason of the expropriation, intervention, seizure, or similar taking of such property by the government of any foreign country, any political subdivision thereof, or any agency or instrumentality of the foregoing.

"'(2) The portion of the net operating loss for such year attributable to a foreign expropriation loss is the amount of the foreign expropriation loss for such year (but not in excess of the net operating loss for such year).'

"(b) TECHNICAL AMENDMENTS.—Section 172(b)(2) is amended—

"(1) by striking out subparagraph (B) and inserting in lieu thereof the following:

"'(B) by determining the amount of the net operating loss deduction—

"'(i) without regard to the net operating loss for the loss year or for any taxable year thereafter, and

"'(ii) without regard to that portion, if any, of a net operating loss for a taxable year attributable to a foreign expropriation loss, if such portion may not, under paragraph (1)(D), be carried back to such prior taxable year.'; and

"(2) by adding at the end thereof the following new sentence: 'For purposes of this paragraph, if a portion of the net operating loss for the loss year is attributable to a foreign expropriation to which paragraph (1)(D) applies, such portion shall be considered to be a separate net operating loss for such year to be applied after the other portion of such net operating loss.'

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply in respect of foreign expropriation losses (as defined in section 172(k) of the Internal Revenue Code of 1954, as amended by subsection (a)(5) of this section), sustained in taxable years ending after December 31, 1958.

On page 76, at the beginning of line 22, to change the section number from "210" to "211".

On page 77, at the beginning of line 12, to change the section number from "211" to "212".

On page 78, after line 5, to strike out:

"(B) The $600 limit of subparagraph (A) shall be increased (to an amount not above $900) by the amount of expenses incurred by the taxpayer for any period during which—

"(i) the taxpayer had 2 or more dependents, and

"(ii) paragraph (2) does not apply."

And, in lieu thereof, to insert:

"(B) The $600 limit of subparagraph (A)—

"(i) shall be increased (to an amount not above $900) by the amount of expenses incurred by the taxpayer for any period during which the taxpayer had 2 dependents, and

"(ii) shall be increased (to an amount not above $1,000) by the amount of expenses incurred by the taxpayer for any period during which the taxpayer had 3 or more dependents."

On page 78, after line 21, to strike out:

"(2) WORKING WIVES. In the case of a woman who is married, the deduction under subsection (a)—

"(A) shall not be allowed unless she files a joint return with her husband for the taxable year, and

"(B) shall be reduced by the amount (if any) by which the adjusted gross income of the taxpayer and her spouse exceeds $4,500.

This paragraph shall not apply to expenses incurred while the taxpayer's husband is incapable of self-support because mentally or physically defective.

"(3) HUSBANDS WITH INCAPACITATED WIVES.—In the case of a husband whose wife is incapacitated, the deduction under subsection (a)—

"(A) shall not be allowed unless he files a joint return with his wife for the taxable year, and

"(B) shall be reduced by the amount (if any) by which the adjusted gross income of the taxpayer and his spouse exceeds $4,500.

This paragraph shall not apply to expenses incurred while the taxpayer's wife is institutionalized if such institutionalization is for a period of at least 90 consecutive days (whether or not within one taxable year) or a shorter period if terminated by her death."

And, in lieu thereof, to insert:

"(2) WORKING WIVES AND HUSBANDS WITH INCAPACITATED WIVES.—In the case of a woman who is married and in the case of a husband whose wife is incapacitated, the deduction under subsection (a)—

"(A) shall not be allowed unless the taxpayer and his spouse file a joint return for the taxable year, and

"(B) shall be reduced by the amount (if any) by which the adjusted gross income of the taxpayer and his spouse exceeds $7,000.

This paragraph shall not apply, in the case of a woman who is married, to expenses incurred while her husband is incapable of self-support because mentally or physically defective, or, in the case of a husband whose wife is incapacitated, to expenses incurred while his wife is institutionalized if such institutionalization is for a perod of at least 90 consecutive days (whether or not within one taxable year) or a shorter period if terminated by her death."

On page 80, at the beginning of line 19, to strike out "(4)" and insert "(3)".

On page 83, at the beginning of line 1, to change the section number from "212" to "213".

On page 86, after line 5, to strike out:

"SEC. 218. Certain contributions by employees for group term life insurance."

And, in lieu thereof, to insert:

"SEC. 218. Contributions to political candidates and political committees."

On page 86, line 13, after the word "section", to strike out "203(c)" and insert "204(b)".

On page 87, line 2, after the word "after", to strike out "December 31, 1963" and insert "the seventh day following the date of enactment of this Act".

On page 87, after line 3, to insert a new section, as follows:

"SEC. 214. DEDUCTION FOR POLITICAL CONTRIBUTIONS.

"(a) ALLOWANCE OF DEDUCTIONS.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by inserting after section 217 (as added by section 213(a)(1) of this Act) the following new section:

"SEC. 218. CONTRIBUTIONS TO POLITICAL CANDIDATES AND POLITICAL COMMITTEES.

"'(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction any political contribution payment of which is made by the taxpayer within the taxable year.

"'(b) LIMITATIONS.—

"'(1) AMOUNT.—The deduction under subsection (a) shall not exceed $50 for any taxable year, except that, in the case of a joint return of a husband and wife under section 6013 for the taxable year, the deduction shall not exceed $100 for the taxable year.

"'(2) VERIFICATION.—The deduction under subsection (a) shall be allowed, with respect to any political contribution, only if such political contribution is verified in such manner as the Secretary or his delegate shall prescribe by regulations.

"'(c) POLITICAL CONTRIBUTION DEFINED.—For purposes of this section, the term 'political contribution' means a contribution or gift to—

"'(1) any political candidate, or

"'(2) any political committee,

but only if such contribution or gift is made to further the candidacy of one or more individuals in a general, special, or primary election or a convention of a political party.

"'(d) CROSS REFERENCE.—

"'For disallowance of deduction to estates and trusts, see section 642(i).'

"(b) TECHNICAL AMENDMENT.—Section 642 (relating to special rules for credits and deductions of estates and trusts) is amended by redesignating subsection (i) as subsection (j), and by inserting after subsection (h) the following new subsection:

"'(i) POLITICAL CONTRIBUTIONS.—An estate or trust shall not be allowed the deduction for political contributions provided by section 218.'

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply only with respect to contributions or gifts made on or after the date of the enactment of this Act in taxable years ending after such date."

At the top of page 89, to insert a new section, as follows:

"SEC. 215. 100 PERCENT DIVIDENDS RECEIVED DEDUCTION FOR MEMBERS OF ELECTING AFFILIATED GROUPS.

"(a) 100 PERCENT DIVIDENDS RECEIVED DEDUCTION.—Section 243 (relating to dividends received by corporations) is amended to read as follows:

"'SEC. 243. DIVIDENDS RECEIVED BY CORPORATIONS.

"'(a) GENERAL RULE.—In the case of a corporation, there shall be allowed as a deduction an amount equal to the following percentages of the amount received as dividends from a domestic corporation which is subject to taxation under this chapter:

"'(1) 85 percent, in the case of dividends other than dividends described in paragraph (2) or (3);

"'(2) 100 percent, in the case of dividends received by a small business investment company operating under the Small Business Investment Act of 1958; and

"'(3) 100 percent, in the case of qualifying dividends (as defined in subsection (b)(1)).

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"'(b) QUALIFYING DIVIDENDS.—

"'(1) DEFINITION.—For purposes of subsection (a)(3), the term "qualifying dividends" means dividends received by a cor-

poration which, at the close of the day the dividends are received, is a member of the same affiliated group of corporations (as defined in paragraph (5)) as the corporation distributing the dividends, if—

"'(A) such affiliated group has made an election under paragraph (2) which is effective for the taxable years of its members which include such day, and

"'(B) such dividends are distributed out of earnings and profits of a taxable year of the distributing corporation ending after December 31, 1963—

"'(i) on each day of which the distributing corporation and the corporation receiving the dividends were members of such affiliated group, and

"'(ii) for which an election under section 1562 (relating to election of multiple surtax exemptions) is not effective.

"'(2) ELECTION.—An election under this paragraph shall be made for an affiliated group by the common parent corporation, and shall be made for any taxable year of the common parent corporation at such time and in such manner as the Secretary or his delegate by regulations prescribes. Such election may not be made for an affiliated group for any taxable year of the common parent corporation for which an election under section 1562 is effective. Each corporation which is a member of such group at any time during its taxable year which includes the last day of such taxable year of the common parent corporation must consent to such election at such time and in such manner as the Secretary or his delegate by regulations prescribes. An election under this paragraph shall be effective—

"'(A) for the taxable year of each member of such affiliated group which includes the last day of the taxable year of the common parent corporation with respect to which the election is made (except that in the case of a taxable year of a member beginning in 1963 and ending in 1964, if the election is effective for the taxable year of the common parent corporation which includes the last day of such taxable year of such member, such election shall be effective for such taxable year of such member, if such member consents to such election with respect to such taxable year), and

"'(B) for the taxable year of each member of such affiliated group which ends after the last day of such taxable year of the common parent corporation but which does not include such date, unless the election is terminated under paragraph (4).

"'(3) EFFECT OF ELECTION.—If an election by an affiliated group is effective with respect to a taxable year of the common parent corporation, then under regulations prescribed by the Secretary or his delegate—

"'(A) no member of such affiliated group may consent to an election under section 1562 for such taxable year.

"'(B) the members of such affiliated group shall be treated as one taxpayer for purposes of making the elections under section 901(a) (relating to allowance of foreign tax credit) and section 904(b)(1) (relating to election of overall limitation), and

"'(C) the members of such affiliated group shall be limited to one—

"'(i) $100,000 minimum accumulated earnings credit under section 535(c)(2) or (3),

"'(ii) $100,000 limitation for exploration expenditures under section 615 (a) and (b),

"'(iii) $400,000 limitation for exploration expenditures under section 615(c)(1),

"'(iv) $25,000 limitation on small business deduction of life insurance companies under sections 804(a)(4) and 809(d)(10), and

"'(v) $100,000 exemption for purposes of estimated tax filing requirements under section 6016 and the addition to tax under section 6655 for failure to pay estimated tax.

"'(4) TERMINATION.—An election by an affiliated group under paragraph (2) shall terminate with respect to the taxable year of the common parent corporation and with respect to the taxable years of the members of such affiliated group which include the last day of such taxable year of the common parent corporation if—

"'(A) CONSENT OF MEMBERS.—Such affiliated group files a termination of such election (at such time and in such manner as the Secretary or his delegate by regulations prescribes) with repsect to such taxable year of the common parent corporation, and each corporation which is a member of such affiliated group at any time during its taxable year which includes the last day of such taxable year of the common parent corporation consents to such termination, or

"'(B) REFUSAL BY NEW MEMBER TO CONSENT.—During such taxable year of the common parent corporation such affiliated group includes a member which—

"'(i) was not a member of such group during such common parent corporation's immediately preceding taxable year, and

"'(ii) such member files a statement that it does not consent to the election at such time and in such manner as the Secretary or his delegate by regulations prescribes.

"'(5) DEFINITION OF AFFILIATED GROUP.—For purposes of this subsection, the term "affiliated group" has the meaning assigned to it by section 1504(a), except that for such purposes sections 1504(b)(2) and 1504(c) shall not apply.

"'(6) SPECIAL RULES FOR INSURANCE COMPANIES.—If an election under this subsection is effective for the taxable year of an insurance company subject to taxation under section 802 or 821—

"'(A) part II of subchapter B of chapter 6 (relating to certain controlled corporations) shall be applied without regard to section 1563(a)(4) (relating to certain insurance companies) and section 1563(b)(2)(D) (relating to certain excluded members) with respect to such company and the other corporations which are members of the controlled group of corporations (as determined under section 1563 without regard to subsections (a)(4) and (b)(2)(D)) of which such company is a member, and

"'(B) for purposes of paragraph (1), a distribution by such company out of earnings and profits of a taxable year for which an election under this subsection was not effective, and for which such company was not a component member of a controlled group of corporations within the meaning of section 1563 solely by reason of section 1563(b)(2)(D), shall not be a qualifying dividend.'

"(c) SPECIAL RULES FOR CERTAIN DISTRIBUTIONS.—For purposes of subsection (a)—

"'(1) Any amount allowed as a deduction under section 591 (relating to deduction for dividends paid by mutual savings banks, etc.) shall not be treated as a dividend.

"'(2) A dividend received from a regulated investment company shall be subject to the limitations prescribed in section 854.

"'(3) Any dividend received from a real estate investment trust which, for the taxable year of the trust in which the dividend is paid, qualifies under part II of subchapter M (section 856 and following) shall not be treated as a dividend.

"'(4) Any dividend received which is described in section 244 (relating to dividends received on preferred stock of a public utility) shall not be treated as a dividend.

"'(d) CERTAIN DIVIDENDS FROM FOREIGN CORPORATIONS.—For purposes of subsection (a) and for purposes of section 245, any dividend from a foreign corporation from earnings and profits accumulated by a domestic corporation during a period with respect to which such domestic corporation was subject to taxation under this chapter (or corresponding provisions of prior law) shall be treated as a dividend from a domestic corporation which is subject to taxation under this chapter.'

"(b) TECHNICAL AMENDMENTS.—

"(1) Section 244 (relating to dividends received on certain preferred stock) is amended by inserting '(a) GENERAL RULE.—' before 'in case of a corporation,' and by adding at the end thereof the following new subsection:

"'(b) EXCEPTION.—If the dividends described in subsection (a)(1) are qualifying dividends (as defined in section 243(b)(1), but determined without regard to section 243(c)(4))—

"'(2) for purposes of subsection (a)(3), the percentage applicable to such qualifying dividends shall be 100 percent in lieu of 85 percent.'

"(2) Section 246(b) (relating to limitation on aggregate amount of deductions for dividends received) is amended by striking out '243(a), 244,' each place it appears therein and inserting in lieu thereof '243(a)(1), 244(a),'.

"(3) Section 804(a)(5) (relating to the application of section 246(b) to taxable investment income of life insurance companies) is amended by striking out '243(a), 244,' and inserting in lieu thereof '243(a)(1), 244(a),'.

"(4) Section 809(d)(8)(B) (relating to the application of section 246(b) to the life insurance company's share of certain dividends) is amended by striking out '243(a), 244,' each place it appears therein and inserting in lieu thereof '243(a)(1), 244(a),'.

"(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to dividends received in taxable years ending after December 31, 1963."

On page 98, at the beginning of line 1, to change the section number from "213" to "216".

On page 98, line 20, after the word "after", to strike out "August 6, 1963" and insert "December 31, 1963".

On page 100, after line 2, to insert a new section, as follows:

"SEC. 217. INTEREST ON INDEBTEDNESS INCURRED OR CONTINUED TO PURCHASE OR CARRY TAX-EXEMPT BONDS.

"(a) APPLICATION WITH RESPECT TO CERTAIN FINANCIAL INSTITUTIONS.—Section 265 (relating to expenses and interest relating to tax-exempt income) is amended by adding at the end of paragraph (2) the following new sentence: 'In applying the preceding sentence to a financial institution (other than a bank) which is subject to the banking laws of the State in which such institution is incorporated, interest on face-amount certificates (as defined in section 2(a)(15) of the Investment Company Act of 1940 (15 U.S.C. 80a-2) issued by such institution, and interest on amounts received for the purchase of such certificates to be issued by such institution, shall not be considered as interest on indebtedness incurred or continued to purchase or carry obligations the interest on which is wholly exempt from the taxes imposed by this subtitle, to the extent that the average amount of such obligations held by such institution during the taxable year (as determined under regulations prescribed by the Secretary or his delegate) does not exceed 25 percent of the average of the total assets held by such institution during the taxable year (as so determined).'

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years ending after the date of the enactment of this Act."

On page 101, after line 5, to insert a new section, as follows:

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"SEC. 218. REPEAL OF REQUIREMENT OF ALLOCATION OF CERTAIN TRAVELING EXPENSES

"(a) REPEAL OF SECTION 274(c).—Section 274 (relating to disallowance of certain entertainment, etc., expenses) is amended by striking out subsection (c) (relating to traveling).

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years ending after December 31, 1962, but only in respect of periods after such date."

On page 101, after line 15, to insert a new section, as follows:

"SEC. 219. ACQUISITION OF STOCK IN EXCHANGE FOR STOCK OF CORPORATION WHICH IS IN CONTROL OF ACQUIRING CORPORATION.

"(a) DEFINITION OF REORGANIZATION.—Section 368(a)(1) (relating to definition of reorganization) is amended by inserting after 'voting stock' in subparagraph (B) '(or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation)'.

"(b) TECHNICAL AMENDMENTS.—

"(1) Section 368(a)(2)(C) (relating to special rules) is amended to read as follows:

"'(C) TRANSFERS OF ASSETS OR STOCK TO SUBSIDIARIES IN CERTAIN PARAGRAPH (1)(A), (1)(B,) AND (1)(C) CASES.—A transaction otherwise qualifying under paragraph (1)(A), (1)(B), or (1)(C) shall not be disqualified by reason of the fact that part or all of the assets or stock which were acquired in the transaction are transferred to a corporation

controlled by the corporation acquiring such assets or stock.'

"(2) Section 368(b) (relating to definition of party to a reorganization) is amended by striking out the last two sentences and inserting in lieu thereof the following: 'In the case of a reorganization qualifying under paragraph (1)(B) or (1)(C) of subsection (a), if the stock exchanged for the stock or properties is stock of a corporation which is in control of the acquiring corporation, the term "a party to a reorganization" includes the corporation so controlling the acquiring corporation. In the case of a reorganization qualifying under paragraph (1)(A), (1)(B), or (1)(C) of subsection (a) by reason of paragraph (2)(C) of subsection (a), the term 'a party to a reorganization' includes the corporation controlling the corporation to which the acquired assets or stock are transferred.'"

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to transactions after December 31, 1963, in taxable years ending after such date."

On page 103, after line 7, to insert a new section, as follows:

"SEC. 220. RETROACTIVE QUALIFICATION OF CERTAIN UNION-NEGOTIATED MULTIEMPLOYER PENSION PLANS.

"(a) BEGINNING OF PERIOD AS QUALIFIED TRUST.—Section 401 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by redesignating subsection (i) as subsection (j), and by inserting after subsection (h) the following new subsection:

"'(i) CERTAIN UNION-NEGOTIATED MULTIEMPLOYER PENSION PLANS.—In the case of a trust forming part of a pension plan which has been determined by the Secretary or his delegate to constitute a qualified trust under subsection (a) and to be exempt from taxation under section 501(a) for a period beginning after contributions were first made to or for such trust, if it is shown to the satisfaction of the Secretary or his delegate that—

"'(1) such trust was created pursuant to a collective bargaining agreement between employee representatives and two or more employers who are not related (determined under regulations prescribed by the Secretary or his delegate),

"'(2) any disbursements of contributions, made to or for such trust before the time as of which the Secretary or his delegate determined that the trust constituted a qualified trust, substantially complied with the terms of the trust, and the plan of which the trust is a part, as subsequently qualified, and

"'(3) before the time as of which the Secretary or his delegate determined that the trust constitutes a qualified trust, the contributions to or for such trust were not used in a manner which would jeopardize the interests of its beneficiaries,

then such trust shall be considered as having constituted a qualified trust under subsection (a) and as having been exempt from taxation under section 501(a) for the period beginning on the date on which contributions were first made to or for such trust and ending on the date such trust first constituted (without regard to this subsection) a qualified trust under subsection (a).'

"(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1953, and ending after August 16, 1954, but only with respect to contributions made after December 31, 1954."

At the top of page 105, to insert a new section, as follows:

"SEC. 221. QUALIFIED PENSION, ETC., PLAN COVERAGE FOR EMPLOYEES OF CERTAIN SUBSIDIARY EMPLOYERS.

"(a) EMPLOYEES OF FOREIGN SUBSIDIARIES COVERED BY SOCIAL SECURITY AGREEMENTS.—Part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by adding at the end thereof the following new section:

"'SEC. 406. CERTAIN EMPLOYEES OF FOREIGN SUBSIDIARIES.

"'(a) TREATMENT AS EMPLOYEES OF DOMESTIC CORPORATION.—For purposes of applying this part with respect to a pension, profit-sharing, or stock bonus plan described in section 401(a), an annuity plan described in section 403(a), or a bond purchase plan described in section 405(a), of a domestic corporation, an individual who is a citizen of the United States and who is an employee of a foreign subsidiary (as defined in section 3121(l)(8)) of such domestic corporation shall be treated as an employee of such domestic corporation, if—

"'(1) such domestic corporation has entered into an agreement under section 3121(l) which applies to the foreign subsidiary of which such individual is an employee;

"'(2) the plan of such domestic corporation expressly provides for contributions or benefits for individuals who are citizens of the United States and who are employees of its foreign subsidiaries to which an agreement entered into by such domestic corporation under section 3121(l) applies; and

"'(3) contributions under a funded plan of deferred compensation (whether or not a plan described in section 401(a), 403(a), or 405(a)) are not provided by any other person with respect to the remuneration paid to such individual by the foreign subsidiary.

"'(b) SPECIAL RULES FOR APPLICATION OF SECTION 401(a).—

"'(1) NONDISCRIMINATION REQUIREMENTS.—For purposes of applying paragraphs (3)(B) and (4) of section 401(a) with respect to an individual who is treated as an employee of a domestic corporation under subsection (a)—

"'(A) if such individual is an officer, shareholder, or person whose principal duties consist in supervising the work of other employees of a foreign subsidiary of such domestic corporation, he shall be treated as having such capacity with respect to such domestic corporation; and

"'(B) the determination of whether such individual is a highly compensated employee shall be made by treating such individual's total compensation (determined with the application of paragraph (2) of this subsection) as compensation paid by such domestic corporation and by determining such indi-

vidual's status with regard to such domestic corporation.

"'(2) DETERMINATION OF COMPENSATION.—For purposes of applying paragraph (5) of section 401(a) with respect to an individual who is treated as an employee of a domestic corporation under subsection (a)—

"'(A) the total compensation of such individual shall be the remuneration paid to such individual by the foreign subsidiary which would constitute his total compensation if his services had been performed for such domestic corporation, and the basic or regular rate of compensation of such individual shall be determined under regulations prescribed by the Secretary or his delegate; and

"'(B) such individual shall be treated as having paid the amount paid by such domestic corporation which is equivalent to the tax imposed by section 3101.

"'(c) TERMINATION OF STATUS AS DEEMED EMPLOYEE NOT TO BE TREATED AS SEPARATION FROM SERVICE FOR PURPOSES OF CAPITAL GAIN PROVISIONS.—For purposes of applying section 402(a)(2) and section 403(a)(2) with respect to an individual who is treated as an employee of a domestic corporation under subsection (a), such individual shall not be considered as separated from the service of such domestic corporation solely by reason of the fact that—

"'(1) the agreement entered into by such domestic corporation under section 3121(l) which covers the employment of such individual is terminated under the provisions of such section,

"'(2) such individual becomes an employee of a foreign subsidiary with respect to which such agreement does not apply,

"'(3) such individual ceases to be an employee of the foreign subsidiary by reason of which he is treated as an employee of such domestic corporation, if he becomes an employee of another corporation controlled by such domestic corporation, or

"'(4) the provision of the plan described in subsection (a)(2) is terminated.

"'(d) DEDUCTIBILITY OF CONTRIBUTIONS.—For purposes of applying sections 404 and 405(c) with respect to contributions made to or under a pension, profit-sharing, stock bonus, annuity, or bond purchase plan by a domestic corporation, or by another corporation which is entitled to deduct its contributions under section 404(a)(3)(B), on behalf of an individual who is treated as an employee of such domestic corporation under subsection (a)—

"'(1) except as provided in paragraph (2), no deduction shall be allowed to such domestic corporation or to any other corporation which is entitled to deduct its contributions under such sections,

"'(2) there shall be allowed as a deduction to the foreign subsidiary of which such individual is an employee an amount equal to the amount which (but for paragraph (1)) would be deductible under section 404 (or section 405(c)) by the domestic corporation if he were an employee of the domestic corporation, and

"'(3) any reference to compensation shall be considered to be a reference to the total compensation of such individual (determined with the application of subsection (b)(2)). Any amount deductible by a foreign subsidiary under this subsection shall be deductible for its taxable year with or within which the taxable year of such domestic corporation ends.

"'(e) TREATMENT AS EMPLOYEE UNDER RELATED PROVISIONSI—An individual who is treated as an employee of a domestic corporation under subsection (a) shall also be treated as an employee of such domestic cor-

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poration for purposes of applying the following provisions of this title:

"'(1) Section 72(d) (relating to employees' annuities).

"'(2) Section 72(f) (relating to special rules for computing employees' contributions).

"'(3) Section 101(b) (relating to employees' death benefits).

"'(4) Section 2039 (relating to annuities).

"'(5) Section 2517 (relating to certain annuities under qualified plan).'

"(b) EMPLOYEES OF DOMESTIC SUBSIDIARIES ENGAGED IN BUSINESS OUTSIDE THE UNITED STATES.—Part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by adding after section 406 (as added by subsection (a)) the following new section:

"'SEC. 407. CERTAIN EMPLOYEES OF DOMESTIC SUBSIDIARIES ENGAGED IN BUSINESS OUTSIDE THE UNITED STATES

"'(a) TREATMENT AS EMPLOYEES OF DOMESTIC PARENT CORPORATION.—

"'(1) IN GENERAL.—For purposes of applying this part with respect to a pension, profit-sharing, or stock bonus plan described in section 401(a), an annuity plan described in section 403(a), or a bond purchase plan described in section 405(a), of a domestic parent corporation, an individual who is a citizen of the United States and who is an employee of a domestic subsidiary (within the meaning of paragraph (2)) of such domestic parent corporation shall be treated as an employee of such domestic parent corporation, if—

"'(A) the plan of such domestic parent corporation expressly provides for contributions or benefits for individuals who are citizens of the United States and who are employees of its domestic subsidiaries; and

"'(B) contributions under a funded plan of deferred compensation (whether or not a plan described in section 401(a), 403(a), or 405(a)) are not provided by any other person with respect to the remuneration paid to such individual by the domestic subsidiary.

"'(2) DEFINITIONS.—For purposes of this section—

"'(A) DOMESTIC SUBSIDIARY.—A corporation shall be treated as a domestic subsidiary for any taxable year only if—

"'(i) such corporation is a domestic corporation 80 percent or more of the outstanding voting stock of which is owned by another domestic corporation;

"'(ii) 95 percent or more of its gross income for the three-year period immediately preceding the close of its taxable year which

ends on or before the close of the taxable year of such other domestic corporation (or for such part of such period during which the corporation was in existence) was derived from sources without the United States; and

"'(iii) 90 percent or more of its gross income for such period (or such part) was derived from the active conduct of a trade or business.

"'(B) DOMESTIC PARENT CORPORATION.—The domestic parent corporation of any domestic subsidiary is the domestic corporation which owns 80 percent or more of the outstanding voting stock of such domestic subsidiary.

"'(b) SPECIAL RULES FOR APPLICATION OF SECTION 401(a).—

"'(1) NONDISCRIMINATION REQUIREMENTS.—For purposes of applying paragraphs (3)(B) and (4) of section 401(a) with respect to an individual who is treated as an employee of a domestic parent corporation under subsection (a)—

"'(A) if such individual is an officer, shareholder, or person whose principal duties consist in supervising the work of other employees of a domestic subsidiary, he shall be treated as having such capacity with respect to such domestic corporation; and

"'(B) the determination of whether such individual is a highly compensated employee shall be made by treating such individual's total compensation (determined with the application of paragraph (2) of this subsection) as compensation paid by such domestic parent corporation and by determining such individual's status with regard to such domestic parent corporation.

"'(2) DETERMINATION OF COMPENSATION.—For purposes of applying paragraph (5) of section 401(a) with respect to an individual who is treated as an employee of a domestic parent corporation under subsection (a), the total compensation of such individual shall be the remuneration paid to such individual by the domestic subsidiary which would constitute his total compensation if his services had been performed for such domestic parent corporation, and the basic or regular rate of compensation of such individual shall be determined under regulations prescibed by the Secretary or his delegate.

"'(c) TERMINATION OF STATUS AS DEEMED EMPLOYEE NOT TO BE TREATED AS SEPARATION FROM SERVICE FOR PURPOSES OF CAPITAL GAIN PROVISIONS.—For purposes of applying section 402(a)(2) and section 403(a)(2) with respect to an individual who is treated as an employee of a domestic parent corporation under subsection (a), such individual shall not be considered as separated from the service of such domestic parent corporation solely by reason of the fact that—

"'(1) the corporation of which such individual is an employee ceases, for any taxable year, to be a domestic subsidiary within the meaning of subsection (a)(2)(A),

"'(2) such individual ceases to be an employee of a domestic subsidiary of such domestic parent corporation, if he becomes an employee of another corporation controlled by such domestic parent corporation, or

"'(3) the provision of the plan described in subsection (a)(1)(A) is terminated.

"'(d) DEDUCTIBILITY OF CONTRIBUTIONS.—For purposes of applying sections 404 and 405(c) with respect to contributions made to or under a pension, profit-sharing, stock bonus, annuity, or bond purchase plan by a domestic parent corporation, or by another corporation which is entitled to deduct its contributions under section 404(a)(3)(B), on behalf of an individual who is treated as an employee of such domestic corporation under subsection (a)—

"'(1) except as provided in paragraph (2), no deduction shall be allowed to such domestic parent corporation or to any other corporation which is entitled to deduct its contributions under such sections,

"'(2) there shall be allowed as a deduction to the domestic subsidiary of which such individual is an employee an amount equal to the amount which (but for paragraph (1)) would be deductible under section 404 (or section 405(c)) by the domestic parent corporation if he were an employee of the domestic parent corporation, and

"'(3) any reference to compensation shall be considered to be a reference to the total compensation of such individual (determined with the application of subsection (b)(2)).

"'Any amount deductible by a domestic subsidiary under this subsection shall be deductible for its taxable year with or within which the taxable year of such domestic parent corporation ends.

"'(e) TREATMENT AS EMPLOYEE UNDER RELATED PROVISIONS.—An individual who is treated as an employee of a domestic parent corporation under subsection (a) shall also be treated as an employee of such domestic parent corporation for purposes of applying the following provisions of this title:

"'(1) Section 72(d) (relating to employees' annuities).

"'(2) Section 72(f) (relating to special rules for computing employees' contributions).

"'(3) Section 101(b) (relating to employees' death benefits).

"'(4) Section 2039 (relating to annuities).

"'(5) Section 2517 (relating to certain annuities under qualified plan).'

"(c) TECHNICAL AMENDMENTS.—

"(1) The table of sections for part I of subchapter D of chapter 1 is amended by adding at the end thereof the following:

"'SEC. 224. CERTAIN EMPLOYEES OF FOREIGN SUBSIDIARIES.

"'SEC. 407. CERTAIN EMPLOYEES OF DOMESTIC SUBSIDIARIES ENGAGED IN BUSINESS OUTSIDE THE UNITED STATES.'

"(2) Section 3121(a)(5) (relating to definition of wages) is amended by striking out 'or' at the end of subparagraph (A) and by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraphs:

"'(B) under or to an annuity plan which, at the time of such payment, is a plan described in section 403(a), or

"'(C) under or to a bond purchase plan which, at the time of such payment, is a qualified bond purchase plan described in section 405(a);'.

"(3) Section 209(e) of the Social Security Act (relating to the definition of wages) is amended to read as follows:

"'(e) Any payment made to, or on behalf of, an employee or his beneficiary (1) from or to a trust exempt from tax under section 165(a) of the Internal Revenue Code of 1939 at the time of such payment or, in the case of a payment after 1954, under sections 401 and 501(a) of the Internal Revenue Code of 1954, unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or (2) under or to an annuity plan which, at the time of such payment, meets the requirements of section 165(a) (3), (4), (5), and (6) of the Internal Revenue Code of 1939 or, in the case of a payment after 1954 and prior to 1963, the requirements of section 401(a) (3), (4), (5), and (6) of the Internal Revenue Code of 1954, or (3) under or to an annuity plan which, at the time of any such payment after 1962, is a plan described in section 403(a) of the Internal Revenue Code of 1954, or (4) under or to a bond purchase plan which, at the time of any such payment after 1962, is a qualified bond purchase plan described in section 405(a) of the Internal Revenue Code of 1954;'.

"(d) Effective Date.—The amendments made by subsections (a), (b), and (c)(1) shall apply to taxable years ending after December 31, 1963. The amendments made by subsections (c) (2) and (3) shall apply to remuneration paid after December 31, 1962."

On page 118, at the beginning of line 8, to change the section number from "214" to "222".

On page 121, line 10, after the word "the", where it appears the second time, to strike out "amount," and insert "amount".

On page 122, line 17, after the word "after", to strike out "June 11, 1963" and insert "December 31, 1963", and in line 19, after "section 424(c)", to strike out "(4)" and insert "(3)".

On page 125, line 20, to strike out "June 11, 1963" and insert "December 31, 1963", and in line 24, after the word "before", to strike out "June 12, 1963" and insert "January 1, 1964".

On page 126, at the beginning of line 18, to strike out "or" and insert "and".

On page 128, line 1, after the word "the", to strike out "amount paid for" and insert "adjusted basis of".

On page 128, after line 12, to insert:

"(6) Exception to application of subsection (b)(5).—Paragraph (5) of subsection (b) shall not apply if—

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"(A) the option being granted and all outstanding qualified (or restricted) stock options referred to in subsection (b)(5) are to purchase stock of the same class in the same corporation, and

"(B) the price payable under each such outstanding option (as of the date of grant of the option being granted) is not more than the option price of the option being granted."

On page 129, line 4, after the word "after", to strike out "June 11, 1963" and insert "December 31, 1963", and in line 7, after "section 424(c)", to strike out "(4)" and insert "(3)".

On page 130, line 6, after the word "such", to strike out "corporations" and insert "corporation".

On page 135, line 22, after the word "before", to strike out "June 12, 1963" and insert "January 1, 1964"; in line 24, after "subsection (c)", to strike out "(4)" and insert "(3)", and in the same line, after the word "after", to strike out "June 11, 1963" and insert "December 31, 1963".

On page 136, line 24, after the word "is", to strike out "granted," and insert "granted".

On page 139, after line 3, to strike out:

"(2) Stockholder approval.—For purposes of this section, if the grant of an option is subject to approval by stockholders, the date of grant of the option shall be determined as if the option had not been subject to such approval."

On page 139, at the beginning of line 9, to strike out "(3)" and insert "(2)".

On page 139, at the beginning of line 23, to strike out "(4)" and insert "(3)"; in the same line, after the word "after", to strike out "June 11, 1963" and insert "December 31, 1963"; in line 25, after the word "after", to strike out "June 11, 1963" and insert "December 31, 1963"; on page 140, line 4, after the word "before", to strike out "June 12, 1963" and insert "January 1, 1964"; in line 6, after the word "before", to strike out "June 12, 1963" and insert "January 1, 1964", and in line 7, after the word "of", where it appears the first time, to strike out "June 12, 1963" and insert "January 1, 1964".

On page 145, line 12, after the word "before", to strike out "June 12, 1963" and insert "January 1, 1964"; in line 13, after the word "after", to strike out "June 11, 1963" and insert "December 31, 1963", and in line 15, after the word "before", to strike out "June 12, 1963" and insert "January 1, 1964".

On page 146, line 7, after "(a)", to strike out "or".

On page 146, line 9, after "424(b)", to strike out "(2)." and insert

"(2); or

"(C) in the case of an option not immediately exercisable in full, to accelerate the time at which the option may be exercised."

On page 146, after line 18, to insert:

"(i) Stockholder Approval.—For purposes of this part, if the grant of an option is subject to approval by stockholders, the date of grant of the option shall be determined as if the option had not been subject to such approval."

On page 146, at the beginning of line 23, to strike out "(i)" and insert "(j)".

On page 149, after line 7, to strike out:

"(a) Returns Relating to Payments of Dividends, Etc., and Certain Transfers of Stock. In the case of each failure to file a statement of—

"(1) the aggregate amount of payments to another person required by section 6042(a)(1) (relating to payments of dividends aggregating $10 or more), section 6044(a)(1) (relating to payments of patronage dividends aggregating $10 or more), or section 6049(a)(1) (relating to payments of interest aggregating $10 or more), or

"(2) the transfer of stock or the transfer legal title of stock required by section

6039 (relating to information in connection with certain options),

on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary or his delegate and in the same manner as tax), by the person failing to so file the statement, $10 for each such statement not so filed, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed $25,000."

And, in lieu thereof, to insert:

"(a) RETURNS RELATING TO PAYMENTS OF DIVIDENDS, ETC., AND CERTAIN TRANSFERS OF STOCK.—In the case of each failure—

"(1) to file a statement of the aggregate amount of payments to another person required by section 6042(a)(1) (relating to payments of dividends aggregating $10 or more), section 6044(a)(1) (relating to payments of patronage dividends aggregating $10 or more), or section 6049(a)(1) (relating to payments of interest aggregating $10 or more),

"(2) to make a return required by section 6039(a) (relating to reporting information in connection with certain options) with respect to a transfer of stock or a transfer of legal title to stock, or

"(3) to make a return required by section 6052(a) (relating to reporting payment of wages in the form of group-term life insurance) with respect to group-term life insurance on the life of an employee,

on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary or his delegate and in the same manner as tax), by the person failing to file a statement referred to in paragraph (1) or failing to make a return referred to in paragraph (2) or (3), $10 for each such failure, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed $25,000."

At the top of page 153, to strike out:

"(e) EFFECTIVE DATE.—

"(1) Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending after June 11, 1963.

"(2) The amendments made by subsection (b) shall apply to stock transferred pursuant to options exercised on or after January 1, 1964."

And, in lieu thereof, to insert:

"(e) EFFECTIVE DATES AND TRANSITION RULES.—

"(1) Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to taxable years ending after December 31, 1963.

"(2) The amendments made by paragraphs (1) and (3) of subsection (b), and paragraph (2) of section 6652(a) of the Internal Revenue Code of 1954 (as amended by paragraph (2) of subsection (b)), shall apply to stock transferred pursuant to options exercised on or after January 1, 1964.

"(3) In the case of an option granted after December 31, 1963, and before January 1, 1965—

(A) paragraphs (1) and (2) of section 422 (b) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall not apply, and

"(B) paragraph (1) of section 425(h) of such Code (as added by subsection (a)) shall not apply to any change in the terms of such option made before January 1, 1965, to permit such option to qualify under paragraphs (3), (4), and (5) of such section 422(b)."

On page 154, after line 2, to insert a new section, as follows:

"SEC. 223. INSTALLMENT SALES BY DEALERS IN PERSONAL PROPERTY.

"(a) INSTALLMENT PLANS.—Section 453(a) (relating to reporting of income by dealers in personal property from sales on the installment plan) is amended to read as follows:

" '(a) DEALERS IN PERSONAL PROPERTY.—

" '(1) GENERAL RULE.—Under regulations prescribed by the Secretary or his delegate, a person who regularly sells or otherwise disposes of personal property on the installment plan may return as income therefrom in any taxable year that proportion of the installment payments actually received in that year which the gross profit, realized or to be realized when payment is completed, bears to the total contract price.

" '(2) INSTALLMENT PLAN.—For purposes of paragraph (1), the term "installment plan" includes any plan which provides for the payment by the purchaser for the personal property sold to him in a series of periodic installments of an agreed part or installment of the debt due the seller.

" '(3) TOTAL CONTRACT PRICE.—For purposes of paragraph (1), the term "total contract price" includes all charges relative to the sale of the personal property, including the time price differential which represents the amount paid or payable for the privilege of purchasing the personal property to be paid for by the purchaser in installments over a period of time.'

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1963."

On page 155, after line 7, to insert a new section, as follows:

"SEC. 224. TIMING OF DEDUCTIONS AND CREDITS IN CERTAIN CASES WHERE ASSERTED LIABILITIES ARE CONTESTED.

"(a) TAXABLE YEAR OF DEDUCTION OR CREDIT.—

"(1) Section 461 (relating to general rule for taxable year of deduction) is amended by adding at the end thereof the following new subsection:

" '(f) CONTESTED LIABILITIES.—If—

" '(1) the taxpayer contests an asserted liability,

" '(2) the taxpayer transfers money or other property to provide for the satisfaction of the asserted liability,

" '(3) the contest with respect to the asserted liability exists after the time of the transfer, and

"'(4) but for the fact that the asserted liability is contested, a deduction or credit would be allowed for the taxable year of the transfer (or for an earlier taxable year),

then the deduction or credit shall be allowed for the taxable year of the transfer.'

"(2) Section 43 of the Internal Revenue Code of 1939 (relating to period for which deductions and credits taken) is amended by adding at the end thereof the following new sentence: "If—

"'(1) the taxpayer contests an asserted liability,

"'(2) the taxpayer transfers money or other property to provide for the satisfaction of the asserted liability,

"'(3) the contest with respect to the asserted liability exists after the time of the transfer, and

"'(4) but for the fact that the asserted liability is contested, a deduction or credit would be allowed for the taxable year of the transfer (or for an earlier taxable year),

then the deduction or credit shall be allowed for the taxable year of the transfer.'

"(b) EFFECTIVE DATES.—Except as provided in subsections (c) and (d)—

"(1) the amendment made by subsection (a)(1) shall apply to taxable years beginning after December 31, 1953, and ending after August 16, 1954, and

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"(2) the amendment made by subsection (a)(2) shall apply to taxable years to which the Internal Revenue Code of 1939 applies.

"(c) ELECTION AS TO TRANSFERS IN TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1964.—

"(1) The amendments made by subsection (a) shall not apply to any transfer of money or other property described in subsection (a) made in a taxable year beginning before January 1, 1964, if the taxpayer elects, in the manner provided by regulations prescribed by the Secretary of the Treasury or his delegate, to have this paragraph apply. Such an election—

"(A) must be made within one year after the date of the enactment of this Act,

"(B) may not be revoked after the expiration of such one-year period, and

"(C) shall apply to all transfers described in the first sentence of this paragraph (other than transfers described in paragraph (2)).

In the case of any transfer to which this paragraph applies, the deduction or credit shall be allowed only for the taxable year in which the contest with respect to such transfer is settled.

"(2) Paragraph (1) shall not apply to any transfer if the assessment of any deficiency which would result from the application of the election in respect of such transfer is, on the date of the election under paragraph (1), prevented by the operation of any law or rule of law.

"(3) If the taxpayer makes an election under paragraph (1), and if, on the date of such election, the assessment of any deficiency which results from the application of the election in respect of any transfer is not prevented by the operation of any law or rule of law, the period within which assessment of such deficiency may be made shall not expire earlier than 2 years after the date of the enactment of this Act.

"(d) CERTAIN OTHER TRANSFERS IN TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1964.—The amendments made by subsection (a) shall not apply to any transfer of money or other property described in subsection (a) made in a taxable year beginning before January 1, 1964, if—

"(1) no deduction or credit has been allowed in respect of such transfer for any taxable year before the taxable year in which the contest with respect to such transfer is settled, and

"(2) refund or credit of any overpayment which would result from the application of such amendments to such transfer is prevented by the operation of any law or rule of law.

In the case of any transfer to which this subsection applies, the deduction or credit shall be allowed for the taxable year in which the contest with respect to such transfer is settled."

On page 159, at the beginning of line 3, to change the section number from "215" to "225".

On page 163, after line 10, to strike out:

"(c) CERTAIN CARRYING CHARGES.—The first sentence of section 163(b)(1) (relating to installment purchases where interest charge is not separately stated) is amended by striking out 'personal property is purchased' and inserting in lieu thereof 'personal property or services are purchased'."

One page 163, after line 16, to strike out:

"(d) EFFECTIVE DATES.—The amendments made by subsections (a) and (b) shall apply to payments made after December 31, 1963, on account of sales or exchanges of property occurring after June 30, 1963. The amendment made by subsection (c) shall apply to payments made during taxable years beginning after December 31, 1963."

And, in lieu thereof, to insert:

"(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to payments made after December 31, 1963, on account of sales or exchanges of property occurring after June 30, 1963, other than any sale or exchange made pursuant to a binding written contract (including an irrevocable written option) entered into before July 1, 1963."

On page 164, at the beginning of line 7, to change the section number from "216" to "226".

On page 166, line 1, after the word "shareholders", to strike out the comma and "plus the interest described in section 543(b)(2)(C),".

On page 167, line 8, after the word "loans", to strike out "or".

On page 167, line 10, after the word "installment", to strike out "obligations." and insert "obligations, or (iii) rendering services or making facilities available to another corporation which is engaged in the lending or finance business (within the meaning of this subparagraph), but only if such other corporation and the corporation rendering services or making facilities available are members of the same affiliated group (as defined in section 1504)."

On page 169, after line 3, to strike out:

"(3) INCOME RECEIVED FROM CERTAIN DOMESTIC SUBSIDIARIES.—For purposes of subsection (c)(6)(B), in the case of a lending company which is authorized to engage in and is actively and regularly engaged in the small loan business (consumer finance business) under one or more State statutes providing for the direct regulation of such business, and which meets the requirements of subsection (c)(6)(A), there shall not be treated as personal holding company income the lawful income received from domestic subsidiary corporations (of which stock possessing at least 80 percent of the voting power of all classes of stock and of which at least 80 percent of each class of nonvoting stock is owned directly by such lending company) which are themselves excepted under subsection (c)(6)."

And, in lieu thereof, to insert:

"(3) INCOME RECEIVED FROM CERTAIN AFFILIATED CORPORATIONS.—For purposes of subsection (c)(6)(B), in the case of a lending or finance company which meets the requirements of subsection (c)(6)(A), there shall not be treated as personal holding company income the lawful income received from a corporation which meets the requirements of subsection (c)(6) and which is a member of the same affiliated group (as defined in section 1504) of which such company is a member."

On page 171, after line 8, to strike out:

"(B) the personal holding company income for the taxable year (computed without regard to this paragraph and paragraph (6), and computed by including as personal holding company income copyright royalties and the adjusted income from mineral, oil, and gas royalties) is not more than 10 percent of the ordinary gross income."

"(B) the sum of—

"(i) the dividends paid during the taxable year (determined under section 562),

"(ii) the dividends considered as paid on the last day of the taxable year under section 563(c) (as limited by the second sentence of section 563(b)), and

"(iii) the consent dividends for the taxable year (determined under section 565),

equals or exceeds the amount, if any, by which the personal holding company income for the taxable year (computed without regard to this paragraph and paragraph (6), and computed by including as personal holding company income copyright royalties and the adjusted income from mineral, oil, and gas royalties) exceeds 10 percent of the ordinary gross income."

On page 178, line 14, after the word "and", to strike out "amortization," and insert "amortization of property other than tangible personal property which is not customarily retained by any one lessee for more than three years,".

On page 179, line 3, after the word "in", to strike out "subsection (a)(3)" and insert "paragraph (4)".

On page 180, line 24, after the word "from", to strike out "such royalties" and insert "mineral, oil, and gas royalties (including production payments and overriding royalties)".

On page 190, line 9, after the word "section", to strike out "552," and insert "552—".

On page 192, line 4, after "January 1,", to strike out "1966" and insert "1967"; in line 6, after "January 1,", to strike out "1966" and insert "1967"; in line 14, after the word "were", to strike out "class B" and insert "long-term"; in line 16, after the word "after", to strike out "August 1" and insert "December 31"; and at the beginning of line 20, to strike out "August 1" and insert "December 31".

On page 193, line 2, to strike out "1965" and insert "1966".

On page 193, line 4, after "December 31,", to strike out "1965" and insert "1966".

On page 193, line 13, after "January 1,", to strike out "1966" and insert "1967", and at the beginning of line 16, to strike out "class B" and insert "long-term".

On page 193, at the beginning of line 21, to strike out "August 1" and insert "December 31", and in line 24, after the word "on", to strike out "August 1" and insert "December 31".

On page 194, line 9, after the word "on", to strike out "August 1, 1963" and insert "January 1, 1964".

On page 194, line 12, after "January 1,", to strike out "1967" and insert "1968".

On page 195, line 5, after the word "on", to strike out "August 1, 1963" and insert "January 1, 1964".

On page 195, line 16, after the word "obsolescence", to strike out "or", and in line 17, after the word "amortization", to insert a comma and "or depletion".

On page 195, line 21, after the word "before", to strike out "the date of the enactment of this subsection" and insert "December 31, 1963", and on page 196, line 3, after the word "taxable", to strike out "year."" and insert "year.".

On page 196, after line 3, to insert:

"(4) MISTAKE AS TO APPLICABILITY OF SUBSECTION.—An election made under this section by a qualified electing shareholder of a corporation in which such shareholder states that such election is made on the assumption that such corporation is a corporation referred to in paragraph (3) shall have no force or effect if it is determined that the corporation is not a corporation referred to in paragraph (3)."

On page 198, line 2, after the word "before", to strike out "the date of the enactment of this subsection" and insert "December 31. 1963".

On page 198, line 19, after the word "before", to strike out "August 1, 1963," and insert "January 1, 1964,"; in line 21, after the word "after", to strike out "July 31, 1963," and insert "December 31, 1963,", and in line 24, after the word "but", to strike out the comma and "in the case of such a payment or set aside which is made on or after the first day of the first taxable year beginning after December 31, 1963,".

On page 199, line 9, after the word "after", to strike out "July 31," and insert "December 31,".

On page 200, line 16, after the word "obsolescence", to strike out "or amortization" and insert "amortization, or depletion".

On page 201, line 12, after the word "to", to strike out "the" and insert "an"; in line

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13, after the word "obsolescence", to strike out "or amortization" and insert "amortization, or depletion", and in line 14, after the word "after", to strike out "July 31," and insert "December 31,".

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On page 202, after line 9, to strike out:

"(j) INCREASE IN BASIS WITH RESPECT TO CERTAIN FOREIGN PERSONAL HOLDING COMPANY HOLDINGS.—

"(1) IN GENERAL. Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by redesignating section 1022 as section 1023 and by inserting after section 1021 the following new section:

" 'SEC. 1022. INCREASE IN BASIS WITH RESPECT TO CERTAIN FOREIGN PERSONAL HOLDING COMPANY HOLDINGS.

" '(a) GENERAL RULE.—The basis (determined under section 1014(b) (5), relating to basis of stock or securities in a foreign personal holding company) of a share of stock or a security, acquired from a decedent dying after August 15, 1963, of a corporation which was a foreign personal holding company for its most recent taxable year ending before the date of the enactment of this section shall be increased by its proportionate share of any Federal estate tax attributable to the net appreciation in value of all of such shares and securities determined as provided in this section.

" '(b) PROPORTIONATE SHARE.—For purposes of subsection (a), the proportionate share of a share of stock or of a security is that amount which bears the same ratio to the aggregate increase determined under subsection (c)(2) as the appreciation in value of such share or security bears to the aggregate appreciation in value of all such shares and securities having appreciation in value.

" '(c) SPECIAL RULES AND DEFINITIONS.—For purposes of this section—

" '(1) FEDERAL ESTATE TAX.—The term 'Federal estate tax' means only the tax imposed by section 2001 or 2101, reduced by any credit allowable with respect to a tax on prior transfers by section 2013 or 2102.

" '(2) FEDERAL ESTATE TAX ATTRIBUTABLE TO NET APPRECIATION IN VALUE.—The Federal estate tax attributable to the net appreciation in value of all shares of stock and securities to which subsection (a) applies is that amount which bears the same ratio to the Federal estate tax as the net appreciation in value of all of such shares and securities bears to the value of the gross estate as determined under chapter 11 (including section 2032, relating to alternative valuation).

" '(3) NET APPRECIATION.—The net appreciation in value of all shares and securities to which subsection (a) applies is the amount by which the fair market value of all such shares and securities exceeds the basis of such property in the hands of the decedent.

" '(4) FAIR MARKET VALUE.—For purposes of this section, the term 'fair market value' means fair market value determined under chapter 11 (including section 2032, relating to alternate valuation).

" '(d) LIMITATIONS.—This section shall not apply to any foreign personal holding company referred to in section 342(a)(2).'

"(2) AMENDMENT OF SECTION 1016(a).—Section 1016(a) (relating to adjustments to basis) is amended by striking out the period at the end thereof and by inserting in lieu thereof a semicolon and by adding at the end thereof the following new paragraph:

" '(21) to the extent provided in section 1022, relating to increase in basis for certain foreign personal holding company holdings, or in section 216(j)(4) of the Revenue Act of 1963.'

"(3) CLERICAL AMENDMENTS.

"(A) The table of sections for part II of subchapter O of chapter 1 is amended by striking out

" 'Sec. 1022. Cross references."

and inserting in lieu thereof the following:

" 'Sec. 1022. Increase in basis with respect to certain foreign personal holding company holdings.

" 'Sec. 1023. Cross references'."

"(4) ONE MONTH LIQUIDATIONS. If—

"(A) a corporation was a foreign personal holding company for its most recent taxable year ending before the date of the enactment of this Act,

"(B) all of the stock of such corporation is owned on August 15, 1963, and at the time of liquidation, by individuals and estates, and

"(C) the transfer of all the property under the liquidation occurs within one of the first 4 calendar months ending after such date of enactment,

then such corporation shall be treated as a domestic corporation for purposes of section 333 of the Internal Revenue Code of 1954 (relating to 1 month liquidations), and shall be treated as a foreign corporation for purposes of section 367 of such Code (relating to foreign corporations). In applying such section 367 for purposes of this paragraph, references in the first sentence of such section 367 to other sections of such Code shall be treated as including a reference to such section 333.

"(5) BASIS OF CERTAIN PROPERTY ACQUIRED FROM A DECEDENT.

"(A) In the case of property described in subparagraph (B) acquired from a decedent or passing from a decedent (within the meaning of section 1014(b) of the Internal Revenue Code of 1954), the basis shall (in lieu of being the basis provided by section 1014 of such Code) be the basis immediately before the death of the decedent, increased by the amount of any Federal estate tax attributable to the net appreciation in value of such property (determined in accordance with section 1022 of such Code as if such property were stock and securities referred to in such section).

"(B) Subparagraph (A) shall apply to—

"(i) property which the decedent received as a qualified electing shareholder, and

"(ii) property the basis of which (without the application of this paragraph) is a substituted basis (as defined in section 1016 (b) of the Internal Revenue Code of 1954) determined by reference to the basis of such property or other property received by any individual or estate as a qualified electing shareholder.

For purposes of this subparagraph, property shall be treated as property received as a qualified electing shareholder if, with respect to such property, the recipient was a qualified electing shareholder (within the meaning of section 333(c) of such Code) in a corporate liquidation to which section 333 of such Code applied by reason of paragraph (4) of this subsection.

"(C) In the case of property acquired from the decedent by gift, the increase in basis under this paragraph shall not exceed the amount by which the increase under this paragraph is greater than the increase allowable under section 1015(d) of the Internal Revenue Code of 1954.

"(6) LIMITATIONS.—The provisions of paragraphs (4) and (5) of this subsection shall not apply to any foreign corporation referred to in section 342(a)(2) of the Internal Revenue Code of 1954.

"(7) MEANING OF TERMS.—Terms used in paragraphs (4) through (6) of this subsection shall have the same meaning as when used in chapter 1 of the Internal Revenue Code of 1954."

On page 208, at the beginning of line 1, to strike out "(k)" and insert "(j)".

On page 210, at the beginning of line 14, to strike out "(1)" and insert "(k)".

On page 210, line 16, after "(f)", to strike out "(g), and (j)" and insert "and (g))".

At the top of page 211, to strike out:

"(4) The amendments made by paragraphs (1), (2), and (3) of subsection (j) shall apply in respect of decedents dying after August 15, 1963."

On page 211, at the beginning of line 4, to strike out "(5)" and insert "(4)".

On page 211, at the beginning of line 6, to change the section number from "217" to "227".

On page 215, line 10, after the word "of", to strike out "1963" and insert "1964".

On page 219, at the beginning of line 1, to change the section number from "218" to "228".

On page 219, line 9, after the word "or" to insert "Domestic"; after line 10, to strike out:

"(B) by inserting 'or iron ore' after 'coal (including lignite)'; and".

And in lieu thereof to insert:

"(B) by inserting 'or iron ore mined in the United States,' after 'coal (including lignite),';".

In line 16, after "section 631" to strike out "(c)." and insert "(c); and".

"(D) by adding at the end thereof the following new sentence:

"'This subsection shall not apply to any disposal of iron ore—

"'(1) to a person whose relationship to the person disposing of such iron ore would result in the disallowance of losses under section 267 or 707(b), or

"'(2) to a person owned or controlled directly or indirectly by the same interests which own or control the person disposing of such iron ore.'"

On page 220, line 13, after the word "Or", to insert "Domestic".

On page 221, line 2, after the word "Or" to insert "Domestic"; after line 5, in "Sec. 631", after the word "or", where it occurs the second time, to insert "domestic"; in line 8, after the word "Or", to insert "Domestic"; after line 11, in "Sec. 272", after the word "or", to insert "domestic", and in line 13, after the word "or", to insert "domestic".

At the top of page 222, to insert:

"(7) Section 211(a)(3) of the Social Security Act is amended by striking out clause (B) and inserting in lieu thereof '(B) from the cutting of timber, or the disposal of timber, coal, or iron ore, if section 631 of the Internal Revenue Code of 1954 applies to such gain or loss,'."

On page 222, after line 6, to strike out:

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to iron ore mined in taxable years beginning after December 31, 1963."

And in lieu thereof, to insert:

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to amounts received or accrued in taxable years beginning after December 31, 1963, attributable to iron ore mined in such taxable years."

On page 222, after line 13, to insert a new section, as follows:

"SEC. 229. INSURANCE COMPANIES.

"(a) CERTAIN MUTUALIZATION DISTRIBUTIONS MADE IN 1962.—

"(1) DEDUCTION FOR CERTAIN MUTUALIZATION DISTRIBUTIONS.—Section 809(d)(11) (relating to deductions in computing gain from operations in the case of certain mutualization distributions) is amended by striking out 'and 1961' and inserting in lieu thereof '1961, and 1962'.

"(2) APPLICATION OF SECTION 815.—Section 809(g)(3) (relating to application of section 815 to certain mutualization distributions)

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is amended by striking out 'or 1961' and inserting in lieu thereof '1961, or 1962'.

"(b) ACCRUAL OF BOND DISCOUNT.—

"(1) LIFE INSURANCE COMPANIES.—Section 818(b) (relating to amortization of premium and accrual of discount) is amended by adding at the end thereof the following new paragraph:

"'(3) EXCEPTION.—For taxable years beginning after December 31, 1962, no accrual of discount shall be required under paragraph (1) on any bond (as defined in section 171(d)), except in the case of discount which is—

"'(A) interest to which section 103 applies, or

"'(B) original issue discount (as defined in section 1232(b)).

For purposes of section 805(b)(3)(A), the current earnings rate for any taxable year beginning before January 1, 1963, shall be determined as if the preceding sentence applied to such taxable year.'

"(2) MUTUAL INSURANCE COMPANIES.—Section 822(d)(2) (relating to amortization of premium and accrual of discount) is amended by adding at the end thereof the following new sentence: 'For taxable years beginning after December 31, 1962, no accrual of discount shall be required under this paragraph on any bond (as defined in section 171(d)).'

"(c) CONTRIBUTIONS TO QUALIFIED, ETC.,

PLANS.—Section 832(c)(10) (relating to deductions allowed in computing taxable income of certain insurance companies) is amended by inserting before the semicolon at the end thereof 'and in part I of subchapter D (sec. 401 and following, relating to pension, profit-sharing, stock bonus plans, etc.)'.

"(d) EFFECTIVE DATES.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1961. The amendment made by subsection (c) shall apply to taxable years beginning after December 31, 1953, and ending after August 16, 1954."

On page 224, after line 13, to insert a new section, as follows:

SEC. 230. REGULATED INVESTMENT COMPANIES.

"(a) TIME FOR MAILING CERTAIN NOTICES TO SHAREHOLDERS.—The following provisions (relating to notices to shareholders by regulated investment companies) are amended by striking out '30 days', wherever appearing therein, and inserting in lieu thereof '45 days':

"(1) Section 852(b)(3)(C),

"(2) Section 852(b)(3)(D)(i),

"(3) Section 853(c),

"(4) Section 854(b)(2), and

"(5) Section 855(c).

"(b) CERTAIN REDEMPTIONS BY UNIT INVESTMENT TRUSTS.—Section 852 (relating to taxation of regulated investment companies and their shareholders) is amended by adding at the end thereof the following new subsection:

"'(d) DISTRIBUTIONS IN REDEMPTION OF INTERESTS IN UNIT INVESTMENT TRUSTS.—In the case of a unit investment trust—

"'(1) which is registered under the Investment Company Act of 1940 and issues periodic payment plan certificates (as defined in such Act), and

"'(2) substantially all of the assets of which consist of securities issued by a management company (as defined in such Act),

section 562(c) (relating to preferential dividends) shall not apply to a distribution by such trust to a holder of an interest in such trust in redemption of part or all of such interest, with respect to the net capital gain of such trust attributable to such redemption.'

"(c) EFFECTIVE DATES.—The amendments made by subsection (a) shall apply to taxable years of regulated investment companies ending on or after the date of the enactment of this Act. The amendment made by subsection (b) shall apply to taxable years of regulated investment companies ending after December 31, 1963."

At the top of page 226, to insert a new section, as follows:

"SEC. 231. FOREIGN TAX CREDIT WITH RESPECT TO CERTAIN FOREIGN MINERAL INCOME.

"(a) LIMITATION ON AMOUNT OF FOREIGN TAXES TO BE TAKEN INTO ACCOUNT.—Section 901 (relating to taxes of foreign countries and possessions of the United States) is amended—

"(1) by redesignating subsection (d) as (e); and

"(2) by inserting after subsection (c) the following new subsection:

"'(d) FOREIGN TAXES OF MINERAL INCOME.—

"'(1) REDUCTION OF AMOUNTS TO BE TAKEN INTO ACCOUNT.—

"'(A) PER-COUNTRY LIMITATION TAXPAYERS.—In the case of a taxpayer to whom the limitation provided by section 904(a)(1) applies for the taxable year, the amount of taxes paid or accrued during the taxable year to any foreign country with respect to mineral income which would (but for this paragraph) be taken into account for purposes of this subpart shall be reduced by the amount (if any) by which—

"'(i) the amount of such taxes (or, if smaller, the amount of the tax which would be computed under this chapter with respect to such income determined without the deduction allowed under section 613), exceeds

"'(ii) the amount of the tax computed under this chapter with respect to such income.

"'(B) OVERALL LIMITATION TAXPAYERS.—In the case of a taxpayer to whom the limitation provided by section 904(a)(2) applies for the taxable year, the amount of taxes paid or accrued during the taxable year to all foreign countries with respect to mineral income which would (but for this paragraph) be taken into account for purposes of this subpart shall be reduced by the amount (if any) by which—

"'(i) the amount of such taxes (or, if smaller, the amount of the tax which would be computed under this chapter with respect to such income determined without the deduction allowed under section 613), exceeds

"'(ii) the amount of tax computed under this chapter with respect to such income.

"'(2) MINERAL INCOME.—

"'(A) IN GENERAL.—For purposes of this subsection, the term "mineral income" means income derived from sources without the United States from mineral activities, including, but not limited to—

"'(i) dividends received from corporations in which 5 percent or more of the voting stock is owned directly or indirectly by the taxpayer, to the extent such dividends are attributable to mineral activities, and

"'(ii) that portion of the taxpayer's distributive share of income of partnerships attributable to mineral activities.

"'(B) MINERAL ACTIVITIES.—For purposes of subparagraph (A), the term "mineral activities" includes the extraction of minerals from mines, wells, or other natural deposits, the processing of such minerals into their primary products, and the transportation, distribution, or sale of such minerals or primary products.'

"(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1963."

At the top of page 229, to insert a new section, as follows:

"SEC. 232. AMOUNTS RECEIVED FROM EMPLOYER ON SALE OF RESIDENCE OF EMPLOYEE IN CONNECTION WITH TRANSFER TO NEW PLACE OF WORK.

"(a) TREATMENT OF CERTAIN AMOUNTS RECEIVED FROM EMPLOYER ON SALE OF RESIDENCE

of Employee in Connection With Transfer to New Place of Work.—

"(1) Part I of subchapter O of chapter 1 (relating to determination of amount of and recognition of gain or loss) is amended by adding at the end thereof the following new section:

"'Sec 1003. Amounts Received From Employer on Sale of Residence of Employee in Connection With Transfer to New Place of Work.

"'(a) General Rule.—If—

"'(1) property (in this section called "old residence") used by the taxpayer as his principal residence is sold by the taxpayer or his spouse pursuant to a sales contract entered into within the forced sale period for the old residence, and

"'(2) the taxpayer's employer, not later than one year after the date such sales contract was entered into, pays part or all of the sale differential on the old residence,

then, for purposes of this chapter, the amount so paid shall be treated by the taxpayer or his spouse (as the case may be) as an additional amount realized on the sale of the old residence to the extent that it does not exceed the lesser of (A) the sale differential, or (B) 15 percent of the gross sales price of the old residence.

"'(b) Limitations.—

"'(1) Period of employment.—This section shall not apply unless, for the six-month period ending on the day on which the taxpayer commences work at the new principal place of work, he was an employee of the employer.

"'(2) Location of new place of work.—This section shall not apply unless the taxpayer's new principal place of work—

"'(A) is least 20 miles farther from the old residence than was his former principal place of work, or

"'(B) if he had no former principal place of work, is at least 20 miles from the old residence.

"'(c) Definitions; special rules.—For purposes of this section—

"'(1) Forced sale period.—The term "forced sale period" means the period beginning 90 days before, and ending 180 after, the date on which the taxpayer commences work as an employee at the new principal place of work.

"'(2) Sale differential.—The term "sale differential" means the amount by which—

"'(A) the appraised value of the old residence, exceeds

"'(B) the gross sales price of the old residence reduced by the selling commissions, legal fees, and other expenses incident to the transfer of ownership of the old residence.

"'(3) Appraised value.—The appraised value of the old residence is the average of two or more appraisals of fair market value made, on or after the valuation date and on or before the date on which the sales contract is entered into, by independent real estate appraisers selected by the employer, but shall not exceed the fair market value. Determination of appraised value shall be made as of the valuation date.

"'(4) Valuation date.—The term "valuation date" means the date selected by the employer for purposes of determining the amount to be paid with respect to the sale differential. Such date shall be on or before the date the sales contract is entered into and within the forced sale period.

"'(5) Employer.—The term "employer" means the person who employs the taxpayer as an employee at the new principal place of work. Such term includes any predecessor or successor corporation and any parent corporation or subsidiary corporation. For purposes of the preceding sentence, the determination of whether a corporation is a parent corporation or a subsidiary corporation shall be made under subsections (e) and (f) of section 425 but by reference to the

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date on which the taxpayer commences work as an employee at the new principal place of work (in lieu of as of the time of the granting of the option).

"'(6) Exchanges.—An exchange by the taxpayer or his spouse of an old residence for other property shall be treated as a sale.

"'(7) Tenant-stockholder in a cooperative housing corporation.—References to property used by the taxpayer as his principal residence includes stock held by a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section) if the house or apartment which the taxpayer was entitled to occupy as such stockholder was used by him as his principal residence.

"'(d) Regulations.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section.'

"(2) The table of sections for part I of subchapter O of chapter 1 is amended by adding at the end thereof the following:

"'Sec. 1003. Amounts received from employer on sale of residence of employee in connection with transfer to new place of work.'

"(b) Effective Date.—The amendments made by subsection (a) shall apply to amounts paid with respect to sales contracts entered into after December 31, 1963, in taxable years ending after such date."

At the top of page 272, to change the section number from "220" to "233".

On page 287, line 6, to change the section number from "221" to "234".

On page 292, line 2, after the word "income", to strike out: "'means, for any taxable year beginning after December 31, 1963, the amount (if any) by which—

"'(A) the sum of the adjusted class A capital gain and the adjusted class B capital gain, exceeds

"'(B) the deduction allowable under section 1202(a).

The term "capital gain net income" means, for any taxable year beginning before January 1, 1964,'"

And insert "means".

On page 300, after line 4, to strike out:

"(B) the sum of—

"(i) 21 percent of the adjusted class A capital gain, and

"(ii) 25 percent of the adjusted class B capital gain."

And in lieu thereof, to insert:

"(B) an amount equal to 25 percent of the excess of the net long-term capital gain over the net short-term capital loss."

On page 301, after line 21, to insert:

"(c) AMENDMENT OF SECTION 144.—Section 144 (relating to election of standard deduction) is amended by adding after subsection (c) (as added by 112(c) (2) of this Act) the following new subsection:

"'(d) INDIVIDUALS ELECTING INCOME AVERAGING.—In the case of a taxpayer who chooses to have the benefits of part I of subchapter Q (relating to income averaging) for the taxable year—

"'(1) subsection (a) shall not apply for such taxable year, and

"'(2) the standard deduction shall be allowed if the taxpayer so elects in his return for such taxable year.

The Secretary or his delegate shall by regulations prescribe the manner of signifying such election in the return. If the taxpayer on making his return fails to signify, in the manner so prescribed, his election to take the standard deduction, such failure shall be considered his election not to take the standard deduction.'"

On page 302, at the beginning of line 17, to strike out "(c)" and insert "(d)".

On page 304, at the beginning of line 5, to strike out "(d)" and insert "(e)".

On page 304, at the beginning of line 24, to strike out "(e)" and insert "(f)".

On page 305, at the beginning of line 10, to strike out "(f)" and insert "(g)".

On page 306, line 17, after the word "Act", to insert "and if he elects to have subsection (e) of such section 1307 apply) section 170 (b) (5) of such Code as amended by this Act shall not apply to charitable contributions paid in such taxable year."

On page 306, after line 20, to insert a new section, as follows:

SEC. 235. SMALL BUSINESS CORPORATIONS.

"(a) OWNERSHIP OF CERTAIN STOCK DISREGARDED.—Section 1371 (relating to definition of small business corporation) is amended by adding at the end thereof the following new subsection:

"'(d) OWNERSHIP OF CERTAIN STOCK.—For purposes of subsection (a), a corporation shall not be considered a member of an affiliated group at any time during any taxable year by reason of the ownership of stock in another corporation if such other corporation—

"'(1) has not begun business at any time on or after the date of its incorporation and before the close of such taxable year, and

"'(2) does not have taxable income for the period included within such taxable year.'

"(b) CERTAIN DISTRIBUTIONS OF MONEY AFTER CLOSE OF TAXABLE YEAR.—Section 1375 (relating to special rules applicable to distributions of electing small business corporation) is amended by adding at the end thereof the following new subsection:

"'(e) CERTAIN DISTRIBUTIONS AFTER CLOSE OF TAXABLE YEAR.—

"'(1) IN GENERAL.—For purposes of this chapter, if—

"'(A) a corporation makes a distribution of money to its shareholders on or before the 15th day of the third month following the close of a taxable year with respect to which it was an electing small business corporation, and

"'(B) such distribution is made pursuant to a resolution of the board of directors of the corporation, adopted before the close of such taxable year, to distribute to its shareholders all or a part of the proceeds of one or more sales of capital assets, or of property described in section 1231(b), made during such taxable year,

such distribution shall, at the election of the corporation, be treated as a distribution of money made on the last day of such taxable year.

"'(2) SHAREHOLDERS.—An election under paragraph (1) with respect to any distribution may be made by a corporation only if each person who is a shareholder on the day the distribution is received—

"'(A) owns the same proportion of the stock of the corporation on such day as he owned on the last day of the taxable year of the corporation preceding the distribution, and

"'(B) consents to such election of such time and in such manner as the Secretary or his delegate shall prescribe by regulations.

"'(3) MANNER AND TIME OF ELECTION.—An election under paragraph (1) shall be made in such manner as the Secretary or his delegate shall prescribe by regulations. Such election shall be made not later than the time prescribed by law for filing the return for the taxable year during which the sale was made (including extensions thereof) except that, with respect to any taxable year ending on or before the date of the enactment of the Revenue Act of 1964, such election shall be made within 120 days after such date.'

"(c) EFFECTIVE DATES.—The amendment made by subsection (a) shall apply with respect to taxable years of corporations beginning after December 31, 1962. The amendment made by subsection (b) shall apply with respect to taxable years of corporations beginning after December 31, 1957."

On page 309, line 12, to change the section number from "222" to "236".

On page 318, line 1, to change the section number from "223" to "237".

On page 32, after line 11, to strike out: "This paragraph shall not apply to the taxable year of a corporation if no other corporation which is a component member of such controlled group on the December 31 included in such corporation's taxable year has taxable income for its taxable year including such December 31." and in lieu thereof, to insert "This paragraph shall not apply to the taxable year of a corporation if—

"(A) such corporation is the only component member of such controlled group on the December 31 included in such corporation's taxable year which has taxable income for a taxable year including such December 31, or

"(B) such corporation's surtax exemption is disallowed for such taxable year under any provision of this subtitle."

On page 325, line 23, after the word "December", to strike out "31," and insert "31".

On page 327, after line 17, to strike out:

"(g) TOLLING OF STATUTE OF LIMITATIONS.—In any case in which a controlled group of corporations makes an election or termination under this section—

"(1) the statutory period for assessment of any deficiency against a corporation which is a component member of such group for any taxable year, to the extent such deficiency is attributable to the application of this part, shall not expire before the expiration of one year after the date such election or termination is made; and

"(2) if credit or refund of any overpayment of tax by a corporation which is a component member of such group for any taxable year is prevented, at any time on or before the expiration of one year after the date such election or termination is made, by the operation of any law or rule of law, credit or refund of such overpayment may, nevertheless, be allowed or made, to the extent such overpayment is attributable to the application of this part, if claim therefor is filed on or before the expiration of such one-year period."

And in lieu thereof, to insert:

"(g) TOLLING OF STATUTE OF LIMITATIONS.—In any case in which a controlled group of corporations makes an election or termination under this section, the statutory period—

"(1) for assessment of any deficiency against a corporation which is a component member of such group for any taxable year, to the extent such deficiency is attributable to the application of this part, shall not expire before the expiration of one year after the date such election or termination is made; and

"(2) for allowing or making credit or refund of any overpayment of tax by a corporation which is a component member of such group for any taxable year, to the extent such credit or refund is attributable to the application of this part, shall not expire before the expiration of one year after the date such election or termination is made."

On page 334, line 15, after "(2)", to strike out the comma and "but not including stock owned by the parent corporation which is constructively owned by such individual", and on page 335, line 2, after the word "such", to strike out "corporation;" and insert "corporation,".

On page 340, line 5, after "(D)", to strike out "The" and insert "Such".

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On page 342, after line 21, to insert:

"(e) shall not be treated as owned by him for purposes of again applying such paragraphs in order to make another the constructive owner of such stock.

treated as excluded stock under subsection (c)(2), if by reason of treating such stock as excluded stock the result is that such corporation is not a component member of a controlled group of corporations."

On page 343, line 8, after the word "of", to insert "a corporation which is a member of", and in line 11, after the word "of", to strike out "a" and insert "such".

On page 347, line 3, after the word "or", to strike out "at least" and insert "more than".

On page 347, after line 9, to strike out:

"(c) CORPORATIONS ELECTING MULTIPLE SURTAX EXEMPTIONS.—If the surtax exemption is disallowed to a transferee corporation for any taxable year, section 1562(b) shall not apply with respect to such transferee corporation for such taxable year."

On page 347, at the beginning line 15, to strike out "(d)" and insert "(c)".

On page 348, after line 5, to strike out: "income tax) is amended—

"(A) by striking out 'then such deduction, credit, or other allowance shall not be allowed' at the end of the first sentence and inserting in lieu thereof 'then the Secretary or his delegate may disallow such deduction, credit, or other allowance'; and

"(B) by adding at the end thereof the following new subsection:

"'(d) CORPORATIONS ELECTING MULTIPLE SURTAX EXEMPTIONS.—If the surtax exemption is disallowed to an acquired corporation under subsection (a) for any taxable year, section 1562(b) shall not apply with respect to such acquired corporation for such taxable year.'"

And in lieu thereof to insert: "income tax) is amended by striking out 'then such deduction, credit, or other allowance shall not be allowed' at the end of the first sentence and inserting in lieu thereof 'then the Secretary or his delegate may disallow such deduction, credit, or other allowance'."

On page 350, after line 3, to insert a new section, as follows:

"SEC. 238. VALIDITY OF TAX LIENS AGAINST MORTGATEES, PLEDGEES, AND PURCHASERS OF MOTOR VEHICLES.

"(a) MORTGAGEES, PLEDGEES, AND PURCHASERS WITHOUT ACTUAL NOTICE OR KNOWLEDGE OF LIEN.—Section 6323(c) (relating to exception in case of securities) is amended—

"(1) by striking out the heading and inserting in lieu thereof 'EXCEPTION IN CASE OF SECURITIES AND MOTOR VEHICLES.—';

"(2) by striking out 'a security, as defined in paragraph (2) of this subsection,' in paragraph (1) and inserting in lieu thereof 'a security (as defined in paragraph (2) or a motor vehicle (as defined in paragraph (3))';

"(3) by inserting after 'such security' in paragraph (1) 'or such motor vehicle'; and

"(4) by adding at the end thereof the following new paragraph:

"'(3) DEFINITION OF MOTOR VEHICLE.—As used in this subsection, the term "motor vehicle" means a vehicle (other than a house trailer) which is registered for highway use under the laws of any State or foreign country.'

"(b) LIENS FOR ESTATE AND GIFT TAXES.—Section 6324 (relating to special liens for estate and gift taxes) is amended—

"(1) by striking out '(relating to transfers of securities)' in subsections (a) and (b) and inserting in lieu thereof '(relating to securities and motor vehicles)'; and

"(2) by striking out subsection (c) and inserting in lieu thereof the following:

"'(c) EXCEPTION IN CASE OF SECURITIES AND MOTOR VEHICLES.—The lien imposed by subsection (a) or (b) shall not be valid with respect to a security (as defined in section

6323(c)(2)) or a motor vehicle (as defined in section 6323(c)(3)) as against any mortgagee, pledgee, or purchaser of any such security or motor vehicle, for an adequate and full consideration in money or money's worth, if at the time of such mortgage, pledge, or purchase such mortgagee, pledgee, or purchaser is without notice or knowledge of the existence of such lien.'

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply only with respect to mortgages, pledges, and purchases made after the date of the enactment of this Act.

On page 365, after line 13, to strike out:

"(a) PERCENTAGE METHOD OF WITHHOLDING. Subsection (a) of section 3402 (relating to requirement of withholding) is amended to read as follows:

"'(a) REQUIREMENT OF WITHHOLDING. Every employer making payment of wages shall deduct and withhold upon such wages (except as provided in subsection (j)) a tax equal to the following percentage of the amount by which the wages exceed the number of withholding exemptions claimed multiplied by the amount of one such exemption as shown in subsection (b)(1):

"'(1) 15 percent in the case of wages paid during the calendar year 1964, and

"'(2) 14 percent in the case of wages paid after December 31, 1964.'"

And in lieu thereof to insert:

"(a) PERCENTAGE METHOD OF WITHHOLDING.—Subsection (a) of section 3402 (relating to requirement of withholding) is amended by striking out '18 percent' and inserting in lieu thereof '14 percent'."

On page 366, after line 10, to strike out:

"(b) WAGE BRACKET WITHHOLDING.—Paragraph (1) of section 3402(c) (relating to wage bracket withholding) is amended to read as follows:

"'(1)(A) WAGES PAID DURING CALENDAR YEAR 1964.—At the election of the employer with respect to any employee, the employer shall deduct and withhold upon the wages paid to such employee during the calendar year 1964 a tax determined in accordance with the following tables, which shall be in lieu of the tax required to be deducted and withheld under subsection (a):

"*If the payroll period with respect to an employee is weekly*

And the wages are—		And the number of withholding exemptions claimed is—										
At least—	But less than—	0	1	2	3	4	5	6	7	8	9	10 or more
		The amount of income tax to be withheld shall be—										
$0	$13	15% of wages	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
$13	$14	$2.00	.10	0	0	0	0	0	0	0	0	0
$14	$15	2.20	.30	0	0	0	0	0	0	0	0	0
$15	$16	2.30	.40	0	0	0	0	0	0	0	0	0
$16	$17	2.50	.60	0	0	0	0	0	0	0	0	0
$17	$18	2.60	.70	0	0	0	0	0	0	0	0	0
$18	$19	2.80	.90	0	0	0	0	0	0	0	0	0
$19	$20	2.90	1.00	0	0	0	0	0	0	0	0	0
$20	$21	3.10	1.20	0	0	0	0	0	0	0	0	0
$21	$22	3.20	1.30	0	0	0	0	0	0	0	0	0
$22	$23	3.40	1.50	0	0	0	0	0	0	0	0	0
$23	$24	3.50	1.60	0	0	0	0	0	0	0	0	0
$24	$25	3.70	1.80	0	0	0	0	0	0	0	0	0
$25	$26	3.80	1.90	0	0	0	0	0	0	0	0	0
$26	$27	4.00	2.10	.10	0	0	0	0	0	0	0	0
$27	$28	4.10	2.20	.30	0	0	0	0	0	0	0	0
$28	$29	4.30	2.40	.40	0	0	0	0	0	0	0	0
$29	$30	4.40	2.50	.60	0	0	0	0	0	0	0	0
$30	$31	4.60	2.70	.70	0	0	0	0	0	0	0	0
$31	$32	4.70	2.80	.90	0	0	0	0	0	0	0	0
$32	$33	4.90	3.00	1.00	0	0	0	0	0	0	0	0
$33	$34	5.00	3.10	1.20	0	0	0	0	0	0	0	0
$34	$35	5.20	3.30	1.30	0	0	0	0	0	0	0	0
$35	$36	5.30	3.40	1.50	0	0	0	0	0	0	0	0
$36	$37	5.50	3.60	1.60	0	0	0	0	0	0	0	0
$37	$38	5.60	3.70	1.80	0	0	0	0	0	0	0	0
$38	$39	5.80	3.90	1.90	0	0	0	0	0	0	0	0
$39	$40	5.90	4.00	2.10	.20	0	0	0	0	0	0	0
$40	$41	6.10	4.20	2.20	.30	0	0	0	0	0	0	0
$41	$42	6.20	4.30	2.40	.50	0	0	0	0	0	0	0
$42	$43	6.40	4.50	2.50	.60	0	0	0	0	0	0	0
$43	$44	6.50	4.60	2.70	.80	0	0	0	0	0	0	0
$44	$45	6.70	4.80	2.80	.90	0	0	0	0	0	0	0
$45	$46	6.80	4.90	3.00	1.10	0	0	0	0	0	0	0
$46	$47	7.00	5.10	3.10	1.20	0	0	0	0	0	0	0
$47	$48	7.10	5.20	3.30	1.40	0	0	0	0	0	0	0
$48	$49	7.30	5.40	3.40	1.50	0	0	0	0	0	0	0
$49	$50	7.40	5.50	3.60	1.70	0	0	0	0	0	0	0
$50	$51	7.60	5.70	3.70	1.80	0	0	0	0	0	0	0
$51	$52	7.70	5.80	3.90	2.00	0	0	0	0	0	0	0

"If the payroll period with respect to an employee is weekly—Continued

And the wages are—		And the number of withholding exemptions claimed is—										
At least—	But less than—	0	1	2	3	4	5	6	7	8	9	10 or more
		The amount of income tax to be withheld shall be—										
$52	$53	$7.90	$6.00	$4.00	$2.10	$0.20	$0	$0	$0	$0	$0	$0
$53	$54	8.00	6.10	4.20	2.30	.30	0	0	0	0	0	0
$54	$55	8.20	6.30	4.30	2.40	.50	0	0	0	0	0	0
$55	$56	8.30	6.40	4.50	2.60	.60	0	0	0	0	0	0
$56	$57	8.50	6.60	4.60	2.70	.80	0	0	0	0	0	0
$57	$58	8.60	6.70	4.80	2.90	.90	0	0	0	0	0	0
$58	$59	8.80	6.90	4.90	3.00	1.10	0	0	0	0	0	0
$59	$60	8.90	7.00	5.10	3.20	1.20	0	0	0	0	0	0
$60	$62	9.20	7.20	5.30	3.40	1.50	0	0	0	0	0	0
$62	$64	9.50	7.50	5.60	3.70	1.80	0	0	0	0	0	0
$64	$66	9.80	7.80	5.90	4.00	2.10	.10	0	0	0	0	0
$66	$68	10.10	8.10	6.20	4.30	2.40	.40	0	0	0	0	0
$68	$70	10.40	8.40	6.50	4.60	2.70	.70	0	0	0	0	0
$70	$72	10.70	8.70	6.80	4.90	3.00	1.00	0	0	0	0	0
$72	$74	11.00	9.00	7.10	5.20	3.30	1.30	0	0	0	0	0
$74	$76	11.30	9.30	7.40	5.50	3.60	1.60	0	0	0	0	0
$76	$78	11.60	9.60	7.70	5.80	3.90	1.90	0	0	0	0	0
$78	$80	11.90	9.90	8.00	6.10	4.20	2.20	.30	0	0	0	0
$80	$82	12.20	10.20	8.30	6.40	4.50	2.50	.60	0	0	0	0
$82	$84	12.50	10.50	8.60	6.70	4.80	2.80	.90	0	0	0	0
$84	$86	12.80	10.80	8.90	7.00	5.10	3.10	1.20	0	0	0	0
$86	$88	13.10	11.10	9.20	7.30	5.40	3.40	1.50	0	0	0	0
$88	$90	13.40	11.40	9.50	7.60	5.70	3.70	1.80	0	0	0	0
$90	$92	13.70	11.70	9.80	7.90	6.00	4.00	2.10	.20	0	0	0
$92	$94	14.00	12.00	10.10	8.20	6.30	4.30	2.40	.50	0	0	0
$94	$96	14.30	12.30	10.40	8.50	6.60	4.60	2.70	.80	0	0	0
$96	$98	14.60	12.60	10.70	8.80	6.90	4.90	3.00	1.10	0	0	0
$98	$100	14.90	12.90	11.00	9.10	7.20	5.20	3.30	1.40	0	0	0
$100	$105	15.40	13.50	11.50	9.60	7.70	5.80	3.80	1.90	0	0	0
$105	$110	16.10	14.20	12.30	10.40	8.40	6.50	4.60	2.70	.70	0	0
$110	$115	16.90	15.00	13.00	11.10	9.20	7.30	5.30	3.40	1.50	0	0
$115	$120	17.60	15.70	13.80	11.90	9.90	8.00	6.10	4.20	2.20	.30	0
$120	$125	18.40	16.50	14.50	12.60	10.70	8.80	6.80	4.90	3.00	1.10	0
$125	$130	19.10	17.20	15.30	13.40	11.40	9.50	7.60	5.70	3.70	1.80	0
$130	$135	19.90	18.00	16.00	14.10	12.20	10.30	8.30	6.40	4.50	2.60	.60
$135	$140	20.60	18.70	16.80	14.90	12.90	11.00	9.10	7.20	5.20	3.30	1.40
$140	$145	21.40	19.50	17.50	15.60	13.70	11.80	9.80	7.90	6.00	4.10	2.10
$145	$150	22.10	20.20	18.30	16.40	14.40	12.50	10.60	8.70	6.70	4.80	2.90
$150	$160	23.30	21.30	19.40	17.50	15.60	13.60	11.70	9.80	7.90	5.90	4.00
$160	$170	24.80	22.80	20.90	19.00	17.10	15.10	13.20	11.30	9.40	7.40	5.50
$170	$180	26.30	24.30	22.40	20.50	18.60	16.60	14.70	12.80	10.90	8.90	7.00
$180	$190	27.80	25.80	23.90	22.00	20.10	18.10	16.20	14.30	12.40	10.40	8.50
$190	$200	29.30	27.30	25.40	23.50	21.60	19.60	17.70	15.80	13.90	11.90	10.00

		15 percent of the excess over $200 plus—										
$200 and over		30.00	28.10	26.20	24.20	22.30	20.40	18.50	16.50	14.60	12.70	10.80

"'If the payroll period with respect to an employee is biweekly

And the wages are—		And the number of withholding exemptions claimed is—										
At least—	But less than—	0	1	2	3	4	5	6	7	8	9	10 or more
		The amount of income tax to be withheld shall be—										
$0	$26	15% of wages	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
$26	$28	$4.10	.20	0	0	0	0	0	0	0	0	0
$28	$30	4.40	.50	0	0	0	0	0	0	0	0	0
$30	$32	4.70	.80	0	0	0	0	0	0	0	0	0
$32	$34	5.00	1.10	0	0	0	0	0	0	0	0	0
$34	$36	5.30	1.40	0	0	0	0	0	0	0	0	0
$36	$38	5.60	1.70	0	0	0	0	0	0	0	0	0
$38	$40	5.90	2.00	0	0	0	0	0	0	0	0	0
$40	$42	6.20	2.30	0	0	0	0	0	0	0	0	0
$42	$44	6.50	2.60	0	0	0	0	0	0	0	0	0
$44	$46	6.80	2.90	0	0	0	0	0	0	0	0	0
$46	$48	7.10	3.20	0	0	0	0	0	0	0	0	0
$48	$50	7.40	3.50	0	0	0	0	0	0	0	0	0
$50	$52	7.70	3.80	0	0	0	0	0	0	0	0	0
$52	$54	8.00	4.10	.30	0	0	0	0	0	0	0	0
$54	$56	8.30	4.40	.60	0	0	0	0	0	0	0	0
$56	$58	8.60	4.70	.90	0	0	0	0	0	0	0	0
$58	$60	8.90	5.00	1.20	0	0	0	0	0	0	0	0
$60	$62	9.20	5.30	1.50	0	0	0	0	0	0	0	0
$62	$64	9.50	5.60	1.80	0	0	0	0	0	0	0	0
$64	$66	9.80	5.90	2.10	0	0	0	0	0	0	0	0
$66	$68	10.10	6.20	2.40	0	0	0	0	0	0	0	0
$68	$70	10.40	6.50	2.70	0	0	0	0	0	0	0	0
$70	$72	10.70	6.80	3.00	0	0	0	0	0	0	0	0
$72	$74	11.00	7.10	3.30	0	0	0	0	0	0	0	0
$74	$76	11.30	7.40	3.60	0	0	0	0	0	0	0	0
$76	$78	11.60	7.70	3.90	0	0	0	0	0	0	0	0
$78	$80	11.90	8.00	4.20	.30	0	0	0	0	0	0	0
$80	$82	12.20	8.30	4.50	.60	0	0	0	0	0	0	0
$82	$84	12.50	8.60	4.80	.90	0	0	0	0	0	0	0
$84	$86	12.80	8.90	5.10	1.20	0	0	0	0	0	0	0
$86	$88	13.10	9.20	5.40	1.50	0	0	0	0	0	0	0
$88	$90	13.40	9.50	5.70	1.80	0	0	0	0	0	0	0
$90	$92	13.70	9.80	6.00	2.10	0	0	0	0	0	0	0
$92	$94	14.00	10.10	6.30	2.40	0	0	0	0	0	0	0
$94	$96	14.30	10.40	6.60	2.70	0	0	0	0	0	0	0
$96	$98	14.60	10.70	6.90	3.00	0	0	0	0	0	0	0

" 'If the payroll period with respect to an employee is *biweekly*—Continued

And the wages are—		And the number of withholding exemptions claimed is—										
At least—	But less than—	0	1	2	3	4	5	6	7	8	9	10 or more
		The amount of income tax to be withheld shall be—										
$98	$100	$14.90	$11.00	$7.20	$3.30	$0	$0	$0	$0	$0	$0	$0
$100	$102	15.20	11.30	7.50	3.60	0	0	0	0	0	0	0
$102	$104	15.50	11.60	7.80	3.90	.10	0	0	0	0	0	0
$104	$106	15.80	11.90	8.10	4.20	.40	0	0	0	0	0	0
$106	$108	16.10	12.20	8.40	4.50	.70	0	0	0	0	0	0
$108	$110	16.40	12.50	8.70	4.80	1.00	0	0	0	0	0	0
$110	$112	16.70	12.80	9.00	5.10	1.30	0	0	0	0	0	0
$112	$114	17.00	13.10	9.30	5.40	1.60	0	0	0	0	0	0
$114	$116	17.30	13.40	9.60	5.70	1.90	0	0	0	0	0	0
$116	$118	17.60	13.70	9.90	6.00	2.20	0	0	0	0	0	0
$118	$120	17.90	14.00	10.20	6.30	2.50	0	0	0	0	0	0
$120	$124	18.30	14.50	10.60	6.80	2.90	0	0	0	0	0	0
$124	$128	18.90	15.10	11.20	7.40	3.50	0	0	0	0	0	0
$128	$132	19.50	15.70	11.80	8.00	4.10	.30	0	0	0	0	0
$132	$136	20.10	16.30	12.40	8.60	4.70	.90	0	0	0	0	0
$136	$140	20.70	16.90	13.00	9.20	5.30	1.50	0	0	0	0	0
$140	$144	21.30	17.50	13.60	9.80	5.90	2.10	0	0	0	0	0
$144	$148	21.90	18.10	14.20	10.40	6.50	2.70	0	0	0	0	0
$148	$152	22.50	18.70	14.80	11.00	7.10	3.30	0	0	0	0	0
$152	$156	23.10	19.30	15.40	11.60	7.70	3.90	0	0	0	0	0
$156	$160	23.70	19.90	16.00	12.20	8.30	4.50	.60	0	0	0	0
$160	$164	24.30	20.50	16.60	12.80	8.90	5.10	1.20	0	0	0	0
$164	$168	24.90	21.10	17.20	13.40	9.50	5.70	1.80	0	0	0	0
$168	$172	25.50	21.70	17.80	14.00	10.10	6.30	2.40	0	0	0	0
$172	$176	26.10	22.30	18.40	14.60	10.70	6.90	3.00	0	0	0	0
$176	$180	26.70	22.90	19.00	15.20	11.30	7.50	3.60	0	0	0	0
$180	$184	27.30	23.50	19.60	15.80	11.90	8.10	4.20	.40	0	0	0
$184	$188	27.90	24.10	20.20	16.40	12.50	8.70	4.80	1.00	0	0	0
$188	$192	28.50	24.70	20.80	17.00	13.10	9.30	5.40	1.60	0	0	0
$192	$196	29.10	25.30	21.40	17.60	13.70	9.90	6.00	2.20	0	0	0
$196	$200	29.70	25.90	22.00	18.20	14.30	10.50	6.60	2.80	0	0	0
$200	$210	30.80	26.90	23.10	19.20	15.40	11.50	7.70	3.80	0	0	0
$210	$220	32.30	28.40	24.60	20.70	16.90	13.00	9.20	5.30	1.50	0	0
$220	$230	33.80	29.90	26.10	22.20	18.40	14.50	10.70	6.80	3.00	0	0
$230	$240	35.30	31.40	27.60	23.70	19.90	16.00	12.20	8.30	4.50	.60	0
$240	$250	36.80	32.90	29.10	25.20	21.40	17.50	13.70	9.80	6.00	2.10	0
$250	$260	38.30	34.40	30.60	26.70	22.90	19.00	15.20	11.30	7.50	3.60	0
$260	$270	39.80	35.90	32.10	28.20	24.40	20.50	16.70	12.80	9.00	5.10	1.30
$270	$280	41.30	37.40	33.60	29.70	25.90	22.00	18.20	14.30	10.50	6.60	2.80
$280	$290	42.80	38.90	35.10	31.20	27.40	23.50	19.70	15.80	12.00	8.10	4.30
$290	$300	44.30	40.40	36.60	32.70	28.90	25.00	21.20	17.30	13.50	9.60	5.80
$300	$320	46.50	42.70	38.80	35.00	31.10	27.30	23.40	19.60	15.70	11.90	8.00
$320	$340	49.60	45.70	41.80	38.00	34.10	30.30	26.40	22.60	18.70	14.90	11.00
$340	$360	52.50	48.70	44.80	41.00	37.10	33.30	29.40	25.60	21.70	17.00	14.00

At least—	But less than—	0	1	2	3	4	5	6	7	8	9	10 or more
$360	$380	55.50	51.70	47.80	44.00	40.10	36.30	32.40	28.60	24.70	20.90	17.00
$380	$400	58.50	54.70	50.80	47.00	43.10	39.30	35.40	31.60	27.70	23.90	20.00
		15 percent of the excess over $400 plus—										
$400 and over		60.00	56.20	52.30	48.50	44.60	40.80	36.90	33.10	29.20	25.40	21.50

"If the payroll period with respect to an employee is semimonthly

And the wages are—		And the number of withholding exemptions claimed is—										
At least—	But less than—	0	1	2	3	4	5	6	7	8	9	10 or more
		The amount of income tax to be withheld shall be—										
$0	$28	15% of wages	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
$28	$30	$4.40	.20	0	0	0	0	0	0	0	0	0
$30	$32	4.70	.50	0	0	0	0	0	0	0	0	0
$32	$34	5.00	.80	0	0	0	0	0	0	0	0	0
$34	$36	5.30	1.10	0	0	0	0	0	0	0	0	0
$36	$38	5.60	1.40	0	0	0	0	0	0	0	0	0
$38	$40	5.90	1.70	0	0	0	0	0	0	0	0	0
$40	$42	6.20	2.00	0	0	0	0	0	0	0	0	0
$42	$44	6.50	2.30	0	0	0	0	0	0	0	0	0
$44	$46	6.80	2.60	0	0	0	0	0	0	0	0	0
$46	$48	7.10	2.90	0	0	0	0	0	0	0	0	0
$48	$50	7.40	3.20	0	0	0	0	0	0	0	0	0
$50	$52	7.70	3.50	0	0	0	0	0	0	0	0	0
$52	$54	8.00	3.80	0	0	0	0	0	0	0	0	0
$54	$56	8.30	4.10	0	0	0	0	0	0	0	0	0
$56	$58	8.60	4.40	.20	0	0	0	0	0	0	0	0
$58	$60	8.90	4.70	.50	0	0	0	0	0	0	0	0
$60	$62	9.20	5.00	.80	0	0	0	0	0	0	0	0
$62	$64	9.50	5.30	1.10	0	0	0	0	0	0	0	0
$64	$66	9.80	5.60	1.40	0	0	0	0	0	0	0	0
$66	$68	10.10	5.90	1.70	0	0	0	0	0	0	0	0
$68	$70	10.40	6.20	2.00	0	0	0	0	0	0	0	0
$70	$72	10.70	6.50	2.30	0	0	0	0	0	0	0	0
$72	$74	11.00	6.80	2.60	0	0	0	0	0	0	0	0
$74	$76	11.30	7.10	2.90	0	0	0	0	0	0	0	0
$76	$78	11.60	7.40	3.20	0	0	0	0	0	0	0	0
$78	$80	11.90	7.70	3.50	0	0	0	0	0	0	0	0
$80	$82	12.20	8.00	3.80	0	0	0	0	0	0	0	0
$82	$84	12.50	8.30	4.10	0	0	0	0	0	0	0	0
$84	$86	12.80	8.60	4.40	.30	0	0	0	0	0	0	0
$86	$88	13.10	8.90	4.70	.60	0	0	0	0	0	0	0
$88	$90	13.40	9.20	5.00	.90	0	0	0	0	0	0	0
$90	$92	13.70	9.50	5.30	1.20	0	0	0	0	0	0	0
$92	$94	14.00	9.80	5.60	1.50	0	0	0	0	0	0	0

"*If the payroll period with respect to an employee is semimonthly*—Continued

And the wages are—		And the number of withholding exemptions claimed is—										
At least—	But less than—	0	1	2	3	4	5	6	7	8	9	10 or more
		The amount of income tax to be withheld shall be—										
$94	$96	$14.30	$10.10	$5.90	$1.80	$0	$0	$0	$0	$0	$0	$0
$96	$98	14.60	10.40	6.20	2.10	0	0	0	0	0	0	0
$98	$100	14.90	10.70	6.50	2.40	0	0	0	0	0	0	0
$100	$102	15.20	11.00	6.80	2.70	0	0	0	0	0	0	0
$102	$104	15.50	11.30	7.10	3.00	0	0	0	0	0	0	0
$104	$106	15.80	11.60	7.40	3.30	0	0	0	0	0	0	0
$106	$108	16.10	11.90	7.70	3.60	0	0	0	0	0	0	0
$108	$110	16.40	12.20	8.00	3.90	0	0	0	0	0	0	0
$110	$112	16.70	12.50	8.30	4.20	0	0	0	0	0	0	0
$112	$114	17.00	12.80	8.60	4.50	.30	0	0	0	0	0	0
$114	$116	17.30	13.10	8.90	4.80	.60	0	0	0	0	0	0
$116	$118	17.60	13.40	9.20	5.10	.90	0	0	0	0	0	0
$118	$120	17.90	13.70	9.50	5.40	1.20	0	0	0	0	0	0
$120	$124	18.30	14.10	10.00	5.80	1.60	0	0	0	0	0	0
$124	$128	18.90	14.70	10.60	6.40	2.20	0	0	0	0	0	0
$128	$132	19.50	15.30	11.20	7.00	2.80	0	0	0	0	0	0
$132	$136	20.10	15.90	11.50	7.60	3.40	0	0	0	0	0	0
$136	$140	20.70	16.50	12.40	8.20	4.00	0	0	0	0	0	0
$140	$144	21.30	17.10	13.00	8.80	4.60	.50	0	0	0	0	0
$144	$148	21.90	17.70	13.60	9.40	5.20	1.10	0	0	0	0	0
$148	$152	22.50	18.30	14.20	10.00	5.80	1.70	0	0	0	0	0
$152	$156	23.10	18.90	14.80	10.60	6.40	2.30	0	0	0	0	0
$156	$160	23.70	19.50	15.40	11.20	7.00	2.90	0	0	0	0	0
$160	$164	24.30	20.10	16.00	11.80	7.60	3.50	0	0	0	0	0
$164	$168	24.90	20.70	16.60	12.40	8.20	4.10	0	0	0	0	0
$168	$172	25.50	21.30	17.20	13.00	8.80	4.70	.50	0	0	0	0
$172	$176	26.10	21.90	17.80	13.60	9.40	5.30	1.10	0	0	0	0
$176	$180	26.70	22.50	18.40	14.20	10.00	5.90	1.70	0	0	0	0
$180	$184	27.30	23.10	19.00	14.80	10.60	6.50	2.30	0	0	0	0
$184	$188	27.90	23.70	19.60	15.40	11.20	7.10	2.90	0	0	0	0
$188	$192	28.50	24.30	20.20	16.00	11.80	7.70	3.50	0	0	0	0
$192	$196	29.10	24.90	20.80	16.60	12.40	8.30	4.10	0	0	0	0
$196	$200	29.70	25.50	21.40	17.20	13.00	8.90	4.70	.50	0	0	0
$200	$210	30.80	26.60	22.40	18.30	14.10	9.90	5.80	1.60	0	0	0
$210	$220	32.30	28.10	23.90	19.80	15.60	11.40	7.30	3.10	0	0	0
$220	$230	33.80	29.60	25.40	21.30	17.10	12.90	8.80	4.60	.40	0	0
$230	$240	35.30	31.10	26.90	22.80	18.60	14.40	10.30	6.10	1.90	0	0
$240	$250	36.80	32.60	28.40	24.30	20.10	15.90	11.80	7.60	3.40	0	0
$250	$260	38.30	34.10	29.90	25.80	21.60	17.40	13.30	9.10	4.90	.80	0
$260	$270	39.80	35.60	31.40	27.30	23.10	18.90	14.80	10.60	6.40	2.30	0
$270	$280	41.30	37.10	32.90	28.80	24.60	20.40	16.30	12.10	7.90	3.80	0
$280	$290	42.80	38.60	34.40	30.30	26.10	21.90	17.80	13.60	9.40	5.30	1.10
$290	$300	44.30	40.10	35.90	31.80	27.60	23.40	19.30	15.10	10.90	6.80	2.60
$300	$320	46.50	42.30	38.20	34.00	29.80	25.70	21.50	17.30	13.20	9.00	4.80
$320	$340	49.50	45.30	41.20	37.00	32.80	28.70	24.50	20.30	16.20	12.00	7.80

$340	$360	52.50	48.30	44.20	40.00	35.80	31.70	27.50	23.30	19.20	15.00	10.80
$360	$380	55.50	51.30	47.20	43.00	38.80	34.70	30.50	26.30	22.20	18.00	13.80
$380	$400	58.50	54.30	50.20	46.00	41.80	37.70	33.50	29.30	25.20	21.00	16.80
$400	$420	61.50	57.30	53.20	49.00	44.80	40.70	36.50	32.30	28.20	24.00	19.80
$420	$440	64.50	60.30	56.20	52.00	47.80	43.70	39.50	35.30	31.20	27.00	22.80
$440	$460	67.50	63.30	59.20	55.00	50.80	46.70	42.50	38.30	34.20	30.00	25.80
$460	$480	70.50	66.30	62.20	58.00	53.80	49.70	45.50	41.30	37.20	33.00	28.80
$480	$500	73.50	69.30	65.20	61.00	56.80	52.70	48.50	44.30	40.20	36.00	31.80
		15 percent of the excess over $500 plus—										
$500 and over		$75.00	$70.80	$66.70	$62.50	$58.30	$54.20	$50.00	$45.80	$41.70	$37.50	$33.30

" '*If the payroll period with respect to an employee is monthly*

And the wages are—		And the number of withholding exemptions claimed is—										
At least—	But less than—	0	1	2	3	4	5	6	7	8	9	10 or more
		The amount of income tax to be withheld shall be—										
$0	$56	15% of wages	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
$56	$60	$8.70	.40	0	0	0	0	0	0	0	0	0
$60	$64	9.30	1.00	0	0	0	0	0	0	0	0	0
$64	$68	9.90	1.60	0	0	0	0	0	0	0	0	0
$68	$72	10.50	2.20	0	0	0	0	0	0	0	0	0
$72	$76	11.10	2.80	0	0	0	0	0	0	0	0	0
$76	$80	11.70	3.40	0	0	0	0	0	0	0	0	0
$80	$84	12.30	4.00	0	0	0	0	0	0	0	0	0
$84	$88	12.90	4.60	0	0	0	0	0	0	0	0	0
$88	$92	13.50	5.20	0	0	0	0	0	0	0	0	0
$92	$96	14.10	5.80	0	0	0	0	0	0	0	0	0
$96	$100	14.70	6.40	0	0	0	0	0	0	0	0	0
$100	$104	15.30	7.00	0	0	0	0	0	0	0	0	0
$104	$108	15.90	7.60	0	0	0	0	0	0	0	0	0
$108	$112	16.50	8.20	0	0	0	0	0	0	0	0	0
$112	$116	17.10	8.80	.40	0	0	0	0	0	0	0	0
$116	$120	17.70	9.40	1.00	0	0	0	0	0	0	0	0
$120	$124	18.30	10.00	1.60	0	0	0	0	0	0	0	0
$124	$128	18.90	10.60	2.20	0	0	0	0	0	0	0	0
$128	$132	19.50	11.20	2.80	0	0	0	0	0	0	0	0
$132	$136	20.10	11.80	3.40	0	0	0	0	0	0	0	0
$136	$140	20.70	12.40	4.00	0	0	0	0	0	0	0	0
$140	$144	21.30	13.00	4.60	0	0	0	0	0	0	0	0
$144	$148	21.90	13.60	5.20	0	0	0	0	0	0	0	0
$148	$152	22.50	14.20	5.80	0	0	0	0	0	0	0	0
$152	$156	23.10	14.80	6.40	0	0	0	0	0	0	0	0
$156	$160	23.70	15.40	7.00	0	0	0	0	0	0	0	0

" 'If the payroll period with respect to an employee is monthly—Continued

And the wages are—		And the number of withholding exemptions claimed is—										
At least—	But less than—	0	1	2	3	4	5	6	7	8	9	10 or more
		The amount of income tax to be withheld shall be—										
$160	$164	$24.30	$16.00	$7.60	$0	$0	$0	$0	$0	$0	$0	$0
$164	$168	24.90	16.60	8.20	0	0	0	0	0	0	0	0
$168	$172	25.50	17.20	8.80	0.50	0	0	0	0	0	0	0
$172	$176	26.10	17.80	9.40	1.10	0	0	0	0	0	0	0
$176	$180	26.70	18.40	10.00	1.70	0	0	0	0	0	0	0
$180	$184	27.30	19.00	10.60	2.30	0	0	0	0	0	0	0
$184	$188	27.90	19.60	11.20	2.90	0	0	0	0	0	0	0
$188	$192	28.50	20.20	11.80	3.50	0	0	0	0	0	0	0
$192	$196	29.10	20.80	12.40	4.10	0	0	0	0	0	0	0
$196	$200	29.70	21.40	13.00	4.70	0	0	0	0	0	0	0
$200	$204	30.30	22.00	13.60	5.30	0	0	0	0	0	0	0
$204	$208	30.90	22.60	14.20	5.90	0	0	0	0	0	0	0
$208	$212	31.50	23.20	14.80	6.50	0	0	0	0	0	0	0
$212	$216	32.10	23.80	15.40	7.10	0	0	0	0	0	0	0
$216	$220	32.70	24.40	16.00	7.70	0	0	0	0	0	0	0
$220	$224	33.30	25.00	16.60	8.30	0	0	0	0	0	0	0
$224	$228	33.90	25.60	17.20	8.90	.60	0	0	0	0	0	0
$228	$232	34.50	26.20	17.80	9.50	1.20	0	0	0	0	0	0
$232	$236	35.10	26.80	18.40	10.10	1.80	0	0	0	0	0	0
$236	$240	35.70	27.40	19.00	10.70	2.40	0	0	0	0	0	0
$240	$248	36.60	28.30	19.90	11.60	3.30	0	0	0	0	0	0
$248	$256	37.80	29.50	21.10	12.80	4.50	0	0	0	0	0	0
$256	$264	39.00	30.70	22.30	14.00	5.70	0	0	0	0	0	0
$264	$272	40.20	31.90	23.50	15.20	6.90	0	0	0	0	0	0
$272	$280	41.40	33.10	24.70	16.40	8.10	0	0	0	0	0	0
$280	$288	42.60	34.30	25.90	17.60	9.30	.90	0	0	0	0	0
$288	$296	43.80	35.50	27.10	18.80	10.50	2.10	0	0	0	0	0
$296	$304	45.00	36.70	28.30	20.00	11.70	3.30	0	0	0	0	0
$304	$312	46.20	37.90	29.50	21.20	12.90	4.50	0	0	0	0	0
$312	$320	47.40	39.10	30.70	22.40	14.10	5.70	0	0	0	0	0
$320	$328	48.60	40.30	31.90	23.60	15.30	6.90	0	0	0	0	0
$328	$336	49.80	41.50	33.10	24.80	16.50	8.10	0	0	0	0	0
$336	$344	51.00	42.70	34.30	26.00	17.70	9.30	1.00	0	0	0	0
$344	$352	52.20	43.90	35.50	27.20	18.90	10.50	2.20	0	0	0	0
$352	$360	53.40	45.10	36.70	28.40	20.10	11.70	3.40	0	0	0	0
$360	$368	54.60	46.30	37.90	29.60	21.30	12.90	4.60	0	0	0	0
$368	$376	55.80	47.50	39.10	30.80	22.50	14.10	5.80	0	0	0	0
$376	$384	57.00	48.70	40.30	32.00	23.70	15.30	7.00	0	0	0	0
$384	$392	58.20	49.90	41.50	33.20	24.90	16.50	8.20	0	0	0	0
$392	$400	59.40	51.10	42.70	34.40	26.10	17.70	9.40	1.10	0	0	0
$400	$420	61.50	53.20	44.80	36.50	28.20	19.80	11.50	3.20	0	0	0
$420	$440	64.50	56.20	47.80	39.50	31.20	22.80	14.50	6.20	0	0	0
$440	$460	67.50	59.20	50.80	42.50	34.20	25.80	17.50	9.20	.80	0	0
$460	$480	70.50	62.20	53.80	45.50	37.20	28.80	20.50	12.20	3.80	0	0
$480	$500	73.50	65.20	56.80	48.50	40.20	31.80	23.50	15.20	6.80	0	0

At least—	But less than—	0	1	2	3	4	5	6	7	8	9	10 or more
$500	$520	76.50	68.20	59.80	51.50	43.20	34.80	26.50	18.20	9.80	1.50	0
$520	$540	79.50	71.20	62.80	54.50	46.20	37.80	29.50	21.20	12.80	4.50	0
$540	$560	82.50	74.20	65.80	57.50	49.20	40.80	32.50	24.20	15.80	7.50	0
$560	$580	85.50	77.20	68.80	60.50	52.20	43.80	35.50	27.20	18.80	10.50	2.20
$580	$600	88.50	80.20	71.80	63.50	55.20	46.80	38.50	30.20	21.80	13.50	5.20
$600	$640	93.00	84.70	76.30	68.00	59.70	51.30	43.00	34.70	26.30	18.00	9.70
$640	$680	99.00	90.70	82.30	74.00	65.70	57.30	49.00	40.70	32.30	24.00	15.70
$680	$720	105.00	96.70	88.30	80.00	71.70	63.30	55.00	46.70	38.30	30.00	21.70
$720	$760	111.00	102.70	94.30	86.00	77.70	69.30	61.00	52.70	44.30	36.00	27.70
$760	$800	117.00	108.70	100.30	92.00	83.70	75.30	67.00	58.70	50.30	42.00	33.70
$800	$840	123.00	114.70	106.30	98.00	89.70	81.30	73.00	64.70	56.30	48.00	39.70
$840	$880	129.00	120.70	112.30	104.00	95.70	87.30	79.00	70.70	62.30	54.00	45.70
$880	$920	135.00	126.70	118.30	110.00	101.70	93.30	85.00	76.70	68.30	60.00	51.70
$920	$960	141.00	132.70	124.30	116.00	107.70	99.30	91.00	82.70	74.30	66.00	57.70
$960	$1,000	147.00	138.70	130.30	122.00	113.70	105.30	97.00	88.70	80.30	72.00	63.70
		15 percent of the excess over $1,000 plus—										
$1,000 and over		$150.00	$141.70	$133.30	$125.00	$116.70	$108.30	$100.00	$91.70	$83.30	$75.00	$66.70

" 'If the payroll period with respect to an employee is a daily payroll period or a miscellaneous payroll period—

And the wages divided by the number of days in such period are—		And the number of withholding exemptions claimed is—										
		0	1	2	3	4	5	6	7	8	9	10 or more
At least—	But less than—	The amount of tax to be withheld shall be the following amount multiplied by the number of days in such period—										
$0	$2.00	15% of wages	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
$2.00	$2.25	$0.30	.05	0	0	0	0	0	0	0	0	0
$2.25	$2.50	.35	.10	0	0	0	0	0	0	0	0	0
$2.50	$2.75	.40	.10	0	0	0	0	0	0	0	0	0
$2.75	$3.00	.45	.15	0	0	0	0	0	0	0	0	0
$3.00	$3.25	.45	.20	0	0	0	0	0	0	0	0	0
$3.25	$3.50	.50	.25	0	0	0	0	0	0	0	0	0
$3.50	$3.75	.55	.25	0	0	0	0	0	0	0	0	0
$3.75	$4.00	.60	.30	.05	0	0	0	0	0	0	0	0
$4.00	$4.25	.60	.35	.05	0	0	0	0	0	0	0	0
$4.25	$4.50	.65	.40	.10	0	0	0	0	0	0	0	0
$4.50	$4.75	.70	.40	.15	0	0	0	0	0	0	0	0
$4.75	$5.00	.75	.45	.20	0	0	0	0	0	0	0	0
$5.00	$5.25	.75	.50	.20	0	0	0	0	0	0	0	0
$5.25	$5.50	.80	.55	.25	0	0	0	0	0	0	0	0
$5.50	$5.75	.85	.55	.30	0	0	0	0	0	0	0	0
$5.75	$6.00	.90	.60	.35	.05	0	0	0	0	0	0	0
$6.00	$6.25	.90	.65	.35	.10	0	0	0	0	0	0	0
$6.25	$6.50	.95	.70	.40	.15	0	0	0	0	0	0	0
$6.50	$6.75	1.00	.70	.45	.15	0	0	0	0	0	0	0

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"'*If the payroll period with respect to an employee is a daily payroll period or a miscellaneous payroll period*—Continued

And the wages divided by the number of days in such period are—		And the number of withholding exemptions claimed is—										
		0	1	2	3	4	5	6	7	8	9	10 or more
At least—	But less than—	The amount of tax to be withheld shall be the following amount multiplied by the number of days in such period—										
$6.75	$7.00	$1.05	$0.75	$0.50	$0.20	$0	$0	$0	$0	$0	$0	$0
$7.00	$7.25	1.05	.80	.50	.25	0	0	0	0	0	0	0
$7.25	$7.50	1.10	.85	.55	.30	0	0	0	0	0	0	0
$7.50	$7.75	1.15	.85	.60	.30	.05	0	0	0	0	0	0
$7.75	$8.00	1.20	.90	.65	.35	.10	0	0	0	0	0	0
$8.00	$8.25	1.20	.95	.65	.40	.10	0	0	0	0	0	0
$8.25	$8.50	1.25	1.00	.70	.45	.15	0	0	0	0	0	0
$8.50	$8.75	1.30	1.00	.75	.45	.20	0	0	0	0	0	0
$8.75	$9.00	1.35	1.05	.80	.50	.25	0	0	0	0	0	0
$9.00	$9.25	1.35	1.10	.80	.55	.25	0	0	0	0	0	0
$9.25	$9.50	1.40	1.15	.85	.60	.30	.05	0	0	0	0	0
$9.50	$9.75	1.45	1.15	.90	.60	.35	.05	0	0	0	0	0
$9.75	$10.00	1.50	1.20	.95	.65	.40	.10	0	0	0	0	0
$10.00	$10.50	1.55	1.25	1.00	.70	.45	.15	0	0	0	0	0
$10.50	$11.00	1.60	1.35	1.05	.80	.50	.25	0	0	0	0	0
$11.00	$11.50	1.70	1.40	1.15	.85	.60	.30	.05	0	0	0	0
$11.50	$12.00	1.75	1.50	1.20	.95	.65	.40	.10	0	0	0	0
$12.00	$12.50	1.85	1.55	1.30	1.00	.75	.45	.20	0	0	0	0
$12.50	$13.00	1.90	1.65	1.35	1.10	.80	.55	.25	0	0	0	0
$13.00	$13.50	2.00	1.70	1.45	1.15	.90	.60	.35	.05	0	0	0
$13.50	$14.00	2.05	1.80	1.50	1.25	.95	.70	.40	.15	0	0	0
$14.00	$14.50	2.15	1.85	1.60	1.30	1.05	.75	.50	.20	0	0	0
$14.50	$15.00	2.20	1.95	1.65	1.40	1.10	.85	.55	.30	0	0	0
$15.00	$15.50	2.30	2.00	1.75	1.45	1.20	.90	.65	.35	.10	0	0
$15.50	$16.00	2.35	2.10	1.80	1.55	1.25	1.00	.70	.45	.15	0	0
$16.00	$16.50	2.45	2.15	1.90	1.60	1.35	1.05	.80	.50	.25	0	0
$16.50	$17.00	2.50	2.25	1.95	1.70	1.40	1.15	.85	.60	.30	.05	0
$17.00	$17.50	2.60	2.30	2.05	1.75	1.50	1.20	.95	.65	.40	.10	0
$17.50	$18.00	2.65	2.40	2.10	1.85	1.55	1.30	1.00	.75	.45	.20	0
$18.00	$18.50	2.75	2.45	2.20	1.90	1.65	1.35	1.10	.80	.55	.25	0
$18.50	$19.00	2.80	2.55	2.25	2.00	1.70	1.45	1.15	.90	.60	.35	.05
$19.00	$19.50	2.90	2.60	2.35	2.05	1.80	1.50	1.25	.95	.70	.40	.15
$19.50	$20.00	2.95	2.70	2.40	2.15	1.85	1.60	1.30	1.05	.75	.50	.20
$20.00	$21.00	3.10	2.80	2.55	2.25	2.00	1.70	1.45	1.15	.90	.60	.35
$21.00	$22.00	3.25	2.95	2.70	2.40	2.15	1.85	1.60	1.30	1.05	.75	.50
$22.00	$23.00	3.40	3.10	2.85	2.55	2.30	2.00	1.75	1.45	1.20	.90	.65
$23.00	$24.00	3.55	3.25	3.00	2.70	2.45	2.15	1.90	1.60	1.35	1.05	.80
$24.00	$25.00	3.70	3.40	3.15	2.85	2.60	2.30	2.05	1.75	1.50	1.20	.95
$25.00	$26.00	3.85	3.55	3.30	3.00	2.75	2.45	2.20	1.90	1.65	1.35	1.10
$26.00	$27.00	4.00	3.70	3.45	3.15	2.90	2.60	2.35	2.05	1.80	1.50	1.25
$27.00	$28.00	4.15	3.85	3.60	3.30	3.05	2.75	2.50	2.20	1.95	1.65	1.40
$28.00	$29.00	4.30	4.00	3.75	3.45	3.20	2.90	2.65	2.35	2.10	1.80	1.55
$29.00	$30.00	4.45	4.15	3.90	3.60	3.35	3.05	2.80	2.50	2.25	1.95	1.70
		15 percent of the excess over $30 plus—										
$30 and over		4.50	4.25	3.95	3.70	3.40	3.15	2.85	2.60	2.30	2.05	1.75' "

At the top of page 372, to strike out:

"(B) WAGES PAID AFTER DECEMBER 31, 1964.—At the election of the employer with respect to any employee, the employer shall deduct and withhold upon the wages paid to such employee after December 31, 1964, a tax determined in accordance with the following tables, which shall be in lieu of the tax required to be deducted and withheld under subsection (a):".

And in lieu thereof, to insert:

"(b) WAGE BRACKET WITHHOLDING.—Paragraph (1) of section 3402(c) (relating to wage bracket withholding) is amended to read as follows:

"'(1) At the election of the employer with respect to any employee, the employer shall deduct and withhold upon the wages paid to such employee a tax determined in accordance with the following tables, which shall be in lieu of the tax required to be deducted and withheld under subsection (a):'".

At the top of page 378, to strike out.

"(c) WITHHOLDING OF TAX ON CERTAIN NONRESIDENT ALIENS.

"(1) Section 1441(a) (relating to general rule) is amended by striking out 'the tax shall be equal to 18 percent of such item.' and inserting in lieu thereof: 'the tax shall be equal to—

"'(1) 15 percent in the case of payments made during the calendar year 1964, and

"'(2) 14 percent in the case of payments made after December 31, 1964.'

"(2) Section 1441(b) (relating to income items) is amended by striking out '18 percent' and by inserting in lieu thereof '15 percent or 14 percent (as the case may be)'.

And in lieu thereof, to insert:

"(c) WITHHOLDING OF TAX ON CERTAIN NONRESIDENT ALIENS.—Subsections (a) and (b) of section 1441 (relating to withholding of tax on nonresident aliens) are amended by striking out '18 percent' and inserting in lieu thereof '14 percent.'"

On page 379, line 1, after the word "after", to strike out "December 31, 1963", and insert "the seventh day following the date of the enactment of this Act", and in line 4, after the word "after", to strike out "December 31, 1963" and insert "the seventh day following the date of the enactment of this Act.".

Mr. LONG of Louisiana. Mr. President, I am happy to announce to the Senate that we have just agreed to 152 amendments to the bill.

Mr. SMATHERS. The Senator from Louisiana is absolutely right. I interrupt myself to say this, because it is just the point I was trying to make this morning when I was under rather heavy castigation from some Senators, that sometimes we can make more progress even if it does seem as though the Senate is going slow. After one has been in the Senate for a short while, we come to realize that every Senator considers himself an expert on every problem which comes before the Senate, and he wants to be consulted about it. I do not believe we are all experts but we all seem to feel that way.

Mr. GORE. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I am happy to yield.

Mr. GORE. I listened with amusement to the colloquy earlier in the day. I believe the distinguished junior Senator from Florida mistook it if he considers it castigation. I thought it was a clever job of defense.

Mr. SMATHERS. If one is on the giving end, it is needling. If one is on the receiving end, it is castigation. In any event, I think it demonstrates that the leadership always has some problems on these questions, why Senators cannot take over and say that they are ready, and therefore everyone else should be ready. It does not always follow that that is the best way to proceed.

I am delighted that the Senate has now adopted 152 amendments. That is great progress. I am sure that the President of the United States will be delighted to receive that information. Perhaps the telephones will not be in such constant use.

I am delighted that the Senator from Illinois is now present.

Mr. DIRKSEN. Which Senator from Illinois?

Mr. SMATHERS. The junior Senator from Illinois, the minority leader. The Senate has now adopted by unanimous consent 152 committee amendments. The junior Senator from Illinois and I were receiving some castigation this morning. By holding the line in the face

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of that castigation and touching the bases that we must touch in this body of 100 men, where every Senator feels that he as an individual Senator has a right to be consulted on his views, and we must at least talk with him about the question, sometimes we make greater progress when we seem to be going slow, as we were this morning, and now we have proved our point.

Mr. DIRKSEN. Yes.

Mr. SMATHERS. We are making a great deal of progress.

Mr. President, there are so few things to boast about these days that I could not help boasting a little about that.

These profit figures are vitally important not only to American business but to all Americans, because investment is vital to all Americans. It is obvious under our system that business will not invest unless it can see a profit.

No head of a corporation is going to risk his stockholders' money on a venture that does not offer an adequate return.

No jobs are going to be provided and no incomes or tax revenues are going to

be raised by investments that are not made.

Obviously if jobs are going to be provided, it is the private sector of our economy, through capital investment, that is going to provide them.

We can, of course, create new jobs by continually increasing Government spending, and letting out bigger and bigger defense contracts that will mean more jobs, more income, more tax revenue, but of course more Government spending. In other words the Government is principal spender, architect of, and controller of the American economy under that particular weapon. That is the second theory about which I talked a moment ago in my colloquy with the able Senator from Tennessee. The Government would do it all. I have the feeling that certain Senators believe that that is the better way to proceed. However, fortunately, I think the majority of Senators on this side and on the other side of the aisle do not agree that that is the better way to proceed—to turn all the spending and the operation of the economy over to the Government.

I think the better way by far is to stimulate the private sector of the economy, to step up private consumer demand and at the same time give private business the additional investment incentives to modernize and build so as to make the most of that consumer demand.

I do not think there is any widespread opposition to the belief that the administration program of holding down on Federal expenditures and at the same time cutting taxes will prove effective in moving our economy ahead.

As the President indicated in his budget message, the estimated gross national product for 1964 would be $623 billion—an increase of more than 20 percent in 3 years. In dollar terms, this means that it would equal the largest year-to-year increase in total national output in the peacetime history of the United States.

We are all aware that with every passing month as the withholding rate stays at 18 percent, as under present law, instead of 14 percent as provided in this proposal, our economy is deprived of $800 million in additional spending power which it sorely needs.

I think that many of us have a tendency to overlook the importance of capital investment, to forget that ours is a market economy, and to ignore the responsibilities of the free enterprise system. Most people and most economists agree we need more demand. I agree. But I also think it is equally important if our system is to expand to maximum efficiency that we also have more investment. It is important not only for our domestic economy, but for international reasons as well.

Only by making the United States more attractive both for foreign and domestic investment capital, and by expanding our export trade, can we hope to maintain the significant improvement we have seen in our balance-of-payments picture in the last 6 months.

Only by increasing investment will our economy develop the dynamic expansionary momentum we need to keep domestic funds at home and attract foreign investment in greater quantity from abroad.

Only by increasing capital investment can we raise domestic productive efficiency to the point where our producers can overcome the increasing challenge from foreign producers in competitive markets at home and around the globe.

It is interesting to observe at that point that there have been unfavorable balances of payments for a number of years, but since we adopted the investment credit and since we changed the depreciation guidelines, we have found that by modernizing and improving our own industrial capacity, we have been better able to compete in the foreign markets. We have been better able to resist competition from foreign markets, with the result that while we have not finally solved the balance-of-payments deficit problem, nonetheless it has been reduced substantially, and since last June we seem to be on our way to the solution of the balance-of-payments problem. Certainly we hope so.

Only by increasing capital investment can we step up our rate of economic growth and move toward the time when we can plan and accomplish a balanced budget without skimping on national needs.

Investment alone, of course, is not enough, for our economy depends on both supply and demand, on both investment incentives and consumer demand. The pending measure is a balanced bill with direct and indirect incentives to both greater investment and greater consumption.

Through its net reduction in individual rates, the bill involves an initial increase of more than $8 billion in consumer spending, and then it goes up to $9.4 billion in the second year.

In this reliance on both consumer demand and investment incentive to achieve economic growth lies the economic balance of this bill.

The sizable share of tax reduction devoted to consumer demand is a tangible recognition that, if we are to lift actual output, our most pressing and immediate need is an increase in consumer demand.

The bill, in short, recognizes that the forces of consumer demand and investment stimulus are mutually reinforcing and that their interaction will provide our economy with a strength that neither would offer alone.

This is also a fair bill in terms of the distribution of individual tax reductions among the various income groups.

Eighty-five percent of American taxpayers earn $10,000 or less. These people, who now carry 50 percent of the tax load, will receive 60 percent of the benefits under the bill.

Taxpayers in the bottom income group—earning $3,000 or less—will get three times the percentage tax reduction of those in the top of the income group—earning $50,000 up.

We have heard previously, and will hear again in the course of this debate, that the person who makes $100,000 actually will have a larger increase in take-home pay under this bill than the man who makes $3,000 or $4,000 a year, and therefore the bill is not fair. The man who makes $100,000 and who may be in the 78- or 80-percent bracket, pays a large amount of money in taxes. Although his percentage of reduction will not be as great as that of most men in the low-income groups, he will actually receive more tax dollars back, because he has been paying more into the Treasury in the past. Even though the percentage of reduction for him is lower than it is for most men in the lower-income groups, he will receive more money as a result of the bill than the man who has been paying a very small tax.

It seems to me that the argument is unfair, is fallacious, because if we believe in a graduated tax—which we do—in the case of a tax increase, the income after tax for the man in the higher brackets must decrease more than for the man in the lower brackets. Conversely, when there is a decrease in taxes the income after taxes of the man in the upper brackets must increase more. It is obvious that the man who has given the most will get back more when there is a reduction than the man who has been paying considerably less.

The benefits of this tax cut will not be limited to the direct and immediate dollar benefits that will go to taxpayers as a result of the cut itself. As consumer purchasing power is increased, it will provide a vital and immediate stimulus to our economy.

A higher level of economic activity will benefit those who are working, by increasing the opportunities for advancement. Even more important, it will benefit those 4 million Americans who are now jobless—because only with a higher level of production and demand can we expect our economy to generate the millions of additional jobs that those who now cannot find jobs need, as well as those that will be needed each year in the years ahead, as our labor force grows in numbers each year.

The major goal of the entire tax program is to provide more jobs. At present, an estimated million jobs a year are lost

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to automation. A million more will be required each year to meet the needs of new people entering the labor force.

It is impossible to predict with accuracy exactly how many jobs will be produced as a result of the tax cut, but it has been estimated that when fully effective, it will produce between 2 and 3 million additional new jobs each year. These are jobs that are vital to our Nation's youth, to our Nation's older people, and to our Nation's workers, consumers, and families.

The tax program will help in the war on poverty. It will help partly because, as more jobs are provided, there will be a greater chance that those new jobless can find work.

In short, this is a tax program which will benefit people, as anyone can see by considering what it does for taxpayers in various income brackets.

Again I want to emphasize that, in the final analysis, it is calculated to help people. In the final analysis, that is what we are concerned with doing. In the final analysis, they are the ones we should help.

Let me cite a few illustrations:

A married couple, with no dependents, with an income of $3,000, filing a joint return, taking the standard deduction, now pays $300 in taxes. Under the bill, the couple would pay $200, a reduction of $100, or 33 percent.

A married couple, with two dependents, with an income of $3,000, filing a joint return, taking a standard deduction, now pays $60 in taxes. Under this bill, the couple would pay no taxes.

On the average, those with incomes in the $3,000 to $5,000 range would have their taxes cut by over 27 percent.

A married couple with no dependents, and with a $5,000 income, filing a joint return, taking a standard deduction, now pays $660 in taxes. Under the bill, the couple would pay $501, a reduction of $159, or 24 percent.

A married couple, with no dependents, with a $5,000 income, filing a joint return, typical average itemized deductions, now pays $540 in taxes. Under the bill, the couple would pay $405, a reduction of $135, or 25 percent.

A married couple with two dependents,

and with an income of $5,000, filing a joint return, taking the standard deduction, now pays $420 in taxes. Under the bill, the couple would pay $290, a reduction of $130, or 31 percent.

A married couple with two dependents, with a $5,000 income, filing a joint return, taking the typical average itemized deductions, now pays $300 in taxes. Under the bill, the couple would pay only $218, a reduction of $82, or 27 percent.

On the average, those with incomes in the $5,000 to $10,000 range would have their taxes cut by nearly 21 percent.

A married couple, with no dependents, and a $10,000 income, filing a joint return, with standard reduction, now pays $1,636 in taxes. Under the new bill, the couple would pay only $1,342, a reduction of $294, or 18 percent.

A married couple, with no dependents, and a $10,000 income, filing a joint return, typical itemized average deductions, now pays $1,460 in taxes. Under this bill, the couple would pay only $1,201, a reduction of $259, or 18 percent.

It is interesting to observe, as we move from the $3,000 bracket up to the $10,000 bracket, that the percentage of reduction drops off as we move higher.

A married couple, with two dependents, and $10,000 income, filing a joint return, taking the standard deduction, now pays $1,372 in taxes. Under the bill, the couple would pay only $1,114, a reduction of $258 or 19 percent.

A married couple, with two dependents, a $10,000 income, filing a joint return, with typical itemized average deductions, now pays $1,196 in taxes. Under the new bill, the couple would pay only $973, a reduction of $223, or 19 percent.

On the average, those with incomes of more than $10,000, would have their taxes reduced by more than 15 percent.

In this bill we have tried to make special provision for elderly taxpayers.

There is great concern in the Nation over the fact that our elderly citizens have great difficulty surviving, economically speaking, because it is difficult for them to get jobs. They find that, every time the cost of living goes up, they are caught in the squeeze, because they live on fixed incomes. There is great concern in the Senate and the House, and throughout the Nation, about doing something for our elderly citizens.

I was happy to be one of those who joined with the able Senator from Connecticut, who now so regally presides over this body, in the amendment which made it possible for the elderly citizen with a wife to obtain a larger retirement income credit. That particular legislation, of which he is the author—and I wish I could have thought of it first and in connection with which I was happy to join the Senator from Connecticut—will be very much appreciated in the State of Florida.

Elderly taxpayers will also benefit substantially from the tax bill.

For example:

A single taxpayer over 65, with an income of $2,000 taking a standard deduction, now pays $120 in taxes. Under the bill, he would pay only $56, a reduction of $64 or 53 percent.

A single taxpayer over 65, with an income of $4,000, taking the standard deduction, now pays $488 in taxes. Under this bill, he would pay only $386, a reduction of $102 or 21 percent.

A married couple, both over 65, with an income of $3,000, filing a joint return, taking the standard deduction, now pays $60 in taxes. Under the bill, the couple would pay no tax.

A married couple, both over 65, with an income of $5,000, filing a joint return, taking the standard deduction, now pays $420 in taxes. Under the bill, the couple would pay only $290, a reduction of $130 or 31 percent.

The experience of the $6 billion tax reduction program carried out in 1954, is solid evidence of what can be achieved by adopting the course of the proposal before us. Two years after the enactment of the 1954 tax reduction program, our gross national product jumped from $363 billion in 1954 to $419 billion in 1956. Even at lower rates our tax revenues increased as a result. In 1954 our Federal tax revenues totaled $63.8 billion. In 1955 these tax revenues jumped well above their pre-tax-cut levels to a total of $72.8 billion.

Mr. LONG of Louisiana. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I am happy to yield to the distinguished Senator from Louisiana.

UNANIMOUS-CONSENT AGREEMENT

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that at 4 o'clock on Monday, amendment No. 329, to be offered by the Senator from Connecticut [Mr. RIBICOFF], be the pending amendment, and that the time for debate on that amendment be equally divided between the author of the amendment and the Senator in charge of the bill, the Senator from Louisiana [Mr. LONG]; that when the Senate meets on Tuesday debate on the amendment be limited to 1 hour, to be equally divided, as I previously described; and that the Senate vote at the conclusion of that 1 hour of debate.

The PRESIDING OFFICER (Mr.

RIBICOFF in the chair). Is there objection?

Mr. DIRKSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DIRKSEN. That will include amendment No. 329 submitted by the occupant of the chair, the Senator from Connecticut [Mr. RIBICOFF], and all amendments thereto. Is that correct?

Mr. LONG of Louisiana. Yes.

Mr. DIRKSEN. That the debate begin at 4 o'clock and that it run, equally divided, until the Senate adjourns on Monday; and then the debate will be resumed after the morning hour on Tuesday.

Mr. LONG of Louisiana. It would be well to specify also that the time on amendments to the Ribicoff amendment will be divided equally between the author of the amendment and the Senator from Connecticut, unless the Senator from Connecticut agrees with the amendment, in which event the time in opposition to the amendment be controlled by the Senator in charge of the bill, the Senator from Louisiana [Mr. LONG].

Mr. SMATHERS. Mr. President, reserving the right to object—and I shall not object—in order to get this matter more clearly in my mind, is my understanding correct, that at 4 o'clock on Monday the Senate will take up for consideration amendment No. 329, the so-called Ribicoff education amendment, and that that amendment will be debated without limitation as to time, however late the Senate sits on Monday?

Mr. DIRKSEN. Yes. It may be late.

Mr. LONG of Louisiana. And Senators will continue to debate amendments to that amendment.

Mr. SMATHERS. How shall we know how to divide the time?

Mr. LONG of Louisiana. When one side has spoken for a half hour, the other side is entitled to speak for one-half hour. The time will be equally divided.

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Mr. SMATHERS. May I make a suggestion? Would it not be agreeable to have a specified time—for example, to take it up at 4 o'clock and proceed to debate it that evening for no longer than 4 hours, which would make it 8 o'clock at night, and that the time be equally divided? Then we would know what to divide.

Mr. DIRKSEN. The Senate may sit until 10 o'clock on Monday night. In that event there will be ample time for consideration of amendments to the Ribicoff amendment.

Mr. SMATHERS. I hope I am not inadvertently complicating the situation. However, it seems to me that once the Ribicoff amendment is taken up, the debate on it, until the time of the vote, will be pretty well germane to the Ribicoff amendment. If some specified time could be set that could be divided, it would help.

Mr. LONG of Louisiana. How about 5 hours?

Mr. DIRKSEN. With the time for debate limited to 4 hours, equally divided, and 1 hour on each amendment thereto, equally divided.

Mr. SMATHERS. That would be much more desirable, it seems to me.

Mr. DIRKSEN. And that all amendments be germane.

Mr. SMATHERS. Yes.

(At this point Mr. BENNETT took the chair as Presiding Officer.)

Mr. RIBICOFF. First I thank the distinguished Senator from Utah for his courtesy.

I wish to say to the minority leader that my understanding is that, beginning at 4 o'clock on Monday the order of business will be the so-called Ribicoff amendment, No. 329; that the Senate will proceed to debate that amendment for 4 hours, the time to be equally divided between the proponents; that in accordance with the suggestion of the minority leader, 1 hour be allowed on each amendment to the Ribicoff amendment, the time to be equally divided.

Mr. DIRKSEN. Yes; and that on Tuesday morning the time be equally divided and limited to the Ribicoff amendment.

Mr. RIBICOFF. That means that on Tuesday for 1 hour the time of debate will be equally divided between the proponents and the opponents, and that the Senate will proceed to vote 1 hour after the morning hour is concluded on Tuesday.

Mr. LONG of Louisiana. Yes.

Mr. SMATHERS. I wish to emphasize, after what happened earlier, when we were being castigated——

Mr. LONG of Louisiana. I hope the Senator will not object. We would like to have the unanimous-consent agreement agreed to.

Mr. SMATHERS. I will not object, but I wish to make these remarks.

Sometimes we must emphasize the fact that the leadership, even if one is as far down on the scale as I am, has certain responsibilities, among which is the responsibility of touching all bases. Sometimes greater speed can be made than may seem to be possible on the surface, by proceeding in that way.

So we took it hot and heavy from the Senator from Tennessee [Mr. GORE] and

the Senator from Illinois [Mr. DOUGLAS] today. The minority leader and I were accused of not wanting to get a quick vote; we were the ones who were delaying the bill. But since that particular colloquy occurred, 152 amendments have been agreed to.

The Senate has now agreed to a limitation of debate on a major amendment, and it is evident that we shall be finished with that particular amendment, if the Senate will convene at 10 o'clock on Tuesday morning, by 1 o'clock on Tuesday afternoon. By that time the amendment should be voted on one way or the other. So we are really making much progress. I find no fault with the position which the minority leader took earlier today. He had a responsibility to fulfill, and he did so with great courage.

The PRESIDING OFFICER (Mr. BENNETT in the chair). Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

The unanimous-consent agreement subsequently reduced to writing is as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That on Monday, February 3, 1964, at the hour of 4 o'clock, p.m., the Senate proceed to consider the amendment (No. 329) intended to be proposed by the Senator from Connecticut, Mr. RIBICOFF, to the pending bill H.R. 8363, the tax bill; that debate on said amendment continue for 4 hours, the time to be equally divided between the proponents and the opponents and controlled in the manner provided by the usual form; that after the hour of 8 o'clock, p.m., the Senate proceed to the consideration of any amendment that may be proposed to the so-called Ribicoff amendment, the time on any amendment thereto to be limited to 1 hour and equally divided between the mover of the amendment and Mr. RIBICOFF, provided he is opposed to any such amendment: *Provided,* That no amendment that is not germane to the provisions of said amendment No. 329 shall be received.

Ordered further, That on Tuesday, February 4, 1964, after the conclusion of the morning business, the Senate resume the consideration of the said amendment No. 329, and that debate on it continue for 1 hour, the time to be equally divided between the proponents and the opponents, and that at the expiration of said hour, the Senate proceed to vote on the question of agreeing to the amendment.

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Mr. RIBICOFF. Mr. President, now that the request has been agreed to, I believe there is no question that the distinguished Senator from Illinois [Mr. DIRKSEN] and the distinguished Senator from Tennessee [Mr. GORE] were "needling" in their earlier remarks this morning.

Mr. DIRKSEN. What were they doing?

Mr. RIBICOFF. Needling. But as a freshman Senator, I should like to say on the floor of the Senate, as I have said publicly around the country, that in a long experience in politicial life, in every branch of the government, I have never met or dealt with leadership on both the Republican and Democratic sides that has been so courteous and cooperative as are the distinguished men who lead the Senate on the Republican and Democratic sides of the aisle. They are thoughtful and courteous toward all 100 Senators. They are dedicated men, who seek the best for the country. We are fortunate in having the distinguished Senator from Montana [Mr. MANSFIELD] as the majority leader and the distinguished Senator from Illinois [Mr. DIRKSEN] as the minority leader. They always proceed, in the final analysis, to act for what they believe are the best interests of the Nation, taking into account the great winds of controversy and the diverse ideas that exist in the Nation at large. We represent 50 States, and the people of 50 States think differently, no matter how one or another would try to force their thinking into one groove.

Again, I express my thanks for the leadership on both sides of the aisle.

Mr. DIRKSEN. I thank the Senator from Connecticut.

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Mr. SMATHERS. I, too, thank the Senator from Connecticut.

Mr. LONG of Louisiana. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I yield.

Mr. LONG of Louisiana. The Senator from Connecticut has described himself as a freshman Senator. The record should show that he is not a neophyte at the business of legislating. He is a former Governor of his State, a former Member of the House of Representatives, and a former member of the President's Cabinet. He is an able advocate or an able adversary depending on whichever side he decides to take on a particular issue. We all respect him for that.

Mr. RIBICOFF. I think the Senator from Louisiana.

Mr. SMATHERS. Any time I can have the able Senator from Connecticut on my side, I feel much more strengthened, and confidence pours out of each and every pore of my body.

Mr. LONG of Louisiana. Mr. President, will the Senator from Florida yield?

The PRESIDING OFFICER (Mr. RIBICOFF in the chair). Does the Senator from Florida yield to the Senator from Louisiana?

Mr. SMATHERS. I am happy to yield to the Senator from Louisiana, who is in charge of the bill.

Mr. LONG of Louisiana. We were

speaking of the progress that has been made. We have agreed tentatively to 152 amendments. We have agreed to vote not later than 1 hour after the Senate concludes its morning business on next Tuesday, on one of the most important, significant, and controversial amendments that will be offered to the bill.

I predict that with any sort of luck at all, the Senate will have voted by that time on another of the most important issues that will come before the Senate, namely, the capital gains proposal. So while we shall not have voted today on controversial amendments, we shall have set the stage so that, I believe, we can anticipate the passage of the bill some time next week.

Mr. SMATHERS. I completely agree with the able Senator from Louisiana, who is in charge of the bill. The agreements that we have been able to reach under his leadership today have been most useful. Frankly, I believe the bill will be passed or defeated—one way or

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the other—certainly by Thursday or Friday of next week, which is what we have hoped for from the beginning of the debate.

Mr. LONG of Louisiana. As the Senator in charge of the bill, I express my gratitude both to the Democratic and Republicans Senators who had doubts about the progress of the bill. They have been considerate and cooperative in helping to make progress in the consideration of this important measure.

Mr. SMATHERS. I am sure the able Senator from Louisiana, in pursuing the goal of expediting the bill—which he has been doing so well—will continue to consult with the leadership on Tuesday. Possibly we may then be able to enter into a unanimous-consent agreement as to when the Senate might vote on the excise-tax amendment, the so-called Dirksen amendment. I would encourage him to do so. Since we are now in a happy situation, we might be able to continue the progress which we are making.

Mr. LONG of Louisiana. At the moment, we have made good progress from a procedural point of view. I wish we could make as good progress with substantive amendments. But we will worry about that later.

Mr. SMATHERS. Mr. President, England put into effect a program not basically different from the one we are now considering and is already reaping abundant economic benefits as a result.

The pending bill will breathe new life into our private economy.

It is a bill that will give our economy new weapons and new responsibilities to help it move with maximum momentum far closer to its enormous gross national product potential.

It is a bill that will contribute far more to the solution of our most pressing economic problems—unemployment, persistent deficits in our budget, and our international accounts—than any other proposal we have thus far had under discussion.

Mr. LONG of Louisiana. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I yield.

Mr. LONG of Louisiana. I believe the Senator from Florida well recognizes that a large number of our business economists advise that the prosperity the country is now enjoying, or the recovery from the last depression or recession, is the longest continued period of recovery in the history of the country, except one. That was the recovery that started from the very depths of the depression in the 1930's, when the country's economy had fallen so far down that the recovery had to be a long, gradual one, and continued until the eruption of World War II.

In peacetime, minus war and minus a major depression, there has never been a period of recovery as long as the present one. Many persons feel that the reason the present recovery has continued for so long is that business has already been discounting the tax cut.

Mr. SMATHERS. What the Senator means by "discounting" is that business has been anticipating the eventual approval of a tax reduction bill.

Mr. LONG of Louisiana. Yes. In any event, money is being spent to improve equipment and to do other things necessary to produce additional commodities, to provide new jobs, and to sell products for which the demand will be created by the proposed tax cut.

If the tax cut should not now be approved, a large number of people, including myself, greatly fear for the consequences of the national economy.

With regard to a balanced budget, many persons share the view that if a tax cut is not passed, there will be a tremendous deficit at existing tax rates, because there will be a deep recession. If that should occur, the Government would have to increase spending to try to get the country out of the recession or depression, as the case may be, and the deficit thus incurred would be far greater than it would be if the tax bill were passed and a recession avoided.

Mr. SMATHERS. I thank the able Senator from Louisiana for his statement. One reason for the almost unan-

imous support for a tax cut is that businessmen have been encouraged to believe that the bill will be passed and that it will enable them to spend additional money for improving and modernizing their plants. That in itself will mean more jobs. They have already begun to procure the material that will be needed, and that is one of the factors which account for the economy doing as well as it has.

As the able Senator points out, we have had downturns regularly—at least every 33 or 34 months since the end of World War II, I believe; although we have had none recently, as the Senator said, because the business community has either "discounted" this bill or, to state it another way, has counted on its being passed. As a result, the improvement in our economic position has continued. However, the fact remains that it has not improved rapidly enough.

Sufficient jobs are not available. We must do something more. We cannot leave the situation in its present condition, and just say, "It is going along great now; and if we do nothing, it will continue to do very well."

Mr. LONG of Louisiana. Is the Senator from Florida aware of the fact that Raymond J. Saulnier, who formerly was Chairman of the Council of Economic Advisers, under President Eisenhower—serving during a Republican administration—made the statement: "As things stand now, the prospect of tax reduction has been so thoroughly built into tax expectations and plans, and also to some extent into the financial commitments of individuals, that it would be seriously deflationary to call it off."

This man, who was President Eisenhower's adviser under a Republican administration, said he believed this would be a very serious matter; and he said that to call off this tax cut, after business had begun to rely on it, feeling that it was a certainty to become law, could have a dangerous impact upon our economy. That is precisely what President Johnson's economic advisers tell us, and it is also what President Kennedy's economic advisers were telling him. So while some may not agree with them, the storm warning is out; and, in the main, the ablest economists in the United States agree with the Senator's argument that enactment of this tax reduction bill is a "must," and that every day of delay in its enactment is a real danger to the national economy.

Mr. SMATHERS. I totally agree with the able Senator from Louisiana; and I must say that is one of the reasons why I decry—and I know the Senator from Louisiana does, too—changing the emphasis of the bill. The business community is discounting it, as the Senator from Louisiana says—and as I say—in the high expectation that shortly there will be this tax reduction. The corporations are expecting a reduction of $2.4 billion and individuals expect to receive a $9.2 billion reduction. If we begin to reduce excise taxes—thus changing the emphasis of the bill—and if, as a result, it is necessary to increase the individual tax rate schedules, I am afraid the national economy will be greatly harmed, rather than helped.

From the time when the bill was reported by the House Ways and Means Committee and then was passed by the House—on September 30 of last year—these men have anticipated that the Senate would finally pass a somewhat similar bill, based on a similar reduction. If we tinker very much with this bill, then—instead of accomplishing some great good—we might suddenly—although inadvertently—frighten and astound the business leaders of the Nation by our inconsistency. In that case, I am afraid they might withdraw or renege on their plans to expand their businesses; and the result might be a sudden and very serious depression.

Mr. LONG of Louisiana. Mr. President, will the Senator from Florida yield further?

Mr. SMATHERS. I am happy to yield.

Mr. LONG of Louisiana. Those of us who support this bill subscribe to the theory that if the bill is enacted, we shall have a balanced budget, and even a budget surplus by 1967 or 1968; but that if the bill is not enacted, not only will there not be a balanced budget, but—even worse—there will be a recession, because a failure to reduce taxes would result in a definite decrease in business activity. And, of course, decreased business activity would mean greatly reduced revenues, which in turn would mean an end to our hopes to balance the budget. In addition, the millions of jobs which the bill would make available would not become available, and therefore the anticipated increase in the gross national production—and an increase to the extent of billions of dollars is anticipated—would not occur. Of course, expanded gross national production benefits, directly or indirectly, all 190 million of the people of the United States. Does the Senator from Florida agree?

Mr. SMATHERS. I agree entirely. If the bill is not enacted, then I believe—and many others agree with me—that at no time in the future can we expect to have a balanced budget. I concur in the statement made recently by Mr. Stewart Saunders, formerly president of the Norfolk & Western Railroad, and now

chairman of the board of the Pennsylvania Railroad Co., who—although he had been only a country boy—has worked his way to the top of perhaps the largest railroad in the United States.

Mr. Saunders said—as I recall—to the chairman of our committee, Senator BYRD of Virginia, whom I admire and love very much:

Mr. Chairman, we must change our method, if we are ever to get rid of these deficits. We have had them in 24 of the last 30 years, and we are in a chronic deficit position. I am afraid we shall stay there unless we free the private segment of the economy, by removing the deterrent of the $11.6 billions which is presently paid in taxes, and in that way stimulate business activity, and thereby increase the Government's revenues, and, as a result, bring about a balanced budget.

Mr. Saunders is not even a member of the party to which the Senator from Louisiana [Mr. LONG] and I belong; he is a well-known member of the other party, and is a conservative by every standard. Nevertheless, he told our committee that this is the only way to achieve the result all of us desire, and that we must proceed in this way if we are to avoid a series of chronic deficits similar to those we have been having.

Mr. LONG of Louisiana. I am sure the Senator from Florida realizes that nothing could have as great a stifling effect on initiative and business growth as a 91-percent tax rate on individual incomes. Consider the effect on the captains of American industry when they find themselves in such a tax bracket. As a result, they have very little incentive to expand or accelerate their business' activities. That is inevitably the result when they find they can retain only 9 cents of every dollar they earn. Although it is true that some of them find ways to manipulate their positions so as to keep their taxes low, in many respects some of the things they have to do to arrive at that result are frequently not in the national interest.

Mr. SMATHERS. I totally agree with the able Senator from Louisiana that, as reasonable and sensible members of the committee—I hope we are reasonable and sensible; certainly we try to be—we must reach the conclusion, on the basis of the best information we can obtain about every segment of our economic life, our social life, and our political life, and the best advice we can receive from all sources, that only by means of the enactment of this bill will it be possible for the Nation to put an end to the cycle of chronic and serious deficits.

American business supports the tax cut. The American people are overwhelmingly in support of a tax cut immediately. A recent Louis Harris survey indicated that the public favors an immediate tax reduction by an overwhelming majority—better than 2 to 1.

If our free enterprise system is to maintain this country as the first among nations both militarily and economically, let us get on with the job of assuring that our economy will make a maximum contribution to that system.

Since the pending bill is in the national interest, it merits the overwhelming support of the Congress.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the order for the quorum call may be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG of Louisiana. Mr. President, I should like to say a few words about the problems involved in the controversial section 203(e) sent to us by the House of Representatives, and with which the majority of the Committee on Finance finds itself in agreement. Some large figures have been used in the discussion of the impact this would have on consumers and various and sundry other groups. It is the view of the majority of the committee that the transportation industry is a competitive industry, and that this industry should be permitted the same tax incentives in terms of a tax credit that is available to manufacturing industries.

According to some economists, transportation is a part of manufacture. In view of the fact that pipelines compete with other pipelines, and pipelines compete with the huge tanker fleets that sail the seas, one transporting one commodity and another transporting a competing commodity such as residual fuel oil, which in many instances can be provided on a B.t.u. basis at various points cheaper than gas, and in view of the fact that both those industries compete with the railroads, which haul coal in hopper cars and oil in tank cars, those industries should be encouraged to modernize, improve, and expand. That is the view which the Interstate Commerce Commission takes of the subject. The ICC has the responsibility of regulating the rates of the railroads, the barge lines, the trucking lines, and the bus lines. That Commission takes the view

that Congress intended that the transportation industry should have the tax credit as an incentive to modernize and improve that industry.

While it may have the power to do so, the Civil Aeronautics Board does not regulate the rates of the airlines. The airlines enjoy the full benefit of the 7-percent tax credit.

The tax credit has undoubtedly helped the airlines to buy new equipment and provide better and faster service, in many instances at lower cost than existed previously. The tax credit has already played a part in helping to modernize the railroads and provide new equipment, and to bring about better transportation service, in many instances at a lesser cost to the American people.

The Federal Power Commission takes a different view. The Federal Power Commission is of the view that the tax credit was not intended to benefit the pipelines themselves. They were to be required to pass the credit through to their users. The FPC seeks to do just that. Of course, if that is to be the result, from the point of view of the pipelines and the power companies, there would be no point in providing a tax credit.

None of the argument which I have heard against section 203(e) has been directed against section 203(e)(1). Section 203(e)(1) provides what the electric power companies and the telephone companies think would be fair in regulating them.

In other words, the proposal provides that they would pass through to the users the benefit of the tax credit, but only over the life of the product or the object that they buy. For example, if they should buy a large boiler and the boiler cost $1 million, or if they should install additional lines that would cost $1 million, they would have a tax credit of $70,000, and they would pass that amount through to their users over the life of the boiler or over the life of that line—perhaps 20 or 30 years. So the companies would pass a little through each year. Presumably they would have the benefit of the interest on the money during the period that the amount would be passed through. That is all they ask.

There is no logic in treating those utilities differently from the pipelines because a person has to have electricity in his home, whether one is heating his home with electricity or using it to operate a deep freeze or some major appliance. The fact nevertheless remains that that company is entitled to make a fair return on its investment, even if it has to make such return by charging a very high rate for the electricity that a consumer burns in a light bulb.

But there is a different problem with regard to the railroads and the pipelines. The Interstate Commerce Commission, with regard to both the pipelines and the railroads, has made it a point not to try to bring their rates down. The Commission is trying to keep them from bringing their rates down. The usual problem in the regulation of rail rates is that the railroad desires to cut its rates to a point at which it would be losing money in carrying traffic which would otherwise go to another carrier. The principal problem before the Interstate Commerce Commission has usually been to find some way to adjust the various differences so that neither a barge line nor a rail line will cut a rate so low that it would lose money and hurt the other carrier at the same time.

I have heard no objection to that part of section 203. No Senator has argued about that. Apparently the fire is directed to section 203(a)(2), which would accord to the pipelines the same treatment that is presently being enjoyed by the railroads, the barge lines, the shipping lines, the truck lines, and others. So the proposal would treat that competitor the same as the other transportation competitors are being treated by the commissions that regulate them, including the airlines.

The figure has been used on the floor of the Senate rather loosely that that could mean $600 million a year in additional charges to the consumer. That did not make any sense to the junior Senator from Louisiana when it was uttered and it does not make any sense to him now.

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Another figure was used that the proposal could make a difference of $300 million per year in consumer rates. That did not make any sense to the Senator from Louisiana when it was uttered. It does not make any sense to him now.

So I undertook to find out exactly how much we are talking about when we say that the pipelines are entitled to the same treatment that is presently being accorded to railroads. The best I could make of it is that the figures would work out approximately as follows: There are presently before the Federal Power Commission applications to construct approximately $1 billion of facilities in the nature of pipelines. Not all of the applications will be granted.

In some instances three or four companies make application to construct a pipeline to the same point. The Com-

mission would be very much in error if it were to grant four or five carriers permits to build pipelines to one point. The only efficient way to operate would be to limit the utility to one pipeline. So in all probability about 50 percent of the applications would be rejected. It is likely that approximately two-thirds of them would be rejected. Then perhaps $300 million of pipelines would be constructed in a year. That is assuming that the $1 billion of applications could be processed in 1 year and that the pipelines could all be constructed in 1 year. That is entirely unlikely. It would be unlikely that more than half of the applications would be approved and contracted in 1 year. But assuming that they could be all processed and constructed in 1 year, the figure representing the amount of applications granted by the Commission would be $300 million, and 7 percent of that amount would be $21 million.

As the Senator from Louisiana understands, the tax incentive that Senators are looking at would be about $21 million. The Senator from Illinois [Mr. DOUGLAS] is not present, but he can refute what I am about to say in the RECORD if he cares to do so. When he uses the figure of $600 million, he is dreaming up hobgoblins. He is talking about a figure that is 20 times as large as the actual incentive figure about which we are talking, and even that figure may be high.

It is true that in the event the tax credit were denied to the pipelines and the case were pursued to the court of last resort, and that court decided against the pipelines, then the stage would be set to put pressure upon the Interstate Commerce Commission to proceed in a similar fashion against the railroads.

The Federal Power Commission generally spends its time trying to make the power companies bring their rates down; but the Senate, and the public, should realize that there is not going to be the efficient service there should be from any industry if that industry is not permitted to make a profit that is competitive with other industries. They all have to seek equity capital. They all have to borrow money, perhaps from New York banks or elsewhere, to finance their operations. If heavy taxes are placed on pipelines that are not placed on railroads, for example, if heavy taxes are placed on pipelines that are not placed on shipping companies or other competitors of the pipelines, pipeline services is restricted artificially, rather than letting competition decide what is the best service that can be provided users.

Many of the statements made on the Senate floor have left some people under the impression that the tax credit provision has something to do with rates consumers will pay for gas in New York, Philadelphia, Washington, and elsewhere. It does not. Those lines are already established. They would not be eligible for tax credit. The provision relates to new pipelines to be constructed to serve people who do not have such service now.

I wish to make the point that these pipelines will be constructed in places where people will be getting better fuel for lower prices than the consumers are receiving now. If a pipeline could not find enough customers to justify building it, the company would not build it, because it would lose money.

So, in order to justify the construction of the pipeline, someone has to see the prospect of making a profit commensurate with the risk of investing his money. Someone has to see the prospect of obtaining a sufficient profit to justify a loan and the venturing his own money in the pipeline.

When the product reaches the consumer, it will not be sold unless it is sold at a lower price than that which the consumer is now paying for a similar product, or will be sold at the same price for providing a better product.

Reference was made to the fact that consumers in Washington consume gas; and if this proposal had been the law, perhaps the consumers would be paying a little more than they are now. They might be paying exactly the same. The only difference would be that when the company built the pipeline, it would have had a little better tax situation than it has at the present time.

What did natural gas do for Washington, D.C.? Previously Washington homes had been heated by artificial gas manufactured from coal or oil. If one lived in a home or apartment heated with such gas, the person living there would have had to wash the walls down frequently to get rid of the residue from the inferior product of manufactured gas produced from coal or oil. The manufactured gas tended to accumulate a residue and tended to leave soot throughout the city. The atmosphere of Washington, D.C., is much cleaner today because this service was provided. We hope the same advantages will accrue to other communities that will use natural gas. The State of Louisiana has a very large amount of gas it would like to sell.

I point out that a good percentage of the gas belongs to the Federal Government, because it is beyond the 3-mile limit in the Gulf of Mexico. But it is

not going to do anybody any good unless someone constructs a pipeline to the gas, brings it to shore, and brings it to another pipeline, so it can be sold to consumers. What would happen? The Federal Government would make a vast amount of money, the companies would make a profit, and the consumers would have a better product at a much cheaper price.

One reason why the atmosphere over Washington is much cleaner than that over New York City, for example, is that most apartment houses in New York City are heated by residual fuel oil. In this city natural gas is used, which is a much cleaner product. It is a competitive product, and competitors should be treated alike.

I have been dismayed at efforts to eliminate section 203(e), which provides simply for justice and equity. I have said to those who oppose it that if they are to deny this relief to pipelines—and some of them come from States that do not have a significant amount of pipelines, but have railroads—the railroads should then be treated the same way. So should the shipping companies, and the trucklines. What was their answer? They do not want to go into that. They know the case is just and that the pipelines should receive this investment credit.

To some of those gentlemen the word "discrimination" is not a pleasant word, but they would discriminate as between legitimate businesses which are seeking to serve the public and make a profit.

I wished to make this statement to clarify the misunderstanding as to the figures and to show that the amount of money involved has been grossly exaggerated. Simple justice and equity demand that these transportation companies be treated the same.

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ABSENTEES AND PROGRESS ON THE TAX BILL

Mr. MANSFIELD. Mr. President, it is my understanding that on Friday last, there were in the neighborhood of 30 absentees in the Senate. I am frank to say that the majority leader was necessarily among them. But I am also frank to say that I did not ask for any special consideration because I was unable to be on the floor that day. I did not ask that any vote or votes be put off because of my absence. I sought no understanding to that effect with any other Member, and I had no such understanding.

The fact is that I was unable to be present on Thursday, as well as on Friday; and on Thursday, there were votes which I missed. But thanks to the graciousness and consideration of the Senator from Virginia [Mr. ROBERTSON], for which I am most grateful, a live pair that had the effect of neutralizing my absence was arranged.

I fully expected that on Friday there would be additional votes for which I could not be present. It is entirely true, as was stated, that, along with others, the Senator from Illinois [Mr. DOUGLAS] and the Senator from Tennessee [Mr. GORE] were here, prepared to do the business of the Senate, despite their known opposition to substantial portions of the pending tax bill. They were prepared to help move the measure forward without delay. Indeed, may I say that there has not been any disposition on the part of Senators who do oppose this measure in whole or part to delay. They have acted most responsibly, expeditiously, and cooperatively in this matter from the outset; and I regret most sincerely that the large number of absences on Friday may have inconvenienced them in any way. Nevertheless, an excellent beginning was made on the tax bill on Friday, thanks in great part to their cooperation and to the efforts of the acting majority leader, the Senator from Florida [Mr. SMATHERS], the distinguished floor manager of the bill [Mr. LONG], and the distinguished minority leader, the Senator from Illinois [Mr. DIRKSEN]. I do hope that with most of the committee amendments now disposed of en bloc we shall move steadily and promptly toward the final disposition of this measure.

I want to say again that while it is invariably necessary for Senators to be absent on occasion, I would hope that no Member would expect the work of the entire Senate to be held up for that reason. I would hope that when these occasions do arise, Senators would be prepared to take their chances, insofar as votes are concerned. The majority leader has proceeded on that basis, as he did last Thursday and Friday, and it would be my hope that other Members would be similarly disposed.

Mr. LONG of Louisiana. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield.

Mr. LONG of Louisiana. I was compelled, for various and sundry reasons—partially the political situation in my State—to be absent a considerable portion of last year; but I tried to accommodate myself to the situation of other Senators and to the situation in the Senate; and I tried to agree that, so far as

I was concerned, the Senate would proceed to vote and, if possible, to accord me a pair on votes I had to miss.

Generally, it makes very little difference whether one Senator is absent, because most issues are not decided by a single vote; also, in most instances a Senator is able to arrange a pair, so that the result is the same as it would have been if he had been present and voting, insofar as voting on amendments is concerned.

On the other hand, it is a great inconvenience to the Senate if a Senator sends word that he does not want any action taken until he returns. Furthermore, if one Senator begins to do that, others will feel similarly privileged; and soon the Senate will be unable to take any action, because of the fact that many Senators will be absent and will not want any action taken until they return. In such a situation, it is as if 99 or even 100 Senators were absent.

Mr. MANSFIELD. The Senator from Louisiana is correct, and that has been done time and time again. I hope that from now on, no Senator will make such a request.

I repeat that, so far as I am concerned, I am willing to take my chances, and I hope other Senators will take the same position.

Furthermore, the use of the live pair should be given serious consideration by Senators on both sides, so that in the future it can receive the recognition and meaning that it used to receive in years past.

Mr. DOUGLAS. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield.

Mr. DOUGLAS. I thank the Senator from Montana for his characteristically generous statement, which I deeply appreciate.

I had hoped the Senate would take some definite votes on Friday, and thus would be able to move the bill further along. However, that situation is now a bygone; and I am ready to forget all about it. I appreciate very much the statement the Senator from Montana has made.

So far as I am concerned—and I believe I also speak for the Senator from Tennessee [Mr. GORE], the Senator from Wisconsin [Mr. PROXMIRE], and other Senators who propose to offer amendments, and who are critical of at least some portions of the bill—we shall not resort to delaying tactics. We shall offer

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the amendments, and make our statements in regard to them. I hope there will be a full attendance of Senators, so that the amendments can be promptly considered and voted on.

I believe it would be unfortunate if amendments were to be offered when there was a very small attendance in the Senate, with the result that when the remaining Senators came to the Chamber, to participate in the vote, they would not be precisely certain as to what they would vote on, and would follow what they believed to be directives coming from the outside.

Again I thank the Senator from Montana.

I also thank the secretary for the majority, Mr. Valeo, who, I believe, behaved with complete rectitude in connection with this matter; and if any information to the effect that Senators on our side of the aisle would be able to absent themselves without incurring any risk was given, I am sure such information did not come from him. I have found Mr. Valeo to be completely honorable and completely reliable, and I regard him as a distinctly valuable addition to the Senate staff.

Mr. MANSFIELD. I thank the Senator from Illinois for his statement. He is always courteous, gracious, and understanding. I also thank him for his kind words about the secretary for the majority, Mr. Valeo, who is absolutely trustworthy and will give to all Senators the same information at all times.

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REVENUE ACT OF 1964

Mr. TALMADGE obtained the floor.

Mr. LONG of Louisiana. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. TALMADGE. I am delighted to yield to my friend from Louisiana.

Mr. LONG of Louisiana. I believe that the Senator intends to address himself to the tax bill. Automatically the bill would come before the Senate at 2 o'clock. Since the Senator intends to address himself to that bill, I ask unanimous consent that the tax bill now be laid before the Senate.

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There being no objection, the Senate resumed the consideration of the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes.

Mr. TALMADGE. Mr. President, 1 year ago, when tax reduction legislation was proposed to this Congress, I shared with many here in this Chamber—and with many thoughtful citizens through-

out our land—the gravest doubts about its wisdom.

I did not doubt that tax reduction was desirable, for I was convinced that the removal of restrictive tax rates, which have so long helped dampen the historic American reliance upon private initiative and incentives, was long overdue.

But I was gravely concerned that the fiscal posture of this Nation was too warped, and too weakened with deficits and debt, to bear the burden of so large a tax reduction.

I will never cease to be concerned about the fiscal posture of this Nation as long as we have deficits—as long as we are adding to our debt instead of reducing it.

But I am encouraged by indications that the budgetary reins of this Nation are being pulled in, and that we seem to be taking positive steps toward fiscal soundness and solvency.

I am convinced that we can now vote for this tax bill in good conscience—and according to the severe dictates of prudence and frugality.

The new budget calls for estimated expenditures in fiscal 1965 of $97.9 billion, more than half a billion dollars below the level of the current fiscal year. It calls for new obligational authority of $103.8 billion—more than $4 billion under last year's request of $107.9 billion. It forecasts a deficit of $4.9 billion—less than half the deficit for the current year and less than half the widely anticipated deficit for next year. It proposes a reduction in civilian employment in the executive branch—not a reduction to be publicized now and by the end of the year to exist only on paper, but a reduction we can expect to actually occur by the steps the President has already taken to make certain that it will.

Mr. President, I cannot say that these reductions are all I would like to see. But they are more—far more—than I could see on any realistic horizon when the proposals for tax reduction were first presented.

I am also aware that budgetary reductions—and budgetary figures—are no always what they seem. But I have examined this budget with great care and with considered skepticism, and I am satisfied that this budget is relatively lean and hard. I am satisfied that its reductions in expenditures and in new obligational authority will be reflected in real savings this year, and for several years to come.

I do not pretend to endorse each item in this budget—but this is not the time, nor have we now the time or the need, to go into that kind of detail. We will have ample opportunity to deal with appropriations as the session goes on. Meanwhile, the need for this tax bill is urgent, and the important facts about our new budgetary and expenditure posture are simple and clear. I would like, briefly, to highlight these facts as I see them.

First, I recall how last year the figure of $98 billion had a habit of appearing and reappearing as the unalterable ceiling beyond which 1965 expenditures could not pass if the tax cut were at all to be justified.

That was the limit that the minority party in the House of Representatives proposed to set upon the expenditure estimate for 1965—or else foreclose upon the tax cut.

That was the limit upon expenditures that General Eisenhower said we should commit ourselves to until the budget was balanced—or else forgo the tax cut.

And that is the limit beyond which the new budget does not pass—the ceiling which the new budget, in fact, observes.

I realize that, from time to time, other assorted ceilings were suggested which the new estimates for the current and the coming year do not observe. But while ceilings can remain immutable and unmoved by either argument or event, men cannot. And I say that the new budget does generally meet reasonable conditions for frugality and prudence.

The fact that the reduction in expenditures was accomplished in the face of the so-called built-in increases of $3½ billion not only highlights that accomplishment—but far more importantly, it underscores the significance of the more than $4 billion drop in requests for new obligational authority.

Every Member of this Congress knows that while it is not beyond the pale of possibility for an administration to cut current spending, it is beyond the pale of probability. For current spending is born of past appropriations—of past proposals and approvals of new obligational authority. At any given time, a good half of current spending goes to pay old bills.

The way to cut spending is not to refuse to pay those bills—the way to cut spending is to cut down on new bills. And the way to cut down on new bills is to cut down on requests for new obligational authority—and on approvals for new obligational authority.

Last year, this Congress appropriated $6.5 billion less than it was asked to appropriate. This year, the President has met us at least half way by asking less. I will not say that I would not have preferred the President to have met us all the way by presenting a balanced budget—or that I would not have preferred greater savings in appropriations last year.

But I am impressed with the hard evidence—with the promise, not of word alone, but of deed as well—that this Congress is making an effort to prune spending, and that the administration is joining us in that effort.

In short, Mr. President, there are, I am convinced, solid grounds for hope that the day when once again the fiscal affairs of this country will be set aright, when once again we can conduct the business of government within the security of a balanced budget—that that day is now nearer at hand than it has been for years. And there are, I am convinced, equally solid grounds to expect that the tax bill will bring that day nearer yet.

For as the Congress and the administration unite in holding Federal expenditures down, there is every evidence that the tax cut will bring Federal revenues up by generating greater economic activity. This is no new and untried theory—it is a historical fact. I am sure that every Member of this Congress remembers how we cut taxes in 1954, and how within 2 years' time revenues exceeded pretax cut levels by 7 percent. Not only was that no isolated instance, but it reflected the consistent experience this country has had with major tax cuts throughout this century.

One of the most incisive and persuasive analyses of this question appeared just a year ago in Fortune magazine in an article authored by one of its editors, Max Ways.

Mr. Ways points out what we too often forget in our discussions of this tax bill—that:

> Our tax structure, even when its rates are left unchanged, tightens its restrictive grip on the economy in every year that the economy grows at all.

He shows for example that, as fast as our economy grows, the individual income tax grows even faster. In 1929, the individual income tax was only 1.1 percent of the gross national product; in 1952 it was 8 percent of the gross national product; and in 1962—despite the modest tax cut of 1954—it was 8.3 percent of the gross national product.

Mr. President, I say we can no longer afford the luxury of a tax system that bites the very hand that feeds it—that ultimately defeats its own purpose of raising adequate revenues by encroaching upon its very source of revenue.

I say that we must once again allow our private economy the freedom it needs to draw upon its own inherent resources for growth—that we must once again restore individual initiative and incentive and effort to the proud and prominent place in our economic life that they must have if our system is to grow and thrive.

This tax bill, I am convinced, is a program to promote economic growth by promoting economic freedom. It is a program that—vigorously accompanied by the expenditure control already in evidence—will restore balance to the fiscal affairs of this Nation by removing the imbalance that now exists between the public and private sectors of our economy.

Mr. President, let no one mistake the choice that now confronts us. No one could put it better than did the distinguished chairman of the House Ways and Means Committee, Mr. WILBUR MILLS, when he opened the House debate on the tax bill. He said:

> I am convinced that there are two roads the Government can follow. * * * I believe we are at the fork of those two roads today. One of these is the tax reduction road. The other is the road of Government expenditure increases.

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I think that, with the new budget and with the record of this Congress last year on appropriations, we have already taken the better of those choices—that we are at last moving down the road toward fiscal soundness and solvency.

The passage of this tax bill will put us a lot further down that road—and make it a lot harder to turn back.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. TALMADGE. I am delighted to yield to my friend the distinguished Senator from Louisiana.

Mr. LONG of Louisiana. I congratulate the junior Senator from Georgia on the outstanding statement he has made on the subject of the tax bill. I should like to ask him if I correctly understand the point he has made; namely, that those who contend they want a balanced budget should realize that some of us feel that the problem is one for consideration by the Appropriations Committee, not by the Committee on Finance.

Mr. TALMADGE. The Senator from Louisiana is entirely correct. As I pointed out—and I thank my friend from Louisiana for his kind personal references to me—the way to control expenditures is by doing two things: first, to deny new obligational authority, and, second, to reduce appropriations. Of course, as the Senator so well knows, the Finance Committee has the obligation of raising the necessary revenue with which to pay appropriations, not to appropriate money or to approve obligational authority.

Mr. LONG of Louisina. Therefore, if the budget expenditures could be reduced and if Senators who are on the Appro-

priations Committee would vote to do that, it would be agreeable to many of us on the Finance Committee. We would be happy to see the foreign aid appropriations reduced, for example, and also to see certain other unnecessary expenditures reduced.

Mr. TALMADGE. The Senator from Georgia has so voted on many occasions. I point out that the Congress rendered an outstanding service last year in reducing requests of the budget by $6½ billion. If something like that could be done this year the budget might well be balanced next year.

Mr. LONG of Louisiana. I thank the Senator from Georgia.

I now ask that the Senate proceed to the consideration of the remaining committee amendment.

The PRESIDING OFFICER. The amendment will be stated.

The next committee amendment was on page 233, after line 10, to strike out:

SEC. 219. CAPITOL GAINS AND LOSSES

(a) ALTERNATIVE TAX, ETC.

(1) IN GENERAL.—

(A) ALTERNATIVE TAX.—Subsection (b) of section 1201 (relating to alternative tax on taxpayers other than corporations) is amended to read as follows:

"(b) OTHER TAXPAYERS.—If, for any taxable year, a taxpayer (other than a corporation) is allowed a deduction under section 1202, then, in lieu of the tax imposed by sections 1 and 511(b), there is hereby imposed a tax (if such a tax is less than the tax imposed by such sections) which shall consist of the sum of—

"(1) a partial tax computed on the taxable income reduced by an amount equal to the sum of—

"(A) 40 percent of the adjusted class A capital gain, and

"(B) 50 percent of the adjusted class B capital gain,

plus

"(2) an amount equal to the sum of—

"(A) 21 percent of the adjusted class A capital gain, and

"(B) 25 percent of the adjusted class B capital gain."

(B) DEDUCTION FOR CAPITAL GAINS.—Section 1202 (relating to deduction for capital gains) is amended to read as follows:

"SEC. 1202. Deduction for Capital Gains.

"(a) GENERAL RULE.—In the case of a taxpayer other than a corporation, a deduction from gross income shall be allowed equal to the sum of—

"(1) 60 percent of the adjusted class A capital gain, and

"(2) 50 percent of the adjusted class B capital gain.

"(b) SPECIAL RULE.—In the case of an estate or trust, the deduction allowable under subsection (a) shall be computed by excluding the portion (if any), of the gains for the taxable year from sales or exchanges of capital assets, which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets."

(C) DEFINITIONS.—Section 1222 (relating to other terms relating to capital gains and losses) is amended to read as follows:

"SEC. 1222. OTHER TERMS RELATING TO CAPITAL GAINS AND LOSSES.

"(a) TERMS APPLICABLE TO ALL TAXPAYERS—For purposes of this subtitle—

"(1) SHORT-TERM CAPITAL GAIN.—The term 'short-term capital gain' means gain from the sale or exchange of a capital asset held for not more than 6 months, if and to the extent such gain is taken into account in computing gross income.

"(2) SHORT-TERM CAPITAL LOSS.—The term 'short-term capital loss' means loss from the sale or exchange of a capital asset held for not more than 6 months, if and to the extent that such loss is taken into account in computing taxable income.

"(3) NET SHORT-TERM CAPITAL GAIN.—The term 'net short-term capital gain' means the excess of short-term capital gains for the taxable year over the short-term capital losses for such year.

"(4) NET SHORT-TERM CAPITAL LOSS.—The term 'net short-term capital loss' means the excess of short-term capital losses for the taxable year over the short-term capital gains for such year.

"(b) TERMS APPLICABLE TO CORPORATIONS.—For purposes of this subtitle, in the case of a corporation—

"(1) LONG-TERM CAPITAL GAIN.—The term 'long-term capital gain' means gain from the sale or exchange of a capital asset held for more than 6 months, if and to the extent such gain is taken into account in computing gross income.

"(2) LONG-TERM CAPITAL LOSS.—The term 'long-term capital loss' means loss from the sale or exchange of a capital asset held for more than 6 months, if and to the extent that such loss is taken into account in computing taxable income.

"(3) NET LONG-TERM CAPITAL GAIN.—The term 'net long-term capital gain' means the excess of long-term capital gains for the taxable year over the long-term capital losses for such year.

"(4) NET LONG-TERM CAPITAL LOSS.—The term 'net long-term capital loss' means the excess of long-term capital losses for the taxable year over the long-term capital gains for such year.

"(5) NET CAPITAL GAIN.—The term 'net capital gain' means the excess of the gains from sales or exchanges of capital assets over the losses from such sales or exchanges.

"(6) NET CAPITAL LOSS.—The term 'net capital loss' means the excess of the losses from sales or exchanges of capital assets over the sum allowed under section 1211(a). For purposes of determining losses under this paragraph, amounts which are short-term capital losses under section 1212 shall be excluded.

"(c) TERMS APPLICABLE TO TAXPAYERS OTHER THAN CORPORATIONS.—For purposes of this subtitle, in the case of a taxpayer other than a corporation—

"(1) CLASS B CAPITAL GAIN.—The term 'class B capital gain' means gain from the sale or

exchange of a capital asset held for more than 6 months but not more than 2 years, if and to the extent such gain is taken into account in computing gross income.

"(2) CLASS B CAPITAL LOSS.—The term 'class B capital loss' means loss from the sale or exchange of a capital asset held for more than 6 months but not more than 2 years, if and to the extent that such loss is taken into account in computing taxable income.

"(3) CLASS A CAPITAL GAIN.—The term 'class A capital gain' means gain from the sale or exchange of a capital asset held for more than 2 years, if and to the extent such gain is taken into account in computing gross income.

"(4) CLASS A CAPITAL LOSS.—The term 'class A capital loss' means loss from the sale or exchange of a capital asset held for more than 2 years, if and to the extent that such loss is taken into account in computing taxable income.

"(5) NET CLASS B CAPITAL GAIN.—The term 'net class B capital gain' means the excess of class B capital gains for the taxable year over the class B capital losses for such year

"(6) NET CLASS B CAPITAL LOSS.—The term 'net class B capital loss' means the excess of class B capital losses for the taxable year over the class B capital gains for such year.

"(7) NET CLASS A CAPITAL GAIN.—The term 'net class A capital gain' means the excess of class A capital gains for the taxable year over the class A capital losses for such year.

"(8) NET CLASS A CAPITAL LOSS.—The term 'net class A capital loss' means the excess of class A capital losses for the taxable year over the class A capital gains for such year.

"(9) ADJUSTED CLASS B CAPITAL GAIN.—The term 'adjusted class B capital gain' means the net class B capital gain for the taxable year reduced by losses which reduce such net gain as provided in subsection (d).

"(10) ADJUSTED CLASS A CAPITAL GAIN.—The term 'adjusted class A capital gain' means the net class A capital gain for the taxable year reduced by losses which reduce such net gain as provided in subsection (d).

"(d) RULES FOR REDUCING NET CAPITAL GAINS BY CAPITAL LOSSES.—For purposes of paragraphs (9) and (10) of subsection (c) and for purposes of reducing any net short-term capital gain, if for a taxable year a taxpayer (other than a corporation) has a net short-term, net class B, or net class A capital loss, such loss shall reduce any net short-term, net class B, or net Class A capital gain for such year by applying paragraph (1), then paragraph (2), and then paragraph (3):

"(1) A net class A capital loss shall reduce first any net class B capital gain and then any net short-term capital gain.

"(2) A net class B capital loss shall reduce first any net class A capital gain and then any net short-term capital gain.

"(3) A net short-term capital loss shall reduce first any net class B capital gain and then any net class A capital gain."

(2) PROPERTY USED IN THE TRADE OR BUSINESS AND INVOLUNTARY CONVERSIONS—

[*P. 1672*]

(A) Subsection (a) of section 1231 (relating to property used in a trade or business) is amended to read as follows:

"(a) GENERAL RULE.—If, during the taxable year—

"(1) the recognized gains from sales or exchanges of property used in the trade or business, plus

"(2) the recognized gains from the compulsory or involuntary conversion (as a result of destruction, in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation or the threat or imminence thereof) of property used in the trade or business and of capital assets held for more than 6 months into other property or money,

exceed the recognized losses from such sales, exchanges, and conversions, each such gain or loss shall be considered as gain or loss from the sale or exchange of a capital asset. If such gains do not exceed such losses, such gains and losses shall not be considered as gains and losses from sales or exchanges of capital assets."

(B) Section 1231 is amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULES.—

"(1) GAINS AND LOSSES TAKEN INTO ACCOUNT.—For purposes of subsection (a)—

"(A) Any gain described in subsection (a) shall be included—

"(i) only if and to the extent taken into account in computing gross income, and

"(ii) only to the extent not required (by any provision of this subtitle other than this section) to be treated as gain from the sale or exchange of property which is neither a capital asset nor property described in this section.

"(B) Losses described in subsection (a) shall be included only if and to the extent taken into account in computing taxable income, except that section 1211 shall not apply.

"(C) Losses upon the destruction, in whole or in part, theft or seizure, or requisition or condemnation of property used in the trade or business and held for more than 6 months, or of a capital asset held for more than 6 months, shall be considered losses from a compulsory or involuntary conversion.

"(2) CERTAIN LOSSES FROM CASUALTY OR THEFT.—In the case of any property used in the trade or business, and in the case of any capital asset held for more than 6 months and held for the production of income, subsection (a) shall not apply to any loss, in respect of which the taxpayer is not compensated for by insurance in any amount, arising from fire, storm, shipwreck, or other casualty or from theft.

"(3) GAINS AND LOSSES TREATED AS CLASS B GAINS AND LOSSES.—In the case of a taxpayer other than a corporation, gain or loss—

"(A) from a sale, exchange, or conversion of property to which subsection (b) (2), (3), or (4) applies, and

"(B) which by reason of subsection (a) is considered as gain or loss from the sale or exchange of a capital asset,

shall be considered as class B capital gain or loss whether or not such property was held for more than 2 years."

(3) CERTAIN DITRIBUTIONS UNDER EMPLOYEES TRUSTS AND ANNUITY PLANS.—

(A) DISTRIBUTION UNDER EMPLOYEES' TRUSTS.—Section 402(a) (relating to taxabil-

ity of beneficiary of exempt trust) is amended—

(i) by adding at the end of paragraph (1) the following new sentence: "Any gain on the subsequent sale or other disposition of any such security by the distributee (or by any other person in whose hands the basis of such security is determined by reference to the basis of the security in the hands of the distributee) shall, to the extent of the amount of such net unrealized appreciation attributable to such security, be considered a gain from the sale or exchange of a capital asset held for more than 6 months but not more than 2 years.";

(ii) by adding immediately before the period at the end of the first sentence of paragraph (2) the words "but not more than 2 years"; and

(iii) by adding immediately before the last sentence of paragraph (2) the following new sentence: "Any gain on the subsequent sale or other disposition of any such security by the distributee (or by any other person in whose hands the basis of such security is determined by reference to the basis of the security in the hands of the distributee) shall, to the extent of the amount of such net unrealized appreciation attributable to such security, be considered a gain from the sale or exchange of a capital asset held for more than 6 months but not more than 2 years."

(B) DISTRIBUTIONS UNDER EMPLOYEE ANNUITIES.—Section 403(a)(2)(A) relating to capital gains treatment for certain distributions) is amended by adding immediately before the period at the end of the first sentence the words "but not more than 2 years".

(C) EFFECTIVE DATE.—

(i) The amendments made by subparagraphs (A)(ii) and (B) shall apply with respect to distributions or amounts paid in taxable years of the distributees beginning after December 31, 1963.

(ii) The amendments made by subparagraphs (A) (i) and (iii) shall apply with respect to securities which are sold or otherwise disposed of in taxable years beginning after December 31, 1963.

(4) SALE OR EXCHANGE OF PATENTS.—Subsection (a) of section 1235 (relating to the sale or exchange of patents) is amended by adding at the end thereof the following new sentences:

"In the case of a holder described in subsection (b)(1), any gain or loss on such a transfer shall be treated as class B capital gain or loss. In the case of a holder described in subsection (b)(2), any gain or loss on such a transfer shall be treated as class A, or class B, capital gain or loss depending on the period for which the property was held (or deemed held)."

(5) EMPLOYEE TERMINATION PAYMENTS.—Section 1240 (relating to taxability to employee of termination payments) is amended by striking out "6 months" and inserting in lieu thereof "6 months but not more than 2 years".

(b) UNLIMITED CAPITAL LOSS CARRYOVER.—Section 1212 (relating to capital loss carryover) is amended—

(1) by striking out "If for any taxable year the taxpayer" and inserting in lieu thereof:

"(a) CORPORATIONS.—If for any taxable year a corporation"; and

(2) by adding the following new subsection:

"(b) OTHER TAXPAYERS.—

"(1) To the extent, for any taxable year, a taxpayer, other than a corporation, has a net short-term net class B, or net class A, capital loss which does not reduce capital gains under the rules provided in section 1222(d), such loss, reduced as provided in paragraph (2), shall be carried forward and treated in the succeeding taxable year as a short term class B, or class A, capital loss, as the case may be, sustained in such succeeding year.

"(2) An amount equal to the excess of the sum allowable under section 1211(b) over the gains from sales or exchanges of capital assets for the taxable year shall reduce, in order, any net short-term class B, or class A, capital loss for the taxable year which does not reduce capital gains for such year under the rules provided in section 1222(d).

"(3) For purposes of this subsection, a net capital loss for a taxable year beginning before January 1, 1964, shall be determined under the applicable law relating to the computation of capital gains and losses in effect before such date, and the amount of any such capital loss so determined which such applicable law allows to be carried over to the first taxable year of the taxpayer beginning after December 31, 1963, shall be treated as a short-term capital loss occurring in such taxable year."

(c) TECHNICAL AMENDMENTS.

(1) Section 172(d)(2)(B) (relating to net operating loss deduction) is amended by striking out "long-term".

(2) Section 333(e)(2) (relating to noncorporate shareholders of certain liquidating corporations) is amended by striking out "short-term or long-term capital gain," and inserting in lieu thereof "short-term, class A, or class B capital gain,".

(3) Section 341(a) (relating to collapsible corporations) is amended by striking out "6 months" and inserting in lieu thereof "6 months but not more than 2 years or held for more than 2 years, as the case may be,".

(4) Section 584(c)(1) (relating to common trust funds) is amended—

(A) by striking out in subparagraph (B) wherever it appears "6 months" and inserting in lieu thereof "6 months but not more than 2 years", and

(B) by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) as part of its gains and losses from sales or exchanges of capital assets held for more than 2 years, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for more than 2 years;".

(5) Section 642(c) (relating to special rules for credits and deductions) is amended by striking out "6 months," and inserting in lieu thereof "6 months but not more than 2 years or held for more than 2 years, as the case may be,".

(6) Section 702(a)(2) (relating to income and credits of partners) is amended by striking out "6 months," and inserting in lieu thereof "6 months but not more than 2 years

or held for more than 2 years, as the case may be,".

(7) (A) Section 852 (relating to taxation of regulated investment companies and their shareholders) is amended by striking out subparagraphs (B) and (C) of subsection (b) (3) and inserting in lieu thereof the following:

"(B) TREATMENT OF CAPITAL GAIN DIVIDENDS BY SHAREHOLDERS.—A capital gain dividend shall be treated by shareholders, other than corporations, as a class A or class B capital gain to the extent so designated by the company. Shareholders which are corporations shall treat a capital gain dividend as a long-term capital gain.

"(C) DEFINITION OF CAPITAL GAIN DIVIDENDS.—For purposes of this part, a capital gain dividend is any dividend, or part thereof, which is designated by the company in a written notice mailed to its shareholders not later than 30 days after the close of its taxable year, as a distribution of class A or class B capital gain. In the case of a shareholder which is a corporation, if the aggregate amount designated as a capital gain dividend with respect to a taxable year of the company (including capital gains dividends paid after the close of the taxable year described in section 855) is greater than the excess of the net long-term capital gain over the net short-term capital loss of the taxable year, the portion of each distribution which shall be a capital gain dividend shall be only that proportion of the amount so designated which such excess of the net long-term capital gain over the net short-term capital loss bears to the aggregate amount so designated. In the case of a shareholder other than a corporation, if the aggregate amount designated as class A

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capital gain, or as class B capital gain with respect to a taxable year of the company (including capital gains dividends paid after the close of the taxable year described in section 855) is greater than the adjusted class A, or adjusted class B capital gain, respectively—

"(i) the portion of each distribution which shall be treated as a class A capital gain shall be only that proportion of the amount so designated as class A capital gain which the adjusted class A capital gain bears to the aggregate amount so designated, and

"(ii) the portion of each distribution which shall be treated as a class B capital gain shall be only that proportion of the amount so designated as class B capital gain which the adjusted class B capital gain bears to the aggregate amount so designated.

For purposes of the preceding sentence, the adjusted class A or adjusted class B capital gain shall be computed as though the company were a taxpayer other than a corporation except that section 1212(a) shall apply in lieu of section 1212(b)."

(B) Section 852(b) (3) (D) is amended by striking out clauses (i), (ii), and (iii) and inserting in lieu thereof the following:

"(i) Every shareholder of a regulated investment company at the close of the company's taxable year shall, in the case of a corporation, in computing its long-term capital gains, and, in the case of a shareholder other than a corporation, in computing his class A and class B capital gains, include in his return for his taxable year in which the last day of the company's taxable year falls, such amounts as the company shall designate in respect of such shares in a written notice mailed to its shareholders at any time prior to the expiration of 30 days after the close of its taxable year, but the amount so includible by any shareholder shall not exceed that part of the amount subjected to tax in subparagraph (A) which he would have received if all of such amount had been distributed as capital gain dividends by the company to the holders of such shares at the close of its taxable year.

"(ii) For purposes of this title, every such shareholder shall be deemed to have paid, for his taxable year under clause (i), the tax of 25 percent imposed by subparagraph (A) on the amounts required by this subparagraph to be included in respect of such shares, in the case of a corporation, in computing its long-term capital gains, and, in the case of a shareholder other than a corporation, in computing his class A and class B capital gains, for that year; and such shareholder shall be allowed credit or refund, as the case may be, for the tax so deemed to have been paid by him.

"(iii) The adjusted basis of such shares in the hands of the shareholder shall be increased by 75 percent of the amount required by this subparagraph to be included in computing his capital gains."

(C) Section 852(b) (4) is amended to read as follows:

"(4) LOSS ON SALE OR EXCHANGE OF STOCK HELD LESS THAN 31 DAYS. If, under subparagraph (B) or (D) of paragraph (3) a shareholder of a regulated investment company is required, with respect to any share, to treat any amount as long term, class A, or class B capital gain, and such share is held by the taxpayer for less than 31 days, then any loss on the sale or exchange of such share shall—

"(A) in the case of a corporation, to the extent of such long-term capital gain, be treated as loss from the sale or exchange of a capital asset held for more than 6 months, or

"(B) in the case of a shareholder other than a corporation—

"(i) to the extent of such class A capital gain, be treated as loss from the sale or exchange of a capital asset held for more than 2 years, and

"(ii) to the extent of such class B capital gain, be treated as loss from the sale or exchange of a capital asset held for more than 6 months but not more than 2 years.

If there is a loss on the sale or exchange of such share which is less than the sum of such class A and class B capital gains, then a portion of such loss equal to the proportion which such class A capital gain bears to the sum of such class A and class B capital gains shall be a class A capital loss; and the remainder of such loss shall be a class B capital loss.

For purposes of this paragraph, the rules of section 246(c) (3) shall apply in determining whether any share of stock has been held for less than 31 days; except that '30 days'

shall be substituted for '15 days' in subparagraph (B) of section 246(c)(3)."

(8)(A) Section 857 (relating to the taxation of real estate investment trusts and their beneficiaries) is amended by striking out subparagraphs (B) and (C) of subsection (b)(3) and inserting in lieu thereof the following:

"(B) TREATMENT OF CAPITAL GAIN DIVIDENDS BY SHAREHOLDERS. A capital gain dividend shall be treated by the shareholders or holders of beneficial interests, other than corporations, as a class A or class B capital gain to the extent so designated by the real estate investment trust. Shareholders or holders of beneficial interests which are corporations shall treat a capital gain dividend as a long-term capital gain.

"(C) DEFINITION OF CAPITAL GAIN DIVIDEND. For purposes of this part, a capital gain dividend is any dividend, or part thereof, which is designated by the real estate investment trust in a written notice mailed to its shareholders or holders of beneficial interests at any time before the expiration of 30 days after the close of its taxable year as a distribution of class A or class B capital gain. In the case of a shareholder or holder of beneficial interest which is a corporation, if the aggregate amount designated as a capital gain dividend with respect to a taxable year of the trust (including capital gain dividends paid after the close of the taxable year described in section 858) is greater than the excess of the net long-term capital gain over the net short-term capital loss of the taxable year, the portion of each distribution which shall be a capital gain dividend shall be only that proportion of the amount so designated which such excess of the net long-term capital gain over the net short-term capital loss bears to the aggregate amount so designated. In the case of a shareholder or holder of a beneficial interest other than a corporation, if the aggregate amount designated as class A or as class B capital gain with respect to a taxable year of the trust (including capital gains dividends paid after the close of the taxable year described in section 858) is greater than the adjusted class A or adjusted class B capital gain, respectively—

"(i) the portion of each distribution which shall be treated as a class A capital gain shall be only that proportion of the amount so designated as class A capital gain which the adjusted class A capital gain bears to the aggregate amount so designated, and

"(ii) the portion of each distribution which shall be treated as a class B capital gain shall be only that proportion of the amount so designated as class B capital gain which the adjusted class B capital gain bears to the aggregate amount so designated.

For purposes of the preceding sentence, the adjusted class A or class B capital gain shall be computed as though the trust were a taxpayer other than a corporation except that section 1212(a) shall apply in lieu of section 1212(b)."

(B) Section 857 is amended by striking out paragraph (4) of subsection (b) and inserting in lieu thereof the following:

"(4) LOSS ON SALE OR EXCHANGE OF STOCK HELD LESS THAN 31 DAYS.—If, under subparagraph (B) of paragraph (3) a shareholder of, or a holder of a beneficial interest in, a real estate investment trust is required, with respect to any share or beneficial interest, to treat any amount as a long term, class A, or class B capital gain, and such share or interest is held by the taxpayer for less than 31 days, then any loss on the sale or exchange of such share or interest shall—

"(A) in the case of a corporation, to the extent of such long-term capital gain, be treated as loss from the sale or exchange of a capital asset held for more than 6 months, or

"(B) in the case of a shareholder other than a corporation—

"(i) to the extent of such class A capital gain, be treated as loss from the sale or exchange of a capital asset held for more than 2 years, and

"(ii) to the extent of such class B capital gain, be treated as loss from the sale or exchange of a capital asset held for more than 6 months but not more than 2 years.

If there is a loss on the sale or exchange of such share or interest which is less than the sum of such class A and class B capital gains, then a portion of such loss equal to the proportion which such class A capital gain bears to the sum of such class A and class B capital gains shall be a class A capital loss; and the remainder of such loss shall be a class B capital loss.

For purposes of this paragraph, the rules of section 246(c)(3) shall apply in determining whether any share of stock or beneficial interest has been held for less than 31 days; except that '30 days' shall be substituted for '15 days' in subparagraph (B) of section 246(c)(3)."

(9) The last sentence of section 1232(a)(2)(A) (relating to bonds and other evidences of indebtedness) is amended to read as follows: "Gain in excess of such amount shall, in the case of a corporation, be considered gain from the sale or exchange of a capital asset held more than 6 months or in the case of a taxpayer other than a corporation, be considered gain from the sale or exchange of a capital asset held for more than 6 months but not more than 2 years or held for more than 2 years, as the case may be."

(10)(A) Subsection (b) of section 1233 (relating to gains and losses from short sales) is amended to read as follows:

"(b) SHORT TERM AND CLASS B GAINS AND HOLDING PERIOD.—If gain or loss from a short sale is considered as gain or loss from the sale or exchange of a capital asset under subsection (a) and if on the date of such short sale substantially identical property has been held by the taxpayer—

"(1) for not more than 6 months (determined without regard to the effect, under the second sentence of this subsection, of such short sale on the holding period), or if substantially identical property is acquired by the taxpayer after such short sale and on or before the date of the closing thereof, any gain on the closing of such short sale shall be considered as a gain on the sale or exchange of a capital asset held for not more than 6 months (notwithstanding the period of time any property used to close such short sale has been held); or

"(2) in the case of a taxpayer other than a corporation, for more than 6 months but not more than 2 years (determined without regard to the effect, under the second sentence of this subsection, of such short sale on the holding period), any gain on the closing of such short sale shall be considered as a gain on the sale or exchange of a capital asset held for more than 6 months but not more than 2 years (notwithstanding the pe-

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riod of time any property used to close such short sale has been held).

The holding period of such substantially identical property shall be considered to begin (notwithstanding section 1223, relating to the holding period of property) on the date of the closing of the short sale, or on the date of a sale, gift, or other disposition of such property, whichever date occurs first. The preceding sentence shall apply to such substantially identical property in the order of the dates of the acquisition of such property, but only to so much of such property as does not exceed the quantity sold short. For purposes of this subsection, the acquisition of an option to sell property at a fixed price shall be considered as a short sale, and the exercise or failure to exercise such option shall be considered as a closing of such short sale."

(B) Subsection (d) of section 1233 is amended to read as follows:

"(d) LONG TERM, CLASS A, AND CLASS B LOSSES.—If on the date of such short sale substantially identical property has been held by the taxpayer—

"(1) In the case of a corporation, for more than 6 months, any loss on the closing of such short sale shall be considered as a loss on the sale or exchange of a capital asset held for more than 6 months (notwithstanding the period of time any property used to close such short sale has been held, and notwithstanding section 1234).

"(2) In the case of a taxpayer other than a corporation—

"(A) for more than 2 years, any loss on the closing of such short sale shall be considered as a loss on the sale or exchange of a capital asset held for more than 2 years (notwithstanding the period of time any property used to close such short sale has been held, and notwithstanding section 1234), or

"(B) for more than 6 months but not more than 2 years, any loss on the closing of such short sale shall be considered as a loss on the sale or exchange of a capital asset held for more than 6 months but not more than 2 years (notwithstanding the period of time any property used to close such short sale has been held, and notwithstanding section 1234)."

(C) Paragraph (1) of section 1233(e) is amended to read as follows:

"(1) Subsection (b) or (d) shall not apply to the gain or loss, respectively, on any quantity of property used to close such short sale which is in excess of the quantity of the substantially identical property referred to in the applicable subsection. In the case of a taxpayer other than a corporation—

"(A) subsection (b)(1) or (d)(2)(A) shall not apply to the gain or loss, respectively, on any quantity of property used to close such short sale which is in excess of the quantity of the substantially identical property to which either subsection (b)(1) or (d)(2)(A) applies (determined without regard to this subparagraph), and

"(B) subsection (b)(2) or (d)(2)(B) shall apply only to the gain or loss, respectively, on the excess described in subparagraph (A), but only to the extent of the quantity of the substantially identical property to which either subsection (b)(2) or (d)(2)(B) applies (determined without regard to this subparagraph)."

(D) Section 1233(e)(4)(A) is amended by striking out "for not more than 6 months," in clause (i) and inserting in lieu thereof "in the case of a corporation, for not more than 6 months, or in the case of a taxpayer other than a corporation, for not more than 2 years," and by striking out "subsection (b)(2)" in the language following clause (ii) and inserting in lieu thereof "the second and third sentences of subsection (b)".

(E) Section 1233(f) is amended by striking out "subsection (b)(2)" each place it appears and inserting in lieu thereof "the second and third sentences of subsection (b)".

(11)(A) Section 1247 (relating to election by foreign investment companies to distribute income currently) is amended by striking out subparagraph (B) of subsection (a)(1) and inserting in lieu thereof the following:

"(B) designate in a written notice mailed to its shareholders at any time before the expiration of 45 days after the close of its taxable year the pro rata amount for the taxable year of the adjusted class A and adjusted class B capital gain (determined as though such corporation were a taxpayer other than a corporation except that section 1212(a) shall apply in lieu of section 1212(b)); and the portions thereof which are being distributed; and"

(B) Clause (i) of section 1247(a)(2)(A) is amended to read as follows:

"(i) the adjusted class A and adjusted class B capital gain referred to in paragraph (1)(B),"

(C) Subparagraph (C) of section 1247(a)(2) is amended to read as follows:

"(C) CARRYOVER OF CAPITAL LOSSES FROM NONELECTION YEARS DENIED.—In compueting the adjusted class A and adjusted class B capital gains referred to in paragraph (1)(B), section 1212 shall not apply to losses incurred in or with respect to taxable years before the first taxable year to which the election applies."

(D) Section 1247(c)(2) is amended by striking out "his long-term capital gains" and inserting in lieu thereof "in the case of a shareholder which is a corporation, its long-term capital gains, and in the case of a shareholder other than a corporation, his class A and class B capital gains";

(E) Subsection (d) of section 1247 is amended to read as follows:

(d) TREATMENT OF DISTRIBUTED AND UNDISTRIBUTED CAPITAL GAINS BY A QUALIFIED SHAREHOLDER.—Every qualified shareholder of a foreign investment company for any taxable year of such company with respect to which an election pursuant to subsection (a) is in effect shall—

"(1) if such shareholder is a taxpayer other than a corporation—

"(A) include in computing his class A or class B capital gain for his taxable year in which received, his pro rata share of the distributed portion of the adjusted class A or adjusted class B capital gain, respectively, and

"(B) include in computing his class A or class B capital gain for his taxable year in which or with which the taxable year of such company ends, his pro rata share of the undistributed portion of the adjusted class A or adjusted class B capital gain, respectively, or

"(2) if such shareholder is a corporation, include in computing its long-term capital gains—

"(A) for its taxable year in which received, its pro rata share of the distributed portion of the sum of the adjusted class A and adjusted class B capital gains, and

"(B) for its taxable year in which or with which the taxable year of such company ends, its pro rata share of the undistributed portion of the sum of the adjusted class A and adjusted class B capital gains.

For purposes of this subsection the adjusted class A and adjusted class B capital gains shall be determined as provided in subsection (a) (1) (B)."

(F) Subsection (i) of section 1247 is amended to read as follows:

"(i) Loss on Sale or Exchange of Certain Stock.

"(1) Shareholders other than corporations. If, under this section, any qualified shareholder other than a corporation treats any amount designated under subsection (a) (1) (B) with respect to a share of stock as—

"(A) class B capital gain and such share is held by the taxpayer for 6 months or less, then any loss on the sale or exchange of such share shall, to the extent of the amount treated as class B capital gain, be treated as a loss from the sales or exchange of a capital asset held for more than 6 months but not more than 2 years,

"(B) class A capital gain and such share is held by the taxpayer for 2 years or less, then any loss on the sale or exchange of such share shall, to the extent of the amount treated as class A capital gain, be treated as a loss from the sale or exchange of a capital asset held for more than 2 years, or

"(C) both class A and class B capital gains and such share is held by the taxpayer for 6 months or less and there is a loss on the sale or exchange of such stock which is less than the sum of the amount so designated, then an amount of such loss shall be treated as a loss from the sale or exchange of a capital asset held for more than 6 months but not more than 2 years which bears the same relation to such loss as the class B capital gain so designated bears to the sum of such class B and the class A capital gains so designated; and the remainder of such loss shall be treated as a loss from the sale or exchange of a capital asset held for more than 2 years.

"(2) Corporate shareholders. If, under this section, any qualified shareholder which is a corporation treats any amount designated under subsection (a) (1) (B) with respect to a share of stock as long-term capital gain and such share is held by the taxpayer for 6 months or less, then any loss on the sale or exchange of such share shall, to the extent of the amount treated as long-term capital gain, be treated as a loss from the sale or exchange of a capital asset held for more than 6 months."

(12) Section 1248(b) (relating to gain from certain sales or exchanges of stock in certain foreign corporations) is amended by striking out "6 months," each place it appears and inserting in lieu thereof "6 months but not more than 2 years or held for more than 2 years, as the case may be,".

(13) Section 1375(a) (relating to special rules applicable to capital gains of electing small business corporations) is amended to read as follows:

"(a) Capital Gains.—

"(1) Treatment in hands of shareholders.—The amount includible in the gross income of a shareholder as dividends (including amounts treated as dividends under section 1373(b)) from an electing small business corporation during any taxable year of the corporation, to the extent such amount is a distribution of property out of earnings and profits of the taxable year as specified in section 316(a)(2), shall be treated (i) as class A capital gain to the extent of the shareholder's pro rata share of the adjusted class A capital gain (computed by the corporation as though it were a taxpayer other than a corporation except that section 1212 (b)(2) shall not apply) for such taxable year, and (ii) as class B capital gain to the extent of the shareholder's pro rata share of the adjusted class B capital gain (computed by the corporation as though it were a taxpayer other than a corporation except that section 1212(b)(2) shall not apply) for such taxable year. For purposes of this paragraph, the adjusted class A capital gain or the adjusted class B capital gain shall be deemed not to exceed an amount equal to that portion of the corporation's taxable income (computed as provided in section 1373 (d)) for the taxable year which bears the same ratio to such taxable income as such adjusted class A capital gain or such adjusted class B capital gain (determined without regard to the provisions of this sentence) bears to the sum of such adjusted class A and adjusted class B capital gains.

"(2) Determination of shareholder's pro rata share.—A shareholder's pro rata share

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of the adjusted class A or adjusted class B capital gain (computed as provided in paragraph (1)) for any taxable year shall be an amount which bears the same ratio to such adjusted class A capital gain or such adjusted class B capital gain as the amount of dividends described in paragraph (1) includible in the shareholder's gross income bears to the entire amount of dividends described in paragraph (1) includible in the gross income of all shareholders."

(d) Effective Date.—

(1) General rule.—Except as otherwise specifically provided, and except as provided by paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1963.

(2) TRANSITION RULES.—

(A) DISTRIBUTIONS OF CAPITAL GAINS.—

(i) If a taxpayer, other than a corporation, is required to include as capital gain in his gross income for a taxable year beginning after December 31, 1963, an amount attributable to sales or exchanges of capital assets held for more than 6 months and such gain was realized in a taxable year beginning before January 1, 1964, by a person described in clause (iii), such amount shall be treated by such taxpayer as class B capital gain.

(ii) If a taxpayer, other than a corporation, is required to include as capital gain in his gross income for a taxable year beginning before January 1, 1964, an amount attributable to sales or exchanges of capital assets held for more than 6 months and such gain was realized in a taxable year beginning after December 31, 1963, by a person described in clause (iii), such amount shall be treated by such taxpayer as long-term capital gain.

(iii) This subparagraph applies in respect of a regulated investment company or a real estate investment trust to which subchapter M of chapter 1 of the Internal Revenue Code of 1954 applies, a foreign investment company to which section 1247 of such Code applies, an electing small business corporation to which subchapter S of chapter 1 of such Code applies, a common trust fund to which section 584 applies, a partnership, an estate, and a trust,

(B) LOSS ON SALE OR EXCHANGE OF CERTAIN STOCK. If a shareholder (or a holder of a beneficial interest), other than a corporation, in a regulated investment company, real estate investment trust, or foreign investment company is required for a taxable year beginning before January 1, 1964, under section 852(b)(3) (B) or (D), section 857(b)(3)(B), or section 1247(d), to treat an amount with respect to a share (or beneficial interest), as a long-term capital gain, and such share (or beneficial interest) is held by the taxpayer for less than 31 days (6 months or less in case of a shareholder of a foreign investment company), then a loss on the sale or exchange of such share in taxable year of such shareholder beginning after December 31, 1963, shall to the extent of such long-term capital gain, be treated as loss from the sale or exchange or a capital asset held for more than 6 months but not more than 2 years.

(C) REGULATORY AUTHORITY. The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.

(D) MEANING OF TERMS. Terms used in this subsection shall have the same meaning as when used in chapter 1 of the Internal Revenue Code of 1954.

Mr. LONG of Louisiana. I believe that the case has been made, both in the committee report and in the Senate discussion, that the House amendment on capital gains should not be agreed to. There are a number of reasons for that. In the first place, notwithstanding the high rate of progression in the tax on the upper bracket income taxpayers, many of the people in the upper brackets find ways to avoid paying large amounts of taxes which the steep graduated rates would seem to demand of them. The most effective way to reduce tax liability seems to be by means of capital gains income and by taking advantage of the provision in the law relating to charitable contributions.

A Treasury study of the subject of capital gains indicates that persons with relatively high percentages of capital gains pay relatively low effective rates, considering their income.

For example, if persons making $2 million or more, have a high ratio of capital gains income, they pay an effective rate of about 20.9 percent under present law, or roughly 21 percent.

Persons having a low ratio of capital gains income, the same Treasury study shows, have an effective rate of tax of 56.7 percent.

I ask unanimous consent that the Treasury study be included in the RECORD at this point in connection with my remarks.

The PRESIDING OFFICER (Mr. WALTERS in the chair). Is there objection?

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Changes in effective tax rates from present law, under House bill, and under Finance Committee bill which returns present capital gain provisions, for high-income taxpayers with low, medium, and high proportions of capital gains

Adjusted gross income	Tax under present law	Tax under House bill [1]	Tax under Finance Committee bill	Tax reduction as percent of present law tax	
	Percent of realized income			House bill [1]	Finance Committee bill
	High proportion of capital gains				
$120,000	27.6	24.2	25.9	12.2	6.3
$170,000	25.4	22.4	24.5	11.9	3.6
$300,000	22.4	19.6	22.3	12.5	.4
$700,000	20.1	18.1	21.1	10.4	−4.5
$2,000,000	20.9	18.5	21.3	12.6	−1.9

Changes in effective tax rates from present law, under House bill, and under Finance Committee bill which returns present capital gain provisions, for high-income taxpayers with low, medium, and high proportions of capital gains

Adjusted gross income	Tax under present law	Tax under House bill [1]	Tax under Finance Committee bill	Tax reduction as percent of present law tax	
	Percent of realized income			House bill [1]	Finance Committee bill
	Medium proportion of capital gains				
$120,000	32.0	28.1	29.1	12.1	8.9
$170,000	31.6	27.8	29.2	11.8	7.5
$300,000	30.5	27.1	28.9	11.2	5.4
$700,000	26.3	23.1	25.4	12.3	3.5
$2,000,000	30.2	25.7	28.0	14.9	7.3
	Low proportion of capital gains				
$120,000	39.6	34.8	34.9	12.2	12.1
$170,000	42.2	37.0	37.2	12.4	11.9
$300,000	48.2	41.3	41.6	14.0	13.5
$700,000	47.6	39.9	40.6	16.3	14.8
$2,000,000	56.7	46.0	46.4	19.0	18.2

[1] Assumes that the 40-percent inclusion factor would be applicable to 90 percent of net capital gains.

NOTE.—Realized income is the adjusted gross income increased by the 50 percent of capital gains excluded in computing adjusted gross income. Realized income does not include tax-exempt interest and the deduction of depletion from gross income.

Source: Treasury Department.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. MILLER. Does the Treasury study give any indication of how the capital gains impact works with respect to assets held within the periods envisioned by the House amendment? I mean as between class A and class B?

Mr. LONG of Louisiana. No; it does not.

Mr. MILLER. Would the Senator estimate that the bulk of the capital gain arises in the transfer of assets which have been held for less than 2 years?

Mr. LONG of Louisiana. No; the bulk of the gains involved would be with respect to assets which had been held for more than 2 years. As the Senator well knows, there is no tax on capital gains unless and until a person disposes of an asset, no matter how long he may have held it.

The appreciation in the value of assets, whether they be stocks or bonds or anything else, is, in effect, income to a person which is not taxable until he decides to sell the stock or bond.

If, under the various exemptions in the tax law, a person gives appreciated property either to a foundation or to some charitable or educational institution, the income never becomes taxable, either in his lifetime or after his lifetime.

Mr. MILLER. I am familiar with that point. As I understand the House-passed bill, the only change that would be made would be that if an asset were held for more than 2 years, the maximum capital gains rates would drop from 25 to 21 percent, and the amount to be reported on the income tax return would drop from half of the gain to 40 percent of the gain.

I thought it would be helpful if we had an idea of how much of the total

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capital gains taxation is derived from assets which had been held for more than 2 years, because it is that area which is receiving the benefit under the House provision.

Mr. LONG of Louisiana. I should say that, overall, it is perhaps more than 50 percent of all capital gains income on assets held more than 2 years. If the Senator will turn to page 162 of the committee report, he will notice the great difference that is made so far as high bracket income-taxpayers are concerned. For example, if one reads table 11 in connection with table 12, on page 162 of the report, it will be seen that taxpayers having an adjusted income of more than $200,000 represent only about one one-hundredth of 1 percent of all taxpayers.

However, note that these taxpayers receive 16 percent of all capital gains income.

Taxpayers having incomes of more than $100,000 represent four one-hundredths of 1 percent of taxpayers, and they receive 24 percent of all capital gains income. That is a small percentage of all taxpayers; but, as the Senator can see, they would receive a large percentage of all capital gains income.

I ask unanimous consent that the two tables shown on page 162 of the committee report be printed at this point in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 11.—*Capital gains, by income levels*

Returns with adjusted gross income of—	Comprise this percentage of all taxpayers—	But receive this percentage of all capital gains
$200,000 and over	0.0096 of 1 percent	16
$100,000 and over	0.04 of 1 percent	24
$50,000 and over	0.2 of 1 percent	35
$10,000 and over	8.7 percent	69
Less than $5,000	57.8 percent	17

Source: Treasury Department.

TABLE 12.—*Overall distributional effects of the House bill (including capital gains changes) and the Finance Committee bill (which retains present law capital gains treatment)*

Adjusted gross income class (in thousands of dollars)	Total tax reduction as percentage of present tax		Capital gains tax reduction in House bill as percentage of total present tax
	House bill	Finance Committee bill	
0 to 3	38.6	38.6	0.3
3 to 5	26.5	27.3	.3
5 to 10	20.1	20.9	.2
10 to 20	16.9	17.3	.4
20 to 50	16.0	15.8	1.0
50 to 100	13.5	12.3	2.0
100 to 200	12.2	9.7	3.4
200 to 500	12.4	8.1	5.0
500 to 1,000	12.1	5.7	7.2
1,000 and over	12.0	5.6	7.4
Total	18.9	19.1	.7

Source: Treasury Department.

Mr. MILLER. Mr. President, I am not certain that I understand the last column. If we add the figures shown in the last column, the total is more than 100 percent.

Mr. LONG of Louisiana. That column presents a cumulative total down to adjusted gross income levels of $10,000.

Mr. MILLER. Then the point the Senator from Louisiana is making is that people enjoying incomes of $100,000 or over would receive 40 percent of the total of capital gains, according to the last column.

Mr. LONG of Louisiana. It would be 24 percent. I was not totaling the figures. Those having incomes of more than $100,000 represent four one-hundredths of 1 percent of all taxpayers, and they receive at present 24 percent of all capital gains income. That is the adjusted gross income; it is after one deducts business expenses and after he deducts one-half of his capital gains. Those with adjusted gross income of $50,000 and over represent two-tenths of 1 percent of all taxpayers. They are getting 35 percent of all capital gains income.

Taxpayers having incomes of over $10,000 represent 8.7 percent of all taxpayers, and they receive 69 percent of all capital gains income.

By contrast, let us drop to a lower income level and see what the distribution of capital gains is to taxpayers having less than $5,000 income. Those taxpayers represent 57.8 percent—almost 60 percent—of all taxpayers, but they receive only 17 percent of all capital gains.

The point has repeatedly been made on the floor of the Senate by a number of Senators—especially the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. DOUGLAS] that taxpayers having large incomes frequently do not pay a large percentage of their incomes in taxes. I placed in the RECORD a table to illustrate that point. The fact agreed that only one-half of capital gains are taxable is the principal reason for those low effective rates.

Mr. MILLER. I appreciate having the Senator from Louisiana point this information out, but I am still confused about the last column, which indicates that taxpayers having less than $5,000 income receive 17 percent of all capital gains. Is that correct?

Mr. LONG of Louisiana. Yes.

Mr. MILLER. The next group, moving up the column, consists of taxpayers having incomes of $10,000 and over, and they receive 69 percent of all capital gains.

Mr. LONG of Louisiana. I regret to say that this table may be somewhat confusing. If the Senator will proceed down the column, starting with taxpayers having $200,000 adjusted gross income and over, he will note that these taxpayers receive 16 percent of all captal gains.

The next group are those having incomes of $100,000 and over, and that $100,000 includes those making over $200,000.

Mr. MILLER. I understand. That is 24 percent. Then the groups proceed to

35 percent, to 69 percent, and 17 percent. Why it does not go to 100 percent, I cannot understand.

Mr. LONG of Louisiana. The last figure is cumulative in the other direction. It proceeds upward from those who have zero percentage of taxable income to $5,000.

Mr. MILLER. Surely it must proceed from those who make less than $5,000 to bring the figure up to 100 percent.

Mr. LONG of Louisiana. The missing figure would be for those having adjusted gross incomes between $5,000 and $10,000. They receive 14 percent of the capital gains.

Mr. MILLER. That clears up the problem. I suggest that the Senator from Louisiana modify the table he has placed in the RECORD so as to show that information, because as it is now constituted, I believe the table is confusing. Would the Senator be willing to do that? It would require the addition of one more line in the table.

Mr. LONG of Louisiana. I will undertake to see that the RECORD is not confused.

Mr. MILLER. Perhaps an explanatory note would suffice.

Mr. LONG of Louisiana. Yes.

Mr. MILLER. On the same point we are talking about, the Senator from Louisiana has shown where the great impact of capital gains benefits is, but I am sure he recognizes that one of the purposes of the House amendment, or the House provision, if not the only purpose, is to encourage the holding of capital assets for a longer period, rather than to make quick in-and-out profits. Does not the Senator from Louisiana believe that it might be beneficial to encourage the holding of capital assets for longer than 6-month periods by providing some preferential treatment in rates? For example, if a person makes an investment for 2, 3, or 4 years, why should not his capital gains benefit be a little better than that of someone who is in and out in a matter of 6 months?

Mr. LONG of Louisiana. By holding on to his asset longer, a person obtains a rate of return on his capital gains not reduced for taxes, for that much longer. The full asset is available to him, when otherwise a portion of it would be paid in taxes. He can earn a rate of return on this portion as long as he does not have to pay tax on it.

Mr. MILLER. There is no incentive for him to hold his assets for more than 6 months.

Mr. LONG of Louisiana. The very best that can be said in this regard is that a person who had $1 million of capital-gains income—which was all appreciation—and who proceeded to realize that income would have to pay part of it in taxes. However, he would certainly realize that the longer he kept that asset and did not sell it, the longer he could defer that tax liability and could earn income on that amount in the meanwhile. If when he passed away he had not sold that asset, the potential capital-gains tax liability would never accrue. So there is an incentive to keep such an asset.

The longer he was in possession of that valuable asset, which would include the 25 percent which otherwise would have gone into taxes, the longer he could make additional income on it.

Mr. MILLER. But in the case the Senator has mentioned, the tax would be the same regardless of whether the person realized a capital-gains profit in 6

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months or whether he retained the asset for 5 years.

Mr. LONG of Louisiana. But there would be a substantial incentive to postpone a tax liability of one-quarter of a million dollars. He still would have the one-quarter of a million dollars; and he could use it in various and sundry ways to his advantage, so long as he postponed entering into a transaction which would make the tax due. So he would have the advantage of having $250,000 of assets which otherwise would have been taken from him in taxes if he had made a transaction in which he had realized a gain which was taxable.

Mr. MILLER. I realize that, and I appreciate the helpfulness of the Senator from Louisiana in pointing it out.

Is it is the conclusion of the Senator from Louisiana that it is not desirable for us to try to scale down the capital-gains tax rates according to whether a person holds his property for 6 months or whether he holds it for 1 year or 2 years or 5 years? Is that the policy the Senator from Louisiana favors?

Mr. LONG of Louisiana. Not precisely. I support the Treasury's view that this field needs reform, but that it should not be reformed in the wrong direction. In other words, the Treasury's recommendation was that this whole subject should be reformed, both by making the capital-gains treatment more favorable, and by making these gains subject to tax at death.

As for the argument in favor of the position taken by the House, I point out that the House version would make a very great reduction for those who profit from capital gains, because it would cut the tax both from the top and from the

bottom. In other words, at present only 50 percent is taxable, whereas under the House provision only 40 percent would be taxable, where the asset was held 2 years or more. That in itself would reduce by 20 percent the tax on capital gains.

In addition, a person who is paying in the 50-percent bracket would be benefited by the overall limitation of a 25-percent tax on capital gains. The House bill would have provided a reduction from 25 to 21 percent in this case where the asset is held over 2 years. In this case he receives an additional 14-percent reduction. This would appear to be the most favored group of taxpayers in the entire country, and they would receive a tax reduction on that portion of their income from capital gains over and above the reduction generally available.

If the Senator will examine the table which I placed in the RECORD earlier today, he will find that the classes of taxpayers in the brackets of $2 million and over who realize a high percentage of their income by means of capital gains are now paying at an effective rate of only 21 percent; whereas, those who have the same amount of income, but with only a small percentage of it coming from capital gains, are presently paying at an effective rate of 56.7 percent. So they are paying at more than twice the others' rate.

With regard to what the pending bill will do, the Senator from Iowa will note that the House version would have the effect of conferring a much higher percentage of tax reduction on those who realize a higher percentage of their income as capital gains, as compared to what the Senate committee version would do.

Actually, under the Senate committee version, those who received more than $2 million a year, with most of it in capital gains, would be paying a little more tax than is presently required, because of the loophole-tightening provisions elsewhere in the bill. In other words, those who have been the subject of the illustration used by the Senator from Tennessee—persons who have millions of dollars of income, but pay little tax—would pay more under the Senate Finance Committee version; but taxpayers with incomes of similar amount and who pay more than half of it in taxes would be substantially benefited by this version.

Mr. GORE. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. GORE. In this particular instance, I wish to compliment and congratulate the Senate Finance Committee upon its action. As the distinguished junior Senator from Louisiana knows, I have disagreed many times with the majority of the Senate Finance Committee. However, I am pleased to state that in this instance I voted with the majority, and I was highly pleased by the action of the Senate Finance Committee, which by a small majority voted to strike this provision out of the House version.

As the Senator from Louisiana has pointed out, under existing law this is an area of very preferential treatment, not only with respect to the inclusion of only 50 percent of gain in adjusted gross income, but also with respect to the maximum rate of 25 percent. In addition, many gains which are not in fact capital gains are so treated by the law. So even under present law, capital gains income is given very preferential treatment. However, the House version of the bill—as the able Senator has so well pointed out—would make the existing situation much worse in two respects, if I may repeat: first, by reducing the amount which must be included as income from 50 percent to only 40 percent; second, by reducing the maximum rate from 25 percent to 21 percent.

If the Senator from Louisiana will yield further, at this point I should like to call the attention of the Senate to what I believe to be a fact—and the junior Senator from Louisiana has just now indicated that it is also his belief—namely, that the preferential treatment of capital gains profits or income is one reason why persons with very large incomes pay a relatively low effective tax rate. Capital gains is by no means the only vehicle used to reduce effective rates; there are many other exclusions and deductions.

I wish to call attention to the chart which is displayed on the easel in the rear of the Chamber. It is constructed from statistics which have been supplied by the Treasury Department. Those statistics can be found on page 181 of the committee report. Contrary to the impression which many persons have gained—that all persons in the very high income groups pay the so-called confiscatory taxes about which we hear—this table shows that the highest rate among "typical" taxpayers is reached at an income of $100,000, and that under the House version of the bill the "typical" taxpayer in the $100,000 bracket—one with adjusted gross income of $100,000 a year—would pay, not the maximum 70 percent rate, but an effective rate of only 26.2 percent of his realized income, in taxes.

From there on, startling as it may appear, as the income goes up the tax rate goes down until we reach the "typi-

cal" taxpayer with a realized income of $1,500,000 a year, where the effective tax rate is reduced to less than 16 percent.

This has proved shocking to many people, but it is in accordance with the statistics of the Treasury. I did not select the term "typical." It was explained later that "typical" meant more or less the average.

Mr. LAUSCHE. Mr. President, will the Senator from Tennessee yield?

The PRESIDING OFFICER (Mr. NELSON in the chair). Does the Senator from Tennessee yield to the Senator from Ohio?

Mr. GORE. I yield.

Mr. LAUSCHE. Will the Senator from Tennessee inform me how that result is achieved, in the face of what was supposed to be a higher figure for those who pay only 16 percent? How does it come about?

Mr. GORE. The Senator has asked a key question: How do people with large annual incomes avoid paying much tax?

To begin with, there are loopholes in the law. One can take advantage of many of these loopholes, however, only if he has large financial resources. One man may be able to buy a painting for $50,000 and contribute it to an institution and have it valued at a quarter of a million dollars, but he must have the $50,000 and be able to invest in a painting in the first place.

What I am trying to say is that there are many loopholes in the law of which one can only take full advantage if he has large amounts of money.

Mr. DOUGLAS. Mr. President, will the Senator from Tennessee yield?

Mr. GORE. I shall be glad to yield when I have finished one more point on this chart.

We were told in executive session—and I am not violating any confidence; I am sure the Treasury Department would be glad to furnish the statistics in open session—that of the assets contributed to so-called charities, including private foundations, for which the taxpayer gets a deduction of the current value——

Mr. LONG of Louisiana. The fair market value.

Mr. GORE. The current fair market value, which is often arrived at by estimates—the average markup from cost, or basis in the hands of the donor, is 45 to 1.

Mr. LONG of Louisiana. Appreciation in value.

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Mr. GORE. In other words, the average taxpayer who contributes assets to a foundation, school, museum, or something that is deemed to be organized for a charitable purpose——

Mr. LONG of Louisiana. Even to his own private foundation.

Mr. GORE. Even to his own private foundation, which may be a far cry from charity—he gets a tax deduction on the average of 45 times the cost of the assets. This is one way in which this low rate is accomplished, but only one of the many ways.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the Senator from Tennessee may yield to the Senator from Illinois, with the understanding that I do not lose my right to the floor.

Mr. DOUGLAS. In addition to what the Senator from Louisiana and the Senator from Tennessee have been discussing, there is our old friend the depletion allowance, which greatly reduces the rate of taxation.

Mr. GORE. That is true, although this income is not reflected in adjusted gross income.

Mr. LONG of Louisiana. Since the Senator from Illinois has brought up the subject of depletion allowance, and he will be offering his depletion allowance amendment after a while, let me say that studies I have made indicate that insofar as the Senator wishes to contend that more income taxes should be levied against the oil companies and people who receive an income from oil, most of what he is talking about is at the corporate level. I believe the overwhelming bulk, about 80 percent, of what he is talking about with regard to depletion allowances, is at the corporate level, not at the personal level.

In addition, when the time comes to debate this question, I shall present some charts showing the amount of taxes that the oil companies actually are paying.

It will astound the Senator from Illinois, because while he looks upon the depletion allowance as an advantage that a manufacturing industry does not get, because it does not have the same problem, if we consider all the taxes the oil industry pays and take into account excise taxes, for example, those companies pay a high amount of taxes. It is doubtful whether one could justify increasing them. We shall reach that subject at the appropriate time, but I should like to say one additional thing——

Mr. GORE. Let me refer to my chart at that point.

Mr. LONG of Louisiana. Certainly.

Mr. GORE. No income from tax-exempt securities, no income that is tax exempt because of the depletion allowance and intangible drilling costs, is in-

volved in this chart. If Senators will refer to the table——

Mr. LONG of Louisiana. The Senator has all the capital gains included in his chart, I believe?

Mr. GORE. The Senator is correct.

Mr. LONG of Louisiana. And I would assume the chart of the Senator from Tennessee treats charitable contributions as though they had actually been a product of personal income realized in the first instance, which in my judgment they were. The taxpayer made the money, but we make the allowance. But one reason the effective rate comes down is that those people make large contributions to charities and, to be fair about it, they are legitimate and proper contributions. The Senator knows charitable contributions generally are limited. There is the 20-percent limitation, and the 30-percent limitation based on income; and in addition, there is the so-called limited charitable contribution which is available where the person has given 90 percent of his income in charity or taxes during 8 out of the past 10 years.

That latter provision was subject to severe question by the Senator from Tennessee, and certainly by the Senator from Illinois. If I remember correctly, I believe it became law as a result of a legitimate situation involving a Catholic nun who did not have a tax avoidance purpose as her intention, of course; but subsequently certain schemes have been developed which make the 100-percent charitable contribution deduction one of the finest tax-avoidance schemes in the entire Internal Revenue Code.

But, if one looks to the legislative intent that was involved at that point, he will see that it involved a legitimate intent at the time it was voted.

Mr. GORE. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. GORE. I wish to emphasize a phrase which the Senator used. He said, "if the tax and the so-called charitable contribution together total 90 percent of income." For example, suppose a person is in the 70-percent bracket.

Mr. LONG of Louisiana. If the Senator will make it 87 percent, then he will be talking about the kind of people who would employ that practice.

Mr. GORE. I should like to use the 70-percent figure. Then all that person would be required to do to achieve a preferred status would be to contribute some paintings on which he had obtained a very hansome evaluation, or some old building that he needs to get rid of anyway, and on which he has a high estimated value, for the remaining 20 percent. Under present law he can donate the painting and get a reduction for it, even though he keeps it on his own wall as long as he lives. Another provision in the Senate bill, that is an improvement, would change that. I wish to be fair about this bill. There are a few items in the bill that are good.

Mr. LONG of Louisiana. The Senator is not getting at one of the principal loopholes that the Committee on Finance and also the Committee on Ways and Means seek to close. Suppose a taxpayer were to go to a professional tax consultant. I mean a good one. I do not mean one of the "fly-by-nights" who hang shingles in various places. I mean a person who has three or four college degrees and who makes a good income showing taxpayers how to keep their tax liabilities low. Suppose that taxpayer made $1,500,000 last year and paid out most of it in taxes, and that he expected to do the same thing again. As the law has stood up until now, one of the first things the professional tax consultant would do would be to explore the possibilities of establishing for that taxpayer personal holding companies. He would then find ways to contribute money to those personal holding companies, and the income on this money would be retained in those holding companies and the taxpayer would pay a very small amount of tax. He could perhaps reduce the amount of tax he would pay by 90 percent through holding the money in the holding companies rather than receiving it directly himself. The Senator is familiar with that practice.

The Senator knows that we have proposed a very effective set of amendments to the bill to prevent that result from occurring. I believe one reason that we are doing a good job is that the Treasury expert who helped to draft the proposals is one who, as a private practitioner of law, used to advise people how to set up devices of that sort. So I believe the Senator will find that there is another way in which we have undertaken to strike out what we believe to be loopholes that should be closed.

Incidentally, I have received enough protests to know that we must be squeezing someone with our proposal. There are a great many people who feel that we are going far beyond what they believe our legitimate intent might be.

In connection with what we have been discussing, I point out that there appeared in yesterday's issue of the New York Times, a most unfair editorial entitled "Recklessness on Taxes." That editorial seemed to assume that the Congress—and it used the term "Congress"—had done certain things merely because some Senator proposed that they

be done. It seems to be most unfair in the first place for the editors of that great newspaper to seek to blame the House of Representatives for something that the Senate is merely thinking about doing. The Senate has not agreed to do it. If I understand what was stated in the editorial to which I have referred, that newspaper seems to assume that the Congress has done something merely because a minority of Senators on the committee seem to think that that result should obtain.

It seems most unfair to me that writers of editorials should say that we are creating vast additional loopholes when, as a practical matter, we have proposed to strike out the $250 million item which, if I were a millionaire, would be the first thing I would be looking for to arrange things so that whatever small percentage of taxes I had failed to avoid, I could proceed to avoid in the future to a considerable degree. It seems to me that that is unfair when one considers the very large extent to which we are actually closing tax loopholes with the bill.

The chart submitted by the Senator fails to illustrate something which I believe would make his point even better. He has a line which would seek to arrive at a so-called average or typical taxpayer. The fact is that that line is arrived at by averaging two taxpayers together. At the $1,500,000 level, Senators will find one taxpayer who is paying 87 percent of his income in taxes.

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There are very few. Then Senators will find another taxpayer who is paying from 1 to 5 percent of his income in taxes.

The Senator has arrived at that 17-percent point for a taxpayer whose income is $1,500,000 by averaging the income of those two taxpayers together—the one who is paying altogether too much in that prohibitive tax bracket, and the other who is paying not nearly enough.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. DOUGLAS. The Senator has made a very significant point. In fact, tables which I introduced some weeks ago indicate that in 1959, 20 Americans with incomes over $500,000 did not pay a single cent in taxes. I believe 15 of those had incomes over $1 million. They did not pay a single cent. Some of those men have not paid a single cent for 4 years in succession. We believe that there was one man who, from 1948 to 1960, received an income every year of over $1 million, and yet he never paid a cent in taxes.

Mr. LONG of Louisiana. The Senator has examined the tables. He did not analyze all of them. He analyzed the one which the Senator described on a television program. He thought that that one was misleading. That table involved a taxpayer who was alleged to have made $26 million and had paid no taxes in that year. The Senator corrected the RECORD after he put in that table, and I looked at it. I noted that it happened to involve an installment sale, in which only $10 million of the $26 million was collected, and therefore taxable in the year to which the Senator referred. So he was not talking about a $26 million sale, insofar as the installment sale was concerned. He was talking about a $10 million sale. Under the capital gains provision only one-half of that amount would have been taxable. The part that was taxable would have amounted to about $5 million. That individual had a loss carryforward of $3,900,000 from the previous year.

If I recall correctly, the man had spent an amount that considerably exceeded the $1,100,000, which was then taxable, in his attempt to find additional oil in that year. He was selling his oil properties. I assume that he was selling the entire field. But in doing so he was trying to find more oil and drilling more wells in trying to achieve that result.

I do not know whether the Senator has ever discussed the oil problem and intangible drilling costs with those in the business. The large independents tend to think in terms of trying to take what they get from their intangible drilling costs and what they are allowed by their percentage depletion for the entire operation, and putting that back into drilling more wells in the same year, on the theory that in the business one either grows or contracts, and if a drilling program were not continued, eventually one would be out of business.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. DOUGLAS. We shall come to the question of depletion allowances later. On that point the Senator from Louisiana and I shall differ. What I am trying to do at the moment is to reenforce the position of the Senator from Louisiana, who is trying to reduce some of the damage created by the House bill. The Senator from Tennessee has pointed out that the average is only about 16 percent.

Mr. GORE. A little less than 16 percent.

Mr. DOUGLAS. 15.9 percent. Not

only were there 20 men in the year 1959 with incomes of over $500,000 who paid no taxes, but 17 of those 20 had incomes of over $1 million. Five of them had incomes of over $5 million. Out of a total of 1,002 Americans who had incomes of over $500,000, there were only 8—less than 1 percent—who paid from 80 to 85 percent; only 54 from 70 percent to 80 percent, which would be 5 percent; and only 89 from 60 percent to 70 percent.

The point is that there are great loopholes, of which the capital gains loophole is, I think, the greatest; and the House bill made it worse. The Senate committee at least prevented it from becoming worse. I congratulate the Senator from Louisiana for defending the committee's position. I hope the Senate will support it, and that we shall be able to hold the line in conference, where we may be in real trouble.

Mr. LONG of Louisiana. The Senator from Illinois and I agree on the capital gains provision, and we agreed in committee.

For the benefit of Senators who might be interested in the capital gains provision and the way in which it may be used to avoid paying taxes. I placed in the RECORD the complicated procedure which can be used to pay little or no tax through using the capital gains provision with other provisions in the tax laws.

Suppose my credit were good enough for me to borrow $17 million at the bank. The interest on that amount, at 6 percent, would be $1 million. Suppose I bought stocks with that amount assuming I knew enough about what I was buying to protect myself. But let us assume that I realized $2 million on those stocks. The money need not have been made on those stocks. I could have had other property. On that realization of a $2 million capital gain, only half of it would be taxable, namely $1 million. Since I paid $1 million in interest on the amount I borrowed, that interest can be deducted against the $1 million which remains taxable. So, although I would have realized a net gain of $1 million I owe no income tax. That is legally within my right.

When we obtain from the Treasury Department the list of taxpayers who made large incomes but who paid no taxes, most likely it contains a list of those who realized capital gains but who had large interest payments to make.

Mr. GORE. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. GORE. The Senator from Louisiana is very fair, and he is being very fair in the presentation of this amendment and this issue. The example he has just given illustrates the accuracy of my reply to the Senator from Ohio a few moments earlier when I said there are many loopholes in the tax law, of which only those with very large financial resources can take advantage.

If the Senator will be good enough to allow me to take a moment to refer to another amendment, and I hope he will not think me immodest if I refer to it as my amendment, I shall be very grateful. I think it is a very important one. The amendment would eliminate the eligibility of a contribution to a private foundation for the so-called unlimited charitable contribution deduction.

The Senator from Louisiana supported that amendment in Committee. I hope this amendment can be held in conference. After it was fully discussed in committee, as I recall, the amendment was unanimously adopted.

May I ask the Senator from Florida [Mr. SMATHERS] if that is correct?

Mr. SMATHERS. That is my recollection. It was unanimously adopted.

Mr. GORE. The Senator from Louisiana is more familiar with foundations than is the Senator from Tennessee.

Mr. LONG of Louisiana. I would not say the Senator from Louisiana is——

Mr. GORE. At least, he knows that many foundations which have been eligible for the unlimited charitable contribution are not charitable at all, but many of them remain in the control of taxpayers and are used as financial resources for just such other operations as the Senator from Louisiana alluded to.

Mr. LONG of Louisiana. I would not like to specify any names, but I think there have been cases in which individuals have used charitable foundations——

Mr. GORE. So-called charitable.

Mr. LONG of Louisiana. In certain cases it seems to me that tax avoidance might have had more to do with the creation of the foundation than the desire to benefit charity. In most States such foundations are not strictly regulated.

Mr. GORE. Or there is no regulation.

Mr. LONG of Louisiana. In most States there is no limitation on how such funds can be used.

I believe I am correct in saying that some of the foundations are permitted to lend money back to relatives of the same persons who put the money into them. So taxes can be avoided by putting money into the foundations and lending it to relatives to buy, for example, a hotel in Miami, or an office building, or a shopping center. If the project

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succeeds, the children who may own the equity in it can pay the foundation interest; and if the project fails, of course, the foundation has lost the money. There are a number of ways in which foundations can be used almost as a second form of title ownership on behalf of the so-called trustees of the foundation.

Mr. GORE. It is also encouraging, I believe, to know that the Senate Finance Committee, after a discussion of the entire problem of foundations,

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agreed to undertake, and requested the Treasury immediately to begin, a thorough investigation of the operations of foundations and the tax avoidance schemes and devices employed in connection with foundations. I believe this is to the credit of the Finance Committee.

Mr. LONG of Louisiana. There are some restrictions in the code to the extent to which taxpayers may use the foundation for their own benefit, but my understanding is that they are not too strict.

In order to be fair, let me state that many of those who are affected by this provision—perhaps even a majority—set up foundations in complete good faith and undertake to operate in that manner. The only complaint I have heard from those who would be affected is that they should have 3 years to pay out the money that has been put into the foundations. They would like to have that much time to have those managing the foundations decide how the money should be used and where it should go, whether to colleges or charities, for example.

Mr. GORE. I join the Senator from Louisiana in the statement that many persons have set up foundations for such a purpose. Unquestionably some of them have the very best of motives. But some have not. Some have had tax avoidance as the motive.

Mr. LONG of Louisiana. When one really analyzes the question, insofar as Congress is concerned, Congress should stop the use of foundations for tax avoidance, when they are not used for benefiting education or charity. In other words, while we are trying to give favorable tax treatment to people who seek to contribute generously to education and charity, Congress certainly does not have the intention—and not having intended it, should not permit it to happen—of permitting some individuals to avoid the payment of millions of dollars in taxation through the device of offering assets to charity.

This illustrates why I think the overweaning need in tax legislation is tax reform.

There is a modicum of tax reform in the bill. The pending amendment on capital gains, which the committee has reported, is not tax reform. We are trying to hold the line against a worsening of an already very bad, inequitable situation. I will support the committee. I hope the conferees will never consider, even for a moment, bringing back to the Senate a reduction in the capital gains inclusion factor or a maximum rate.

This chart illustrates a danger to our tax system. The average citizen who takes his lunch pail to work and whose tax bite is taken out of his weekly check does not realize, and perhaps he never will, in the mass, that the very rich people in this country pay a very low tax rate.

This is wrong. It endangers our system of income taxation, which depends largely upon voluntary compliance. If the mass of our people should come to realize what this chart reveals, we might be in danger of a taxpaying strike. Consider the unfairness of the system. Consider how steeply the rates are graduated on the lower incomes. The chart shows almost a straight line, almost a perpendicular rise. Then, when we get above $15,000, it becomes a curve. Then when we pass $50,000, it begins to curve some more. The highest point of effective taxation is reached at an adjusted gross income of $100,000 a year. The rate is only 26 percent under the pending bill. Under present law, the highest effective rate is reached at an income of $100,000 a year, and that is an even 30-percent rate.

From there on, both under present law and under the pending bill, as the realized income goes up, the effective tax rate goes down. The people of the country do not realize this to be the case.

I believe the Senator should keep in mind that in the chart the Senator uses only 1 inch on the lower horizontal line for 98-plus percent of the taxpayers who pay less than $50,000. Then he proceeds to use about 4 feet on the chart for the other 2 percent of the taxpayers on his chart. If he had made a chart graduated from zero tax income up to $50,000, the rate would gradually increase. Then there would be a decline from the $100,000 point.

Mr. DOUGLAS. If I may interrupt, that would have required a chart 40 feet long.

Mr. LONG of Louisiana. The Senator could have used semilog paper. So there are ways to show such a situation. If a

taxpayer were making about $3,000, he would be paying in tax only a very small percentage of his income. Then we would gradually reach the point where a taxpayer would be paying 20 percent; and so on up. It would illustrate the point that in the area between $50,000 and $100,000, a hiatus seems to occur. People in that bracket actually pay at a higher rate than those who have a great deal more income. The reason is that when they find themselves paying at the tax rate applicable to those brackets they go to see a tax lawyer to see what they can do about their income tax rates—in line with what others are doing.

Mr. GORE. If the Senator will refer to the table on page 181 of the committee report, he will find that the rates increase sharply on the lower incomes. For instance, the rate jumps from 2½ percent on $4,000 of adjusted gross income to 9½ percent on $10,000 of income.

Then it goes from 9.5 to 13.6 percent at $20,000 of adjusted gross income per year. If we look over to the right, we find the incongruous situation that from the high point of 26.2 percent at $100,000 the rate is reduced to 22.9 percent at $200,000; to 19.2 percent at $500,000; and at $1 million of adjusted gross income the rate comes down to 15.9 percent.

So to put the chart in perspective, it had to be overcrowded on the low end of the scale. There is an almost perpendicular rise in the lower brackets.

Mr. LONG of Louisiana. The Senator from Tennessee and I both reach the same result, but perhaps by a slight difference of reasoning. Nevertheless, we both reach the same result. The footnote to the chart to which the Senator refers states that this figure exceeds the adjusted gross income largely because adjusted gross income includes only 40 percent of capital gains, under H.R. 8363.

Mr. GORE. That is correct.

Mr. LONG of Louisiana. That is how the House provided for this situation, but it is not what the Senate committee voted.

Mr. GORE. I agree. If we adopt the committee amendment, we come nearer to 30 percent instead of 26 percent, and we arrive at somewhere between 16 and 17 percent at the figure of $1,500,000 of realized income.

Mr. LONG of Louisiana. Yes. I regret very much that the Treasury study, which I placed in the RECORD earlier is not available to you to make this clear.

But this is the difference in the way the situation would stand. When a person making $2 million, who has a high proportion of capital gains, pays taxes, according to the Treasury study, his effective rate is 21.3 percent. That is his effective rate, if we consider capital gains as being a part of income.

That figure is somewhat at variance with what the Senator from Tennessee has shown, but it illustrates the same point. Keep in mind that this is a different study, using a different set of tax returns. It supports the Senator's conclusion but does not arrive at the same point, because the Treasury has used a different set of returns to make its study.

This is the average for taxpayers having incomes of $2 million with a lower percentage on capital gains. These taxpayers are paying 56 percent of their income in taxes. They are paying an effective rate twice as high as that paid by those who have a higher percentage of capital gains.

The House bill would make a 12.6-percent tax reduction available to those who are already paying far too little, and it would make a 19-percent reduction available to those who are paying far too much at present. But if we consider the overall effect of the $2 billion, when we include the provisions to tighten the loopholes, passed by the House, and to some degree strengthened in the Senate by the Committee on Finance, the bill would provide, with regard to the group of taxpayers who are paying far too little under the bill, that they would pay more taxes. Those having an income of $2 million under the Finance amendments would pay at an increased rate of 1.9 percent. This is the group with the high ratio of capital gains income. Those having an income of $700,000 would pay at an increased rate of 4.5 percent. This also is the group with a high ratio of capital gains.

On the other hand, those who have $2 million or more of income but a low ratio of capital gains would receive, under the Finance Committee version of the bill, a reduction of 18.2 percent, which is only slightly less than the House would have provided. At the same time, it would do justice and equity, when one recognizes that it affects the people who are really paying the high tax rates on most of this money.

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Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. DOUGLAS. The Senator has made an interesting statement. I wonder if he has an estimate of the amount of money that would be lost if the House version were to become law.

Mr. LONG of Louisiana. With the law in full operation, the loss would be $260 million a year. The House defense of this provision makes much of the fact that in the first taxable year, the gain to the Government would actually amount to about $100 million. That estimate is based on the assumption that people would be encouraged to sell many of their assets which at present they do not find it advantageous to sell.

Mr. DOUGLAS. But ultimately the loss of revenue would be $200 million a year, would it not?

Mr. LONG of Louisiana. $260 million.

Mr. DOUGLAS. That amount would relate almost entirely to those having incomes of $50,000 or $100,000 a year, would it not?

Mr. LONG of Louisiana. In large part, it would. The overwhelming bulk of it would perhaps affect 3 percent of all taxpayers.

Mr. DOUGLAS. Therefore, to this degree, the Senate amendment plugs one of the big loopholes in the House bill.

Mr. LONG of Louisiana. That is shown in table 12 of the Senate report. If the bill should become law, and if it should be subject to the charge that it is unduly partial to the wealthy, it would be because the House provision with respect to capital gains had prevailed.

Mr. GORE. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. GORE. The Senator has cited another table supplied by the Treasury, and which he has just read, showing that a taxpayer having a realized income of $2 million pays at the 20-percent tax rate. The table which the Treasury supplied in response to my request——

Mr. LONG of Louisiana. Keep in mind that those are individuals who have a high proportion of income as capital gains.

Mr. GORE. Yes; I understand. The high proportion of capital gains, as the Senator said earlier, is confined to less than one-tenth of 1 percent of the taxpayers.

The Senator may recall that the table from which this chart was made was presented in answer to the charge I had made that, under the bill, the average worker would receive an increase in take-home pay of only 4, 5, or 6 percent, while persons having large taxable incomes would receive more than 100-percent increase in take-home pay. In other words, the after-taxes income for the average worker in the United States would be increased by a small percentage amount. But for people having large taxable incomes, incomes of $200,000, $400,000, or $500,000, the bill would provide a very high percentage of increase in after-tax income. Secretary Dillon cited one instance of an actual taxpayer who would receive an increase in after-tax income of 84 percent. Mind you, this is 84 percent of a large amount. It is the reverse of tax reform which favors equity.

To answer my charge that this bill would give a very high percentage increase in take-home pay, or after-taxes income, to the persons in the high brackets, the Treasury prepared this table, which shows that the average or "typical" taxpayer with a large income does not get a big benefit, because he does not pay very much taxes anyway. This small chart, to which I now call attention, a sort of homemade one, prepared by my own staff, shows the percentage increase in take-home pay under the bill. It is based on taxable income. Notice how steeply the line on the graph rises. At a $500,000 taxable income, there is a 100-percent increase in after-taxes income, under the House bill.

I shall not mention any names; but if the pending bill is enacted, certain persons will have twice as much money left after they pay their taxes under the bill as they now have after paying taxes under the present law; and the present law is bad enough.

Mr. DOUGLAS. Mr. President, will the Senator from Tennessee yield?

Mr. GORE. I yield.

Mr. DOUGLAS. Should not we at least give the Finance Committee credit for the good things it has done in trying to prevent the present law from becoming worse?

Mr. GORE. I am willing to do that; and if the Senator from Illinois will examine the Senate committee's version of the bill, he will find that I placed in it about as many amendments as any other member of the committee did; and all five or six of those amendments are designed to curb the excesses contained in the House version.

Mr. DOUGLAS. That is correct.

Mr. GORE. Even so, despite the improvements we have made, it still is a very bad bill, making a very bad and very inequitable situation much worse.

Mr. LONG of Louisiana. Mr. President, I have been yielding to the Senator from Tennessee, and I do not mind having him debate in my time, because I do not care to insist upon a great amount of formality; but I wish the Senator would leave his chart here long enough to enable me to comment on it. Unless I miss my guess, he will find that his so-called homemade chart is based on the assumption that those whom he has demonstrated in the first instance

not to have a high percentage of tax actually have been paying the confiscatory rates. In other words, if we assume that they were paying 87 percent of their income in taxes, this measure would increase their take-home pay; but if we assume that they were paying at a rate of approximately 20 percent, this bill would not increase their take-home pay as much.

Mr. GORE. Mr. President, will the Senator from Louisiana yield further?

Mr. LONG of Louisiana. I yield.

Mr. GORE. I acknowledge the accuracy of the Senator's statement; and I have tried to state clearly that this homemade chart on take-home pay is based on taxable income. I confined it to that.

If a corporation executive has a $200,000 salary, that income is taxable at ordinary rates. If he receives his income from restricted stock options, it is not. That income does not show on this chart. This chart is based on taxable income which is taxed at ordinary rates. This is the kind of income the mass of our people have. The persons who "get it in the neck" on taxes are those whose income is composed of wages or salaries or fees subject to the ordinary income tax rates.

Mr. LONG of Louisiana. Then the Senator's chart presents an even more misleading picture because a working man who has a wife and three children, let us say, and is earning $3,500 a year has no taxable income; all of his income is tax exempt. On the other hand, if he is paying an income tax of only $20, based on only $100 of taxable income, if we reduce his tax liability to zero, we still have not greatly increased his take-home pay.

Mr. GORE. But I fear that the Senator from Louisiana misunderstands the term. Taxable income is arrived at after taking the exemptions and deductions to which a taxpayer is entitled. Therefore, a man who has a wife and two children, and receives annual wages of $5,000, would by no means have a taxable income of $5,000 a year. He might well have a taxable income of $2,000 a year. This table shows, as I have said, that after taking the personal exemptions and after making the normal deductions, the amount which is taxable is arrived at. But under the pending bill, the percentage increase in take-home pay rises very rapidly, and thus we have the incongruous result that the average citizen would receive a small percentage increase in his small take-home pay, whereas those with very large incomes would receive a very large percentage increase in their already very large take-home pay.

How a Democratic Congress would ever enact a measure of that sort is a mystery which I am unable to solve.

Mr. LONG of Louisiana. Mr. President, inasmuch as the Senator from Tennessee is now presenting his views, perhaps I should now yield the floor, so that from now on he will speak in his time, not in mine.

Mr. GORE. I apologize, Mr. President.

Mr. LONG of Louisiana. It is not necessary for the Senator to apologize; I am perfectly willing to yield to him. I question the propriety of my holding the floor, because the Senator from Tennessee has some very fine points to make, and I am perfectly willing to yield.

The first time I heard the argument that the tax cut on the take-home pay should be considered was prior to the time when I became a Member of Congress, prior to the 80th Congress. At that time, the AFL and CIO made much of the fact that the bill had, according to them, greatly increased the take-home pay of the wealthy, but that there had

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been only a small increase in the take-home pay of the poor. I am happy to say that the AFL–CIO, which made that argument, and made it effectively in the campaign that followed, is strongly in support of the pending bill. Those groups have a strong responsibility to their union members, and they are very much pleased with this bill.

A number of provisions greatly favor the persons in those income tax brackets. In terms of take-home pay—and I do not understand that any comments about tax reduction or tax rate reduction have practical meaning unless they are related to take-home pay—let us consider the situation of a single man who earns $900 a year. He is paying a tax of approximately $46 a year, give or take a dollar. Under the present bill, he will pay no tax; so he will have a 100-percent reduction in his tax, but his take-home pay will be increased by only about 5 percent. Of course we cannot cut his taxes more than 100 percent. One can argue, and I believe the Senator from Tennessee so argues, that we should do something else—perhaps put him on relief and give him welfare checks, or do something along those lines. However, when we increase his take-home pay by 5 percent, that is all we can do in terms of tax relief, because that will mean a 100-percent cut in his taxes.

In the case of a person making $1,000, he is paying a tax of approximately $62. The pending bill would give him a tax cut of 75 percent; and some contend—

and with good logic—that his tax ought to be cut to zero.

Such a reduction would cause a considerable revenue loss. If that reduction were made, in the future we could not make a further tax reduction for him, because then he would not be paying any income tax. However, if it were still argued that he should receive more of a tax cut than a 100-percent tax cut, what could we give him? The only way to help him would be to raise the minimum wage—for which I have voted on a number of occasions, and for which I will vote in the future—or to give him welfare checks.

But so far as increasing the take-home pay, we did all we could when we took him completely off the roll as an income-tax payer.

As I stated those who have the responsibility of looking after the interests of wage earners feel that this is a good bill. They feel that some matters in which they have a great deal of interest are a part of the bill. I know that the Senator from Tennessee will remain of the same opinion, that this should provide a bigger cut for the man at the bottom, but those who have a direct responsibility to that man at the bottom feel that it is a good bill for him.

Mr. GORE. The Senator from Louisiana has just demonstrated that tax reduction does not, in fact, do much for people of ordinary income and does not, in fact, do anything for the unemployed. Indeed, it seems to me he has demonstrated that the bill will play no part in the war on poverty. There is one way we can help the taxpayers who need help most, and that is by raising the personal exemption instead of enacting this kind of rate decrease contortion. We can thereby give the largest tax reduction to those who need it most, to the parents of the largest number of children.

I thank the able Senator from Louisiana. I shall not ask him to yield further. He has been most generous. I wish to close, however, by joining him 100 percent in the committee amendment to strike out the capital gains provision in the House bill. I was among those who insisted that this committee amendment be reserved for a separate vote, and rollcall vote, in order that the conferees may know that the Senate strongly resists the provision which would make more inequitable an already highly inequitable provision of present law.

Mr. MILLER. Mr. President, will the Senator from Louisiana yield?

The PRESIDING OFFICER (Mr. McIntyre in the chair). Does the Senator from Liousiana yield to the Senator from Iowa?

Mr. LONG of Louisiana. I yield.

Mr. MILLER. I thank the Senator from Louisiana. I invite the attention of the Senator from Tennessee to two or three comments just made which I believe should be clarified. One is with respect to the so-called homemade chart. I find it difficult to reconcile the chart which is explained on page 181 of the report under the separate comments of the Senator from Tennessee with the homemade chart.

It appears to me that in the chart which the Senator inserted in the report under his separate comments, the percentage increase in after-tax income of the typical taxpayer is rather uniform all the way down the scale, all the way from the low bracket to the high bracket. I cannot reconcile that chart with the homemade chart.

Mr. GORE. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. GORE. If the distinguished Senator from Iowa will turn to page 190 of the committee report, he will see the chart on after-tax income. Column 8 on page 190, which incidentally is explained on page 191, shows the percentage increase in after-tax income.

Mr. MILLER. On page 191, the chart refers to the percentage increase in after-tax income, and it ranges mostly from 1 to 5 percent. I should like to know, how the Senator puts the two tables together.

Mr. GORE. The chart which the Library of Congress prepared was prepared on the basis of effective tax rates on realized income.

Mr. MILLER. Is the Senator from Tennessee referring to the chart on page 181?

Mr. GORE. That is correct. The chart which my own staff made conforms to the table on page 190, which was prepared by Mr. Colin Stam and his staff of the Joint Committee on Internal Revenue Taxation. Column 8 of the table on page 190 shows the percentage of increase in take-home pay, running from a low of 4.7 percent on taxable income of $4,000 to 134-percent increase on a taxable income of $1 million.

Mr. LONG of Louisiana. Mr. President, I now ask for the yeas and nays on the committee amendment relating to capital gains, on page 233 of the bill, after line 10, striking out certain language.

The yeas and nays were ordered.

Mr. SMATHERS. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I hope that the cloakroom attachés will inform all

Senators that a yea-and-nay vote is expected in about 10 minutes on the committee amendment with respect to capital gains, so that Senators may be alerted and so that the time for a quorum call may perhaps be saved.

Mr. MILLER. I thank the Senator from Tennessee for the explanation, but I do believe that if one considers the chart which he inserted on page 181, it is a little more realistic approach. Of course, we can always make charts using almost any combination of figures, but I do believe that the chart which he himself inserted on page 181 of the Finance Committee report is more realistic.

Mr. GORE. I thank the Senator from Iowa.

Mr. MILLER. Although the Senator from Tennessee and I may not use the same reasoning, I believe that his point concerning the beneficial impact of the bill is well taken. The idea of raising the individual exemptions might work in the opposite direction from the direction in which he is thriving, because the Senator from Tennessee well knows that if a person in a high income bracket were to receive a higher personal exemption, the tax savings to him would be much greater than to the individual in the lower income bracket. So I believe that his proposal to increase the $600 exemption would actually work to increase the inequity to which he has been referring in this colloquy.

I should now like to add one further point, on which I may have more to say later. The Senator from Louisiana talks about certain wage groups being interested in and favoring the bill. I should like to suggest that those in the wage brackets of $4,000 and under, are probably cold to the tax bill; and that gets over into the war on poverty sector about which we are supposed to be deeply concerned.

Mr. LONG of Louisiana. If the Senator will permit me to speak for one moment, I know that what he is looking at might convey that impression. I should like to direct his attention to something else in the bill.

Mr. MILLER. I am looking at the table on page 181 of the report which shows the $3,000 adjusted gross income for a married couple with two dependents as now taxed, and after the bill. Also in the $4,000 bracket, the tax now is $143 and the tax after the bill would be only $40 less, almost an insignificant amount.

Mr. LONG of Louisiana. A 30-percent reduction, however.

Mr. MILLER. Percentages mean little when one is in that kind of bracket. The point that can be made is that a

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married couple with two children would receive a $40 tax cut on a $4,000 income, yet the Senator knows that the way the value of the dollar is going down—and will continue to go down as long as we continue to have billion-dollar deficits—they will probably have twice that much inflation tax to pay.

The poor devils in the $3,000 tax bracket would have no tax benefit at all, but they would be stuck with inflation. That is the poverty sector about which we are supposed to be worried.

The argument of the Senator from Tennesese as to the tax bill's having a bad impact on the poverty sector is very well taken, but I do not share with him his approach in trying to cure it. I cannot understand how any group of wage earners in the $4,000-and-under bracket could possibly be favoring the bill.

Mr. LONG of Louisiana. We have heard reference to the fact that a taxpayer who is presently paying $140 in taxes would save only $40 of his taxes. I should like to point out that if we provided a 100-percent tax saving for him, he would be saved only $140. That is all we are talking about.

If we should explore into the question of who would receive the benefit of the bill, we would find that about 50 percent of the Government's income is derived from approximately 17 percent of the taxpayers. The taxpayers who are paying 50 percent of the cost of the Government would receive about 40 percent of the contemplated tax relief. Those who pay the other 50 percent, receive the other 60 percent of the proposed tax relief.

Dollarwise they would receive the bulk of the tax relief.

The bill is worked out on a percentage basis. The wealthier the taxpayer, the smaller the percentage of tax cut he would receive. The poorer the taxpayer, the higher percentage of tax cut he would receive. I must confess that we would not find it within our power to save the person who is not paying a tax anything in taxes. If some Senator would wish to introduce a minimum wage bill, I would vote for such a bill. If a Senator would introduce a bill to provide welfare for such a person, and if he could make a good case for the bill, I would vote to give that man a welfare check. But it is beyond our power to give that man a tax cut if he is not paying any taxes.

Mr. MILLER. For that reason a large group of people—apparently 20 percent of the families in the poverty sectors—would receive absolutely no benefit from the tax bill, and yet they are the ones

who would bear a good chunk of the inflation tax that would ride along with the $5 to $7 billion deficit that we are anticipating.

Testimony was received by the Joint Economic Committee that in the next year we can expect $5 to $7 billion in inflation. That amounts, roughly, to a 2- to 4-percent hidden sales tax on the backs of the people throughout the country.

Those are the people who would get it in the neck without any tax benefit whatsoever under the bill, or with very little benefit.

Mr. LONG of Louisiana. Mr. President, those of us who support the bill, and certainly those of us who took the position of the two Presidents who recommended it, do not believe that the bill would have an inflationary effect. Therefore we do not believe that the result to which the Senator has referred will come about.

If an individual is paying taxes, many provisions in the bill would help him. Many people would pay no taxes. Suppose a person is earning $900 a year and we cut his taxes $46. That is all he has been paying on his income of $900. Would that not mean much to the man who is making the $900? If he is getting by on $80 a month and we give him a $46 tax cut, he would be tickled pink with it.

I should like to do more for him. But the bill is not the whole war on poverty. It is but one aspect of it. What we hope to do for that taxpayer more than anything else is to get him out of the $900 a year income bracket and get him into the $3,000 a year income bracket by creating more jobs. That is how we hope to make the war on poverty effective for him.

Mr. MORTON. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield to the Senator from Kentucky.

Mr. MORTON. Would it be in order to suggest a unanimous-consent request that the Senate vote on the committee amendment relating to the capital gains section of the bill at 1 o'clock?

Mr. LONG of Louisiana. Mr. President, if no other Senators desire to discuss the amendment, I am ready to vote now.

Mr. MORTON. I should like to make a brief statement.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the vote on the committee amendment commence at 12:45 p.m. If Senators desire, there can be a quorum call between now and 12:45.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MORTON. Mr. President, without going into the merits or demerits of the overall bill, which the debate has been encompassing in the past half hour or so, I should like to address myself briefly to the particular amendment that is before the Senate. My statement is in the nature of opposing the committee amendment which would strike the so-called capital gains section from the House bill. The amendment came before the committee. At that time a debate developed in the committee as to certain features of the capital gains tax which deal particularly with purebred livestock and certain other agricultural provisions in the bill. I happen to favor the present law in connection with the application of capital gains to our agricultural economy, in the case of purebred livestock and otherwise. I was afraid that amendments might be offered and adopted which would impair the present law as it applies to purebred livestock. I therefore voted in the committee to strike the section, knowing that those who wanted to amend it then would have nothing to amend. Now that the bill has reached the floor of the Senate, I am sure there is sufficient representation from States that are affected by the present provisions as they pertain to the agricultural economy to sustain the present law. I did not mean to imply by my vote that I thought there was anything wrong with the House language insofar as the new rates would apply to capital gains in connection with stocks, real estate, and so forth.

The Treasury itself has said that it will get more money—at least for the first couple of years—under the House language than under the Senate language. I am inclined to think that that situation would prevail for many years. I believe that one thing that we are up against now is that too many funds are locked in. If we were to unlock those funds by enabling people to sell a piece of real estate and develop another one and to sell out one company and build up another one, we would provide more employment and do more to stimulate the economy than would be the case under existing law. Adoption of the committee amendment would continue existing law.

For that reason I expect to vote "nay" on the committee amendment. This would have the effect of maintaining and supporting the House language in regard to capital gains.

As I understand the philosophy behind this measure, it is to stimulate the economy; and we need investment in order to stimulate the economy. I believe the purpose of the bill would be better served by adopting the House language in this regard.

I am not optimistic about the number of jobs that the tax bill, when enacted into law, will create. I am not too optimistic about how much it, in itself, will stimulate an economy that is already operating at a high rate. But some of these tax rates are not justified, and I think a tax cut proposal has had, and will continue to have, a disciplinary effect on spending.

Already we have seen some evidence of it. Congress cut, by $6 billion-plus, the request for the obligational authority in the current fiscal year. I believe one reason Congress did it was that the tax cut bill was so much in the forefront, and because we have been hearing from our constituents, "Let us have a tax cut, but let us exercise some discipline in spending."

The budget recently submitted for the coming fiscal year may have been affected and influenced by the knowledge that the tax bill was before the Senate for consideration.

Finally, and specifically about this section, the Treasury will certainly get more money in the next 2 or 3 years if the House language is retained, and I am not so sure it will not get more money for all time, for there will be a release of money that has been "locked in." Today, for a man to sell property in which he has a profit and get another piece of property, he has to be 25 percent smarter than the market. It is, of course, a great restraint on development of capital and assets which lead to job opportunities.

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So I trust the Senate will support the House language in this respect.

Mr. JAVITS. Mr. President, after the vote is taken, I hope to address myself to the general policies of the bill and what it will and will not do economically—a matter to which I have given great consideration. I should like to take a moment on this amendment.

I shall vote "yea" on the committee amendment, because we are at the crossroads with respect to the tax bill. I agree with much of what my friend the Senator from Kentucky has said. As we look at the area of experience, reducing the capital gains rate might conceivably result in loosening up a great many sales which have not been made, and stimulate the loosening of profits which are now unrealized, and perhaps there would be a greater tax net. It is significant that in the United Kingdom there is no capital gains tax.

For those reasons, I think we are at the crossroads on the bill, when we are to take one road or the other. Either we are going to provide for revenue loss and speculate that people will pay back far more than what it costs us in revenue, in the development of the economy; or we must use the bill as the tool with which to change the tax law in ways which are socially and economically more desirable.

I am sure we shall not change the rate structure and that the tax loss of roughly $11½ billion will stand. I find it very difficult to vote for further erosions of revenue. There may be items hidden here and there which represent serious problems of a rather individual nature which ought to receive consideration in connection with a tax bill. I shall make such a proposal in trying to do away with the 10 percent tax on theater tickets, for reasons different than the question of revenue, which amounts to only $5 million.

There is some desire to take off the tax on handbags, which is the only item of women's apparel on which an excise tax is imposed. It is a tax on an item of necessity. I shall vote affirmatively on some of these matters. But when we reach the question of big reductions in revenues, we must take our choice between the plan as it has been laid out, and whittling away further, in a major way, very large amounts of revenues which under this bill will be invested in terms of economic recovery.

Therefore, while I feel it desirable to reform the capital gains provision, if we did it now we would be running a risk that was unjustified unless at the same time we felt free to revise the rate reductions which are made for individuals and corporations in the bill. I do not want to do that. I want to support the bill as an economically constructive move forward.

It is for that reason that I shall vote for the amendment, rather than for the reason that I am satisfied with the capital gains provision. I am dissatisfied with it. I think it is exactly the kind of thing that should be reformed. But then we would start further major erosions of revenues, rather than provide relief; and there is not room for scaling down further the revenues as provided by the bill.

Mr. SMATHERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The hour of 12:45 p.m. having arrived, the question is on agreeing to the committee amendment on page 233, after line 10. On this question, the yeas and nays have been ordered.

Mr. MORTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MORTON. As I understand, a "nay" vote is a vote to retain the House language; a "yea" vote is to retain the present law. Is that correct?

The PRESIDING OFFICER. A "nay" vote is a vote to retain the House language; a "yea" vote will strike the House language.

Mr. SMATHERS. And adopt the Finance Committee view?

The PRESIDING OFFICER. And adopt the Finance Committee's amendment.

The yeas and nays having been ordered, the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from North Dakota [Mr. BURDICK], the Senator from West Virginia [Mr. BYRD], the Senator from Nevada [Mr. CANNON], the Senator from Pennsylvania [Mr. CLARK], the Senator from Connecticut [Mr. DODD], the Senator from Arizona [Mr. HAYDEN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Wyoming [Mr. McGEE], the Senator from Michigan [Mr. McNAMARA], the Senator from Maine [Mr. MUSKIE], the Senator from Oregon [Mrs. NEUBERGER], the Senator from Rhode Island [Mr. PASTORE], the Senator from Texas [Mr. YARBOROUGH], and the Senator from Ohio [Mr. YOUNG] are absent on official business.

I further announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that, if present and voting, the Senator from Alaska [Mr. BARTLETT], the Senator from North Dakota [Mr. BURDICK], the Senator from West Virginia [Mr. BYRD], the Senator from Nevada [Mr. CANNON], the Senator from Pennsylvania [Mr. CLARK], the Senator from Connecticut [Mr. DODD], the Senator from California [Mr. ENGLE], the Senator from Arizona [Mr. HAYDEN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Wyoming [Mr. McGEE], the Senator from Michigan [Mr. McNAMARA], the Senator from Oregon [Mrs. NEUBERGER], and the Sentor from Rhode Island [Mr. PASTORE] would each vote "yea."

Mr. KUCHEL. I announce that the Senator from New Hampshire [Mr. COTTON], the Senator from Illinois [Mr. DIRKSEN] and the Senator from Arizona [Mr. GOLDWATER] are necessarily absent.

If present and voting, the Senator from Illinois [Mr. DIRKSEN] and the Senator from Arizona [Mr. GOLDWATER] would each vote "nay."

The result was announced—yeas 56, nays 25, as follows:

[No. 12 Leg.]

YEAS—56

Aiken	Hill	Monroney
Anderson	Holland	Morse
Bayh	Humphrey	Moss
Beall	Inouye	Nelson
Bible	Javits	Prouty
Brewster	Johnston	Proxmire
Case	Jordan, N.C.	Randolph
Church	Keating	Ribicoff
Cooper	Kuchel	Russell
Douglas	Lausche	Smathers
Edmondson	Long, Mo.	Smith
Ellender	Long, La.	Sparkman
Ervin	Mansfield	Stennis
Fong	McCarthy	Symington
Fulbright	McClellan	Talmadge
Gore	McGovern	Thurmond
Gruening	McIntyre	Walters
Hart	Metcalf	Williams, N.J.
Hartke	Miller	

NAYS—25

Allott	Hruska	Robertson
Bennett	Jackson	Saltonstall
Boggs	Jordan, Idaho	Scott
Byrd, Va.	Magnuson	Simpson
Carlson	Mechem	Tower
Curtis	Morton	Williams, Del.
Dominick	Mundt	Young, N. Dak.
Eastland	Pearson	
Hickenlooper	Pell	

NOT VOTING—19

Bartlett	Dodd	Muskie
Burdick	Engle	Neuberger
Byrd, W. Va.	Goldwater	Pastore
Cannon	Hayden	Yarborough
Clark	Kennedy	Young, Ohio
Cotton	McGee	
Dirksen	McNamara	

So the committee amendment, to strike out the language beginning on page 233, after line 10, down to and including line 24 on page 271, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. GORE. Mr. President, I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment of the Senator from Tennessee will be stated.

The LEGISLATIVE CLERK. On page 40, in line 19. after the words "cost of," it is

proposed to strike out "$70,000" and to insert in lieu thereof "$30,000."

Mr. GORE. Mr. President, on the question of agreeing to this amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GORE. Mr. President, if Senators will give me their attention, I promise not to use more than 10 minutes on this amendment.

A new form of compensation is recognized by a provision now in the bill. It is compensation for corporate employees, in the form of tax-free group term life insurance. Under present law, there is no limit to the size of a policy of which a corporate employee or official may be the beneficiary, and the premium is not included in the employee's taxable compensation. But the cost is deductible for the corporation.

I repeat that under present law there is no limit. The Treasury recommended that a limit be placed at $5,000. The

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House version of the bill provided for a limit of six times that amount, or $30,000. The Senate Finance Committee voted to increase the $30,000 figure to $70,000. My amendment would strike out the $70,000, and would return it to the House figure. I think the Treasury's recommendation of $5,000 is preferable; but as between $30,000 and $70,000, it seems to me the $30,000 limit is preferable.

The Secretary of the Treasury testified on this subject, and if other Senators would like to refer to his testimony in this regard, they will find it in part I of the hearings, on pages 306 and 307. What is the situation now? First, I repeat that there is now no limit whatever; but the Secretary of the Treasury told us of instances in which corporate officials were the beneficiaries of insurance policies running as high as $900,000, payable to their estates. They pay no income taxes on the compensation represented by the premium paid for them, but the premiums are deductible by the corporation.

Secretary Dillon told us of one company which paid premiums on a policy for four company executives, with coverage running from $300,000 to $400,000 for each. Mr. President, so long as we tax the wages of every man who has a meager income and take that tax out of his paycheck, I do not know how in good conscience we can permit tax-free insurance of $70,000 to be made available to corporation executives.

I wish to read a part of a letter into the RECORD; and I shall ask unanimous consent that the entire letter be printed in the RECORD. I have just received the letter from Mr. Carlyle M. Dunaway, general counsel of the National Association of Life Underwriters. He endorses the position I take, and says a failure to take such action would be unfair to other forms of insurance.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE NATIONAL ASSOCIATION OF LIFE UNDERWRITERS,
Washington, D.C., January 31, 1964.

Hon. ALBERT GORE,
Senate Office Building,
Washington, D.C.

Re: Section 203, H.R. 8363.

DEAR SENATOR GORE: At the direction of my association's board of trustees, I am writing this letter to you relative to the actions taken by the Senate Finance Committee, and by you in particular, on section 203 of tax bill H.R. 8363. This is the section that would require employees to include in gross income the cost of a portion of any group term life insurance coverage paid for by their employers.

When the Senate Finance Committee initially voted to delete section 203 from the tax bill, we were both amazed and disappointed. We therefore were extremely gratified when the committee subsequently reversed its earlier action by adopting your motion to restore section 203 in the bill. You may be interested to know that at its meeting here last week, our board of trustees unanimously voted that you be commended for this sound and forthright action on your part.

We note that on page 46 of its report accompanying H.R. 8363, the Senate Finance Committee expresses agreement with the House Ways and Means Committee that the present "tax-free status for employer-financed group term life insurance is inconsistent with the tax treatment of other types of life insurance protection furnished employees by their employers." To illustrate the existence of the inconsistency referred to, I can cite the situation that prevails in the case of the employees of my own association.

For example, we have a pension plan for our headquarters employees which is funded in part by individual ordinary life insurance contracts purchased and owned by the trustee of the plan on the lives of the participating employees. The plan is financed entirely by the association, as the employer. Under long-standing law, every participating employee is required to include in gross income each year that portion of the insurance premium that is attributable to the term cost of the pure insurance protection provided by the contract or contracts on his life—i.e., the difference between the face amount of the contract or contracts and the accumulated cash value thereof.

Our pension plan also requires that employees must, among other things, be in the association's employ for 5 years before becoming eligible to participate in the plan. Pending the completion of this 5-year waiting period by certain employees, the plan trustee purchases and owns on the life of each such employee an individual 5-year

convertible term insurance contract in a face amount equal to the face amount of the ordinary life insurance contract which would be required if the employee were then eligible to be a participant in the pension plan. Every covered employee must, in turn, include the entire premium for this term insurance in his gross income each year.

In summary, the above examples (which are quite commonplace) clearly demonstrate that the tax-free status of employer-financed group term life insurance is indeed completely inconsistent with the tax treatment of other types of life insurance protection furnished by employers to their employees. The examples also demonstrate that, as concluded by both the House Ways and Means Committee and the Senate Finance Committee, continuation of the complete exclusion of the cost of employer-financed group term life insurance from the income of covered employees is inequitable.

In connection with this last point, you will recall that the Treasury Department originally recommended to the Ways and Means Committee last year that the cost of all employer-financed group term life insurance in excess of $5,000 be includible by a covered employee in gross income. During the hearings held by the Ways and Means Committee on the tax bill, my association objected to the proposed $5,000 limit as being unreasonably low and recommended that it be increased to $40,000. We recommended the $40,000 figure largely because this figure has long been recognized in a number of State laws as being an acceptable maximum limit for employee group term life insurance, at least from the standpoint of sound underwriting.

As you know, the Ways and Means Committee ultimately wrote a $30,000 limit into section 203, and this was approved by the House of Representatives. Then, in acting on your motion to restore section 203 in the tax bill, the Senate Finance Committee first increased the dollar limit to $50,000 and, finally, to $70,000. In our opinion, even a $50,000 limit would seem to be unduly liberal, and a $70,000 limit very definitely excessive. We trust that when H.R. 8363 goes to conference, the limit will be fixed at the $40,000 figure that we originally recommended.

Apropos of the foregoing, insurance industry statistics set forth in the table below clearly indicate that enactment of section 203 would result in the discontinuance of the complete tax-free status of group term life insurance for only a relatively insignificant number of the estimated 38 million or so employees who have such insurance, even if (1) the limit were set at $30,000 and (2) it could be assumed that all plans providing coverage in excess of this amount are entirely employer-financed.

Amount of insurance	Percentage of employees insured for more than this amount	Number of employees insured for more than this amount
$30,000	0.9	300,000
$40,000	.3	110,000
$50,000	.15	55,000
$60,000	.08	30,000
$70,000	.06	20,000

Sincerely yours,

CARLYLE M. DUNAWAY,
General Counsel.

Mr. GORE. Mr. President, I repeat my previous statement: By means of this bill, we shall be recognizing a new form of compensation of both employees, and officers of corporations.

My amendment would permit either all employees or one employee of a corporation to receive, tax free, a group term insurance policy in an amount up to $30,000. The House of Representatives thought that was sufficient. I believe it is more than sufficient. It seems to me that $5,000—as the Treasury recommended—would be better; but $70,000 seems to me to be unconscionable.

So, Mr. President, without further debate—for this is a very simple issue—I yield the floor.

Mr. BENNETT. Mr. President, as one of the members of the committee who voted for the $70,000 limit, rather than the $30,000, I wish to comment on this particular feature of the bill.

In the beginning, the Treasury recommended a limit of $5,000, to be calculated in every case on the wages of the employee to whom it was to be applied. But the Treasury officials have admitted that the cost of calculating how much each employee would be allowed at the $5,000 limit would be so great that the $5,000 limit would be completely unrealistic; and I believe that by now they have changed their support for their original position.

It is true that under present law, group term life insurance, with no limit, can be provided by the employer. The committee decided that that should be changed—although at one point in its deliberations, the committee voted to reject the language which had been voted of the House of Representatives, and to permit the present law to continue to apply.

So now we are dealing with a "numbers game." The House of Representatives has voted for a $30,000 limit. The Senate Finance Committee has voted for a $70,000 limit. If the language voted by the Senate committee is voted by the Senate, this issue will be decided in conference.

Suppose an employee dies, leaving his widow only the group term life insurance policy that the company has provided.

If the widow were 65 and if she bought an annuity worth $30,000, the maximum amount she would receive from the

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policy would be less than $150 a month. The $70,000 limit would provide her with approximately $300 a month, if that were the basis of her income. I believe that if we leave the $70,000 figure in the bill, we can go to conference and probably come out with around $50,000, which would provide approximately $300 a month to a widow, if that were her only source of income. Since the present abuse, which rests entirely on the limit, has been corrected by both committees, I hope the Senate will approve the decision of the Senate Finance Committee and leave it something to debate on with the House in conference, with the general feeling that we hope to come out with somewhere between $40,000 and $50,000. If we acept the House language, there will be no oportunity to review the question in conference.

Mr. RIBICOFF. Mr. President, will the Senator from Utah yield?

Mr. BENNETT. I yield.

Mr. RIBICOFF. Is it not true that the various States have different limits of how much we can write the insurance for? In other words, States have different figures, and this has become a confusing situation.

Mr. BENNETT. It is true in some States. As I remember, 22 or 23 States have a limit of $30,000. Perhaps that is why the House used that figure. But the rest of the States have a limit higher than that, or no limit at all.

Mr. RIBICOFF. Is it not further true that what we have is not the question of whether an individual has a $70,000 income, but whether his employer has provided group term life insurance that covers him up to that limit?

Mr. BENNETT. We have an opportunity for an employer to buy group term life insurance for an employee that—at the death of the employee, provided he dies while still covered—will pay $70,000 to his widow. That is not a $70,000 income. That is a flat sum. When translated into income, as I suggested a minute ago, it probably will mean a $300 or $400 a month income for the widow.

Mr. RIBICOFF. Is it not further true that as we analyze many of these plans, many employers have pointed out that the administrative difficulties would be so great that they would be discouraged from undertaking these broad-based plans? I believe we wish to encourage employers to take out group term life insurance on their employees, because many employees are in the lower and middle income brackets, and when they die the only asset their families have would be the group insurance.

Mr. BENNETT. The Senator is correct, that many millions of employees in the United States have no private life insurance coverage, or insufficient life insurance coverage, or insufficient coverage, and if the employer is willing to make this arrangement for his employees I believe we have set a fair limit at $70,000.

Mr. LONG of Louisiana. The main concern of the Treasury Department on this question is not the revenue aspect of it; instead the Treasury does not wish, as I understand, to allow group-term life insurance to become a major tax avoidance device. That being the case, the Treasury Department wished to place a limit on how much insurance could be taken out for the benefit of corporate executives of the company on other group life insurance plans in which individuals contributed to them, but paid the average rate.

The $70,000 figure is an appropriate figure to establish some limit on this operation. The original Senate committee judgment was to strike the matter and let it go to conference and see what agreement we could reach with the House, which apparently felt more strongly about it than the Senate. But the compromise was to adopt the figure of $70,000 to assure the limit of an amount of group life insurance on executives who could benefit from it, and leave it between the Senate and House in conference to arrive at what they might feel to be a fair figure, which would presumably be somewhere between $70,000 and $30,000 after studying the further economic aspects.

Mr. BENNETT. I should like to make one additional point. If we had struck this provision from the bill, we would have lost the opportunity to make technical changes in the House language which the Treasury Department had agreed were necessary. Otherwise, the Treasury could not have operated under the terms of the bill.

Mr. ANDERSON. Mr. President, will the Senator from Utah yield?

Mr. BENNETT. I yield.

Mr. ANDERSON. I should like to supplement what the Senator from Utah has just said. Certain technical changes should be made. The Senate committee did not strike this item from the bill. Had it struck the item from the bill, it would not have gone to conference and we would not be able to meet on it at all. We need this language in conference. That is why this language should not be stricken out.

A great many States have already dealt with this problem. For example, the States of Arizona, Arkansas, Illinois,

Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Montana, Nebraska, Nevada, New Jersey, Ohio, Oklahoma, Pennsylvania, South Carolina, Texas, Vermont, Washington, West Virginia, and Wisconsin already have dealt with this problem, and have the situation under control. There are many areas where it was not under control, and the Treasury Department has suggested that it should be placed under some control. The House has put a control on it, as the Senator from Utah has said, and the Senate committee had decided, as the Senator from Louisiana has just said, to put a control on it also.

It so happens that I voted against the $70,000 figure. I thought $60,000 was enough. But I pointed out that if this provision goes to conference we might do some trading. I am not disturbed by the $70,000 figure. We should keep the figure in the bill. We should make sure a reasonable conclusion comes from it.

States like Colorado, Connecticut, Florida, Iowa, Kentucky, New Hampshire, North Carolina, and Tennessee have a somewhat higher figure than the first group of States which I read. The problem the Finance Commitee faces is, What is a reasonable figure? We must base that decision on discussion with the House. I believe that question will arise. It does not concern many States. It does not concern the State I represent, or North Dakota, Hawaii, and States of that nature because they have no limit on it. Theoretically, anyone could have a million-dollar policy in my State, but there is no demand for it. We do not have the type of executive that could command that figure. The average policy is based on $10,000 or $15,000, but there are $20,000 plans, and they go as high as $25,000. This amount is reduced after the age of 65. In my own case, because of the business I was in, I had a $25,000 coverage until I became 65. Now it is under $10,000, and if I should live for a few more years it would disappear entirely.

These are my reactions to the figures. They should remain in. This was based on a wise decision. We should not strike the entire section, but it should go to conference with a reasonable figure, and I hope that will be the result.

Mr. JAVITS. Mr. President, as we debate the bill, certain fundamental principles are emerging. The amendment of the Senator from Tennessee further illustrates the fact that if we wish to cut reductions based upon a rate cut, we run into a situation in which we cannot have it both ways.

This illustrates another principle which is important, and that is the principle of management. It is easy to assume that we need not worry about anyone earning substantial sums of money because they are looking after themselves very well, but in the entire industrial complex the country depends as much upon management as it does upon labor.

I yield to no other Senator in my work over the years in fighting for and protecting the interests of labor, even when my position was unpopular with some rather rich constituents of mine.

Management is equally important. I have in mind that during the campaign of 1962 I visited a great many industrial plants. I went to one plant outside Schenectady, which had been largely unionized by the United Steel Workers Union, which was supporting me in the campaign in New York. This was a large metal-working plant employing some 1,500 workers.

I went around with the president of the company. It was extraordinary to me to see the way in which the workers spoke to him. They treated him not with deference or any such attitude as patronizing, but with the feeling that he was the most valuable asset in the plant walking around. They did not wish him to get hurt, get scratched, catch a cold, or anything else.

I asked the union delegates about that. I said, "What is this all about?"

They replied, "This plant has been a losing plant. It was laying off workers every week. Everyone in Schenectady thought that it would shut down until this fellow came along. He has a real formula for selling the stuff and making the right things. This plant is going great guns. We are working overtime. We think it is great. The one thing in

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the world we want to see is that management stay in authority and not do anything to jeopardize it."

That situation is as true in a Communist society as in a capitalist society. The Communists reward their management in a sense far more than we do, because they understand the quotient which is critically important in management in any enterprise.

We plan to cut the top-bracket tax rate from 91 to 70 percent. That is still a pretty large bite. I do not think we could do any better. I do not think we should do any better under present circumstances. But let us understand that it is still a very large proportion of income. Therefore, we should not rule out the need for other inducements which represent incentives to management in order to make it feel that it really has a big stake in the success of an enterprise.

That goes for stock options of a reasonable character. It goes for group life insurance of a reasonable character. I cannot say whether $40,000, $50,000, $60,000, or $70,000 is the correct figure but the principle is right, and so I shall stay with the committee recommendation.

One final point about the principle which underlies from the present amendment and will underlie other amendments which will be directed to the bill, is exactly what we will or will not accomplish if we pass the tax-cut bill. The most difficult problem in respect to the bill—and I support the bill—is to understand clearly what it will and what it will not do.

If we fail to define this precisely, there is grave danger that we will be under delusions, or will be complacent and will fail to take other measures which can really deal with the dangerous problems that are not susceptible of solution by the tax cut. The danger is of an economic downturn notwithstanding a tax cut, if we do not take these other measures in time. This tax cut will not guarantee us against a recession or even a depression.

The tax cut will stimulate our economy and give us a good chance to stretch out the expansion of our economy beyond the present 35 months—which already is the longest continuous period of expansion in the last hundred years excluding expansions in times of war. It will also have benefits for U.S. sellers in competition with other sellers on the world market and for bringing about a greater modernization of the U.S. production machine, which, in some areas, is getting dangerously obsolescent.

The tax cut will not deal effectively with endemic unemployment that has kept our percentage of unemployed around the 6 percent mark, notwithstanding the extended recovery from the 1961 recession. This type of unemployment promises to continue. This unemployment rate alone can cause a sharp economic downturn, even with the tax cut, if it continues to frustrate us for too long.

Nor will the tax cut win the "war on poverty" declared by the Johnson administration. Indeed, since this war of poverty lumps together the unemployed and the endemic poor, and is a way of politically begging the question of the inability of the Kennedy and now the Johnson administration to make a material dent in endemic unemployment, it could confuse the issue further and could itself be the basis for a marked economic downturn. It is, therefore, essential that we keep our lines of governmental action clear as to the objectives of the tax cut, and that we take in time the really meaningful additional measures to deal with endemic unemployment and poverty.

The causes of poverty are many and complex. Merely labeling existing education, training, and health programs put into effect by President Kennedy and his predecessors, as a "war on poverty," and adding the $250 million newly budgeted for fiscal year 1965 by the Johnson administration, cannot make a real dent in the twin problems of reducing the substandard living conditions of 30 million Americans with incomes less than $3,000.

I am all for raising the living standards for our people, a process which has been going on in this country for decades with considerable success. And I am all for a concentrated attack on continuing poverty by our affluent society. But we must not let both the unemployed and the poor suffer because we try to "sweep the unemployed under the welfare rug" or pretend that it is Government alone which can eradicate poverty. The fact is that as the American economy expanded over the years, the percentage of Americans in the low-income brackets has declined steadily, until in 1962, only 20 percent of American families had less than $3,000 of income per year. Fifteen years before that, for example, 32 percent of American families were in this category.

Much of this success should be attributed to the steadily advancing private economy and our mass production and distribution system. I fully recognize that government has a major responsibility to stimulate the economy to its maximum potential and that it has a great role in welfare and training. But it is the private sector which can attack the causes of unemployment and poverty in America with the most lasting effect.

It is also undeniable that there is need for Federal expenditures to build roads and hospitals, to aid education, and to modernize our Defense Establishment. But, it would be folly to maintain that government alone must or can carry the burden to attack the root causes of poverty. The most effective and realistic approach would be in the form of cooperative undertakings between private enterprise and government.

This concept could be applied in the field of medical care for our elder citizens, as a joint enterprise of government and private insurance companies, according to a bill which a number of Senators and I have recently introduced, and the same principle can obtain in other areas.

In the area of labor-management relations there is much room for cooperation between labor, management and government to resolve differences over wages, the impact of rapid technological change, and other problems which involve the public interest. The Manpower Development and Training Act of 1962 contains section 205(b), an amendment which I proposed, calling for the establishment of such tripartite groups on a local, regional and industry basis. Forty-seven State and 740 local groups have been formed across the country under this provision of the act. This movement needs to be pressed, since there were 5,000 such committees in the United States during World War II.

There is also a need for cooperation between philanthropic organizations and foundations, corporate giving, and local, State, and Federal governments in the area of social welfare at the local level. There is a great need in this area for a new organizational concept to focus at the very heart of real poverty in America—the family and its immediate environment.

I could cite numerous other examples. The point I wish to make here is that it would be cruel to create the belief in the minds of the American people that the proposal offered thus far by the Johnson administration under the slogan of "War on Poverty" already has the resources, the programs, or even the conceptual formula to lift the economic burden of social and economic disadvantage from the shoulders of the 30 million Americans in our lifetime.

A successful effort in this area must come from a partnership between the proven ingenuity of American enterprise—management and labor—and local, State, and Federal government. To leave this "war on poverty" largely to the Federal Government would be a mockery of the American people's confidence in the ability of our economic system to meet the challenges of our time.

Nonetheless, in addition to a tax cut, the Federal Government can, and must, take measures to help in those areas where only it can help.

I therefore recommend, as we debate the tax cut bill, the following measures:

We must radically increase our manpower training program to enable at least 50 percent of our trainable unemployed, or roughly 450,000 individuals, to learn the skills which can make them, once again, productive members of society. As against that figure, it is estimated that now only 135,000 workers are scheduled for retraining in fiscal year 1964. That is only 15 percent of the number actually needed.

We must establish and adopt a Fair Employment Practices Commission to deal with discrimination in employment which deprives our country of $15 billion a year in productive power. That is the estimate of the Council of Economic Advisers, not mine.

We must accelerate, extend, and expand Federal assistance to vocational and technical education programs.

We must provide still further additional incentives for plant modernization.

We must provide a tax incentive for exports.

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We must bring the U.S. private enterprise system effectively into foreign aid. A top committee to do this is called for by the Foreign Assistance Act of 1963—an amendment of mine which is now in the law—but has not yet been named.

We must establish a commission on automation to make urgent recommendations in this critical area and to provide for the transition of workers and businesses to automation. That proposal is now pending before the Committee on Labor and Public Welfare.

We must modernize the antitrust laws—one of the crying needs of our country.

We must enact permanent improved Federal standards of unemployment compensation, which today is bedeviled by varying standards, and in many of the States is completely unfair and impractical to the unemployed.

Finally, as already suggested, we must accelerate the use of labor-management-public committees provided under section 205(b) of the Manpower Development and Training Act of 1962.

This is a program really opposite to our situation, and is urgently needed.

My purpose in speaking today is merely to make clear with all the conviction of which I am capable that the tax cut alone will not do it, desirable as it is and desirable as are a number of reforms which are made in the bill, for example, relating to charitable contributions made by individuals, charitable contributions made by corporations, political contributions, which is an excellent provision, averaging of income for artists and writers and others whose incomes fluctuate widely, some help to small business in the basic tax on corporations, and problems involving tax liens and personal holding companies.

All of these are important but they do not deal with the fundamental problems of meeting the vast needs of a modern, complex economy required to cope with the challenges imposed by en-

demic unemployment, obsolescence, discrimination, the expansion of our foreign trade, rapid technological change, and the poverty of one-fifth of our people.

As we complete action on the tax bill, I hope we shall bear these principles in mind. Once having cut the rates, we cannot cut everything else.

This is by no means the end of the road. The tax bill is going to help, but not cure the situation. If we really want to deal with the fundamental problems which assail our economy and lead us to a new economic plateau in which we do not have to fear another cyclical recession, which it is said we must expect, it is necessary to adopt many of the measures which are now being considered.

Mr. LONG of Louisiana. Mr. President, in order that Senators may know when the Senate will vote on the amendment, I ask unanimous consent that the vote on the Gore amendment come at no later than 1:45 p.m., which is 10 minutes from now.

The PRESIDING OFFICER. Without objection, it is so ordered.

What is the will of the Senate?

The question is on agreeing to the amendment of the Senator from Tennessee [Mr. GORE]. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from West Virginia [Mr. BYRD], the Senator from Nevada [Mr. CANNON], the Senator from Connecticut [Mr. DODD], the Senator from Arizona [Mr. HAYDEN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Michigan [Mr. MCNAMARA] the Senator from Maine [Mr. MUSKIE], the Senator from Oregon [Mrs. NEUBERGER], the Senator from Rhode Island [Mr. PASTORE], and the Senator from Texas [Mr. YARBOROUGH] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

On this vote, the Senator from Alaska [Mr. BARTLETT] is paired with the Senator from Nevada [Mr. CANNON].

If present and voting, the Senator from Alaska would vote "yea," and the Senator from Nevada would vote "nay."

I further announce that, if present and voting, the Senator from Connecticut [Mr. DODD], the Senator from California [Mr. ENGLE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Michigan [Mr. MCNAMARA], the Senator from Oregon [Mrs. NEUBERGER], and the Senator from Rhode Island [Mr. PASTORE] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from New Hampshire [Mr. COTTON], the Senator from Illinois [Mr. DIRKSEN], and the Senator from Arizona [Mr. GOLDWATER] are necessarily absent.

If present and voting, the Senator from Illinois [Mr. DIRKSEN] and the Senator from Arizona [Mr. GOLDWATER] would each vote "nay."

The result was announced—yeas 16, nays 69, as follows:

[No. 13 Leg.]

YEAS—16

Burdick	Humphrey	Mundt
Church	McCarthy	Nelson
Clark	McGovern	Proxmire
Douglas	Metcalf	Young, Ohio
Gore	Monroney	
Gruening	Moss	

NAYS—69

Aiken	Hickenlooper	Morton
Allott	Hill	Pearson
Anderson	Holland	Pell
Bayh	Hruska	Prouty
Beall	Inouye	Randolph
Bennett	Jackson	Ribicoff
Bible	Javits	Robertson
Boggs	Johnston	Russell
Brewster	Jordan, N.C.	Saltonstall
Byrd, Va.	Jordan, Idaho	Scott
Carlson	Keating	Simpson
Case	Kuchel	Smathers
Cooper	Lausche	Smith
Curtis	Long, Mo.	Sparkman
Dominick	Long, La.	Stennis
Eastland	Magnuson	Symington
Edmondson	Mansfield	Talmadge
Ellender	McClellan	Thurmond
Ervin	McGee	Tower
Fong	McIntyre	Walters
Fulbright	Mechem	Williams, N.J.
Hart	Miller	Williams, Del.
Hartke	Morse	Young, N. Dak.

NOT VOTING—15

Bartlett	Dodd	McNamara
Byrd, W. Va.	Engle	Muskie
Cannon	Goldwater	Neuberger
Cotton	Hayden	Pastore
Dirksen	Kennedy	Yarborough

So Mr. GORE's amendment was rejected.

Mr. GORE. Mr. President, I offer an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. At the proper place in the bill it is proposed to add the following new section:

SEC. —. EARNED INCOME OF CITIZENS OF THE UNITED STATES FROM SOURCES WITHOUT THE UNITED STATES

(a) REDUCTION OF CEILING ON EXEMPTION.—Section 911(c)(1) (relating to earned income from sources without the United States) is amended—

(1) by striking out, in subparagraph (A) thereof, "$20,000" and inserting in lieu thereof "$4,000"; and

(2) by striking out, in subparagraph (B) thereof, "$35,000" and inserting in lieu thereof "$6,000".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be applicable only with respect to taxable years beginning after December 31, 1963.

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Mr. GORE. Mr. President, on this amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GORE. Mr. President, this is the first of a series of amendments I shall offer dealing with tax exemptions. The pending amendment proposes to reduce from $35,000 to $6,000 the exemption provided in the law for an American citizen living abroad for 3 years or more and having a permanent residence abroad, and to reduce the exemption for an American citizen temporarily living abroad from $20,000 to $4,000.

The late President Kennedy, in a message to Congress, recommended that the exemption for income earned abroad "be completely terminated for those residing in economically advanced countries," and that the exemption be limited for those living in underdeveloped countries.

For American citizens living at home, working at home, rearing and educating their children at home, the law provides an inadequate personal exemption of only $600 for each taxpayer and each of his dependents; but for the citizen who lives in Nassau, across a relatively narrow stretch of water from Miami, the exemption is $35,000 before the U.S. Government levies a tax upon his income. That citizen may commute to Miami to look after his business, but have his cottage on the seashore in Nassau; or he may live in Tijuana; indeed, he may live just outside the Canal Zone, at Panama; and still be exempt for $35,000. Meanwhile, he owes the same responsibility to contribute to the defense and welfare of his country as do any of us. He is a U.S. citizen, enjoying all the privileges of his country and the protection of his interests, but the tax law gives him a highly preferred status. If he has permanent residence outside the United States, he receives an exemption of $35,000; if he has temporary residence outside the United States, he has an exemption of $20,000.

What Senator will return to his State and say that he voted against increasing an exemption for the people of his State who labor and toil and have taxes deducted from their paychecks every Friday night? What Senator will say that

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he voted against raising the exemption for such a taxpayer and his children above $600, but then voted against reducing the exemption of $35,000 for those who have established a residence in Italy, Switzerland, Monaco, Mexico City, Bermuda, Jamaica, or Panama? There are many tax havens in the world to which the very rich repair for tax purposes.

When this amendment has been voted upon, and provided I receive recognition by the Chair—and I ask that I be recognized following the vote on this amendment—I shall then offer an amendment to increase the personal exemption for persons who live and work at home.

Mr. LAUSCHE. Mr. President, will the Senator yield for a question?

Mr. GORE. I yield.

Mr. LAUSCHE. What is the advantage of granting a $35,000 exemption to American citizens permanently residing abroad, and only a $6,000 exemption to those who reside in this country? Is there any particular theory in support of such a distinction?

Mr. GORE. First, let me state that I do not think any exemption should be granted; I wish that clearly understood before I reply. The late President Kennedy asked that it be eliminated entirely in the case of Americans living in developed countries, which is where most Americans who reside abroad live.

In answer to the question asked by the Senator from Ohio, I reply that those who advocate this exemption say it will be easier for American companies who want to send employees abroad to persuade them to go there, if by so doing they can receive this big tax bonanza.

I would say it would be much easier. In fact, some of the companies have more or less of a practice of passing this favor around, and letting first one group and then another group serve abroad, and thus receive these large tax benefits.

In order to be as explicit as possible, I shall read from Secretary Dillon's testimony on this point:

> There are about 50,000 U.S. citizens living abroad who claim an aggregate exemption of more than $500 million under these 2 provisions. The President recommended elimination of the exemption privilege for American citizens living in economically developed countries, since neither living conditions in such countries nor national policy requires special tax benefits in these cases. Because it is in our national interest, however, that Americans skilled in industry, education, medicine, and other professions be encouraged to go to less developed countries and contribute to their economic growth, the President also recommended continuing the exemption for our citizens who qualify as foreign residents of these less developed countries or who are present there for 17 out of 18 consecutive months, but only to the extent of $20,000 a year.

Only last week, the Senate passed a bill giving a cost of living allowance to employees of the U.S. Government who live abroad. I voted for the bill, and the Senate passed it. Under it the highest amound paid is $4,440. That is for service in a place such as Brazzaville; for those who live in other countries, the allowance is not as large.

The amendment I have offered would not go as far as the late President Kennedy recommended, for he recommended that the allowance be eliminated entirely, so far as Americans employed in developed countries are concerned. My amendment would reduce the exemption for the American citizen who has established a permanent resident for that purpose from $35,000 to $6,000, which would be exactly 10 times the exemption for a citizen who lives and works at home. Furthermore, such an American citizen would not have to live very far from the United States in order to be entitled to receive the $6,000 exemption which my amendment would permit. I think it is only a 30-minute flight from Miami to Nassau.

The amendment I have offered would also reduce the exemption for such an American citizen who has a temporary residence abroad from $20,000 to $4,000, which is far in excess of the exemption provided for a citizen who lives in the United States.

Mr. BENNETT. Mr. President, will the Senator from Tennessee yield?

Mr. GORE. I yield.

Mr. BENNETT. Is it true that a U.S. citizen can live in Nassau and can commute to Florida and can still retain his status as a bona fide U.S. citizen residing abroad? Will not he lose that exemption the minute he establishes a pattern of returning to the United States? It is my understanding that if he returns at all within 3 years, he loses his exemption.

Mr. GORE. He could only suffer a reduction from $35,000 to $20,000. Moreover, I think the telephone charge from Nassau to Miami—although I do not wish to rely on my memory—is not over $2.50.

Mr. BENNETT. But one cannot always do business on the telephone. I am told that if such a U.S. citizen returns for 1 month out of 18, he loses his exemption; he must be abroad 17 out of the 18 months or else he will lose the entire exemption.

Mr. GORE. That rule does not apply, as I understand, to a U.S. citizen who has established what has been held to be a bona fide residence abroad. The "17 out of 18 months" rule, to which the Senator from Utah has referred, applies to one who is temporarily abroad—such as a movie star who goes abroad to make several movies, and stays there for 17 out of 18 months, and thus has an exemption of $20,000 a year.

Mr. BENNETT. Does not the Senator from Tennessee believe that if the Internal Revenue Service found that a man who had once established a legal bona fide residence abroad had subsequently changed that pattern, and came back to the United States frequently, the Service would reject his claim as being a bona fide resident abroad?

Mr. GORE. I doubt it very much. If the Senator from Utah were to go to Nassau and see the prices of seashore real estate, the number of cottages being built there, and the number of American institutions that are establishing so-called subsidiaries there, I think he would come to the same conclusion that I have.

I wish to read briefly from an article published in the New York Times on November 21 of last year:

> One of every 30 American taxpayers lives in some other country.

Does that come as a surprise to the Senator from Utah?

Mr. BENNETT. How many taxpayers are there in the United States?

Mr. GORE. Permit me to read just a little further, and I believe we shall find the answer:

> Ten years ago, there were 500,000 of them outside the United States. Today there are 2 million.

Last year, the Secretary of the Treasury advised us that they claim total exemptions of $500 million.

I wish to read further:

> No one knows for certain whether they are as law abiding overseas as they are at home, or whether they slip into some of the lax ways of the natives among whom they are living. In either event the Internal Revenue Service thinks they deserve more attention.

I certainly agree with that statement.

Mr. President, I ask unanimous consent that the article be printed in full in the RECORD.

The PRESIDING OFFICER (Mr. WALTERS in the chair). Is there objection?

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 23, 1963]

TAX CHIEF CHECKS ON PAYERS ABROAD—TOURS EUROPE ON INSPECTION AND VISITS TO OFFICIALS

(By Richard E. Mooney)

PARIS, November 21.—One of every 30 American taxpayers lives in some other country.

Ten years ago there were 500,000 of them outside the United States. Today there are 2 million.

No one knows for certain whether they are as law abiding overseas as they are at home, or whether they slip into some of the lax ways of the natives among whom they are living. In either event the Internal Revenue Service thinks they deserve more attention.

Mortimer Caplin, the U.S. Tax Commissioner, has completed an inspection trip through six countries of Europe—the first

foreign field trip that any Commissioner has ever taken. He will leave London tomorrow for his return to Washington.

To skeptical Americans he has been saying that their friendly tax collector wants to help them. With American officials stationed here he has been discussing where to open new offices.

TALKS WITH EUROPEANS

To less successful European tax collectors he has been explaining how it is done back home. And with these same European officials he has been discussing a special kind of foreign aid—how he and they can help each other catch their respective evaders.

Mr. Caplin pointed out in an interview that his increased foreign problems have three dimensions.

First, there is the oversea American population explosion. Second, the oversea stake of American business capital has reached $37 billion. And finally, there is last year's new law that makes both the people and the businesses more taxable.

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The new law, effective for income earned this year and henceforth, ends the total U.S. tax exemption that oversea residents used to enjoy. Now, they are subject to U.S. tax on any income over the specified tax-free minimums—$20,000 a year at first, including housing subsidies and other extras; $35,000 after the person has been away 3 years.

For businesses, most foreign profits are henceforth taxable in the year they are earned. In the past, the U.S. tax did not apply until the foreign branch or subsidiary sent the money home.

Mr. Caplin has oversea branches himself, in London and Paris, covering Europe and the areas surrounding, and in Ottawa, Manila, Mexico City, and São Paulo, Brazil.

On his trip he has covered Paris and London, The Hague, Rome, Bonn, and Frankfurt, and three cities in Switzerland. With its relatively low taxes, Switzerland has been a particularly popular spot for setting up American oversea business headquarters.

On his way, Mr. Caplin noticed a new type of boom in American oversea business—new branches of New York law firms, particularly in Paris.

Mr. Caplin's wife, Ruth, has accompanied him on his European rounds. Is she a deductible business expense?

"Oh, no," the Commissioner replied.

Mr. GORE. I shall not burden Senators by reading the entire article to them; but it indicates that it is very difficult for the Internal Revenue Service to obtain accurate information about the incomes and the activities of U.S. citizens who are living abroad.

I believe this situation is an injustice which should be corrected. It seems to me it does not require lengthy debate. I have stated the issue, and I am ready for the vote to be taken.

Mr. LONG of Louisiana. I am a member of the Finance Committee. The majority of the members agree with my position on the committee amendments. I believe about six committee amendments were offered and four others were subsequently offered. I would hope that members of the committee would not come before the Senate and ask it to agree to amendments that were not offered in committee and were not therefore given an opportunity to be voted on in committee.

The proposal of the Senator from Tennessee is one which I believe was discussed about 2 years ago. The late President Kennedy recommended that there be some tightening up in this field. We recommended a law to tighten up on income made by foreign residents abroad. The original proposal that was made covered only developed countries. After we had had an opportunity to study the law, we drafted legislation which we believed would catch up with the tax haven situation, and which would not unduly penalize legitimate American business interests doing business abroad, where their activities were in many instances parallel to the interests of this Government.

With regard to individuals living abroad, we amended the law so that it now provides: If a person lives abroad 17 out of 18 months—keep in mind that under this system he is being taxed by a foreign government because he is earning his income over there—that person would be entitled to have his income taxed by that government and excluded from what he made in the United States.

The Senator from Tennessee said something about employees of the American Government. This exclusion does not apply to them. There are a great number of such employees abroad, working in various phases of the American Government's programs but they pay their taxes to this Government. The purpose was to help those companies obtain personnel to manage their operations, such as operating a pipeline in the Near East, or a business of that kind in areas where the climate is bad and Americans would be reluctant to go. Such personnel would be taxed by the laws of that country, provided they were gone from this country 17 out of 18 months, and that they would not be taxed by the laws of this country if they were overseas for at least 17 out of 18 months.

If those people happen to be in the developed countries, such as western Europe for the most part, which have high taxes on income just as we do in the United States, there is little advantage to them in the exclusion provision, if they are living in a country like England or France, because they are being taxed on their income in those countries at rates about the same as ours. The tax

credit for foreign taxes paid on income earned in those countries would, for the most part, wipe out the tax they would owe in this country.

With regard to those people working in an unfavorable climate or in a backward area, at present they have an exemption of $20,000, subject to the taxes charged them in the foreign country. This amendment would reduce the exemption to $4,000.

If they were in a country as long as 3 years, and were bona fide residents of a foreign country for those 3 years, they would enjoy the present $20,000 exemption during those years. This amendment would reduce that amount to $4,000.

If they lived for more than 3 years as bona fide residents of a foreign country, the exemption would be $35,000, which would be reduced to $6,000 by this amendment. This was not requested by the Treasury in connection with the bill.

In 1962, a recommendation along this line was made. Congress studied it. Congress acted on it. Congress gave us the present law. This particular proposal has nothing more in the record than a simple question and answer by a Senator to the Secretary of the Treasury about the matter.

The President did not in 1963 recommend this provision. It is not being asked for in this year's recommendations. This is an old recommendation. It was made in the 1962 program. It was acted then. Congress then tightened up on the law, in the way that Congress believed it should be tightened up and considered. The Senate committee did not even have an opportunity to vote on it because of the fact that the Senator now offering the amendment did not suggest it to the Finance Committee of which he is a member during the many long sessions of consideration of the bill.

Mr. LAUSCHE. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. LAUSCHE. Is there any flexibility in the rule with respect to countries that impose a tax on the American national as distinguished from countries that do not; or is the rule uniform, that the exemption is $35,000 or $20,000?

Mr. LONG of Louisiana. The foreign tax credit exists in any case. Assume that a taxpayer owed a $10,000 tax to this country. If he paid $10,000 to a country where he made it, the tax credit would mean that he would owe no tax to this country.

Mr. LAUSCHE. I understand.

Mr. LONG of Louisiana. That is a uniform rule with regard to all countries.

Mr. LAUSCHE. Does that mean that the tax phase has no applicability to the reasons supporting the rule?

Mr. LONG of Louisiana. In the great majority of developed countries for the most part, in the major developed countries like England, France, Italy, and Germany, the levy is based on a high income tax rate. A tax credit in those countries would take care of the problem so far as all taxpayers are concerned.

The areas where the tax situation is favorable usually are the so-called less developed countries—although there are perhaps a few isolated situations, such as Monaco, where it might be advantageous to a movie star or someone of that sort to live there. However, we enacted a law in 1962 and in earlier years to deal with situations in which someone might want to live there for the purpose of benefiting from a large tax exemption. Motion picture stars have been cited as an example. That is why existing law provides only the first $20,000, of income will be excluded if a person has lived in a foreign country for 17 out of 18 months. If he returns here for 40 days of the 18 months, he does not come under that provision. Such taxpayers have the privilege of complying with the provision applicable to those who are bona fide residents of any foreign country. For the first 3 years they would be allowed a $20,000 exemption, and thereafter they would be allowed a $35,000 exemption. In other words, the law had been drafted to deal with situations in which wealthy persons would go to another country to avoid paying taxes to this Government.

Mr. LAUSCHE. I do not wish to challenge the Senator from Louisiana, but I have the distinct impression that all of the Western European countries and Japan have a far smaller income tax than the United States and that they rely primarily for their revenue upon excise and indirect taxes.

England is the only country that has a higher income tax than the United States. I am quite sure that I am correct in my assertion. As I have said, I do not desire to challenge the Senator's statement, but I believe that an examination of records will show that all the nations of Western Europe, excluding England, collect their taxes primarily through excise, sales, and indirect taxes, while the United States collects practically 89 percent of its taxes through the income tax.

Mr. LONG of Louisiana. My impression is that the income tax rates in most

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Western European countries tend to approach those in the United States.

Mr. LAUSCHE. I have a tabulation on the subject and I shall discuss it on the floor of the Senate.

Mr. LONG of Louisiana. I regret to say that I cannot give the Senator as much information as I should like.

Mr. LAUSCHE. I am pleased to observe the broad knowledge which the Senator from Louisiana has on the whole subject. It is excellent to listen to him discuss it.

Mr. LONG of Louisiana. I should like to provide the Senator with more information. But the Senator who offered the amendment is a member of the Committee on Finance. Apparently he did not think the committee would agree to his amendment and did not offer it in the committee.

The general problem is one which the Finance Committee studied 2 years ago. I believe that it was also studied by the Committee on Ways and Means. I believe that 2 years ago we voted on the same general principle. At that time I believe the Senator offered a somewhat similar amendment, and it was rejected in favor of the present law. So while it is true that we have not had an opportunity to study it this time, we did have an opportunity to study it 2 years ago and the committee then voted to have the law as it is today.

Mr. GORE. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. GORE. Two or three times the Senator has stated that the amendment was not offered in the committee. I beg to correct the distinguished Senator. I am not sure that he was present at that time. As the Senator knows, the committee was in session many days. But the amendment was offered in the committee. It has been studied. The late President Kennedy made a recommendation to the Congress with respect to it.

Mr. LONG of Louisiana. I do not challenge the Senator's statement that the amendment was offered. I am sure the Senator will not challenge my recollection that I do not recall it. The distinguished chairman of the committee, the Senator from Virginia [Mr. BYRD], is in the Chamber. Perhaps he will recall it.

Examining the notes, I now find that apparently the amendment was offered on January 23. I venture the assertion that there was not much consideration given to it at that time because the Senator from Louisiana did not hear much about it until the Senator offered it in the Senate. Perhaps the Senator can recall what the vote was on the amendment.

Mr. GORE. I shall make further remarks on the subject later.

Mr. BENNETT. Mr. President, will the Senator yield so that I may ask a question of the Senator from Tennessee?

Mr. LONG of Louisiana. I yield to the Senator so that he may state his question.

Mr. BENNETT. May I have the attention of the Senator from Tennessee?

Mr. GORE. Yes.

Mr. BENNETT. A little earlier the Senator from Tennessee offered an article from the New York Times stating that 2 million American taxpayers were living abroad. Does the Senator wish the Senate to believe that those were all bona fide residents who could take advantage of the exclusion, or did the 2 million figure include all the members of the Armed Services, who are also taxpayers, all the Federal employees, who do not get the advantage of the exclusion, and the members of the Diplomatic Corps, who do not have diplomatic immunity? Can the Senator answer the question?

Mr. GORE. Mr. President, will the Senator from Louisiana yield for that purpose?

Mr. LONG of Louisiana. I yield.

Mr. GORE. I read to the Senate an article appearing in the New York Times. I read it verbatim. I did not place the interpretation upon it which the the distinguished Senator from Utah has now placed upon it.

As I understand the article, it states that 2 million taxpayers live abroad. I did not say that all of them had permanent residence. Some of them do. Some questions could be raised about what is and what is not a permanent residence. But the record shows that more and more Americans are establishing residence abroad, and are doing so in some cases for purposes of tax avoidance. The Treasury Department estimated what those numbers are.

If the Senator will yield further, my staff has given me some exact statistics. As long ago as 1960, more than 41,000 Americans claimed exemption by reason of living abroad. I have no way of knowing how many did not show up on returns. I have no way of knowing the number, or to what extent the practice has grown. Perhaps the Treasury Department could give us an estimate. Two years, ago the Treasury estimated that if the Congress would enact the law which the late President Kennedy recommended in that regard, $25 million would

be recovered. How many million it would be now I do not know.

However Senators may struggle with the issue, the question is one of fairness. We have ambassadors living abroad with responsibility for representing the U.S. Government and for the implementation and the execution of its policies.

The highest allowance provided by the bill we passed only last week was $4,440, and that in only a very few countries—the class 10 countries, so-called, where the hardships are severe. The Government employee living abroad does not get the benefit of the exemption we are discussing. This is a special arrangement. I ask Senators to examine their conscience. With many thousands of individuals establishing residences in tax havens, it is unfair to give them a tax exemption of $35,000, particularly when the law allows only $600 for the rearing and the education of a child here at home. The Senate will vote on that question next.

Mr. BENNETT. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I have the floor. I wish to make the following statement:

Even President Kennedy, when he made the recommendation, did not recommend that this exclusion be eliminated, even in the case of countries where low taxes existed. This question was considered and acted on. Congress endeavored to act on the tax loopholes where it felt it should act. That did not satisfy the Senator from Tennessee. At that time we were tightening the loopholes. The House made its suggestions in this field. It acted to tighten up on the abuses in that respect.

The chairman of the House Ways and Means Committee called on the Treasury to make a recommendation with respect to the areas in which tax reforms were needed, where there might be loopholes and tax avoidance. The Treasury made a study of this subject, and made recommendations, many of which are included in the bill. This is not an area in which it recommended such a provision. There was a list of questions and answers as to whether or not the law should be changed, which was gone into fully.

Before the Senate acted on such a proposal, I hoped it might have the benefit of more information and study to see to what extent the law which was enacted 2 years ago may have failed to tighten up adequately on those who might be enjoying some sort of tax advantage.

I submit the $20,000 limitation for those who have been enjoying much better treatment represents a tightening up for those who may have been avoiding liability to this Government.

Mr. BENNETT. Mr. President, I appreciate the opportunity to listen to the explanation of the Senator from Tennessee. What he said brings out the fact that we are now discussing not taxes from 2 million people abroad, but additional taxes, if the amendment is adopted, that would be collected from 40,000 to 50,000 Americans living abroad. The Treasury has said that would mean $25 million in additional taxes. If that amount were to be collected from 2 million taxpayers living abroad, it would mean $2.50 from each one, and would not be worth the effort of going through this procedure. We are talking about approximately 41,000 legitimate or established residents living abroad. We are not talking about nearly 2 million Americans who live abroad. This brings the problem into focus.

Like the Senator from Louisiana, I hope the Senate will stand with the committee in its determination not to change this particular provision of the law.

Mr. LONG of Louisiana. It seems to me that if we are to place an additional tax burden on Americans who may be working in very unpleasant tropical climates, or various and sundry places where their companies tried to get them to go to by offering them some incentive, the matter should at least be studied by the Treasury, as a starting point, to see if there is tax avoidance. The Treasury studied the whole gamut of the tax law. It was well aware of the recom-

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mendations that were made 2 years ago. What Congress thought should be done, was done, about tax havens in foreign countries 2 years ago. The Treasury did not make further recommendations along this line.

If something is to be done, it seems to me the Treasury should study the question and tell Congress what it knows about it, and Congress should study the question and ascertain how well the law it enacted 2 years ago has worked to avoid abuses in this regard.

Mr. BYRD of Virginia. Mr. President, the question has been raised as to whether this amendment was offered in committee. The record of the committee shows that on January 23, in the morning session, an amendment relating to the exclusion of income earned abroad was offered in the committee. The committee considered and rejected an amendment which would have reduced the present $35,000 or $20,000 exclusion

of income earned abroad by those who are bona fide residents or who live in foreign countries 17 or 18 months to $6,000. So the amendment was offered.

Mr. LONG of Louisiana. One similar to this was offered. This in part calls for a $4,000 exclusion.

Mr. BYRD of Virginia. It involves the same general principle.

Mr. GORE. Mr. President, I thank the distinguished chairman of the committee. I knew I had offered the amendment. The pending amendment, contrary to the statement just made by the distinguished junior Senator from Louisiana, is not a $4,000 exemption amendment. It is $4,000 in one respect, and $6,000 in another respect. Let me restate the amendment.

It would provide a $6,000 personal exemption for American citizens who have established a so-called bona fide residence abroad, if they have lived there for 3 years, and so forth. Some question can be raised with respect to what constitutes a permanent residence, but I shall not go into that question. I think those living abroad have as much responsibility for the defense and welfare of their country as do any other American citizens. The exemption which my amendment would afford them is 10 times that which the law provides for a citizen who lives and works at home.

I should state what the present law is. The present law provides them an exemption of $35,000. They also have the benefit of the foreign tax credit.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. GORE. Let me state my amendment, and then I shall yield.

The second part of the amendment would reduce from $20,000—which is the present law—to $4,000, the exemption for a person with a temporary residence abroad, or if he is a bona fide resident abroad, but has not lived there for as long as 3 years.

Now I yield to the Senator from Vermont.

Mr. AIKEN. Could this question be reduced to specific cases, which perhaps would be more understandable? If American citizens live and work in the Panama Canal Zone, are they entitled to any exemption at the present time?

Mr. GORE. I do not think so.

Mr. AIKEN. But if an American citizen works in the Panama Canal Zone and lives in the Republic of Panama, is he entitled to an exemption at this time?

Mr. GORE. Not if he is a Government employee; but if he lives in Panama and works for a private company, yes.

Mr. AIKEN. But if he works for the United States, he is not entitled to an exemption?

Mr. GORE. That is correct, but then he gets an allowance for living abroad. That allowance is not very generous, but the Senate reconsidered the matter last week and passed a bill in that connection.

Mr. AIKEN. But if he lived in Panama and worked for the United Fruit Co., which is one of the big private companies, or an airline, or a shipping line, he would be entitled to an exemption?

Mr. GORE. He would be. Furthermore, if he lived there and worked for a foreign tax haven subsidiary, he would receive it. There are many such companies. In Nassau, on the windows of office buildings there is not enough room for all the names of the tax haven subsidiaries who go there. They have employees who go there, and who do not live very far from home.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. CLARK. Take the example of the American who has established a permanent residence in Paris, France, and who has a gross annual income from American investments of $100,000. What has concerned me is how much of that $100,000 income would be taken by the French authorities, how much would be taken by the American Government under the Senator's amendment, and how much would be left for the man to live on? Is there any basis for saying that the credit for permanent residence abroad is allowed because of the heavy taxation such taxpayers have to pay to the country where they have chosen to reside?

Mr. GORE. My amendment would not affect the foreign tax credit.

I do not know precisely the tax rates in France, but for whatever tax he paid to France or to any other country he would be given the foreign tax credit against his tax liability to the United States.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. CLARK. Then what possible justification is there in the minds of the committee for giving this additional tax break, which, as the Senator points out, is many times higher than what he would get if he lived in his own country?

Mr. GORE. I know of no justification. I could not see any. That is why I made the fight 2 years ago. That is why I made the fight in committee this year. That is why I am making the fight now on the floor of the Senate. I see no justification.

Mr. CLARK. Perhaps the Senator in charge of the bill could enlighten me.

Mr. GORE. Of course this exemption applies only to earned income.

Mr. BENNETT. I would make the same point. The question raised by the distinguished Senator from Pennsylvania was with reference to an expatriate who lives abroad on dividends earned in the United States. He gets no benefits from that income. This discussion refers only to bona fide income earned abroad.

Mr. GORE. I thought I stated the situation correctly. I thank the Senator for placing the proper emphasis on it.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. AIKEN. Suppose an American citizen lives abroad and works for an American or foreign corporation abroad, and pays taxes to the country where he is living. Does he now get a credit for the taxes which he pays to the country where he is living? Are those taxes deductible? Does he pay a tax to the United States on the balance, or must he pay the United States on the entire income, disregarding the obligation which he may have to pay to the country of which he is a resident?

Mr. GORE. He is given a credit against his tax liability to the United States for the taxes he pays abroad.

Mr. AIKEN. Just as though he were living in Tennessee and were given a credit for the taxes he paid to Tennessee.

Mr. GORE. This is more generous than would be the case if he paid his taxes to the State of Tennessee or the State of Vermont. In the case of a State income tax, there is a deduction. In the case of payment of a foreign tax, there is a credit against U.S. taxes. Even if my amendment were adopted, this man living abroad would still be put in a preferred position. He gets a tax credit instead of a tax deduction. If he is a so-called permanent resident, we give him 10 times the exemption he has if he lives at home. We give him $4,000 instead of the $600 if he is temporarily abroad.

The senior Senator from Pennsylvania asked me what justification there was for this. I do not see any justification for not adopting the amendment. President Kennedy recommended that all preferential treatment be removed, and that such a person be granted the same exemption, if he lived abroad in a developed country, as he would receive if he lived in Tennessee or in any other State of the Union.

Mr. AIKEN. Suppose an American citizen lives in a foreign country and earns $40,000 and pays $5,000 in taxes to the country where he resides. What would his tax liability to the United States be?

Mr. GORE. Nothing.

Mr. AIKEN. He is exempt for the other $35,000?

Mr. GORE. He is completely exempt.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. CLARK. During the colloquy which has just ensued, a very knowlable attaché in the rear of the Chamber told me that the Senator's amendment applies only to income earned abroad, and not to interest or dividends received by a person abroad from an American investment.

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Mr. GORE. That is correct.

Mr. CLARK. No credit would be given to the American citizen by reason of the present law or the Senator's amendment.

Mr. GORE. A credit would apply to whatever tax liability he had, but my amendment would be inoperative unless he had earned income.

Mr. CLARK. But if the taxpayer in question had income only from interest and dividends on securities of U.S. companies which he owns, the Senator's amendment would not apply, and the man would pay the same tax as if he lived anywhere else?

Mr. GORE. He would get a credit, of course, for his foreign tax, which might or not might not be a great advantage. In any event, the amendment I propose would not affect him.

Mr. CLARK. I thank the Senator.

Mr. GRUENING. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. GRUENING. The Senator from Tennessee, in answer to a question from the Senator from Pennsylvania, stated that he saw no justification for this gross discrimination, by which a man employed abroad, and resident abroad, gets a $35,000 exemption. I wonder whether some Senator who is in favor of the amendment would give us an explanation or a justification for the existence of such discrimination.

Mr. GORE. I am perfectly willing to have the distinguished junior Senator from Louisiana make whatever statement he desires. There is now under consideration in the Senate a bill which deals with taxation of American citizens. It is the largest tax reduction bill in the history of the country. A part of that bill deals with income after personal exemptions. Therefore I resist the suggestion that in some way my amendment is improper because it deals with exemptions of American citizens who happen to live abroad.

The distinguished Senator from Utah indicated that I was talking about 40,000 people. I do not know how many. We were told in 1962 that this involved $500 million of claimed exemptions. I do not know what it is in 1964. However, it is a part of the income of American citizens and taxpayers. The matter is properly before the Senate. There is before the Senate a bill of more than 300 pages. The whole Internal Revenue Code is before the Senate. There is involved a provision of favoritism with which I propose to deal in an amendment, though inadequately.

I do not believe the exemption should be as much as $6,000. I have chosen that amount. It is 10 times what is allowed to a person at home. Perhaps my proposal is not low enough. I certainly thing it is high enough. I resist the suggestion that it is not proper to consider this amendment. We are dealing with taxes on American citizens. I am talking about American citizens. I am talking about American citizens who establish a bona fide residence abroad or who temporarily live abroad. Many of them both live temporarily abroad and establish a bona fide residence abroad merely to claim this unjustified exemption.

Mr. JORDAN of North Carolina. Mr. President, I should like to clarify something in my own mind. Will the Senator yield?

Mr. GORE. I yield.

Mr. JORDAN of North Carolina. A person living abroad could not claim this exemption unless he earned some money abroad. Is that correct?

Mr. GORE. If it is earned abroad.

Mr. JORDAN of North Carolina. Abroad.

Mr. GORE. Yes.

Mr. JORDAN of North Carolina. I do not see how we have any right to tax the income of anyone who earns income abroad if he pays a tax on the money he earns in the United States. On whatever he earns in the United States, he pays a tax in the United States, does he not?

Mr. GORE. Yes.

Mr. JORDAN of North Carolina. He pays an income tax, the same as anyone else.

Mr. GORE. Yes.

Mr. JORDAN of North Carolina. We are talking about money that he earns abroad. It has nothing to do with earnings in the United States.

Mr. GORE. That is correct.

Mr. JORDAN of North Carolina. I am not at all certain that we have a right to tax him at all. He is not even living in this country. He makes his money abroad and pays an income tax abroad. Why should he not be allowed to keep what he earns while he is living abroad? If he wishes to, he can give up his citizenship, but he does not want to do that. He wants to keep his citizenship, without paying any income tax to the United States on what he earns abroad. But he would not want to do that. He would not want to give up his citizenship. He is willing to pay some taxes.

Mr. GORE. We hardly leave taxation to the willingness of people to pay taxes. The Government assesses liability under appropriate circumstances.

Mr. JORDAN of North Carolina. Yes, but it is the right thing to do.

Mr. GORE. The Senator has raised an interesting point, but one which I respectfully suggest is entirely without merit. I shall give my reasons for so thinking.

Mr. JORDAN of North Carolina. I should like to have them.

Mr. GORE. I know the Senator will accord me the privilege of thinking that his suggestion is without merit.

To begin with, I think an American citizen owes as much allegiance to his flag, whether he lives in Nassau or Miami, whether he lives in Zurich or in Florida or in North Carolina. He has the protection of his Government. His children, his relatives, his interests are protected by the U.S. Government.

Moreover, he may be an employee of a tax haven established abroad by American capital, and the real money may be earned in the United States but, by bookkeeping devices, transferred to the tax haven. So the standard which the distinguished junior Senator from North Carolina raises is not a standard of equity as between taxpyers. It is not a measure of fidelity and obligation to one's country. It seems to me it is utterly unrealistic. If there is any standard that has been established over many years of taxation, it is that the U.S. Government has the right to levy taxes upon the income of American citizens, American taxpayers, whether corporate or individual, wherever that income is. Even without my amendment, the principle which the Senator from North Carolina advocates is violated, because taxes already apply on income above $35,000.

Mr. JORDAN of North Carolina. I know that.

Mr. GORE. This is not a new question. Some citizens living abroad have undertaken court action to avoid tax liability to this country. But the question has been tried and adjudicated. In Cook against Tate, the Supreme Court decided the question quite conclusively.

So I respectfully suggest that, in the view of the Senator from Tennessee, the Senator from North Carolina does not make a valid argument.

Mr. JORDAN of North Carolina. Mr. President, will the Senator further yield?

Mr. GORE. I yield.

Mr. JORDAN of North Carolina. Suppose, for example, a British citizen establishes temporary residence in the United States and lives here 1, 2, or 3 years. Suppose he pays the U.S. income tax, whatever it might be, and that the British Government taxes him on the remainder of his income here. That is the same situation in reverse, is it not?

Mr. GORE. I am not questioning the right of the taxpayer to such a credit. But to answer the Senator's question, I am not well versed in British tax law. Generally, I understand that the taxpayer would receive credit for the taxes he paid to the United States.

Mr. JORDAN of North Carolina. I am sure of that.

Mr. GORE. In any event, an American citizen living in England and paying the British tax would receive credit for the taxes he paid there against his tax liability here.

Mr. JORDAN of North Carolina. I understand; but to return to my question, would not the reverse also be true?

If an Englishman paid his tax on what he earned here, would not the British Government then tax his income on top of that at any figure, and would not that be the reverse of what we are now doing?

Mr. GORE. Please do not hold me to an exact understanding of British tax law. As I understand whatever he remits to his country is subject to tax by the Crown.

Mr. JORDAN of North Carolina. But does he have to remit to his country a tax on what he earns in this country?

Mr. GORE. If he lives here, he pays taxes to the U.S. Government. If he becomes a citizen of the United States——

Mr. JORDAN of North Carolina. I am not suggesting that he might become a citizen of the United States; I am supposing him to be a temporary resi-

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dent of this country. The Senator is talking about Americans having temporary residence abroad.

Mr. GORE. I do not understand the Senator's point. Is he suggesting that we should follow British tax law?

Mr. JORDAN of North Carolina. No. Are we doing something that other nations are not doing, so far as U.S. citizens who are temporary residents abroad are concerned?

Mr. GORE. I am not sure about what all countries do. I certainly do not wish to speak as an authority on that subject. I am undertaking to measure American citizens with a yardstick of reasonable equity.

Mr. JORDAN of North Carolina. Those are all the questions I wished to ask.

Mr. GRUENING. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. GRUENING. I would appreciate having information from a member of the committee who favors the $35,000 exemption as to the justification for it. The senior Senator from Tennessee, who is trying to change the law by amendment, seems to me, on the face of the situation, to be fully justified. He says he has no explanation to justify the law as it now is. Could the distinguished Senator from Louisiana [Mr. LONG], the Senator in charge of the bill, explain the justification for this large exemption? Why does a citizen living abroad receive a $35,000 exemption when a citizen living at home receives an exemption of only $600?

Mr. LAUSCHE. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Tennessee has the floor.

Mr. GORE. I should like to yield the floor.

Mr. GRUENING. Then I have the floor, and I am directing a question to the Senator from Louisiana.

Mr. LONG of Louisiana. I thought the Senator from Alaska asked me a question. I should like to respond to it when I obtain the floor.

Mr. GRUENING. I would appreciate having a response.

Mr. LONG of Louisiana. I would prefer to respond in my own time. I will wait until other Senators who wish to speak have spoken. When I receive recognition, I will speak; until then, I shall wait.

Mr. GRUENING. With the understanding that the Senator from Louisiana will answer my question, an answer which is necessary for some of us who would like to vote intelligently on the amendment proposed by the Senator from Tennessee, I will yield the floor. However, the question is a vital one, one which I find it difficult to understand.

Mr. LAUSCHE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Ohio will state it.

Mr. LAUSCHE. Who has the floor? The Senator from Tennessee has yielded, and I thought the Chair recognized the Senator from Ohio.

Mr. LONG of Louisiana. Mr. President, I thought the Chair recognized the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. LONG of Louisiana. Now that I am recognized, I shall answer the question.

Mr. GRUENING. I thank the Senator.

Mr. LONG of Louisiana. This particular provision of the law goes back a few years to the days when the United States undertook to treat its citizens abroad in the same way that most countries treat theirs here, as I understand. That is, for an American living in a foreign country, the United States does not provide any defense of his person. He is not provided with sanitation facilities. He could contract any disease, from malaria to bubonic plague, and the United States would not protect him. It does not provide the highways on which he rides. It does not provide him with facilities for the education of his children. He obtains them as best he can in the foreign land where he lives.

Great Britain and other countries have in the past become rich by accepting the theory that if an individual is able to earn something, he brings it back to his country, and it is then added to the total wealth of the land. They encourage their citizens to go abroad, invest their money, make something on it, and bring it back to "Merrie Old England," if they succeed in business.

Some years ago, it was felt that this arrangement offered advantages to wealthy persons—moving-picture stars and others—who might want to use it as a tax avoidance scheme. So we said we would limit the exemption to $20,000, unless the person had lived in the foreign land for more than 3 years, in which event the exemption would be $35,000.

So on income earned abroad, from foreign sources, he could make $20,000; or if he had lived abroad for more than 3 years, $35,000; and he would not be taxed in the United States.

I know that a case can be made that even though a U.S. citizen has been living in a foreign country and has not returned to his homeland for 10 years, and still retains his citizenship, he should be taxed in the same way as those living at home, even though this country has provided him with no services.

Some contend that such an American living in a foreign land would have the benefit of having Uncle Sam protect his rights and protect his property in the event the foreign country sought to confiscate it, take all of it away, or do violence to his person. However, the protection the American citizens have had in that connection has diminished in recent years. When an American is living in a foreign country, and is relying on that country for defense against the enemy, defense against invasion or defense against violations of the law, police protection, sanitation protection, and the education of his children, and is paying taxes in that country for those purposes while he is a resident there, it is difficult to see why we should tax him.

Not only do we forego tax because such a country is providing those services to a U.S. citizen who is living there, but also we wish such Americans to be able to compete on terms of equality with the Germans, the Chinese, or the Japanese who may be living in that country. We do not tax income such U.S. citizens earn abroad, because they are competing with foreigners engaged in the same enterprise. It was felt that this justified an exclusion from U.S. taxation up to $20,000; or, if they have been there for more than 3 years, up to $35,000 in some cases. That is what the committee felt.

Much has been said about what President Kennedy recommended. Two years ago President Kennedy recommended that the income of Americans in developed countries be fully taxed. But the amendment of the Senator from Tennessee [Mr. GORE] seeks to go beyond that, and to tax such income of our citizens who are in undeveloped countries as well. In that respect, his proposal goes much further than anything the late President Kennedy recommended.

Our committee considered this matter 2 years ago, and brought out the provisions which are presently in the law, which amount to a very substantial tightening of the law. We adopted what I thought both desirable and very generous in 1962.

Whether we went far enough and made the law sufficiently severe could be questioned; but the Treasury Department has not seen fit to recommend a change in this field. Furthermore, President Kennedy did not recommend a further change. Moreover, President Johnson certainly has not recommended a change in the law, and the Treasury is not asking for the provision the Senator from Tennessee has now proposed.

If we should ask the Treasury what it believes we should do with this amendment, it would reply, "We recommend no change on this, this year." That is about the situation we face.

Mr. CURTIS. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. CURTIS. Is it not true that we are here confronted with a basic problem of jurisdiction? If a citizen of State A earns income in State B, and he is not living in his home State, to what extent can one jurisdiction tax income earned in another? That is also true among nations.

So here we have a question about income not earned in the United States, and oftentimes not brought to the United States. That is the basic problem.

Then there arose a necessity for some limitation on that, because a loophole developed from the fact that the entire activities or business transactions of certain persons or firms were moved outside the United States—whether those involved the making of a movie film or something else. The purpose was to avoid U.S. taxation on a sizable amount of income that went beyond what could be regarded as remuneration for personal services. For that reason, there was some limitation.

But does this question go back in the Senator's opinion, to the basic problem of jurisdiction over taxable income earned in a foreign country? Is it any more likely that such countries would permit United States taxes on income

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earned by United States citizens there, than that the United States would permit those countries to tax income earned in this country by their nationals?

Mr. LONG of Louisiana. The United States claims the right to tax the earnings of every U.S. citizen, wherever he may be—even if he is on the moon, if he can get there. On the other hand, such a foreign country has the right to tax the amounts he earns in that country.

Mr. CURTIS. Is it not true that, historically, income earned by U.S. citizens while living outside the United States, regardless of their particular situations, is subject to U.S. taxation?

Mr. LONG of Louisiana. At one time there was no exclusion. Then in the 1920's we provided an exclusion. Then in the 1950's the United States reasserted its right to tax the income of U.S. citizens who were living in other countries above $20,000 in some cases.

We believe that if there should be any further tightening of the act, it should await some further study. We believe we have tightened enough to prevent abuses, and that further tightening should await the making of further studies to determine where the law should be changed.

Most of the countries where this would have its greatest application are not developed countries; but the amendment of the Senator from Tennessee would apply both to our citizens in the developed and our citizens in the undeveloped countries. However, neither President Kennedy nor any other U.S. official has recommended that we do what the Senator from Tennessee wants done, so far as those countries are concerned.

Mr. GRUENING. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. GRUENING. Is it not true that when a U.S. citizens chooses to establish his residence abroad, and makes his choice freely, thereafter—while he is abroad—he does not drive his automobile over our roads or send his children to our schools, although he could do so. So I fail to understand why he should get a special exemption. If he is taxed by the country in which he works and makes a profit, that is his business. I find it difficult to understand why the U.S. Treasury should be the victim of an act which he performed of his own free choice. Under these circumstances, I intend to support the amendment of the Senator from Tennessee.

Mr. CLARK. Mr. President, before the vote on the amendments is taken, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. CLARK. A few moments ago the Senator for Tennessee stated that the substance of his amendment had been recommended by both President Kennedy and Secretary of the Treasury Dillon; the Senator from Tennessee made that categorical statement.

Mr. LONG of Louisiana. This amendment was not recommended by either President Kennedy or the Secretary of the Treasury.

Mr. CLARK. But it was recommended at the time when the initial recommendation for tax reform came to Congress, was it not? Is not that what the distinguished Senator from Tennessee said?

Mr. LONG of Louisiana. No. This amendment had not been recommended by anyone at the administration level. In other words 2 years ago, under the Kennedy administration, a recommendation was made that the exclusion should be eliminated, insofar as U.S. citizens in developed countries were concerned.

The great majority of countries are not regarded as developed countries, and therefore there was not recommendation of a change insofar as the less developed countries were concerned.

Mr. CLARK. Is it not true, however, that the vast majority of the money involved comes from our citizens who live in developed countries, and that the President recommended elimination of the entire credit, not just a reduction to

$6,000, as the Senator from Tennessee has recommended?

Mr. DOUGLAS. That is correct.

Mr. CLARK. I ask for a factual answer.

Mr. LONG of Louisiana. Well, let me say that although this amendment was voted on by the committee, it was considered there only briefly—which accounts for the fact, so I am advised by one of our ablest staff members, that to the best of his recollection the amendment was not considered at length in the committee.

In my judgment, if the committee had studied the provision more it would have been still stronger in opposition to the amendment. In any event, the possibilities are that the bulk of what we would have talked about in terms of revenue is in the less developed countries, because the tax rates in the so-called developed countries, the advanced countries, are more nearly in line with ours. Insofar as persons making a substantial income in those countries are concerned, they are already paying a substantial income tax on the income derived in those nations, and they would have the benefit of the foreign tax credit with regard to income earned there.

Mr. CLARK. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. CLARK. The Senator from Louisiana agrees, does he not, with the Senator from Tennessee, that a more rigorous amendment than the one proposed by the Senator from Tennessee was proposed both by President Kennedy and by Secretary Dillon 2 years ago?

Mr. LONG of Louisiana. More rigorous in one respect and less rigorous in another respect.

Mr. HOLLAND. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. HOLLAND. I believe most Senators have traveled in Central America and Latin America. I have noticed that in those countries there are large investments of American money, in connection with the operation of all types of business, and that most of those investors prefer to have American executives at the head of their businesses and also in all other high-level echelons.

I inquire of the Senator from Louisiana whether it would be reasonable to expect trained executives of such a type to go into those countries without having some assurance of the type that is offered by existing law—namely—that they would not have full accountability to the countries where they were residing and working for the moment for the payment of income taxes, and at the same time have accountability to their home nation for payment of the full amount of the ordinary income. Would it be reasonable to encourage them or to expect them to accept assignments to those positions if they had to pay taxes in both directions?

Mr. LONG of Louisiana. I agree with the Senator from Florida. I do not believe it would be reasonable to expect that. I also remind the Senator so long as Americans with large investments overseas are competing with foreigners who are becoming more efficient from day to day, we must recognize the growing ability of these foreigners to compete with Americans. If we were to undertake to discriminate by taxing our people at a far heavier rate than that applied to others in those lands, it would seem to me that over a period of time we would tend to make Americans less competitive with the citizens of advanced nations who are competing with our citizens in countries where the resources need to be developed.

Mr. HOLLAND. Mr. President, will the Senator from Louisiana yield further?

Mr. LONG of Louisiana. I yield.

Mr. HOLLAND. In conjunction with other members of the Appropriations Committee, I heard the distinguished Secretary of the Treasury, Mr. Dillon, report on the original conferences in Uruguay which preceded the Alliance for Progress. One of the things on which he insisted most fully was that the contributions to be made by our country over this period of years be very heavily divided between public contributions and private investments, and that it was a part of the program to encourage both large companies and small companies of our country to transact business in the countries covered by the Alliance for Progress.

So I repeat the question: With the emphasis being laid in every way by our country upon increased investments and increased operations by American capital and American business in these countries, would it have been reasonable or feasible to adopt a tax program which would have discouraged our own people who were qualified to be executives of those businesses from going there with our capital, to manage them in the American way?

Mr. LONG of Louisiana. It would not have been reasonable. That is why the Kennedy administration recommended some action in this field and recommended that we not change the exclusion at all in the less-developed countries. The administration was not particularly concerned about retarding the efforts of Americans in connection with

developed enterprises in the developed countries, but it wished to retain the incentive and encouragement that existed then, and presently exists, for

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Americans to go into the less-developed countries, to help them get on with the job of the Alliance for Progress and with the advancement of their economic interests. So even the present law is more restrictive in that type of situation than the President Kennedy administration was disposed to recommend.

Mr. LAUSCHE. Mr. President——

The PRESIDING OFFICER (Mr. EDMONDSON in the chair). The Senator from Ohio is recognized.

Mr. LAUSCHE. Mr. President, there has been some discussion about the relative income tax burdens imposed by the Government of the United States and Western European countries. The point I wish to make is that the U.S. Government imposes the highest income tax of any of the Western European countries, or even those in the Western Hemisphere. The statistical yearbook issued by the United Nations in 1961 is a narration of the percentage of taxes from major sources collected by certain central governments. The tabulation is most interesting because it shows that the nations of Western Europe rely primarily upon excise and indirect taxes.

The report shows that the United States collects 79 percent of its revenues through income taxes; Australia, 51 percent; Canada, 52 percent; Austria, 30 percent; Belgium, 37 percent; France, 28 percent; Germany, 38 percent; Italy, 21 percent; the Netherlands, 55 percent; and the United Kingdom, 38 percent.

Arguments have been made—and it was so testified by Secretary Dillon—that the European nations have reduced their income taxes and have found that that action has stimulated business. The parallel is drawn that if the stimulation arose there it will likewise come in the United States. But the whole story was not told, because Europe relies primarily upon excise, sales, and other indirect taxes to provide its revenues.

Now I go to another tabulation. This is one issued by the First National City Bank of New York in 1962. This one shows that the United States collects 83 percent of its revenues by income tax; Canada, 65 percent; Japan, 64 percent; the Netherlands, 64 percent; Germany, 60 percent; Australia, 58 percent; Great Britain, 55 percent; France, 51 percent; Belgium, 51 percent; Sweden, 50 percent; Italy, 49 percent, a disparity between this one and the last one I read; Denmark, 40 percent; and Norway, 37 percent.

I am not arguing in favor of collecting revenues through excise, sales, and indirect taxes. The point I wish to make is that most Socialist countries in Western Europe are collecting their revenues primarily through excise taxes.

That brings me to the following point: We contemplate losing revenues in the approximate amount of $11 billion in 2 years. We speak only of a 2-year period. The proposed action would mean a loss of revenues forever unless the tax laws were changed again. It is one thing to argue for the reduction of income taxes and to substitute for the loss the imposition of an indirect or an excise tax; but it is another thing to argue merely to reduce the tax and then depend upon the possibilities that with reduction greater revenues will flow to the state. I do not believe that will happen.

Mr. President, I contend that the tabulations which I have discussed are exceedingly important. Secretary Dillion, in answering the questions asked by the Senator from Virginia [Mr. BYRD], used Europe as an example of why we should do what is proposed in the United States. Therefore I ask unanimous consent that those tabulations be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

[In cents]

	Out of every $1 of tax revenue of central governments—		
	Taxes on income produce—	Taxes on capital produce—	Taxes on sales produce—
United States	83.4	1.8	14.8
Canada	65.0	1.6	33.4
Japan	64.9	.6	34.5
Netherlands	64.6	3.4	32.1
Germany	60.2	1.6	38.2
Australia	58.1	1.3	40.6
Britain	55.3	3.7	41.0
France	51.7	1.9	46.4
Belgium	51.4	1.5	47.1
Sweden	50.6	1.5	47.8
Italy	49.7	1.7	48.6
Denmark	40.0	5.3	54.7
Norway	37.5	2.2	60.3

NOTE.—Taxes on income include payroll taxes. Those on capital include estate, inheritance, gift and property taxes. Taxes on sales include exises, other consumption taxes. Figures are for fiscal years ended in 1960, except for Scandinavian countries, where years ended in 1959 are the latest available.

The Statistical Yearbook issued by the United Nations in 1961 gives an information narration of the percentage of taxes from major sources collected by certain central governments; the tabulation is as follows:

Percentage of taxes from major sources central governments, selected countries, 1960

	Personal income	Corporate income	Import duties	Excise duties	Turnover tax	Others	Total income tax
United States	51.9	27.4	1.4	11.6	----------	7.6	79.3
Australia [1]	51.0		6.5	19.2	[2] 12.5	10.8	51.0
Canada	30.6	22.3	10.3	----------	----------	36.8	52.9
Austria [1]	30.9		7.3	----------	21.3	40.5	30.9
Belgium [1]	37.6		5.4	14.6	----------	42.4	37.6
France	16.0	12.6	2.2	9.5	35.2	24.5	28.6
Germany (Federal Republic)	28.8	10.1	4.8	14.5	28.5	13.0	38.9
Italy [1]	21.3		[3] 22.3		19.4	36.9	21.3
Netherlands	40.3	15.0	10.0	8.5	18.7	7.4	55.3
United Kingdom [1]	38.2		[3] 33.4		----------	28.4	38.2

[1] A breakdown between personal and corporate income taxes is not provided.
[2] The Australian tax is classed as a sales tax.
[3] Import and excise duties are stated as 1 figure for Italy and the United Kingdom.

NOTE.—The turnover tax is a multiple-stage sales tax which is applied at all stages in the production and distribution channels. There are varied and modified forms of it in the countries where it is used.
Percentages may not total 100 due to rounding.

Mr. LONG of Louisiana. Mr. President, in order that Senators may know when the vote will come on the Gore amendment, I ask unanimous consent that the Senate vote on the Gore amendment in 10 minutes, which would be at 35 minutes after 3 p.m.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that immediately following the vote on the Gore amentment the Senator from Indiana [Mr. HARTKE] be recognized.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LONG of Louisiana. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG of Louisiana. I ask unanimous consent that the Senate now proceed to vote on the Gore amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from West Virginia [Mr. BYRD], the Senator from Nevada [Mr. CANNON], the Senator from Connecticut [Mr. DODD], the Senator from Arizona [Mr. HAYDEN], the Senator from Oregon

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[Mrs. NEUBERGER], the Senator from Rhode Island [Mr. PASTORE], and the Senator from Texas [Mr. YARBOROUGH] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that, if present and voting, the Senator from Alaska [Mr. BARTLETT], the Senator from Connecticut [Mr. DODD], and the Senator from Nevada [Mr. CANNON] would each vote "yea."

On this vote the Senator from Arizona [Mr. HAYDEN] is paired with the Senator from Rhode Island [Mr. PASTORE]. If present and voting the Senator from Arizona would vote "nay," and the Senator from Rhode Island would vote "yea."

Mr. KUCHEL. I announce that the Senator from New Hampshire [Mr. COTTON], the Senator from Illinois [Mr. DIRKSEN], and the Senator from Arizona [Mr. GOLDWATER] are necessarily absent.

The result was announced—yeas 47, nays 41, as follows:

[No. 14 Leg.]

YEAS—47

Aiken	Gruening	Mundt
Bayh	Hart	Muskie
Beall	Hruska	Nelson
Burdick	Johnston	Pearson
Byrd, Va.	Keating	Prouty
Case	Kennedy	Proxmire
Church	Kuchel	Randolph
Clark	Lausche	Ribicoff
Cooper	McGovern	Russell
Curtis	McIntyre	Scott
Dominick	McNamara	Smith
Douglas	Mechem	Symington
Edmondson	Metcalf	Thurmond
Ervin	Miller	Williams, Del.
Fong	Monroney	Young, Ohio
Gore	Morse	

NAYS—41

Allott	Humphrey	Moss
Anderson	Inouye	Pell
Bennett	Jackson	Robertson
Bible	Javits	Saltonstall
Boggs	Jordan, N.C.	Simpson
Brewster	Jordan, Idaho	Smathers
Carlson	Long, Mo.	Sparkman
Eastland	Long, La.	Stennis
Ellender	Magnuson	Talmadge
Fulbright	Mansfield	Tower
Hartke	McCarthy	Walters
Hickenlooper	McClellan	Williams, N.J.
Hill	McGee	Young, N. Dak.
Holland	Morton	

NOT VOTING—12

Bartlett	Dirksen	Hayden
Byrd, W. Va.	Dodd	Neuberger
Cannon	Engle	Pastore
Cotton	Goldwater	Yarborough

So Mr. GORE's amendment was agreed to.

Mr. GORE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOUGLAS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARTKE. Mr. President, shortly this body will take up consideration of an amendment by the junior Senator from Connecticut, my distinguished and learned friend [Mr. RIBICOFF]. This amendment deals with tax credits for those who are supporting children attending colleges and universities.

Mr. SMATHERS. Mr. President, will the Senator yield?

Mr. HARTKE. I am happy to yield to the Senator from Florida.

Mr. SMATHERS. Is the Senator discussing an amendment or proposal which has something to do with the so-called Ribicoff amendment?

Mr. HARTKE. My intention is to discuss at this time a proposal which would be an alternative to and a substantial improvement over the proposal of the distinguished Senator from Connecticut. I hope that Members of the Senate who are interested in the vote on the so-called Ribicoff amendment will give this matter their utmost consideration, because I believe they will be interested in learning how this approach will go to the heart of the problem. This may end what I consider to be some confusion, and may at the same time eliminate the illusion which I believe has been created. The proposal which I intend to offer looks to the future rather than to the immediate past or to the present in the field of education.

Both the subject matter—that of assistance to youngsters in college and their families—and the specific proposal of the junior Senator from Connecticut are familiar to me. I have had to come to grips personally with the problem of helping children in college all too soon after my own labors at trying to earn a degree and money at the same time. Moreover, I have offered as bills several proposed solutions to this problem. I have considered carefully, long ago, the idea of tax credits, of writeoffs for college expenses, of double exemptions for college students and of a guaranteed loan program organized along the lines of FHA. My point is, Mr. President, that I am no Johnny-come-lately to this problem. Nor am I a Johnny-come-lately to seeking a solution.

Along with many others in the Senate, I have come to the conclusion that a solution cannot rest with one facet of this problem. It is not primarily a problem of taxation and the solution cannot be provided exclusively with taxation, if at all. Certainly, any measure which porports to be a solution to the problem of helping students and their parents afford college should offer sufficient relief and help so that we may reach a goal of a college education for every American youngster who wants to go and who has the capacity to do the work.

I do not believe that the junior Senator from Connecticut's amendment would do this job. I think it would add to the confusion and in fact be an illusion. I believe we need a broader, more comprehensive program to do this job.

Last Thursday, the distinguished senior Senator from Michigan stated here:

> When we seek to aid education, we should do so in an education bill and not in a bill relating to finance.

I believe this was one great factor which caused the Finance Committee to reject the proposal of the junior Senator from Connecticut.

When it fell to my lot to face a committee vote on this matter, I took up the whole idea of aid for students in colleges and universities with the highest echelons of Treasury and the Department of Health, Education, and Welfare. I discussed with them my own ideas and the need for something to be done to help solve this problem of trying to put higher education within the reach of every qualified youngster. I have come up with a comprehensive solution which has met with considerable approval at Treasury and HEW and which I believe will be approved parents, students, education, and lawmakers. My proposal looks forward rather than backward.

But first, Mr. President, I wish to discuss for a moment my objections to the

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Ribicoff amendment of the junior Senator from Connecticut.

The graduated tax credit proposed by the junior Senator from Connecticut is extremely costly. Estimates of Treasury are that it will cost $750 million the first year and that, by 1970, the cost will be $1.3 billion for that year. Should costs of tuition and other items of obtaining a college education rise in the period, the loss would, of course, be even greater.

To obtain relief under the proposal of the junior Senator from Connecticut, a man would have to be paying income taxes. There can be no tax relief to the student from a family whose income is too low to be paying taxes. Moreover, it can be assumed that those who would get relief would be sending their children to college anyway. Laudable as this may be, it does not solve the problem of putting college within the reach of every qualified student.

As the 1960 census shows clearly, so far as the present income groups are concerned, if we divide them into upper income, middle income, and lower income groups, we find that two-thirds of those who are in the upper income groups are sending their children to college; one-half of the middle income, and one-fifth of those who are in the lower income groups. Those are the people who are providing an opportunity for a college education.

Colleges and universities would be aided by the amendment of the junior Senator from Connecticut only in that they could raise tuition and other costs. Any tax credit to an individual might then be virtually wiped out by increased costs. In other words, a father might well be out of pocket just as much after getting tax relief because of also getting a bigger bill from the school. The net result could well be aggravation of the disease rather than a cure. There might be little gain—if any—for those who benefit and a loss to those not benefiting. The greatest loss of potential—that is, the lower income group—would be aided least. In fact, the needy will be worse off.

Major benefit to individuals from the plan would go to those who send youngsters to expensive, private institutions. Students in public institutions generally would get shortchanged and States with highly-developed public education into the college level would be discriminated against.

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In evaluating the tax credit as a means for encouraging higher education, through helping institutions and families of students, we should consider whether spending this kind of money can accomplish more some other way.

In following this approach, Mr. President, I have come up with a solution which I believe does just this. That is, the spending proposed is not as great or no greater than the loss of revenue anticipated by passage of the amendment. Yet, I believe, the benefits are greater to those whom we wish to help. I believe that the Labor and Public Welfare Committee should consider my suggested solution, that of our distinguished colleague from Connecticut and, perhaps, others.

I believe, as does the Senator from Louisiana [Mr. LONG], when he said Thursday, in the initial discussion about this matter, that if we could make available the same sum of money that the Ribicoff amendment would cost the Treasury for direct use in assistance to students for higher education, it would be far more effective. I am today introducing a comprehensive bill to achieve those purposes, a bill which bears the short title, "Higher Education Student Assistance Act of 1965."

In my opinion, it would do more to achieve the same ends than would the so-called Ribicoff amendment, because it would reach the needier students from families which cannot benefit from the tax credit, because they would have no taxes, or insufficient taxes, from which to deduct a credit. It would do more because, first, it would create a scholarship program for talented and needy young people. It would do more because it would expand the loan opportunities available under the National Defense Education Act. It would do more because it would make more easily available to students and their families loans through commercial channels, and perhaps from funds of the institutions not now available for loan, by providing for Government guarantee of such loans. It would do more because it would provide a work-study program under which qualified students will be able to do useful course-related work on the campus for pay, giving them aid while at the same time helping the institution by their work, and incidentally removing many students from filling stations, taxi driving, and other part-time work which would thus help make jobs for some unemployed.

Mr. President, there is need for a broader consideration of the needs of higher education in the area of student assistance than can be given hastily on the floor of this body. This has previously been pointed out by others among my colleagues, including the junior Senator from Louisiana and the senior Sen-

ator from Michigan, as well as the senior Senator from Oregon, who is chairman of the Education Subcommittee of the Labor and Public Welfare Committee. It is for that reason that I present the comprehensive student assistance bill at this time, in order that it may be considered as a far better alternative than that which the junior Senator from Connecticut is offering. The total sums involved are less than those which that amendment anticipates, according to Treasury figures, and its full consideration by the subcommittee of the senior Senator from Oregon will give us a basis for consideration which adoption now of the so-called Ribicoff proposal will not do.

The bill I am about to introduce is one which the administration will find it is possible to support. Three of its four methods of approach have been proposed in previous drafts of legislation, and one of these, the student loan guarantee proposal, is before a committee separately in a bill introduced by me, S. 1115, and was once proposed in a bill introduced by the distinguished President of the United States when he was a Member of this body.

But the fourth, the work-study program, is a new and most promising additional approach.

Under my bill, the cost would be $353,500,000, compared with $750 million under the so-called Ribicoff amendment, for the first year, fiscal 1965, rising in 1968 to a maximum of $650 million, compared with the $1.3 billion under the Ribicoff amendment. Thus, the cost of my program would be about half of that involved in the Ribicoff amendment. I have seen no estimate of the number of students who would be aided by the Ribicoff amendment. The number of students who would be aided by my bill would be 905,000 in the first year and 1,240,000 by 1968.

Moreover, these will be students who have proved in the competition for scholarships, in the restrictive provisions requiring a combination of ability and need, and in the measures providing for judicious administration of the assistance to those most deserving, that the aid they receive will be contributing most efficiently to our future citizenry.

My bill has four parts. First, the undergraduate scholarship program would provide aid in the first year for 50,000 students, and for 200,000 by 1968. This would be direct scholarship assistance on a State-administered basis, based on merit. Here we would reach students who have real need but who in many cases, although even brilliantly qualified for college, are unable because of the family economic situation, to attend without scholarship help. This is the group untouched by the Ribicoff proposal.

Second, the National Defense Education Act would be expanded in its aid, with the loan limit lifted from $1,000 to $1,500 for undergraduates and from $2,000 to $2,500 for graduate students. It would further expand the application of the National Defense Education Act to technical institutions of less than 4-year degree-granting status, which are not now eligible. The number of students aided by this expansion would be 470,000 in 1965 and 600,000 in subsequent years.

Third, the student loan insurance program would be accomplished by a very nominal expenditure of $1 million for a revolving fund which would become self-sustaining. One could draw a parallel to the Federal Deposit Insurance Corporation and its operations. It might open up the possibility, with Federal loan guarantees, for the loaning out of restricted funds now being held by many of the institutions themselves, giving them a return on their funds as great as they are now receiving but putting the funds to work directly in support of the educational programs at the heart of their concern. The estimate is that this program, which would include a limitation on the amount of interest chargeable under an insured loan to 6 percent, would help 55,000 students in its first year and 110,000 each year thereafter.

Finally, the work-study program would make available $250 million annually to the cooperating institutions, which would parcel it out in pay to students for work of benefit both to them in relation to their college work and of significant benefit to the institution. For example, it would allow the use of more student assistants to professors. It might encourage teachers by making some payment for their practice teaching, or for field work by students in social work areas, and in other ways. In addition, it would have the "fallout effect" of removing many students from part-time work which could be done as well by nonstudents. This most important new proposal would aid 330,000 students annually.

But although I am speaking of this subject in the context of the amendment to the tax bill before us, I am introducing it as a bill which deserves its own consideration as a preferable attack upon the problem of aid to students. I believe that we must vote against the Ribicoff amendment or at least to refer it to committee, where it can be examined minutely in comparison with my own

proposal in the bill I am introducing today.

Mr. President, I introduce the bill at this time and ask that it be appropriately referred for full consideration by a committee.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 2490) to provide assistance for students in higher education by increasing the amount authorized for loans under the National Defense Education Act of 1958 and by establishing programs for scholarships, loan insurance, and work-study, introduced by Mr. HARTKE, was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

Mr. SMATHERS. Mr. President, will the Senator from Indiana yield?

Mr. HARTKE. I yield.

Mr. SMATHERS. I congratulate the able Senator on the concept of his bill. I should like to ask the Senator several questions that arose in my mind as I listened to him speak.

First, does his proposal envision taking care of and providing education for a young man who might be orphaned, who has no family to provide for him? Would the Senator's concept provide education for that type of person, who otherwise would not be eligible?

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Mr. HARTKE. Most especially that is true. There would be assistance to the student who needs this assistance in order to be able to go to college. In other words, his tax would be cut.

Mr. SMATHERS. Does that differ from the Ribicoff proposal, in that the Ribicoff proposal does not provide at all for the boy who might be in need, but rather, envisions taking care of the parents? Is that correct?

Mr. HARTKE. Yes. There is no doubt about it. The Senator from Florida is exactly correct. In the case of the orphan, the parents are no longer living. So, under the Ribicoff amendment, the child could not receive the tax credit; and the parents would no longer be in need of it, for their assistance.

Mr. SMATHERS. As I understand the Ribicoff amendment, if a man has a large number of children, but has no way to send them to school, would this amendment provide a way to send them to school?

Mr. HARTKE. No, it would not, for under the Ribicoff amendment he would not be eligible to receive such a tax credit. No tax credit can be given to a man who does not have any money with which to pay taxes and does not pay them.

The PRESIDING OFFICER. Under the unanimous-consent agreement entered into on January 31, the time available for debate on the Ribicoff amendment is now under control.

The amendment of the Senator from Connecticut will now be stated.

AMENDMENT NO. 329

The LEGISLATIVE CLERK. At the proper place in title II of the bill, it is proposed to insert the following new section:

SEC. . TAX CREDIT FOR EXPENSES OF HIGHER EDUCATION.

(a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by renumbering section 39 as 40, and by inserting after section 38 the following new section:

"SEC. 39. EXPENSES OF HIGHER EDUCATION.

"(a) GENERAL RULE.—There shall be allowed to an individual, as a credit against the tax imposed by this chapter for the taxable year, an amount, determined under subsection (b), of the expenses of higher education paid by him during the taxable year to one or more institutions of higher education in providing an education above the twelfth grade for himself or for any other individual.

"(b) LIMITATIONS.—

"(1) AMOUNT PER INDIVIDUAL.—The credit under subsection (a) for expenses of higher education of any individual paid during the taxable year shall be an amount equal to the sum of—

"(A) 75 percent of so much of such expenses as does not exceed $200,

"(B) 25 percent of so much of such expenses as exceeds $200 but does not exceed $500, and

"(C) 10 percent of so much of such expenses as exceeds $500 but does not exceed $1,500.

"(2) PRORATION OF CREDIT WHERE MORE THAN ONE TAXPAYER PAYS EXPENSES.—If expenses of higher education of an individual are paid by more than one taxpayer during the taxable year, the credit allowable to each such taxpayer under subsection (a) shall be the same portion of the credit determined under paragraph (1) which the amount of expenses of higher education of such individual paid by the taxpayer during the taxable year is of the total amount of expenses of higher education of such individual paid by all taxpayers during the taxable year.

"(3) REDUCTION OF CREDIT.—The credit under subsection (a) for expenses of higher education of any individual paid during the taxable year, as determined under paragraphs (1) and (2) of this subsection, shall be reduced by an amount equal to 1 percent of the amount by which the adjusted gross income of the taxpayer for the taxable year exceeds $25,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) EXPENSES OF HIGHER EDUCATION.—The term 'expenses of higher education' means—

"(A) tuition and fees required for the enrollment or attendance of a student at a level above the twelfth grade at an institution of higher education, and

"(B) fees, books, supplies, and equipment required for courses of instruction above the twelfth grade at an institution of higher education.

Such term does not include any amount paid, directly or indirectly, for meals, lodging, or similar personal, living, or family expenses. In the event an amount paid for tuition or fees includes an amount for meals, lodging, or similar expenses which is not separately stated, the portion of such amount which is attributable to meals, lodging, or similar expenses shall be determined under regulations prescribed by the Secretary or his delegate.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an educational institution (as defined in section 151(e)(4))—

"(A) which regularly offers education at a level above the twelfth grade, and

"(B) contributions to or for the use of which constitute charitable contributions within the meaning of section 170(c).

"(d) SPECIAL RULES.—

"(1) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS AND VETERANS' BENEFITS.—The amounts otherwise taken into account under subsection (a) as expenses of higher education of any individual during any period shall be reduced (before the application of subsection (b)) by any amounts received by such individual during such period as—

"(A) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) which under section 117 is not includible in gross income, and

"(B) education and training allowance under chapter 33 of title 38 of the United States Code or educational assistance allowance under chapter 35 of such title.

"(2) NONCREDIT AND RECREATIONAL, ETC., COURSES.—Amounts paid for expenses of higher education of any individual shall be taken into account under subsection (a)—

"(A) in the case of an individual who is a candidate for a baccalaureate or higher degree, only to the extent such expenses are attributable to courses of instruction for which credit is allowed toward a baccalaureate or higher degree, and

"(B) in the case of an individual who is not a candidate for a baccalaureate or higher degree, only to the extent such expenses are attributable to courses of instruction necessary to fulfill requirements for the attainment of a predetermined and identified educational, professional, or vocational objective.

"(3) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) to the taxpayer shall not exceed the amount of the tax imposed on the taxpayer for the taxable year by this chapter, reduced by the sum of the credits allowable under this subpart (other than under this section and section 31).

"(e) DISALLOWANCE OF EXPENSES AS DEDUCTION.—No deduction shall be allowed under section 162 (relating to trade or business expenses) for any expense of higher education which (after the application of subsection (b)) is taken into account in determining the amount of any credit allowed under subsection (a). The preceding sentence shall not apply to the expenses of higher education of any taxpayer who, under regulations prescribed by the Secretary or his delegate, elects not to apply the provisions of this section with respect to such expenses for the taxable year.

"(f) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 39. Expenses of higher education.
"Sec. 40. Overpayments of tax."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1963.

Mr. ANDERSON. Mr. President, I yield 3 minutes to the Senator from Montana [Mr. MANSFIELD].

The PRESIDING OFFICER. The Senator from Montana is recognized for 3 minutes.

Mr. MANSFIELD. Mr. President, I have discussed with the distinguished Senator from Connecticut [Mr. RIBICOFF], the mover of the amendment; with the Senator in charge of the bill [Mr. LONG of Louisiana]; with the disguished senior Senator from New Mexico [Mr. ANDERSON]; with the ranking minority member of the committee on the bill, the senior Senator from Delaware [Mr. WILLIAMS]; and with the distinguished junior Senator from Kentucky [Mr. MORTON] the possibility of changing the unanimous-consent agreement to a more understandable basis.

The unanimous-consent agreement now reads in part as follows:

> That debate on said amendment continue for 4 hours, the time to be equally divided between the proponents and the opponents and controlled in the manner provided by the usual form.

I ask unanimous consent that the words "that after the hour of 8 o'clock p.m." be stricken out.

The PRESIDING OFFICER (Mr. BREWSTER in the chair). Is there objection?

Mr. PROUTY. Mr. President, reserving the right to object, would that mean that the vote on the Ribicoff amendment would be taken tonight?

Mr. MANSFIELD. No. The vote on the Ribicoff amendment would still be taken tomorrow, as now provided for; but the votes on amendments to the Ribicoff amendment would be taken tonight, and there would be debate for 4

hours or less. In other words, if that debate ended before the 4 hours elapsed, the debate tonight could then turn to other amendments.

Mr. PROUTY. Can the Senator from Montana give us assurance that a motion to lay the Ribicoff amendment on the table will not be made by him, and that the Senate will have an opportunity to vote the Ribicoff amendment either up or down?

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Mr. MANSFIELD. No, I cannot now give such assurance, because at this time I do not know what I am going to do.

Mr. PROUTY. Then, Mr. President, under the circumstances, I am constrained to object; and I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. RIBICOFF. Mr. President, on the question of agreeing to my amendment, I ask that when the vote is taken tomorrow, it be taken by the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

Mr. RIBICOFF. Mr. President——

The PRESIDING OFFICER. How much time does the Senator from Connecticut yield to himself?

Mr. RIBICOFF. As much of the available time as I may need.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

COLLEGE TAX CREDIT AMENDMENT

Mr. RIBICOFF. Mr. President, this is a significant moment in the long fight that was begun many years ago to provide tax relief for the costs of a college education. The debate we now begin will end tomorrow with a vote—a rollcall vote—on this issue. As far as I know, this is the first time the issue has come to the floor of the Senate for serious debate and tomorrow will be the first time the issue has been voted on.

I believe this is significant for two reasons. First of all, it has been my view while serving both in the executive branch and in the legislative branch, that the legislative branch too rarely initiates its own legislative proposals. Most of the bills that move through Congress begin their journey in the executive branch. There is a reluctance here to break new legislative ground. The system whereby the executive proposes and the Legislature disposes has come to dominate not just consideration of Presidential requests, but the entire legislative process. Too often Congress accepts the passive role of disposing, and fails to assume its proper responsibility for doing some proposing of its own.

Second, the reluctance of Congress to initiate legislation becomes almost absolute when a proposal is actively opposed by the executive branch.

So it has been in the past with the proposal for tax relief for college costs. Each year Senators and Congressmen introduce bills on this subject. There have been 450 bills in the last 10 years. In this Congress more than 100 Congressmen and 19 Senators have introduced such bills. After the bills have been introduced, little or nothing happens. The bills are not pressed in the face of administration disapproval, they are not debated, and they are not brought to a vote.

This year is different. This year those of us who had introduced bills on this subject resolved to press the issue and have it decided. Senators from both parties, representing different parts of the country and different points of view, worked together to fashion a proposal that contained the best features of the bills each of us had prepared. From that effort came the amendment that is now before the Senate. This is the amendment we will debate and this is the amendment we will vote on tomorrow.

The executive branch has been opposed to this amendment and is still opposed. But nevertheless we are going forward. This is the way I believe the legislative process should work.

Let me now explain exactly what this amendment is and how it works.

The amendment provides an income tax credit for college costs. The credit is based on the first $1,500 of tuition, fees, books and supplies per student at an institution of higher education. The amount of the credit is 75 percent of the first $200, 25 percent of the next $300, and 10 percent of the next $1,000. The maximum credit is $325.

The credit is available to anyone who pays the qualifying costs—parents, students, or any other person who wants to help a deserving boy or girl obtain a college education.

The amount of the credit is reduced by 1 percent of the amount by which the taxpayer's adjusted gross income exceeds $25,000. In other words, for each $5,000 of adjusted gross income above $25,000, the credit is reduced $50. For taxpayers with adjusted gross incomes above $57,500, the amount of the credit is 0.

This credit for college costs, like all credits, is a subtraction from the amount of taxes the individual would otherwise pay. Each $1 of credit reduces a per-

son's tax by $1. Because the amendment uses a credit instead of a deduction or an exemption, the tax relief is provided uniformly without regard to the taxpayer's tax bracket. A deduction or an exemption saves a $15,000 man more tax dollars than a $5,000 man. But a credit saves both the exact same amount.

I ask unanimous consent to insert in the RECORD at this point tables 1 and 2 showing the amount of the credit at various levels of tuition and at various levels of income.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 1.—*Dollar benefit under Ribicoff amendment providing tax credit on 1st $1,500 of tuition, fees, books, and supplies at an institution of higher education*

	Adjusted gross income up to—							
	$25,000	$30,000	$35,000	$40,000	$45,000	$50,000	$55,000	$60,000
Tuition per student:								
$100	$75	$25	0	0	0	0	0	0
$200	150	100	$50	0	0	0	0	0
$300	175	125	75	$25	0	0	0	0
$400	200	150	100	50	0	0	0	0
$500	225	175	125	75	$25	0	0	0
$600	235	185	135	85	35	0	0	0
$700	245	195	145	95	45	0	0	0
$800	255	205	155	105	55	$5	0	0
$900	265	215	165	115	65	15	0	0
$1,000	275	225	175	125	75	25	0	0
$1,100	285	235	185	135	85	35	0	0
$1,200	295	245	195	145	95	45	0	0
$1,300	305	255	205	155	105	55	$5	0
$1,400	315	265	215	165	115	65	15	0
$1,500	325	275	225	175	125	75	25	0

TABLE 2.—*Taxpayers with adjusted gross income of $25,000 or less*

Tuition, fees, books, and supplies per student	Tax credit allowed taxpayer for each student whose expenses he paid	
	Amount	As a percentage of higher education expenses
$100	$75	75.0
$200	150	75.0
$300	175	58.3
$400	200	50.0
$500	225	45.0
$600	235	39.2
$700	245	35.0
$800	255	31.9
$900	265	29.4
$1,000	275	27.5
$1,100	285	25.9
$1,200	295	24.6
$1,300	305	23.5
$1,400	315	22.5
$1,500	325	21.7

Mr. RIBICOFF. The primary purpose of this amendment is to ease the heavy financial burden of college costs and thus to help reach the goal of enabling every deserving young man and woman in this country to obtain a college education.

The financial burdens of high college costs are just as entitled to be eased through tax relief as medical expenses and casualty losses. These college costs hit middle income and lower middle income families with an impact that hurts. The man earning $8,000, $10,000 or $15,000 faces a heavy burden in paying $2,000, $1,000 or even $500 for college costs. And this man is generally not eligible for scholarship or loan funds to aid his son or daughter. For example, under the National Defense Education Act loan program, 71 percent of the families receiving loan funds have incomes below $6,000.

This is an amendment for the average family in America. Their income is made up almost entirely of salary. They have no capital gains, no tax-exempt interest, no depreciable property, no stock options, no oil depletion allowances, and no investment credits.

These people are the backbone of America. They work hard. They earn their salaries. Every cent of it is taxable. They have the price, the desire, and the hope to educate their children in the best American tradition.

If they pay a $1,000 medical bill, they get some tax relief. If a tornado or a

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flood causes them $1,000 of damage, they get some tax relief. But when they pay $1,000 a year for 4 years to send their sons and daughters to college, they bear that burden without help from our tax laws.

I believe the time has come to recognize that these average Americans are entitled to a break. When they pay large sums to provide their children or themselves with a college education, they are spending money in the national in-

terest, and it is entirely appropriate for the Nation to ease their burden through the tax laws.

Who are these average Americans, and what benefit would they get from this amendment? Families with incomes between $3,000 and $10,000 are 62 percent of our population. These are the families who will receive 62 percent of the dollar benefit under my amendment. In other words, 62 percent of American families are between the $3,000 and the $10,000 class. It is exactly this group of Americans who earn between $3,000 and $10,000 per year that will receive 62 percent of all the benefits under the Ribicoff amendment.

One of the premises of the bill is that incentives should be given to capital investment. Yet there is no better form of capital investment we can make than investment in the education of our children. The investment credit in the 1962 bill and the revised depreciation guidelines provide over $2 billion in tax relief for investment in machinery. The pending bill provides hundreds of millions of dollars more for this purpose. I believe we should invest in the education of our youth. In the last analysis, trained minds, not just new machines, will insure the success of this Nation.

Mr. President, I await with great eagerness debating this very point with the proponents of the bill, and with the opponents of this amendment who are willing to come to the floor of the Senate and advocate additional revenue losses of millions of dollars for doubling the investment credit for machinery and equipment, but who will oppose a credit for investment in the education of the youngsters of America.

This amendment is not offered as a subsitute for any other form of aid to higher education. We need funds for buildings, for scholarships, for loans, for teacher training institutes, for graduate fellowships, and for research. All will help higher education, and I support these programs—as the distinguished Senator from Oregon [Mr. MORSE] knows, and I shall continue to support such higher education programs as he may advocate. But the need for these programs in the field of higher education does not in any way lessen the need to ease the financial burden of high college costs.

This amendment has been criticized on a number of counts, often by critics who did not know what the amendment provides. Let me deal with these objections one by one.

First. It is claimed the amendment helps the wealthy. The fact is, the $5,000 man gets more benefit than the $30,000 man and the $60,000 man gets no benefit at all.

Let me repeat: 62 percent of the dollar benefit goes to families with incomes between $3,000 and $10,000. Ninety-one percent of the benefit goes to families below $20,000 of income.

This is not a millionaire's amendment for one simple reason: the millionaire gets no benefit whatsoever under the Ribicoff amendment.

Second. It is claimed the amendment discriminates against the poor. The fact is, the credit operates exactly like all other tax relief provisions of the Internal Revenue Code: it is available only to those who pay a tax. The medical deduction is not used by nontaxpayers, yet who would oppose it on that ground? And who would argue that it discriminates against the very poor? All credits and deductions provide no relief to those who pay no tax. Why then should this one credit be attacked for such a reason?

Those in the very low income groups who pay no taxes need a sound program of student aid including scholarships. I am for such a program. It is needed in addition to tax relief for middle-income families. These are not alternatives. They are both necessities.

Third. It is claimed the amendment favors the high tuition colleges, most of which are private colleges. The fact is the amendment favors the low tuition colleges, most of which are public colleges.

The credit on a $200 expense is $150. That is 75 percent. The credit on a $1,000 expense is $275. That is only 27 percent. Even where a college charges no tuition, the expense of fees, books, and supplies invariably totals $200 or more.

This proportionately greater benefit for the low tuition results from the sliding scale formula in this amendment. Let me tell you why that sliding scale was used. During preliminary work on this amendment, we asked all Senators who were interested in the program to meet in my office, and during the conference the Senators from the Western States pointed out that they have a special problem because of State universities where the tuitions are low, and therefore they wanted a program that would give proportionately more assistance to the students who go to the community and State colleges where tuitions are usually low than to the great universities and the private colleges.

The sliding scale benefits came as a result of suggestions from the Senators from Western States, especially the junior Senator from Colorado [Mr.

Dominick]. He is aware of the basic problems of the Rocky Mountain States, and he made the suggestion; and I was quick to adopt the suggestion, and so were the other Senators there, because we realized it was important. This is how the sliding scale came about.

Those who claim the amendment favors high tuition colleges are looking just at the dollar amounts of the credit. It is true that the credit of $1,000 of tuition is more dollars than the credit on $200 of tuition. But that cannot possibly be the test of discrimination or else every credit and deduction in the Internal Revenue Code would be similarly attacked. The investment credit gives for more dollar benefit to the man who buys a $100,000 machine that to the man who buys a $10,000 machine, but who would call that a discrimination?

Most credits in the Internal Revenue Code work on a flat percentage basis. Thus the dividend credit is 4 percent whether the dividends are $100 or a $1,000, and the investment credit is 7 percent whether the investment is $100 or a $1,000.

It would have been possible to use a flat percentage rate in computing this college credit. Indeed the American Council on Education for years advocated a flat 30-percent college credit.

But we felt that the credit should be weighted in favor of the low tuition colleges. So we adopted the sliding scale formula, whereby the greatest percentage of credit is computed on the lowest amount of tuition.

The only sensible way to measure the fairness of a tax relief measure is to see what share of the burden is eased. This credit saves 75 percent of the $200 burden and only 27 percent of the $1,000 burden. So the man with a $200 expense has $50 left to pay, and the man with a $1,000 expense has $725 left to pay. How that result can be said to work against the $200 man is more than I can understand.

This argument about the low tuition colleges has been put forth most vigorously on behalf of the land-grant colleges and the State universities. I strongly suspect that many presidents of these colleges who have attacked the amendment do not realize that the amendment actually favors the low tuition colleges. And I am sure that many other critics of the amendment have no idea what the costs really are of attending these colleges.

For example, in the debate last week, the Senator from Louisiana said the credit would amount to only $37.50 for a student at Louisiana State University. I checked the tuition and fees at LSU and found that they are $170 for State residents. If you add $90 for books and supplies, the average figure used by the Office of Education, you find that allowable expenses total $260. On this sum the credit would be not $37.50 but $165. I wonder how many parents paying the costs of sending a son or daughter to LSU think that this $165 credit is unfair to them.

I have prepared a table showing what the dollar benefit of the credit would be on tuition, fees, books and supplies at most of the State universities and land-grant colleges of America. The tuition and fee figures were supplied by the Office of Education. To these has been added the Office's $90 estimate for books and supplies. I ask unanimous consent to insert this table in the Record at this point.

There being no objection, the table was ordered to be printed in the Record, as follows:

TABLE 3.—*Dollar benefit of Ribicoff tax credit amendment on tuition, fees, and books at State universities and land-grant colleges*

	Resident		Nonresident	
	Tuition, fees, and books	Dollar benefit of tax credit	Tuition, fees, and books	Dollar benefit of tax credit
Alabama A. & M. College	$274	$169	$394	$199
Auburn University	315	179	615	237
University of Alabama	350	188	700	245
University of Alaska	328	182	628	238
Arizona State University	320	180	920	267
University of Arizona	297	174	897	265
Arkansas A. & M	270	168	470	218
University of Arkansas	290	173	560	231
University of California	263–314	166–179	863–914	261–266
Colorado State University	330	183	750	250
University of Colorado	370	193	994	274
University of Connecticut	250	173	650	240
Delaware State College	245	161	495	224
University of Delaware	405	201	740	249
Florida A. & M	270	168	620	237
University of Florida	316	179	666	242
Florida State University	316	179	666	242
Fort Valley State College	315	179	615	237
Georgia Institute of Technology	399	200	789	254
University of Georgia	350	188	695	245
University of Hawaii	338	185	338	185
University of Idaho	254	164	564	231
Southern Illinois University	275	169	425	206
University of Illinois	360	190	710	246
Indiana University	390	198	795	255
Purdue University	390	198	940	269
Iowa State	387	197	690	244
University of Iowa	380	195	710	246
Kansas State University	334	184	664	241
University of Kansas	314	179	664	241
Kentucky State College	264	166	414	204
University of Kentucky	310	178	610	236
Louisiana State University	260	165	560	231
University of Maine	490	223	890	264
University of Maryland	396	199	746	250
Maryland State College	271	168	421	205
Massachusetts Institute of Technology	1,790	325	1,790	325
University of Massachusetts	514	226	914	266
Michigan State University	414	204	960	271
University of Michigan	370	193	990	274
Wayne State University	402	201	840	259
University of Minnesota	405	201	870	262
Alcorn A. & M. (Mississippi)	276	169	476	219
Mississippi State University	361	190	761	251
University of Mississippi	371	193	770	252
Lincoln University (Missouri)	223	156	323	181
University of Missouri	305	176	605	236
Montana State College	420	205	758	251
Montana State University	$400	$200	$738	$249
University of Nebraska	354	189	594	234
University of Nevada	351	188	951	270
University of New Hampshire	492	223	1,037	279
Rutgers (New Jersey)	596	235	696	245
New Mexico State University	340	185	590	234
University of New Mexico	390	198	660	241
Cornell University	1,790	325	1,790	325
State University of New York	515–865	227–262	515–1,085	227–284
North Carolina Agricultural and Technical College	410	203	660	241
University of North Carolina	375	194	800	255
North Carolina State College	409	202	834	258
North Dakota State University	390	198	660	241
University of North Dakota	390	198	660	241
Kent State (Ohio)	486	222	816	257
Miami University (Ohio)	490	223	890	264
Ohio State University	465	216	960	271
Ohio University	540	229	940	269
Langston University (Oklahoma)	274	169	537	229
Oklahoma State University	314	179	666	242
University of Oklahoma	300	175	630	238
Oregon State University	465	216	1,035	279
University of Oregon	420	205	990	274
Pennsylvania State University	615	237	1,140	279
University of Puerto Rico	247	162	1,057	281
University of Rhode Island	415	204	915	267
Clemson College (South Carolina)	546	230	796	255
South Carolina State College	380	195	610	326
University of South Carolina	460	215	660	265
South Dakota State College	388	197	526	228
State University of South Dakota	378	195	546	230
University of Tennessee	315	179	615	237
Prairie View A. & M. (Texas)	239	160	539	229
Texas A. & M. University	257	164	557	231
Texas Technology College	242	163	542	229
University of Texas	234	159	534	228
Utah State University	309	177	474	219
University of Utah	390	198	585	234
University of Vermont	581	233	1,365	312
Virginia Polytechnic Institute	420	205	750	250
Virginia State College	430	208	600	235
University of Virginia	467	217	967	273
University of Washington	390	198	690	244
Washington State University	390	198	690	244
West Virginia University	320	180	850	260
University of Wisconsin	390	198	1,090	284
University of Wyoming	386	197	686	244

Mr. RIBICOFF. Mr. President, fourth, it is claimed the tax credit will produce tuition increases. The fact is that tuitions go up whether tax relief is granted or not. Colleges set their charges by the expenses they face, not by what the traffic will bear. But if there are colleges that raise their tuition whenever they find that parents have some extra money, then they will do so whether or not this amendment is included in the bill. For these colleges will know that parents have extra money because of the rate reductions in the bill. Finally, the amendment provides only a 10-percent credit on expenses over $500, so every added $100 of tuition over $500 results in only a $10 saving to the parent—scarcely an incentive to the college.

Fifth. A final objection has been the revenue loss of $750 million in the first year. This is a lot of money. But I must point out that there are ample opportunities in this bill to make up the revenue loss of this amendment. Rather than seriously pursue these loopholes, the Treasury attacks the college credit amendment and at the same time fights to double the investment credit—at a revenue loss in 10 years of $740 million.

So this revenue argument is not a real obstacle. We can overcome it if we really want to. I am sure that if this amendment is adopted, the conferees on this bill will be able to weigh the revenu loss of this amendment against all the other provisions of this bill that either give away revenue or fail to make it up. Then they can make the necessary changes in the bill to keep the total revenue loss approximately the same as the bill now stands.

These are the principal objections to this amendment, and these are my answers.

This amendment has not been hastily conceived or drafted. The proposal in one form or another has been before Congress for years. A score of Senators have introduced their own bills on this subject; some of them have done so for several years.

I am sorry the distinguished Senator from Indiana [Mr. HARTKE] and the distinguished Senator from Florida are not in the Chamber. I was very much interested in their earlier colloquy that we should defer this type of tax relief amendment and, instead, should make further studies on further proposals. I wonder whether those distinguished Senators held those views when they, themselves, over the past number of years introduced measures such as this

Let me ask the distinguished Senator from Indiana whether he was serious when he introduced S. 602 in the 87th Congress—a bill providing tax relief for college costs; and let me ask the distinguished Senator from Florida whether he was serious when he introduced S. 58, in the 87th Congress—a bill providing similar relief.

Mr. President, many Senators have been introducing proposals such as this one, but those proposals have died; they have never seen the light of day. To my knowledge, this is the first time there has been serious debate on a proposal for tax credits for college costs.

Tomorrow, we shall have an opportunity to vote on this issue. Tomorrow, the issue will not be whether we shall introduce a bill or make a speech about a bill; the issue then will be whether we shall vote for a bill. That is why we are here.

I believe this amendment should be adopted; but whatever the outcome, I believe we are making the legislative process work as it should work, by developing such a proposal here in the legislative branch of the Government, by pressing forward with it, despite the opposition of the executive branch, and by bringing it to a forthright "yea" or "nay" decision by each Member of the Senate.

Mr. President, in conclusion, I state that it would be very disappointing if a motion to lay this amendment on the table were made. Frankly, such a motion would come to me as a great surprise. Not the majority leader, but other members of the leadership have told me that this amendment would

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come to a yea-and-nay vote. I have been told that there would be no diverting tactics, and I thought I had the assurance that Senators would thereby have a right to stand up and have their votes counted.

Mr. President, throughout the United States there is deep interest in this amendment. Many people are aware of it. At luncheon today the distinguished Senator from Wisconsin said to me: "On Saturday, ABE, I was walking along the street in Oshkosh, and people stopped me and asked, 'What are you going to do about the Ribicoff amendment.' "

Every place I go in the United States, people are aware of this issue; and I think we shall be doing the people of this country and ourselves a great disservice if we do not give the Senate an opportunity to vote on this amendment, thus giving Senators an opportunity to stand up and have their votes counted.

I believe the Senate should be willing

to face up to an issue like this, and not run away from it.

Mr. RANDOLPH. Mr. President, will the Senator from Connecticut yield?

Mr. RIBICOFF. I yield.

Mr. RANDOLPH. Mr. President, I am a cosponsor of the college tax credit amendment proposed by the capable and resourceful junior Senator from Connecticut [Mr. RIBICOFF]. I commend him for his leadership on this issue and for bringing the matter to a vote in the Senate after so many years in which similar measures have been introduced but have failed to reach the action stage in this forum.

I have consistently advocated such tax relief as that proposed in the pending amendment for those parents who bear the inordinate costs of sending their children through college. During my campaign for reelection in 1960, after consultations with many educators and discussions with citizens throughout the State of West Virginia, I spoke in some detail on the subject at Beckley on October 12 of that year.

I stated then that the years during which parents have children in college are years of heavy impact on the family budget and that it is incumbent on the Government to recognize this burden, especially for those persons in the middle-income group whose children do not qualify for scholarship assistance on grounds of financial need.

Following my reelection in 1960, I introduced early in the 87th Congress for myself and my colleague [Mr. BYRD of West Virginia] a bill to amend the Internal Revenue Code to allow a deduction for certain amounts paid by a taxpayer in providing higher education for himself, his spouse, and his dependents. Later in the 87th Congress, I supported a similar amendment to the tax legislation of 1962 proposed, but subsequently withdrawn by the diligent and dedicated junior Senator from Nevada [Mr. CANNON].

The pending amendment is the most recent in a series of efforts to provide what many of us consider an equitable and necessary form of tax relief for heavily burdened parents in the middle income group. And like similar measures in previous years, it has been attacked as a rich man's measure and a bonus for the more expensive private colleges. It is neither of these, Mr. President, for as the Senator from Connecticut [Mr. RIBICOFF] has demonstrated, the great bulk of the benefits will go to those in an income range from $3,000 to $10,000 per year, and there will be only a 10-percent tax credit on tuition and fee costs between $500 and $1,500 and none above $1,500.

Mr. President, part of the opposition to the pending proposal rests on the fictious premise that our pubic universities are practically free, and that parents of students attending such institutions are not in need of relief. This is a highly misleading view of the problem. At West Virginia University, for example, which is near the middle of the spectrum of costs for State universities and land-grant colleges, the average expenditure for tuition, fees, and books is $320 for a State resident and $850 for a nonresident. The tax credit under the proposed amendment for the parent of a student attending West Virginia University would thus be $180 for a State resident and $260 for a nonresident. These are significant amounts if one is attempting to send two or three children through college on a family income of $7,000 or $8,000 per year.

As of last fall there were 35,644 students in the colleges and universities of West Virginia.

In 1962 there were 4,207,000 undergraduates enrolled in American colleges and universities; Office of Education estimates project an increase to 5,220,000 in 1965 and 6,959,000 in 1970. The parents of most of these students will carry the financial burden of their education without scholarship assistance, despite the fact that they are directly contributing not only to the enhancement of their children's lives but also to the community welfare and the development of our national manpower resources. The overwhelming majority of these parents are in the middle-income group which is in many ways the most neglected segment of our population in terms of the regard it receives in Federal legislation.

The pending amendment, Mr. President, does not compete with other measures which I favor now in being or under consideration which would provide greater assistance for the very needy in assuring the opportunity for higher education. It would supplement these programs and provide equitable relief for the much-harassed middle-income earner.

For these reasons, I support the amendment.

Mr. RIBICOFF. I thank the distinguished Senator from West Virginia for his most thoughtful and persuasive remarks. The Senator from West Virginia has worked closely with me in the preparation of this amendment, and I have valued his cooperation and his wisdom. Serving as he does as a member of the Advisory Council for the Advancement

of Small Colleges, the Senator speaks with special competence in this field.

Mr. RANDOLPH. Mr. President, will the Senator from Connecticut yield for an inquiry?

Mr. RIBICOFF. I yield.

Mr. RANDOLPH. As stated, I support the amendment. Meanwhile, I inquire if it is true, that the private institutions operating without State aid—especially the small colleges having 1,000 to 1,200 enrollment—in West Virginia and other States are in need of funds? Is not it factual that they are having difficulty facing up to their financial responsibilities and goals in operating as high-quality institutions? It is my understanding that very few of the small and the relatively small non-tax-supported colleges are free of the limitations imposed by tight income conditions.

Mr. RIBICOFF. The Senator is absolutely correct. We have in this Nation about 2,100 colleges. Sixty percent of them are private institutions. These colleges educate 40 percent of the boys and girls of the United States of America.

Education in America would wither and die if we did not have the benefit of the private institutions such as the distinguished Senator from West Virginia talks about. Education is an entire process which we must recognize. There is a role for the private colleges to play. Should private colleges go under or shut down? We do not have enough public institutions to take the millions of boys and girls that private colleges now enroll. As the Senator realizes, to the extent that a young man or woman goes to a private institution, in the State of West Virginia, in Connecticut, Maryland, or Colorado, it takes the burden off State taxes and makes more room for other young men and women who would like to go to the State university. One of the greatest traditions of America is the private college. There could be no greater tragedy than that of closing our small colleges. I should like to see our small colleges grow. I should like to see more of them. Measures such as the one proposed would be of great help to our smaller colleges. For that reason the overwhelming number of small colleges all over the United States are overwhelmingly in support of the amendment.

Mr. RANDOLPH. Mr. President, will the Senator yield further?

Mr. RIBICOFF. I am pleased to yield.

Mr. RANDOLPH. It is my privilege and responsibility to serve on the boards of trustees of two colleges in the category of those now being discussed. They are Salem College at Salem, W. Va., the institution from which I was graduated, and Davis and Elkins College at Elkins, W. Va., the institution on the faculty of which I had the very gratifying experience of serving. I mention those institutions by name because they are typical of others in our State. They are colleges which are, in very considerable degree, giving sound education to youth within the State of West Virginia, many of whom are unable to go into other States to be enrolled and to be graduated from private or church related colleges, or from the public colleges and universities of other States.

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Mr. RIBICOFF. I thank the distinguished Senator for his contribution.

Mr. President, I ask unanimous consent to have printed in the RECORD the latest figures showing a total of 2,043 colleges and universities in the country, attended by 4,800,332 students. The private colleges, totaling 1,314, outnumber the public institutions, which number 729, about 2 to 1.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

State	Public enrollment	Private enrollment
Alabama	34, 556	13, 098
Alaska	3, 549	339
Arizona	43, 000	741
Arkansas	22, 753	8, 125
California	466, 737	84, 787
Colorado	42, 384	10, 256
Connecticut	24, 317	34, 775
Delaware	7, 788	1, 191
District of Columbia	5, 211	45, 944
Florida	61, 596	28, 206
Georgia	38, 277	17, 951
Hawaii	11, 575	1, 424
Idaho	10, 869	3, 043
Illinois	121, 419	108, 696
Indiana	69, 025	42, 836
Iowa	32, 416	32, 512
Kansas	48, 512	11, 383
Kentucky	35, 544	17, 817
Louisiana	51, 022	15, 670
Maine	9, 078	5, 947
Maryland	40, 086	25, 024
Massachusetts	28, 987	126, 660
Michigan	146, 253	36, 574
Minnesota	69, 777	19, 524
Mississippi	33, 887	7, 276
Missouri	47, 343	49, 508
Montana	12, 826	2, 171
Nebraska	25, 937	10, 442
Nevada	4, 761	----------
New Hampshire	6, 205	6, 971
New Jersey	50, 297	51, 122
New Mexico	19, 630	1, 209
New York	144, 897	250, 277
North Carolina	47, 819	36, 568
North Dakota	15, 459	567
Ohio	115, 303	87, 071
Oklahoma	51, 664	12, 033
Oregon	41, 233	10, 715
Pennsylvania	31, 332	182, 912
Rhode Island	10, 371	12, 328
South Carolina	20, 040	15, 102
South Dakota	11, 818	4, 590
Tennessee	44, 248	28, 596
Texas	149, 494	67, 147
Utah	25, 157	13, 783

State	Public enrollment	Private enrollment
Vermont	5,151	5,972
Virginia	45,182	20,762
Washington	59,884	17,607
West Virginia	25,877	7,823
Wisconsin	63,389	24,014
Wyoming	7,707	----------

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. RIBICOFF. I am pleased to yield to the distinguished Senator from Missouri.

Mr. SYMINGTON. I am much impressed with the facts being presented by the distinguished Senator from Connecticut. He has placed on the desks of all Senators a list of benefits available for State universities and land-grant colleges. But, as I understand, students at all colleges and higher education institutions would receive the proposed tax benefits, would they not?

The tax benefits would not be confined merely to State universities and land-grant colleges—an inference which someone might get by reading the analysis of the distinguished Senator.

Mr. RIBICOFF. I thank the distinguished Senator for calling that point to my attention. The credit would go to the student, his parents, or any other person paying the expenses of a student attending any college. The reason for the table is that the point has been made that we would discriminate against land-grant colleges. The land-grant college presidents have gotten together and said that they were against the proposal. Many Senators are under the impression that there are no fees, tuition, or costs at the State universities. I am using the present means to call to the attention of each and every Senator the cost of fees, tuition, supplies, and books at their State universities and land-grant colleges, and indicating in the table the benefits that would be available to every boy and girl attending the State university or college in a Senator's State.

So as far as I am concerned, it should be kept in mind that while State college presidents may be opposed to the amendment, I have the feeling that nearly every boy and girl and their parents who must pay the expense of sending a boy or girl to a State university may be in disagreement with the president of the State university. Perhaps the president of the State university is not interested in whether Papa or Mama Jones receives an income tax credit. But I am sure that with hundreds of thousands of boys and girls attending the State universities, in spite of what the president of their State university may believe, their fathers and mothers are eager to have the benefit of the income tax credit. The purpose of the table is to indicate to Senators how the proposal would benefit students who attend the State universities and their parents.

Mr. HART. Mr. President, will the Senator yield?

Mr. RIBICOFF. I am pleased to yield to the distinguished Senator from Michigan.

Mr. HART. Before leaving that point, would the Senator say that, although the language is perhaps more harsh than he would use, the table is in response to those who have lobbied us on the following basis: "Vote for the Ribicoff amendment, and when you get back home you will find that you are described as one who fronted for the Ivy League only"?

Mr. RIBICOFF. The Senator is correct. The reference to the Ivy League is very interesting. If we consider the Ivy League to include Yale, Harvard, Columbia, and Princeton, my understanding is that these institutions happen to be against the proposal. That is the argument which is being used by some to defeat the proposal. It is exactly for that reason that we are meeting the argument by indicating that the largest proportion of the benefits would go to the parents of students who attend our public universities. What we are fighting for is a proposal which would aid youngsters who go to all State universities and their parents. Let us not rule the amendment "off the face of the map" with a sneer that the proposal is for the Ivy League because the fact is it is specifically designed—and I believe later the distinguished Senator from Colorado will have much to say on the point—to give the largest share of benefit to young men and women who go to the State colleges.

I was Governor of a State. There is a great State university in the State of Connecticut. There is an impression in the State of Connecticut that no tuition is charged at the State university. As Governor I always fought the board of trustees of the State university who wanted to make a tuition charge for attendance at the State University of Connecticut. I felt that every boy and girl should have an opportunity to attend college with as little expense as possible. But as Governor I realized that there were certain fees and expenses. Although there was no tuition, expenses for room, board, and other costs at the university amounted to several hundred dollars.

I know people who are in the $5,000-, $8,000-, and $9,000-a-year class who deprive themselves and their families of basic needs because their greatest ambition is to improve the lot of their sons and daughters by sending them to college. To parents who send their boys and girls to college, that $200 or $300 saving on the tax bill is an extremely important saving when they are trying to make ends meet.

The distinguished Senator from Michigan is absolutely correct. I believe that no greater favor could be done for the many thousands of boys and girls in the State of Michigan who go to one of the greatest State universities in the entire United States—the University of Michigan—than to provide this credit, and I have the feeling that the young men and women who go to the University of Michigan would find it very advantageous to have the benefit of that saving.

As I look at the table, I notice that the cost for the fees, tuition, and books at the University of Michigan amounts to $370. Therefore, for parents who had a child at the University of Michigan, the credit would be $193. My feeling is that $193 is a great amount of money for the parents who sent one of their boys or girls to the University of Michigan.

Mr. HART. Mr. President, will the Senator yield further?

Mr. RIBICOFF. I am glad to yield.

Mr. HART. I appreciate very much the Senator's responding to the question I raised. First of all, I was offended by the approach of those who were lobbying against the Ribicoff amendment. I think the factual reply the Senator from Connecticut has given will be more persuasive than the emotional one I delivered to the lobby.

Secondly, I shall await with interest the discussion of the Ivy League delegate from Colorado. But the truth is that we are talking about the parents and children of America, and the proposal is aimed at them, at whatever university or college they seek to find their opportunity.

I think it is a great mistake to suggest to any of us that we should oppose the amendment because when we get home we will be described as having fronted for private education, for having served the cause of discrimination in higher education, for having fronted for private church-related schools. There are other arguments that could be made.

Admittedly, in a problem which is so complex, one should have some reluctance in expressing the idea that he has the ultimate answer. But we should

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concentrate our attention on how many parents there are in this country who seek desperately to provide their children with educational opportunities. Then we should determine how many of those parents would be assisted by the Ribicoff amendment. The number would be substantial. Then let us not be deterred from voting for the Ribicoff amendment because we have not gone to the heart of the matter, namely, taking care of those whose parents are not taxpayers. That problem has been before us ever since I came to the Senate, and we have not done anything about it. Let us take care of the problems we can take care of, and take care of the basic problem tomorrow.

Mr. RIBICOFF. I thank the Senator for his wise, brilliant, and trenchant remarks. I think the opponents of the amendment who have used the argument referred to by the Senator from Michigan have done the country a great service by setting class against class, by trying to divide men and women on the basis of whether students go to private colleges or State universities. Each and every student makes a valuable contribution to American society. I agree with the Senator from Michigan. I am for a scholarship program, the type of scholarship program I offered in 1961, as Secretary of Health, Education, and Welfare, which received very short shrift from the Congress of the United States. It was a scholarship program offered to boys and girls from families most of whom have so little income that they do not pay taxes.

We should try to solve the entire education problem. We should use every facet of an education program—grants and loans to build facilities, scholarships for the nontaxpayers, and tax credit for those who are trying to make ends meet and are paying some taxes. This is all a part of the program.

I commend the distinguished Senator from Michigan for calling the Senate's attention to the arguments being used by opponents of this amendment and for refuting those arguments.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. SYMINGTON. There is reference in the Senator's table to Lincoln University at our capital city of Jefferson City, Mo. This is an interesting university. At one time, technically speaking, it could have been considered segregated, because only Negroes went to the University; but for many years the num-

ber of white students who have gone, and are going, to Lincoln University has increased steadily, to the point where there has been complete integration without any trouble of any kind. One might say it has been integration in reverse.

As a result of the Ribicoff proposal, I note that $156 might be saved, in the way of a tax credit, for the average student going to Lincoln University.

The distinguished Senator from Connecticut is an authority in this field. As he has mentioned, he has been the Governor of a State. He has also been Secretary of Health, Education, and Welfare. In my many years of experience with him, I know of his deep interest in developing the greatest natural resource we have; namely, our youth.

Does not the Senator agree that this $156 saving would be important to many people? It might not be to somebody who wanted to go to an Ivy League college or university. Nevertheless, that $156 might represent the difference between whether or not a family could afford to send a son or daughter to Lincoln University.

Mr. RIBICOFF. Not only that; that $156 going to the parents who sacrificed their last dime, proudly, to send the boy or girl to Lincoln University, might make the difference between whether they could pay some medical bills for the mother or father, or whether they could buy shoes or clothing for a younger boy or girl.

Many people do not realize the sacrifices made by families in sending boys or girls to college. I have seen family after family getting together in a family discussion and saying, "We have three or four boys or girls. We have only enough money to send one to college." There can be no more heartbreaking decision than that of deciding that Johnny will go to college and Jimmy or Tommy will have to go to work. To a family like that, $156 is a great deal of money.

We are fighting for people like that. There are many places in this bill where money can be saved. We should not save money at the expense of education.

Mr. SYMINGTON. Mr. President, will the Senator yield for one more question?

Mr. RIBICOFF. I am pleased to yield.

Mr. SYMINGTON. Is it not true, also, that many families now financially unable to send one or more children to college, might be able to do so because of the passage of this amendment; and is it not also true that the welfare or security of the United States at some future date might be materially affected as a result of the broader education which had been given to that child?

Mr. RIBICOFF. The Senator is correct. The distinguished Senator from Missouri has had experience as Secretary of the Air Force, and he has served on the Aeronautical and Space Sciences Committee, the Armed Services Committee, the Foreign Relations Committee. He knows that education is power. What is the competition in which we are engaged with the Soviet Union?

When we boast that we place a vehicle into space that outdistances what the Soviet Union has done, is it done by uneducated people? No; it is done by educated people. The Soviet Union is producing engineers at a rate three times that in the United States. We are living on a reservoir of talent that is not being sufficiently replenished. We are living with the fact that the competition for the future of the world will be decided by educated people. Education is power. Education is freedom. Education is happiness. Education is not merely a problem of individual profit or individual advancement, but education is necessary to build up our reservoir of talent in the national interest. What we are doing here is encouraging education. That is why an amendment like this is so needed.

Mr. SYMINGTON. I thank the Senator.

Mr. CARLSON. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. CARLSON. I commend the distinguished Senator from Connecticut not only for offering the amendment, but for making a fight for it. If there is any question about the interest of the people in the amendment, I point out that I spoke last Friday at a meeting held in Wichita of 1,200 school superintendents and supervisors. They were overwhelmingly in favor of this amendment.

It is essential that we do something for the education of our youth. This is an opportunity for us to do so. Most of us have assisted boys or girls in attending college. I have had that peronsal experience. One can contribute $500 to a college or school and make it a deductible tax item, but if he pays $500 for a student attending school, he cannot deduct any of it. It seems to me that is one of the points we should stress, in order to help those who make a contribution or a gift to help a boy or girl go to school. I am sure everyone in the Senate has done that.

It seems to me that there is a real opportunity to help parents who not only take care of their own children but who want to help other children to go to col-

lege. I sincerely hope that the amendment will be approved by the Senate.

Mr. RIBICOFF. I thank the Senator from Kansas. The suggestion that the credit be available to those other than parents who help pay for the education of boys and girls came to me from the distinguished Senator from Kansas and the distinguished Senator from Nebraska [Mr. CURTIS]. The Senator is absolutely correct. Men and women who have educated their own families and who would like to help other boys and girls to be educated should be encouraged encouraged to do so.

We should encourage as much use of private resources for education as we possibly can. There is a big role for Government, local, State and Federal, to play. However, to the extent that private resources can take care of education, to that extent we need not use public resources to do so.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. MILLER. I wonder if the Senator will be good enough to tell the Senate, if he has not already done so, what the estimated cost will be.

Mr. RIBICOFF. The estimated cost for this year is $750 million. It is estimated that in 1970 the estimated cost will be $1,300 million.

Mr. MILLER. Seven hundred and fifty million dollars for the fiscal year 1965?

Mr. RIBICOFF. For the calendar year 1964.

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Mr. MILLER. What would be the estimated cost for fiscal year 1966?

Mr. RIBICOFF. I do not have the figure, but it will go up in increasing steps, gradually as enrollment rises, to about $1,300 million for 1970.

Mr. MILLER. Is it the Senator's judgment that the cost will be somewhere near $800 million or $900 million for fiscal year 1966?

Mr. RIBICOFF. It is, generally, but I do not know exactly.

Mr. MILLER. Will the Senator be good enough to place in the RECORD the basic estimates on the basis of which these computations were furnished? I have heard that the cost would be considerably in excess of $750 million during the first year.

Mr. RIBICOFF. I believe the cost figures were estimated and agreed to by both the Treasury Department and the staff of the Joint Committee on Internal Revenue Taxation. That is where the figures came from.

Mr. ANDERSON. Mr. President, will the Senator yield?

Mr. RIBICOFF. I am pleased to yield to the Senator from New Mexico.

Mr. ANDERSON. Would it not be correct to say that the Treasury estimated the cost during the first calendar year at $750 million, rather than during the first fiscal year?

Mr. RIBICOFF. Yes.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. RIBICOFF. I am pleased to yield to the Senator from Colorado.

Mr. DOMINICK. I should like to suggest that we put this subject in terms not of cost, but of savings to the taxpayers. What we are doing is to say that the taxpayer can use this amount of money in order to pay for his own education. It may be that it is revenue which is not coming in to the Federal Government. However, it is taxpayer money which the taxpayers are saving for their own educational purposes.

While on this same subject, I should like to say that when I had an estimate furnished on my own bill, which provided for a maximum of a $600 credit, as opposed to the $325 maximum in the pending amendment, the Treasury stated to me that it was estimated, on a very careful analysis, that the cost would be in the neighborhood of $400 million, not even near the amount that the distinguished Senator from Connecticut has referred to.

I agree that this is what the Treasury and the staff have determined. However, I suggest that there is no knowing whether it will be that much until we know how many people can or will take advantage of it.

Mr. RIBICOFF. While often the figures given by the Treasury Department, whenever they are opposed to a proposal, are high, I am willing to accept the suggestion in the estimates of the Treasury, that in the first calendar year the cost would be what I have said.

Mr. ANDERSON. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. ANDERSON. I wondered if the figures stated by the Senator from Colorado applied to the same bill. It was my understanding that he did not have in mind a wide-open provision, but confined it to the members of a family.

Mr. DOMINICK. No: it was a wide-open bill.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. MILLER. I wish the Senator from Connecticut to know—and I am sure he knows already—that I share the

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concern he was expressed over difficulties in paying the cost of higher education, which confront many of our children and parents. That is one reason why the Senator from Iowa has wholeheartedly supported the increased loan and scholarship provisions which Congress has legislated over the last 3 years.

However, I differ with him in the thought that has been expressed, that the amounts of savings to the individual students or their parents are going to be decisive, or as decisive as the Senator would suggest.

I have talked with a good many educators, and I never talked with one who has told me that the difference of $200 woud determine whether a boy or girl would go to college or would not go to college. That is particularly true nowadays, when there are available any increasing number of scholarships loans, not only through the Federal Government's programs, but through State programs and, indeed, through private lending institutions. There are at present advantages and opportunities which were not present 10 or 15 or 20 years ago. I find it difficult to believe that the money savings set forth would make the difference between a boy or girl going to college and not going to college. I can understand how a scholarship or a loan situation, which we have made possible through legislation in Congress, could represent the difference, but not with respect to the amount of $200.

Mr. RIBICOFF. The records and the statistics under the National Defense Education Act show that 71 percent of the loan money goes to families with incomes below $6,000 a year.

Mr. MILLER. I would have to defer to the Senator from Connecticut on that point, because I am sure he is much more familiar with that statistic than I am, and I would therefore be willing to accept it for the sake of argument. However, I say to the Senator from Connecticut that if we take a family in the $8,000 income area, and it is suggested to me that $200 is going to make the difference between sending or not sending a boy or girl to college, I cannot accept that argument.

Mr. RIBICOFF. Perhaps the distinguished Senator does not realize what $200 may mean to a family in the $8,000 class.

Mr. MILLER. I understand very well the value of money, and perhaps a little better than some of our colleagues in Congress.

Mr. RIBICOFF. By the time a family with 3 or 4 children, trying to make ends meet, even with the overall cost of education at the University of Iowa or the University of Connecticut, gets through paying for room and board and all fees, it will find it very hard to make ends meet. To an $8,000 a year family in Iowa or Connecticut $200 is a great deal of money. Two hundred dollars can buy many things and pay for many necessities of life. Two hundred dollars to such a family is important. To me, the irony of the opposition to my amendment by the Treasury Department is its approval or acquiescence in what I consider to be raid after raid upon the Federal Treasury. The distinguished Senator from Tennessee [Mr. GORE] and the distinguished Senator from Illinois [Mr. DOUGLAS] will be bringing up some of those items as the debate on the bill progresses. When I consider the loopholes that could be closed more than enough to pay for this expensive proposal—and I admit that it is expensive—I think the Senate has a question of priorities to discuss.

If it is important to give investment credits of more than $2 billion and in 10 years, by the repeal of the long amendment, of $740 million for machines, it is equally important to make certain that we are willing to invest $740 million in the education of our children. We can provide for all the machines in the world, but if we do not have educated people to operate them, the machines will be useless.

What I am fighting for, as are the other proponents of the amendment, is to try to do something for the total education picture of the United States.

I have said, and I say again to the distinguished Senator from Iowa, that I do not say my amendment is the answer to the entire educational program, but it is a piece of the answer. One of the extremely frustrating problems in trying to solve the question of what shall be done for education, is to have every little group seek to have its particular piece of education legislation adopted, and fight to the death only for its proposal. I say the time has come to consider the entire education proposal, instead of having one proposal offered by one group of proponents fought to the death, and other proposals offered by other groups, all of them going down to defeat in mutual frustration.

The time has come for those interested in education to try to propose comprehensive ways in which to solve the problems of education. Such a method will not be cheap. Education in America is not cheap. It will cost money. Let us face that fact. If it is necessary to have priorities, let us find other places, not so important, in which to reduce expenditures.

Mr. MILLER. I could not more thoroughly agree with what the Senator from Connecticut is saying, especially when he puts his finger on that nice little word "priorities." I have been a Member of the Senate almost 4 years. One of the great frustrations or disappointments that I have found is the failure to place priorities on some of the programs. The net result is billions of dollars of deficit spending and billions of dollars of inflation.

We talk about $100 or $200 meaning something to a family having an income of $8,000 a year. I point out that a family having an income half that much has been paying, indirectly, a hidden

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inflation tax as a result of the billions of dollars of deficit spending programs.

If the tax bill were in such a position that the Ribicoff amendment were the heart of it and the tax rate revisions were greatly curtailed or eliminated, we would have a real priority from which to work. I agree with the Senator that if we are to assign priorities, the first should be national defense. The second, almost a national defense item in itself, should be education. I have been saying this for many years. But we are not getting the priorities, and it is not my fault or the fault of the Senator from Connecticut. That is something over which we have no control. We are getting priorities for spending revenues in the example the Senator from Connecticut cited and in many other ways, as well. We are providing reductions in tax rates which will greatly benefit some persons, but are providing no relief for persons in the $3,000 bracket, because they do not pay any income tax.

Mr. RIBICOFF. The Senator said the lack of priorities is not our fault. I respectfully disagree.

It is our fault because Congress refuses to set priorities.

It is our fault because Congress will swallow or veto what the executive branch sends to us.

It is our fault because we will not press ahead with thoughts and ideas of our own.

It is our fault because by a majority vote we can determine what measures we favor and what measures we oppose.

It is our fault because the tax bill is loaded with loopholes costing billions of dollars.

It is our fault because we have an opportunity by our votes in the Senate to be either for education or for oil depletion allowances.

It is our fault because in the Senate we can favor education or increased investment in machinery.

It is our fault because we have an opportunity to be for education or for giveaways to a few department stores in the United States.

It is our fault because if we are worried about the $3,000 or $4,000 class, we can do something for those people. The distinguished Senator from Tennessee [Mr. GORE] will provide us an opportunity later during the consideration of the bill to show whether we are concerned with the $3,000 or $4,000 class.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. RIBICOFF. In a moment.

I am talking about the problem of whose fault it is if no priorities are voted upon in the Senate. I say to the distinguished Senator from Iowa, based upon my experience in the executive department, as a Member of the other body, and as the Governor of a State, that it is our fault if we stand silently by, completely acquiescent, when the proposals of the executive branch are accepted, if we limit ourselves to accepting or rejecting those proposals, and if we are unwilling to plow new ground and propose new ideas of our own.

The fight we are making today is not only a fight for tax credits; it is a fight to determine whether Congress can take the initiative over the opposition of the Treasury Department. I, for one, believe that Congress should not hesitate to take the initiative whenever it is important in the national interest, whether the executive branch agrees or disagrees.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. RIBICOFF. I am pleased to yield.

Mr. MILLER. The Senator speaks about the situation being our fault. I am sure he is not speaking of the fault as being his or that of the Senator from Iowa, because the RECORD will show clearly, when it comes to the question of priorities, that we have been talking about priorities and have been advocating them. Certainly, the Senator from Iowa has been criticizing the Senate in general for its failure to set priorities during the past 3 years.

The point is that a majority of the Members of Congress are responsible for the failure to establish priorities.

To make the record clear with respect to the proposal of the Senator from Tennessee, to which the Senator from Connecticut alluded, that proposal will be to raise the individual exemption from $600 to a higher figure, as I understand. The Senator from Iowa is not about to support that proposal, because it would give undue advantage to those in the high tax brackets as compared with those in the low tax brackets.

The area which concerns me is the one in which no income tax is paid now, or in which the tax paid is very small. Those taxpayers will not receive any benefit under the bill.

I wish it were possible for the Senator from Connecticut to arrange with the leadership to have his amendment laid aside until after the Senate has had an opportunity to vote up or down some of the other provisions in the tax bill, so that we might see what the priorities will be. If they are to be such that education will be placed first, and some of the other items placed second, the Senator from Connecticut will have my support. But in the present state of affairs, I am afraid we do not have that picture before us.

The Senator from Connecticut has made an excellent effort, and should be commended for bringing his idea before the Senate, particularly in terms of priorities. But we cannot talk about priorities without doing something about them; and we shall not be doing anything about priorities if the bill proceeds in the way it is proceeding now.

Mr. RIBICOFF. In reply to the distinguished Senator, I point out that what the Senator proposes is exactly what I do not intend to do. I do not intend that other amendments be adopted first, with the result that then Senators would ask us, "How can you vote for this proposal, after we have already voted to spend so much money?" I sought early consideration of this amendment for just that reason.

Since the Senator agrees with me that education comes next to national security in importance, if the Senate adopts this amendment, it will have voted a priority for education. Since the Senator agrees that this measure does not affect defense, and since education is a priority, let the argument about revenue be used against other proposals. Let it then be said, for example, that we have already spent $750 million for the benefit of education.

I considered myself fortunate, I state frankly, to be able to get this educational amendment taken up early, because I believe this is the best way to show that we believe in setting our own priorities.

Mr. ANDERSON. Mr. President, will the Senator from Connecticut yield?

Mr. RIBICOFF. I yield.

Mr. ANDERSON. I merely want to ask the Senator a series of questions.

This measure does not in any way require that the one who takes the credit must be either a parent or even a relative of the child, does it?

Mr. RIBICOFF. That is correct.

Mr. ANDERSON. Some have said only the parents could take it. I was sure the Senator would state what he has, because he made it very clear to the committee. I thank him for doing so.

Mr. RIBICOFF. That is absolutely correct.

Mr. ANDERSON. There would be no limit on the number of credits one might take, would there?

Mr. RIBICOFF. That is correct.

Mr. ANDERSON. I so understood, but I thought it best to ask that question while the Senator still had the floor.

Mr GORE. Mr. President, will the Senator from Connecticut yield?

Mr. RIBICOFF. I yield.

Mr. GORE. I have listened to the very able, constructive and engaging remarks of the distinguished junior Senator from Connecticut. It has not been a surprise to me that he has comported himself in so laudable a manner as a Senator, because several years ago it was my privilege and honor to serve in the House of Representatives with him. Therefore, before he came to the Senate, I was well acquainted with his abilities and his character—and likewise during his distinguished tenure as Governor, during which time it was the pleasure of Mrs. Gore and me and our daughter to visit in his home—and also when he was a member of the executive branch. But even with that knowledge of his work and his capacity, I am constrained to rise at this time and commend him. I think that the clarity with which he has presented his views, the forcefulness of his arguments, the courtesy of his presentation, and the power of his reasoning make him a Member of this body to whom all can point with pride. Indeed, he graces the U.S. Senate.

Mr. RIBICOFF. Mr. President, I am overwhelmed by the gracious words and the compliment paid me be the distinguished Senator from Tennessee. I cannot imagine a higher compliment than those words from one of the Senate's most able and respected Members; and I am very grateful to him.

Mr. President, I yield the floor.

TAX RELIEF FOR PARENTS AND STUDENTS—AN INVESTMENT IN AMERICA'S FUTURE

Mr. PROUTY. Mr. President, at this hour we meet to decide whether the cost

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of providing a college education places too heavy a burden on the average American family and, if so, whether we intend to do anything about it.

Elmer Roper, in a study for the Ford Foundation, discovered that 69 percent of the parents interviewed expect to send their children to college, but 40 percent of these families feel they cannot afford to do so.

The same study disclosed that 60 percent of American parents have no savings and the other 40 percent have only an average of $150 put away for college costs.

Let us not kid ourselves. Let us face the facts—and the facts show that the mothers and fathers of this country are staggering under the heavy expense involved in giving their youngsters a higher education.

When you ask them whether Congress should do something about this tremendous burden, they are of one voice and that voice is a cry for help.

On October 14, 1963, I sent out over 60,000 questionnaires which posed questions on aid to education. Vermonters replied with characteristic frankness. While opposing increase in Federal spending, almost to a man they put aside their qualms about the budget in the field of education.

About 82 percent of all replies favored loans to needy students; 92 percent of all replies favored a bill I introduced earlier in the year which would give tax allowances to students supporting their own education, and 78 percent of all replies favored tax allowances for parents who are trying to finance the education of their children.

I cannot recall any other occasion when I have witnessed such grass-roots support for a change in tax laws.

Tax relief for students or their parents has something more than grass-roots support. It has the support of educators, a host of the members of the House and Senate and numerous student organizations.

Literally hundreds of proposals have been introduced in Congress over a number of years to provide tax relief for students or their parents for tuition costs. The bills have been of three general types: tax credit, tax exemption, or tax reduction. The amendment I rise to support had its origin in the Ribicoff tax credit bill. As a cosponsor of both the bill and the amendment, I see in its objectives some welcome relief that will be meaningful to many, perhaps most, American families.

When I was a boy, only one out of seven youngsters attended college. Today, almost half of our young men and women are in college, and the percentage will continue to grow.

During the last 30 years, college tuition costs have risen nearly 500 percent and the American Council on Education sees no relief in sight. The council estimates that tuition will rise by another 50 percent in both private and public institutions over the next decade.

I have shown that 60 percent of American parents have no savings and that the other 40 percent have an average of only $150 put away for college costs. If they are having a hard time now, think of what the burden will be as tuition costs rise another 50 percent.

Mr. President, it is all too clear that the cost of giving a son or daughter a higher education places too heavy a load on the mothers and fathers of this country.

The question which remains is: What do we intend to do about it?

Make no mistake. The people are watching. They want and expect action. They want and they expect to see adoption of the Ribicoff amendment.

While the Senator from Connecticut has done a masterly job of outlining all the potentialities of this legislation, I should like to add my own personal reasons for supporting it.

First of all, the amendment provides assistance for the bulk of the expenses of a person's education. The amendment gives an income tax credit to any individual who pays college expenses, such as tuition, fees, books, and supplies.

There are no limitations imposed upon the type of education to be supported thereby, except that the tuition must be paid to an institution of higher learning for credit courses leading to a baccalaureate degree, or for courses of instruction necessary to "fulfill requirements for the attainment of a predetermined and identified educational, professional, or vocational objective."

In a word, Mr. President, we who support the Ribicoff amendment wish to give some relief to the youngsters and parents who frantically try to scrape together money for college costs.

We wish to do away with the discrimination which exists in present law and which works hardship on those least able to bear it.

When I say discrimination, I do not exaggerate. At the present time, persons may deduct contributions to colleges for educating other peoples' children, but not their own. In addition, corporations may spend money toward the education of young men and women, and toward the training of executives, and deduct every dollar spent.

Why, in Heaven's name, should we deny similar help to those who do without the necessities of life in order that they, or their children, may have a college education?

Those who oppose the Ribicoff amendment had better be ready to answer this question.

Some who are not really interested in education have attempted to justify their opposition to the Ribicoff proposal on the ground that tax laws should not

be used to accomplish social goals. They cleverly overlook the fact that tax statutes already afford special treatment for the blind, the aged, the disabled, and place in a special category gifts to charitable, religious and, of course, educational institutions.

I ask unanimous consent that a statement of how present tax laws relate to education be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Vermont? The Chair hears none, and it is so ordered.

(See exhibit 1.)

Mr. PROUTY. Mr. President, it is true that there will be a short run revenue loss if we enact the Ribicoff amendment, but ultimately it will bring about a tremendous increase in Federal revenues.

The amendment allows a maximum tax credit of $325 per student per year. During the 4 years it takes to get a college education, credits given would total not more than $1,300 per student. This, then, is the maximum short-term tax loss.

Let us take a look at the other side of the picture. Surveys show that the college-trained boy will earn at least $150,000 more than the noncollege boy in an average working life. This would mean a long-term gain in Federal revenue of at least $30,000 for each college-trained boy. Or, to put it another way, the Federal Government would get back $30,000 for each $1,300 it loses in giving out a tax credit to the student or his parent.

I think a 2,300-percent return on investment is ample evidence of the financial soundness of the Ribicoff amendment.

The junior Senator from Connecticut has designed his amendment to take into account not only the needs of parents and their college-bound youngsters, but also the problem of all colleges, both public and private.

It will be noted that his tax credit is based on a sliding scale and gives a proportionately greater credit to the students attending institutions with low tuitions.

Indeed, a student who enrolls in a tuition-free institution will benefit from the Ribicoff amendment because under its terms he can get a tax credit for the expense of books and supplies.

Private colleges have been faced with real problems because of the decreased value of endowment income and because of rising costs. State institutions have been injured because of the Federal-State tax structure which takes more and more money from the people for operation of the Central Government and leaves less and less for State, county, and individual activities.

The Ribicoff amendment will take some of the pressure off our private and public colleges because it will enable more parents to play a greater role in financing the education of their children.

Many fathers in the $9,000 to $10,000, and even $13,000 a year brackets now have children seeking scholarship funds. With a tax break, they will be able to do more for their youngsters, and thus more scholarship money can be made available to boys and girls coming from lower income families.

Mr. President, a vote for the Ribicoff amendment is a vote to aid all families that have children in college—especially the 40 percent that have only an average of $150 put away for college costs. A vote for the Ribicoff amendment is a vote in accord with the overwhelming grassroots demand for tax relief for those who must pay the college bills.

A vote for the Ribicoff amendment is a vote to end the discrimination in ex-

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isting law which permits persons to deduct contributions to colleges for educating other people's children, but not their own.

A vote for the Ribicoff amendment is a vote for an investment in the future of this country and its children which will ultimately bring back a 2,300-percent return on investment in terms of dollars and unparalleled advancements in terms of social progress.

A vote for the Ribicoff amendment is a vote to free more scholarship funds for use by those in the lowest income brackets, and a vote which will enable millions of parents and children to finance more easily the cost of a college education.

After years of waiting, the Senate has an unprecedented opportunity to redress a longstanding need. I am confident that we will not, for we must not, lose that opportunity.

The distinguished Senator from Connecticut was a cosponsor with me of an amendment which would alter the bill related to higher education that was reported by the committee. We failed in that objective, but I am happy to say that in conference many of the provisions that were suggested in our amendment were approved, and were subsequently approved by the Senate and the House of Representatives.

I am delighted to be a cosponsor of the amendment and to support the junior Senator from Connecticut most enthusiastically. I congratulate and

commend him for an outstanding job for the benefit of the youngsters of our country. I am grateful to the Senator for yielding to me.

Mr. RIBICOFF. Mr. President, I thank the distinguished Senator for his remarks. The constructive suggestions of the Senator from Vermont were most valuable in support of the amendment. The proposal is not my handiwork. It is the handiwork of all the cosponsors, who worked together. I happened to be a member of the Committee on Finance. Therefore the amendment bears my name. But the distinguished Senator from Vermont [Mr. PROUTY] the distinguished Senator from Colorado [Mr. DOMINICK], and other Senators joined me and helped to make the amendment a joint amendment. The Senator from Vermont made a great contribution toward the proposal.

Mr. PROUTY. I am grateful to the Senator. I also associate myself with the feeling that he expressed sometime earlier when he urged that the Senate vote the amendment up or down rather than resorting to a parliamentary stratagem to lay it on the table. I concur wholeheartedly with the Senator.

EXHIBIT 1

HOW PRESENT TAX LAWS RELATE TO EDUCATION

1. Title 26, United States Code, section 151: A parent with a child who makes more than $600 per year does not lose him as an exemption if he is a student.

2. Title 26, United States Code, section 117: Income from scholarships and fellowships is not includable in gross income; likewise, amounts received for travel, research, clerical help or equipment which are incident to scholarship or fellowship income are to be excluded from gross income.

3. Title 26, United States Code, section 170(b)(I)(A): Educational contributions are deductible and taxpayers are given an incentive toward educational contributions by being permitted to raise the allowable amount of contributions deductible if 10 percent of adjusted gross income is contributed to educational institutions.

4. Title 26, United States Code, section 170(d): Up to $50 per month paid to maintain a student as a member of the taxpayer's household is deductible as a charitable deduction under certain circumstances.

5. Title 26, United States Code, section 3121(b)(10)(B): Remuneration for services performed by a student regularly enrolled in an institution of higher education when employed by that institution are exempt from the old-age, survivor, and disability insurance tax; included in this exemption is domestic service performed by a student in a local college club or local chapter of a college fraternity or sorority (26 U.S.C. 3121(b)(2)) and studies-related income of certain nonresident alien students (26 U.S.C. 3121(b)(19)).

6. Title 26, United States Code, section 3306(c)(10)(B): Employment of enrolled students by their school, college, or university if the student is regularly attending classes is exempt from unemployment insurance.

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REVENUE ACT OF 1964

The Senate resumed the consideration of the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes.

Mr. RIBICOFF. I yield 10 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 10 minutes.

Mr. DOMINICK. Mr. President, I rise to support the amendment offered by the distinguished Senator from Connecticut [Mr. RIBICOFF]. With the consent of the distinguished Senator from Connecticut I have been writing some letters to my constituents referring to the amendment as the Ribicoff-Dominick amendment. I hope that other Senators have been doing the same thing. I have done this because of my interest in this form of tax relief, for these expenses connected with higher education, particularly for those who bear the expense of higher education.

My interest in tax relief for those who bear the expense of higher education dates back to my first days in public office.

I first introduced legislation on this subject while a member of the State Legislature in Colorado. In my campaign for the House of Representatives and in my campaign for the Senate this proposal was a part and parcel of my platform. When I came to the U.S. House of Representatives in 1961, I introduced a bill which would allow a tax credit of 30 percent, not to exceed a total of $600, for expenditures for tuition, fees, book, and supplies in seeking higher education.

A poll of my constituents on my bill showed more than 80 percent in favor of the principle of the bill. I again introduced such a bill, S. 98, when I came to the U.S. Senate, in 1963. I have heard the arguments against the proposal for 12 years. I do not believe they stand up any better than when I first heard them.

I believe the very capable and highly polished remarks of the junior Senator from Vermont [Mr. PROUTY] are extremely important with regard to the merits of the pending amendment. I know that there is widespread interest in such a tax relief proposal throughout the country and in Congress. My good friend from Connecticut [Mr. RIBICOFF]

has already inserted in the RECORD of Friday, January 31, articles and editorials from many areas of the country expressing support for such a proposal. In addition, more than 100 Members of the House of Representatives and more than 20 Members of the Senate have already introduced similarly designed legislation during the 88th Congress.

Among the editorials that have been introduced in the RECORD there is an excellent editorial published in the distinguished newspaper, the Denver Post, of Denver, Colo. The Rocky Mountain News, another distinguished newspaper of Colorado, has also come out in favor of it.

Various approaches to the problem have been tried. Personally, I believe that the tax credit approach is preferable, although plans advanced by other Members of the Senate and the other body, giving tax relief for such expenses by allowing some type of deduction or additional exemption, also have merit. In an effort to pull together and get behind a bipartisan compromise solution, I am pleased to join with the distinguished Senator from Connecticut [Mr. RIBICOFF] and my other colleagues in the Senate in urging the adoption of the amendment now before the Senate.

I worked with the distinguished Senator from Connecticut, as he so graciously said, to design a scale of credits, so that the attacks on previous amendments which had some credence, would not apply. To say that the tax credit amendment will help only those having high expenses, does not, in fact, have even a modicum of truth.

The Senator from Connecticut [Mr. RIBICOFF], as a former Member of the House, former Governor of the great State of Connecticut, and former Secretary of Health, Education, and Welfare, lends great weight and persuasion to such a proposal. I am pleased to join with him in advocating the adoption of the amendment.

In view of the seriousness and importance of the amendment, several things about it ought to be made eminently clear.

First, it does not, and indeed no tax proposal can, provide relief to low-income families who pay no income tax. Those families and their children can continue to take advantage of scholarship, loan, and grant programs, specifically designed for them, and dealt with, in many cases, both by State legislatures and by Congress. Most colleges and universities also give students from low-income families first priority on student employment programs. So there is no point in saying that low-income families do not receive any relief under this amendment.

Second. It does benefit the low-income families who do pay tax, and the middle-income families. It has already been pointed out that families with incomes between $3,000 and $10,000 comprise 62 percent of our population, and thus the greatest benefit will be within this income group. Let us remember, too, that the tax credit inures to any taxpayer who pays for the expenses of higher education. Thus, the single person who must pay tax while working himself through college will benefit as well as employed married couples where one spouse works while the other attends school.

Third. It is not a "rich man's" amendment, and anyone who so contends simply does not understand the sliding scale provisions of the amendment. Over 90 percent of the tax benefit will go to families with incomes of less than $20,000 per year.

Fourth. The tax credit approach avoids many of the serious problems involved with Federal aid to education. The religious controversy and its constitutional difficulties is completely avoided. No additional Federal bureaucracy is required since we utilize the existing machinery of the Internal Revenue Service. No Federal control is encountered.

In effect, the amendment, if adopted, would permit those desiring a college education, so important to the growing stature of this country, to use pretax earnings for this purpose.

There is every indication that the costs of obtaining a higher education will continue to increase, as they have done over the years. In my own State of Colorado proposals are now pending before the legislature to raise tuition costs and fees. Many families in my State are having great difficulty in meeting the expenses of educational requirements even now. In all probability, the adoption of the amendment will not curb these costs. However, its adoption would give much needed tax relief to families and individuals whose financial burden is particularly great. It would also have the effect of feeding back much needed revenues into the private sector of our economy.

Some have speculated that the adoption of this amendment would directly cause public and private educational institutions to raise their tuition and fee schedules. Ths is pure speculation. I think history has shown us that these costs have been rising steadily anyway. It seems to me that it is equally logical to assume that the people who will realize tax savings from this amendment

might be inclined to plow these savings back into public and private educational institutions. These savings would also give the States a greater source of tax revenue to tap in order to sustain their own educational systems. Finally, it would allow the recipients of these tax benefits to contribute toward the education of more of their children beyond high school and may well form the incentive for some to pay part of the ex penses for children of neighbors or friends.

The amendment has been specifically designed to be of assistance to the lower cost public universities. One of the major attacks on the amendment has been that it is designed to be of assistance to Ivy League colleges or higher cost private institutions. This argument has some validity, enough to make it a rallying call for those who are opposed to the principle. So we have designed a sliding scale to answer this argument, one which will give maximum credit benefit to institutions which charge the least tuitions but which still have expenses involved in education fees and books, and some tuition. This scale is designed to assist many public institutions of the West and Southwest, some of which do not charge any tuition fees, as has been stated, but which do have education fees and charges.

A brief examination of the excellent dollar-benefit schedule, which was placed on the desk of every Senator today by the Senator from Connecticut [Mr. RIBICOFF], will show clearly that the

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maximum benefits go to the lower cost institutions. I refer, for example, to Colorado State University, the only land-grant college in my State. I understand that the president of that college has been opposed to the amendment; but I do not believe he has really studied it, because it provides that someone paying $330 for tuition and books would be granted a $183 credit compared to a $193 credit for $370 of such fees at the University of Colorado.

So the proposal is to try to take care of universities which are supplying a maximum need for people having the lowest incomes.

The same thing can easily be seen, on pages 1, 2, and 3, with respect to universities in States adjoining Colorado.

The PRESIDING OFFICER. The time of the Senator from Colorado has expired.

Mr. RIBICOFF. I yield the Senator from Colorado 2 additional minutes.

Mr. DOMINICK. The Universities of Arizona, New Mexico, and Utah are on the same schedule.

The amendment will provide tax benefits to those low and middle-income families who desperately need it, and to those who would receive the very least benefits under the pending tax bill. The pending tax bill provides maximum benefits for the low-income families and for those whose incomes are quite high. But the majority of the people of the country, who are in the middle-income group, would not be substantially assisted by the tax bill unless the tax credit for education were adopted.

Mr. President, the amendment will not solve all of our educational problems, but it will be a significant step toward helping those who do need the assistance in bearing the costs of higher education. It will fill in part of the gap which we now have in our efforts to assist all Americans to have the opportunity for receiving higher education. We have given grants and loans to the universities and graduate schools for buildings and equipment, we have made progress toward helping teachers, we have advocated special programs to stimulate interest in secondary education. Will we now recognize the problem of those who struggle to give their children the chance to improve and better their lot through higher education or simply write them off as expendables? Mr. President, the country needs this amendment and it needs it now.

Mr. HART. Mr. President, will the Senator from Connecticut yield briefly to me?

Mr. RIBICOFF. Mr. President, I yield 2 minutes to the Senator from Michigan.

Mr. HART. Mr. President, tomorrow we shall vote on the amendment offered by the Senator from Connecticut [Mr. RIBICOFF] to provide a sliding-scale tax credit to parents who seek to provide college education for their sons and daughters. This proposal has been discussed rather fully, with a sharp division of opinion developing. As I stated in a colloquy, with the Senator from Connecticut, as he opened the debate, I shall vote for the amendment.

I ask unanimous consent to have printed in the RECORD an editorial from the Detroit News of January 27, 1964, which presents a balanced analysis of the reasons for support of this amendment.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

COLLEGE TAX CREDIT

The income tax bill now being written in Congress ought not to be cluttered with controversial sections, but if the result is not to

be a simple tax reduction bill then a tax credit for college expenses is worth further consideration.

Senator ABRAHAM A. RIBICOFF, Connecticut Democrat, proposed that parents be allowed to subtract a maximum of $325—reached on a sliding scale—from their income tax bills. The Senator is an expert in the field and wrote his proposal so that the richer the taxpayer the less the credit that could be taken. A taxpayer earning $30,000 a year had his credit reduced by $50 to $275 and an income of $60,000 bars any credit at all.

Ten Democrats on the Senate Finance Committee listened to administration objections as to the cost of the proposal to the Treasury and voted it down. RIBICOFF and six Republican committeemen voted for it.

RIBICOFF said that he had tremendous public support for his idea and said that he would bring it to a rollcall vote on the floor. where it might very well pass.

Anyone with a child in college these days is acutely aware of the costs and those costs are expected to rise sharply for many years to come. A credit against tax of $325 will by no means solve the problem, but it will slightly ease it. It may very well make the difference between going and not going to college for children of parents in the middle income bracket.

Mr. HART. Those of us who support this amendment, should acknowledge, I believe, that it falls far short of reaching an area of very great need in higher education. Students assistance and scholarships for students with demonstrated desire and capacity to benefit from higher education should be available. We need such programs from Federal funds. Only then shall we have responded to the need of children whose families are in the lowest income groups, and who will benefit little, if at all, from the Ribicoff amendment. While I recognize the sincerity and conviction of those who urge defeat of the Ribicoff amendment because it attacks only a part of the problem, I intend to support the amendment, for the reason that it does respond to at least a part of the problem. I suggest that there is a heavy obligation on those of us who do support the Ribicoff amendment to see enacted a student assistance and scholarship program, because I think it quite true that the availability of tax credit can increase tuition costs, and consequently can make even more difficult the plight of the child of a parent who will not benefit from the tax credit.

Before this session of the Congress ends, I hope this tax credit and substantial scholarship assistance will be enacted.

A sense of values and an order of priority are essential in meeting every one of our public responsibilities. It is not inappropriate to note that the $750 million which is represented by the first year of the college tax credit is about the same as the amount Congress is urged to appropriate to develop a supersonic jet transport. In terms of contributing to national strength, I hope there is general agreement that increasing opportunities for higher education will in the long term be the more significant.

Mr. McINTYRE. Mr. President, will the Senator from Connecticut yield a few minutes to me?

Mr. RIBICOFF. I yield 8 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 8 minutes.

A TAX CREDIT FOR EDUCATION

Mr. McINTYRE. Mr. President, I am indeed happy to join in supporting the amendment submitted by my fellow New Englander, the Senator from Connecticut [Mr. RIBICOFF], whose distinguished experience—before coming to this body—as Secretary of the Department of Health, Education, and Welfare is well known to all in New England.

Mr. President, it is altogether fitting and appropriate to provide a tax credit for higher education expenses. This amendment would provide a 75-cent tax credit for each dollar up to $200 spent by a parent or student on books, fees, and tuition, a 25-cent tax credit for each dollar of the next $300, and a 10-cent tax credit for each dollar of the next $1,000. The maximum credit would be $325 on up to $1,500 in books, fees, and tutition. If the taxpayer's income exceeded $25,000 the amount of the credit would be reduced gradually, disappearing above income levels of $60,000.

RECOGNITION FOR PUBLIC BENEFITS

We talk about education and its contribution to economic growth, about education helping to meet national manpower needs, and about the way education strengthens our society. These are public benefits which the tax laws should recognize and encourage.

Parents sacrifice much in order to educate their children. The expenses of a college education are heavy and are felt in the short space of the years when each child is actually attending college. Like the expenses of illness, which are deductible under certain conditions, education expenses often take almost all of a family's spare income. This amendment will ease the impact of this heavy burden for many families.

ASSISTANCE FOR FAMILIES OF MODEST INCOME

The tax credit will be available, Mr. President, whether the parent's expenditure is from income or a loan obtained at the local bank. Passage of the amendment will make it possible for

many families of modest income to borrow, even if only the limited amounts for which the credit is most generously provided.

"CLASS" LABEL DISPUTED

The argument has been made, Mr. President, that this is class legislation. While it is true that only taxpayers receive its benefits, I would like to draw attention to the fact that its principal benefits would be realized on the first $200 spent for higher education. Moreover, the glaring loopholes in our present tax laws are of primary benefit to the

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very rich. If the adoption of this amendment were to create pressures for tax reform, it could hardly be called class legislation. It was my intention in sponsoring this amendment to support revenue-raising reforms to at least the amount this amendment is estimated to cost.

THE AMENDMENT WILL AID THE CAUSE OF TAX REFORM

It is not beyond the power of the Senate to correct or offset any revenue losses that might arise from the adoption of this amendment. In fact, maybe that is the real issue before us. If the tax rates which prevail in theory were applied in practice, by some estimates the Federal Government would realize an extra $40 billion every year. It is against that $40 billion, not against the projected budget deficit for fiscal year 1965, that the revenue-losing effect of the Ribicoff amendment must be judged. We have permitted special deductions and exemptions and privileges to grow up.

Whenever we move toward closing those loopholes, we find each one inhabited by a swarm of angry bees, easily disturbed by any threat to their private honeycomb. The education tax credit may help to change all this. It has a broad public appeal and will reach into millions of homes. And if we vote it down, the public will become aware of special advantages which we cannot bring ourselves to change. The choice may be as simple as "education" on the one hand, or "tax writeoffs for stock options and depletion allowances" on the other; "books, tuition, and fees" on the one hand, and "foreign tax havens" on the other.

The defeat of this amendment will bring home to every town and city of this country the price the ordinary citizen must pay to maintain a tax system riddled with special privileges. There are far more parents skimping to put their children through college than there are wealthy taxpayers obtaining advantages from loopholes in our laws. Perhaps the only way to close loopholes and bring a greater measure of economic justice to our tax laws is to invoke the great principle of popular sovereignty.

If the people had a chance to decide between education for their children and the ridiculous structure of special tax benefits now in force, there could be no doubt as to their decision. And yet it is seriously argued that we cannot replace a slight fraction of the special benefits now in force. The Ribicoff amendment would be progressive legislation in the best practical sense of creating immense public support for revenue-raising reforms in our entire system of tax laws.

THE AMENDMENT WILL HELP EDUCATION

Let us not forget, Mr. President, that it is education we seek to assist. At a time when public investment in education threatens to assume a dominant role, the benefits of increasing private investment should be obvious. Whether the passage of this amendment leads to higher tuition rates or increased family outlays for education, it will increase private investment and help to maintain the freedom, integrity, and independence of our institutions of higher education. For these are the qualities we associate—and rightly so—with private financing in education.

A second problem affecting our institutions of higher education, Mr. President, has been that public funds are not generally available to private schools. And yet we believe it desirable to maintain a system of diversified schools. If we are sincere in stating this ideal, we should proceed to adopt an amendment whose benefits would be available equally, to private and public schools alike, to parochial schools, military colleges, other sectarian institutions, at a constitutional disadvantage in this respect, and to all the other great private institutions of the land.

Mr. President, the passage of this amendment would help to maintain a proper balance between public and private sources of funds for education. It will increase the overall amount available for investment in education. To some extent this will increase enrollment capacity and college attendance. In other respects, that are almost as important, it will permit colleges to raise tuition charges in order to improve the quality of research and instruction. Last year, I spoke in support of a National Science Foundation program requested by President Kennedy to create new centers of excellence. The passage of this amendment should have a similar effect and will give many colleges the resources they need in order to compete

more successfully for Federal research funds and institutional support.

By a favorable vote on this amendment, the Senate will provide urgently needed and effective support for higher education in America. Families will be helped. Students working their way through college will be helped. The amendment would be in the public interest, as it is undoubtedly what the public desires. I hope the Senate will adopt it.

Mr. MANSFIELD. Mr. President, will the Senator from Connecticut yield briefly to me?

Mr. RIBICOFF. I yield.

Mr. MANSFIELD. Mr. President, I propound a revision to the unanimous-consent agreement no in effect; this provision has been cleared, I believe, all around. It is quite similar to the one I proposed earlier this afternoon.

I propose the following changes in the unanimous-consent agreement now in effect: In the unanimous-consent agreement as printed on the first page of today's Legislative Calendar, in line 4, strike out the word "for", and insert in lieu thereof the words "not to exceed"; and in lines 5 and 6, after the word "that", strike out the words "after the hour of 8 o'clock p.m."; and in line 6, after the word "Senate", insert the word "then"; so that the agreement, as thus amended, will read as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That on Monday, February 3, 1964, at the hour of 4 o'clock, p.m., the Senate proceed to consider the amendment (No. 329) intended to be proposed by the Senator from Connecticut, Mr. RIBICOFF, to the pending bill, H.R. 8363, the tax bill; that debate on said amendment continue not to exceed 4 hours, the time to be equally divided between the proponents and the opponents and controlled in the manner provided by the usual form; that the Senate then proceed to the consideration of any amendment that may be proposed to the so-called Ribicoff amendment, the time on any amendment thereto to be limited to 1 hour and equally divided between the mover of the amendment and Mr. RIBICOFF, provided he is opposed to any such amendment: *Provided,* That no amendment that is not germane to the provisions of said amendment No. 329 shall be received.

Ordered further, That on Tuesday, February 4, 1964, after the conclusion of the morning business, the Senate resume the consideration of the said amendment No. 329, and that debate on it continue for 1 hour, the time to be equally divided between the proponents and the opponents, and that at the expiration of said hour, the Senate proceed to vote on the question of agreeing to the amendment.

Mr. President, I ask unanimous consent that these changes in the unanimous-consent agreement now in force be made.

The PRESIDING OFFICER. Is there objection?

Mr. TOWER. Mr. President, reserving the right to object—although I have no intention of objecting—let me ask whether the agreement as thus revised will mean that after it is found that no other Senator wishes to address the Senate this evening, the Senate can then adjourn until tomorrow, at which time it will continue the debate on the Ribicoff amendment.

Mr. MANSFIELD. Yes, with the proviso that any amendments to be submitted to the Ribicoff amendment must be submitted before conclusion of the debate tonight, and will be voted on tonight; and that one hour after the Senate convenes on tomorrow, the vote will be taken on the Ribicoff amendment as it then stands—either with or without amendments to it.

REVENUE ACT OF 1964

The Senate resumed the consideration of the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes.

Mr. MANSFIELD. Mr. President, now that the order for the Senate to convene at 10 a.m. tomorrow has been entered, I wish to state that, under the provisions of the unanimous-consent agreement now in effect, the vote on the Ribicoff amendment will be taken at 11 a.m.; or, if by that time the Ribicoff amendment has been amended, the vote will then be taken on the Ribicoff amendment, as amended.

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Mr. TOWER. I thank the Senator from Montana.

The PRESIDING OFFICER. Is there objection to the proposed revision of the unanimous-consent agreement now in effect? Without objection, it is so ordered.

Mr. BEALL. Mr. President, I support the amendment of the distinguished Senator from Connecticut, providing for an income tax credit for college costs.

College costs hit that segment of our population which provides the bulk of our tax revenue. This financial burden falls heaviest on those of our citizens who are buying homes and raising families, as well as carrying the heaviest part of the burden of Government. Yes, the people who are carrying the load are the people faced with the heavy cost of sending their sons and daughters to college.

In today's economy, education represents one of the major family investments.

I feel that those who must bear the financial burden of high college costs are just as entitled to tax relief as are those with medical and casualty losses, which are already given consideration in the tax setup.

One of the premises of the new tax bill is that incentives should be given to capital investment. In my opinion, there is no better form of capital investment than in education for our children. Trained minds will insure the continued success of this Nation.

In the tax reform bill before us, we have an unparalleled opportunity to prove the sincerity of our interest in higher education. Without resorting to the establishment of another bureau or office or even another Government project or program, we can advance the cause of education, and, at the same time, give a much deserved break to the man who very rarely is the beneficiary of the Government programs which to a great extent he finances.

The 1964 tax bill is not a simple, across-the-board tax reduction. The bill is a complicated measure containing more than 300 pages of detailed provisions effecting changes in 37 separate areas of the Internal Revenue Code. The sacrifice in revenue caused by the Ribicoff amendment can be offset by needed reforms in other areas. The new tax bill is far from perfect, but this amendment will make it greatly better.

As the Senator from Connecticut has explained, 63 percent of the families which would be benefited by this amendment have incomes of below $10,000.

As the amendment provides for a 75-percent credit on the first $200 spent for college costs, this means a credit of $150; on the next $300, the credit is 25 percent, or $75; on the next $1,000, the credit is 10 percent, or $100. Thus, by accepting this amendment, we would be providing a credit of $325 on the first $1,500 spent on tuition, fees, books, and supplies at colleges—and this credit would be available to anyone who pays these costs.

Taxes are too high. They are a burden on our people and a drag on our economy. They must be cut—not with reckless bludgeon blows, but with skillful, selective pruning. Such pruning is perfectly illustrated in the Ribicoff amendment.

Let us give our substantial family heads a long overdue break by approving the Ribicoff amendment for tax credit for college costs, an amendment which meets a pressing need.

Mr. President, I yield back the remainder of my time.

Mr. RIBICOFF. Mr. President, I yield to the Senator from Texas [Mr. TOWER].

Mr. TOWER. I thank the Senator from Connecticut. I do not plan to call up my amendment No. 393, which bears upon the same question, except that other Senators join with me in supporting the amendment of the Senator from Connecticut.

Mr. President, at this point I ask unanimous consent to have printed in the RECORD the remarks I have prepared in support of that amendment.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR TOWER

I have introduced several amendments to the pending tax bill. These amendments would grant a tax credit for certain education expenses and contributions on both the college and the elementary-secondary levels.

As a former teacher myself, I am fully aware of the worries of many American families about the adequacy of schools and of curriculums. I am fully ware of the equal worries of many families that the costs of college education for their children are far beyond them.

I find this to be a pressing problem. And I find that the best solution to it lies in the tax credit field.

During hearings, the Labor and Public Welfare Committee received testimony from witnesses representing the presidents of 20 independent colleges and universities in support of aid to higher education through tax credits. The principle also applies to tax relief in the field of elementary-secondary education.

The advantages of this approach are as follows:

1. It would release increased funds which could be used for those purposes most directly related to the real needs of each institution, public or private. In most cases, the most urgent financial needs have to do with the paying of salaries and other operating costs.

2. It would help to preserve the diversity and flexibility of the whole American educational system which, we believe, is important in maintaining the freedoms and pluralism in our national life.

3. It would offer a solution to the grave constitutional question which casts a dark shadow over the whole issue of aid to private, independent, and church-related colleges. Such tax credits would offer an acceptable means of channeling greatly enlarged new funds into education, tax-supported or privately supported, State-controlled or independent, secular or religious—and within the framework of a policy long established by the Congress of giving incentive to taxpayers to make voluntary contributions for the support of educational services of all types of organization, philosophy, and control.

4. The independence of action of each institution would be strengthened, and enhanced.

My first amendment would provide a tax credit to homeowners for that portion of their real property tax which is used for the maintenance, operation and construction of public elementary and secondary schools. **This tax credit would be the amount paid by the taxpayer in support of local education—or $100, whichever is less.**

My second amendment would provide tax credit relief for taxpayers who are themselves students or whose spouses or children are attending college. College expenses covered by the amendment would include tuition and fees; books, supplies and equipment; and room and board. Total expenses would be limited to $2,000 for each student attending college, and the cost of room and board would be limited to no more than $90 a month. A progressive limitation feature would curtail the amount of credit granted to taxpayers in higher income brackets.

My third amendment is a more limited version of the second amendment's provisions. It would provide a tax credit to parents for tuition and fees incurred by their dependents attending college. In this alternate approach, the maximum credit allowance would be $420, with credit for tuition and fees allowed on the following schedule: (a) 100 percent of the first $100; (b) 30 percent of the next $400; (c) 20 percent of the next $1,000.

My fourth amendment, and one that I regard as highly important, would grant a tax credit to individuals and corporations for gifts and contributions made to nonprofit institutions of higher education. This contribution credit could not exceed $100 for an individual, or $1,000 for a corporation.

A summary of the provisions of my amendments, is as follows:

AMENDMENT 1

Tax credit to homeowners for that portion of their real property tax which is used for the maintenance, operation, and construction of public elementary and secondary schools.

(a) The taxpayer would continue to deduct the amount of his real property tax from his gross taxable income; after he determines what his tax will be, he then credits against his final tax that amount of his real property tax which is used for the maintenance, operation, and construction of public elementary and secondary schools.

(b). Tax credit would be the amount actually paid by the taxpayer or $100 whichever is less. To illustrate, a taxpayer pays a real property tax of $600, of which $350 is used for public school purposes. As he does at present, the taxpayer would be able to deduct from his taxable income $600, and assuming that he is in the 20-percent bracket, this would result in a tax saving to him of $120 (20 percent of $600). After determining his final tax, for example, $500, the taxpayer in addition would be able to take a credit of $100 against his net tax, thus, instead of paying a tax of $500, he would pay only $400.

(c). The taxpayer who takes a standard deduction would also benefit since the credit granted is taken against the final tax after all exemptions and deductions have been made.

(d) The deduction together with the tax credit cannot result in a saving to the taxpayer of more than the actual amount of that portion of the real property tax devoted to public school needs. For example, the taxpayer pays a real property tax of $100, of which $60 is used for public school purposes. Assuming the taxpayer is in the 20-percent bracket, he would be able to reduce his tax by $20 (20 percent of $100), $12 of which is attributable to the tax for school purposes. Giving such a taxpayer a $60 credit—the actual amount paid for school purposes—would return a saving to the taxpayer of $72 or $12 more than the tax he paid for support of the public schools. Thus, the tax credit in this case would be limited to $48.

AMENDMENT 2

Tax relief for families with children attending college.

(a) The taxpayer is granted an additional deduction from his taxable income for the expenses incurred by him, his spouse, or his dependent or dependents, while attending college.

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(b) Expenses shall include tuition and fees charged by the college for a course of instruction and attendance at such college; books, supplies, and equipment; room and board, whether the student is living on or off the campus. The amount the taxpayer may deduct shall be the actual amount of expenses paid but not to exceed $2,000 for each child attending college. Of this amount, the cost of room and board may not exceed $90 a month while the student is in attendance at college ($45 in the case of a student living at home).

(c) In addition to his child or children, the taxpayer may also deduct such expenses which he incurs as a student as well as those of his wife and anyone else whom the taxpayer can lawfully claim as a dependent.

(d) The deduction is available to a taxpayer whose dependent is attending a college, university, or other institution of higher learning, such as medical school, dental school, law school, or other graduate school. This deduction is not available to a taxpayer whose dependent is attending a trade or vocational school or any other school which does not award a baccalaureate or higher degree.

(e) The amount of expenses which the taxpayer may deduct from his taxable income shall be reduced by the amount by which the taxable income of the taxpayer exceeds $10,000 if the taxpayer is unmarried or if married, files a separate return or, $20,000 if the taxpayer is married and files a joint return or is a head of a household or a surviving spouse. Thus, if a taxpayer has $2,000 in educational expenses and a taxable income of $20,800, he would be entitled to a deduction of $1,200 ($2,000 less $800, the amount in excess of $20,000). The taxpayer thereby reduces his taxable income from $20,800 to $19,600. If the taxpayer is in the 50 percent bracket, he would thereby reduce his tax by **$600 (50 percent of $1,200).**

AMENDMENT 3—TUITION AND FEES PAID TO INSTITUTIONS OF HIGHER EDUCATION

(a) Taxpayer is allowed to take as credit against his final tax the amount of tuition and fees paid by him during the taxable year to one or more college or institution of higher education for himself or for any other individual for whom he can claim an exemption.

(b)(1) Credit for tuition and fees shall be allowed on the following schedule: (a) 100 percent of the first $100; (b) 30 percent of the next $400; (c) 20 percent of the next $1,000.

For example, a parent pays $1,350 in tuition and fees to a college on behalf of his son. Thus the parent would be entitled to a credit of $390 as follows:

(a) 100 percent of first $100	$100
(b) 30 percent of next $400	120
(c) 20 percent of next $850	170
Total	390

The maximum credit allowance under this provision would be $420.

(b)(2) Where more than one taxpayer pays the tuition and fees the credit allowance shall be prorated among the taxpayers. For example, a parent pays $500 and his son pays $1,000 in tuition and fees to a college. The credit allowance would be $420, of which the parent would be entitled to one-third or $140, and the son would be entitled to two-thirds or $280. (NOTE.—The application of this subsection would be very limited inasmuch as each taxpayer must be able to claim an exemption for the individual for whom tuition and fees are paid. In the case cited above, the parent could continue to claim his son as an exemption even though the son is himself a taxpayer provided that the parent contributes more than one-half of his son's support while the son is a student.)

(c)(1) Defines "tuition" and "fees" as those required for enrollment or attendance or required for courses of instruction at an institution of higher education. It excludes amounts paid for meals, lodgings, and other personal living or family expenses. If the tuition and fees include an amount for meals, lodgings, etc., not separately stated, the portion of the amount attributable to meals, lodgings, etc., shall be determined by the Secretary of the Treasury.

(c)(2) Defines "institution of higher education" as one which: (1) normally maintains a regular faculty and curriculum; (2) normally has a regularly organized student body in attendance where the educational activities are carried on (thereby excluding correspondence schools); (3) offer education at a level above 12th grade; and, (4) gifts made to it constitute charitable contributions within the meaning of the code.

(d)(1) If an individual receives a scholarship or fellowship grant (which are not included in gross income) or receives an education and training allowance under the Korean GI bill or War Orphans' Educational Assistance Act, the amount of such grant or allowance is deducted from the amount paid for tuition and fees in determining the credit allowance. Thus, if the amount paid for tuition and fees is $1,500 and the individual receives a grant or allowance of $800, then the credit allowance is based on $700, and not $1,500.

(d)(2) In the case of an individual who is a candidate for a college degree, credit allowance will be given only for tuition and fees paid for courses for which credit is allowed for a college degree. In the case of an individual not a candidate for a degree, credit allowance will be given for tuition and fees paid for courses required for that attainment of an educational, professional, or vocational objective. For example, a Foreign Service officer, transferred to a new post, may take a limited course of instruction in the language, culture, and history of the country to which he has been assigned, or a lawyer may wish to enroll in several graduate law courses to upgrade and enlarge his legal skills. Under both examples, it is intended that credit for tuition and fees paid would be allowed. On the other hand, a certified public accountant who enrolls in a course on Shakespeare merely for his own enlightenment and entertainment would not be entitled to a credit for tuition and fees paid, since the course in Shakespeare would not be part of an educational, professional, or vocational objective.

(d)(3) Provides that the credit allowance cannot exceed the amount of tax owed by the taxpayer. If the credit allowance is $420 and the amount the taxpayer owes is $400, then the credit allowance is reduced to $400. Simply a technical amendment to prevent a claim by the taxpayer that the Government owes him $20 or the amount in excess of his tax.

(e) If a taxpayer is entitled to a deduction under section 162 (relating to trade or business expenses) for tuition and fees paid, he may continue to claim the deduction and the credit allowance as well. However, the deduction and the credit together cannot exceed the amount actually paid for tuition and fees. For example, a taxpayer in the 30-percent bracket pays $150 in tuition and fees. He reduces his tax by $45 (30 percent of $150) by way of the deduction and is entitled to $115 as a credit. Since the total amount of the credit and the deduction is $160, the credit is thereby reduced to $105.

(f) Secretary of the Treasury is given authority to prescribe regulations to carry out this provision.

AMENDMENT 4—CONTRIBUTIONS TO INSTITUTIONS OF HIGHER EDUCATION

(a) Provides a credit against his final tax for an individual for the amount of his contributions to one or more institutions of higher education during the taxable year.

(b) The credit cannot exceed $100 in the case of an individual or $10,000 in the case of a corporation.

(c) Such credit will apply only if the contribution to or for the use of an institution of higher education is deductible as a charitable contribution. Where the contribution is made not to a college or university but to an agency, foundation or institution, such contribution may be only used by the agency for the same purposes that a college or university may use its funds.

(d) Definition of "institution of higher education" same as section 39(c)(2).

(e) Same as section 39(d)(3).

(f) Permits taxpayer to continue to take a deduction for charitable contributions as well as the credit provided by this section. In no event shall the deduction and the credit together exceed the actual amount of the contribution. Similar to the example set forth in section 39(e)(2).

(g) Secretary of the Treasury authorized to issue regulations to carry out provisions of this bill.

(h) Technical amendment-renumbering of code sections.

Section 2: Provisions shall apply to taxable years ending after the enactment of this act. If this bill becomes law in September 1963, a taxpayer may take advantage of the credits provided herein in filing his income tax return for the taxable year 1963.

Mr. TOWER. Mr. President, I commend the Senator from Connecticut for offering his amendment, which is similar to the legislative proposals that have been introduced in the past by the Senator from Arizona [Mr. GOLDWATER] and myself.

I should like to commend the Senator from Connecticut for attracting such bipartisan support to his amendment; and I also commend the junior Senator from Colorado [Mr. DOMINICK] for the active work that he has done in behalf of the amendment.

I am vitally interested in the amendment because although the State I represent is the sixth State in terms of size of population, it ranks fourth in terms of college enrollment.

This tax-credit proposal has been widely discussed and is well understood by Members of the Senate. And, I feel it is unnecessary for me to recount here the needs and requirements of American education in this space age. Indeed, these needs have been discussed and dealt with by this body so that many refer to our last session as "the Education Congress."

I remain unconvinced that the massive grant and loan program of aid to education represents the most satisfactory method of dealing with the needs of education. I regard the tax-credit approach as a better approach. And, I also know that many Senators believe that the tax-credit plan is at least necessary as a supplement to grants and loans.

As a college teacher in our State, I was closely exposed to the worries of many families about the expenses of higher education. I certainly can say that this is a No. 1 problem right now of parents with youngsters in high school.

It is by no means certain that all of our talented high school students will get into college, for the costs of college

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can range up to $3,000 a year these days. My amendment and the similar amendment of the Senator from Connecticut are designed to alleviate part of the costs of college education borne by American parents.

If this amendment is incorporated in the new tax law, Americans will be able to figure up their income taxes, and then subtract from the tax due their costs for college tuition and fees—up to the sliding limits provided.

Under a tax credit, such as I am proposing and supporting, a taxpayer's money payments for education expenses never would leave his control. His money never would be sent to Washington and then partially sent back to his schools, with lots of Federal strings attached.

Under a tax credit plan his education payments would stay in his pocketbook until applied directly by him in support of higher education.

Mr. President, in the last Congress there were more than 100 bills introduced providing certain tax concessions for education expenses. In the 88th Congress there are more than 120 bills proposing such tax credits.

I am not aware of any other subject upon which there are as many legislative proposals pending as there are for tax credits for education expenses. It would appear that there is substantial support for the idea on both sides of the aisle and in both bodies.

Perhaps the most attractive advantage of the tax credit approach is that it would completely eliminate the church and state issue because there would be no connection between the Government and the educational institution. The relationship would only be between the Internal Revenue Service and the individual taxpayer.

The tax-credit plan also would eliminate the objections about Federal control of education, because tax credits would leave completely undisturbed the existing relationships in higher education.

Many variations of this plan have been discussed in past years and weeks. If we had a low percentage credit, as, for instance, 20 or 30 percent, with a high limit of, say, $2,000, then we would benefit institutions with high fees, or private institutions, and those taxpayers in the higher income brackets. If we had close to 100-percent credit with a low limit, we would benefit more directly public institutions and lower income families.

It has appeared obvious that a compromise percentage-rate system is neces-

sary between those two extremes. Such a rate system would amount to an average annual tax saving of some $750 million a year, of which educational institutions would recover a major portion through increases in tuition and fees. We must remember that the goal of this plan is not only to grant tax relief, but also to provide a method by which educational institutions may obtain additional revenue.

As an example, if the institutions recovered, say, $500 million a year, they could use the money to cover finance charges on bond issues of perhaps $5 billion and still have cash left over with which to augment scholarship and grant funds to needy students.

I have heard it said that some public institutions would not fully benefit, since some are not allowed to charge tuition. I suspect that it would be possible for those schools to increase individual course fees so as to benefit. Also, if this program were in operation, States might well revise their laws to allow tuition charges. At any rate, most private and public colleges already charge both tuition and fees.

One continuing objection has been raised against this plan; namely, that it would be of no benefit to families who pay no Federal income tax. It seems to me that there is no validity to that objection.

At the present time virtually all families, in their productive years, pay Federal income tax. Six out of seven fathers of children reaching college age are between the ages of 38 and 58, which are the top earning years. I estimate that at least 90 percent of the families of students in college today do pay Federal income tax, and it might easily be as high as 95 percent. So this plan would benefit directly almost all college students; and—important but often ignored—it would open the way to increased benefits for students in families that do not pay Federal tax.

If a benefit of this type were provided, many of the students of middle-income families, who at the present enjoy scholarships, could then forego a scholarship, and those scholarships could be concentrated on families who have lower incomes and pay no Federal tax.

Thus, Mr. President, it is obvious that the tax credit for education expenses as provided in the amendment of the Senator from Connecticut would operate to the benefit of every American who is concerned about the costs of higher education. And the tax-credit plan would administer those widespread benefits without the dangers of bureaucratic control of education and absolutely outside of the issue of separation of church and state.

Mr. President, seldom does the Senate have an opportunity to pass upon a program with such massive benefits and at a time when the granting of such benefits would be of such great assistance to our Nation.

I hope, as a former college educator and for the sake of improved college education in America, that the Senate will accept this tax-credit amendment.

I yield back the remainder of my time, and thank the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I yield 5 minutes to the distinguished Senator from Maryland [Mr. BREWSTER].

Mr. BREWSTER. Mr. President, since its original proposal by President Kennedy, I have strongly advocated an overall reduction in taxes as the best means to stimulate investment expansion, industrial development, and overall economic growth.

While I continue to consider this tax legislation to be of top priority, I have become increasingly concerned with its failure to recognize, its failure to stimulate, investment in our Nation's No. 1 resource, the minds of our young people.

Our progress as a nation is dependent on our progress in the education of our citizens. The complexities of diplomatic negotiation, of space exploration, of modern weaponry, of atomic research, of agricultural surplus, medicine, civil rights, automation, and unemployment can only be met by an enlightened citizenry. The probems of domestic and international society yield to no simple solutions. Education is the single most important factor in our successful handling of these problems. For this reason, I have long been convinced of the importance of efforts at all levels of government to stimulate investment in our human resources. I believe that this kind of investment will pay the richest dividend in the years ahead, in enlightened citizens, in economic strength, and in national excellence.

Assistance of local, State, and Federal Governments in the education of our future citizens is long established. We are continually pressed for the extension of governmental participation in positive new programs to meet the dual challenge of an explosion in population and in knowledge.

The amendment proposed by my distinguished colleague from Connecticut to the tax bill now under consideration represents a new proposal—a kind of do-it-yourself education measure—one designed to encourage each American citizen to invest his own financial resources in his own education or in that of his

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sons or daughters. This eminent proposal is intended to stimulate investment in the education of our young people—an investment of equal significance to those which may be made in new plants and equipment as a result of other provisions of the tax legislation we are considering.

I am proud to be a cosponsor of this proposal, and to urge its acceptance by the Senate.

Proposals for tax relief for the cost of higher education have been made many times before in the Senate and in the House of Representatives. At no previous time has there been a greater need for such relief. At a time when the need for education is growing by geometric progression, the cost of education is advancing by the same measure.

What has this meant to the individual? After the cost of buying a home, it has meant that the largest single expense sustained by a family unit is likely to be the cost of sending their three or four children to college. It has meant that at a State or other public college the cost of 4 years of education can run as high as $6,600. It has meant that education at many private colleges can cost double that sum. In my own State of Maryland, there are 75,556 students enrolled in college as of the fall of 1963. For residents of the State, the cost of tuition at the University of Maryland is $396. For an out-of-State resident, the cost is $746.

This is not the whole story. Unlike many of the other serious expenses that a family must bear, the cost of college education hits a family in a short span

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of years with staggering impact, and with no relief similar to that available under present tax laws for medical expenses or casualty losses.

Again, using my own State of Maryland as an example, the resident enrolled at the University of Maryland paying $396 annually for tuition, fees, and books would receive under the Ribicoff amendment $199, a little over 50 percent in tax credit. The nonresident, paying $746, would receive a tax credit of $250, or slightly over 25 percent.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BREWSTER. Mr. President, will the Senator yield me an additional minute?

Mr. RIBICOFF. Mr. President, will the Chair inform me as to how much time I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. RIBICOFF. I understood that the present occupant of the chair [Mr. EDMONDSON] would like to have that minute. However, I believe that the distinguished Senator who now occupies the chair would yield that time to the Senator from Maryland.

I yield 1 additional minute to the distinguished Senator from Maryland.

Mr. BREWSTER. At no previous time has such an excellent proposal as the one made by the distinguished Senator from Connecticut been before this body for consideration. This proposal has been carefully framed to meet all previous objections. This proposal provides a tax credit which will be available to each and every person subject to the Federal income tax who is paying tuition or fees or costs associated with education at an institution of higher learning. It provides a sliding scale formula to equalize the benefits of the credit with respect to students at public and private colleges. Finally, it limits the credit so as to provide greater dollar benefits for lower and middle income families.

Since this proposal of income tax credit for college expense came to national attention, I have received a large volume of mail, favorable without exception. I am informed that no less than 19 Senators and 101 Members of the House of Representatives have introduced similar legislation. This represents eloquent testimony to the broad range of support for this proposal.

Mr. President, I believe now is the time for the Congress to adopt the provisions of this amendment, and to include them in our action on the most important tax legislation in many years.

Mr. RIBICOFF. Mr. President, I reserve the remainder of my time.

Mr. LONG of Louisiana. Mr. President, I yield 45 minutes to the Senator from Oregon.

Mr. MORSE. Mr. President, I rise to oppose the Ribicoff amendment. It grieves me very much to find myself in disagreement with the Senator from Connecticut [Mr. RIBICOFF] on any subject pertaining to education. He and I have worked shoulder to shoulder on education problems when he was Secretary of Health, Education, and Welfare. He and I worked since then, shoulder to shoulder, in the Senate on proposed legislation falling within the jurisdiction of the Senate Committee on Labor and Public Welfare. There is no one for whom I have more respect as to his sincerity of purpose in wanting to do whatever can be done, according to his sights, for the best interests of American education.

But honest and sincere men can differ, and in the present instance I find myself diametrically opposed to the position of

the Senator from Connecticut. In the next few minutes I shall set forth my major objections to his amendment.

I have listened to much, if not most, of the discussion this afternoon. I have been asked by my leadership to put into the RECORD tonight the main reasons for my opposition to the bill. I shall do so in continuity. When I finish presenting my argument against the Ribicoff amendment I shall be glad to respond to any question that the proponents of the amendment wish to ask me.

MAJOR OBJECTIONS

My objections to the Ribicoff amendment are very much the same as those expressed by the Senator from Louisiana [Mr. LONG] in his Senate speech of January 30. I am opposed to it as a special tax privilege to one class of taxpayers; and I am also opposed to it for its impact on our educational system.

It is not entirely clear whether its supporters intend it to be the first or second—a financial break for parents who send their children to college or a means of channeling money into institutions of higher learning, especially private institutions. Obviously, this tax credit cannot be both. If the colleges are to gain anything at all from it, they must raise their tuitions so as to absorb the $700 million to $1.3 billion loss to the Government. If the taxpayers are to enjoy any of it, the colleges and universities must not raise their tuitions.

Some college presidents have been very frank about this. They say exactly what I have said. Of course, it is the intention of these college presidents to raise their tuitions. They have pointed out in their statements that the amendment will not be of any particular help to the institutions unless the tuitions are raised.

What we really are considering in this amendment is a bill which, in essence, is an aid-to-higher-education bill. The decision we must make is what form that aid should take. We must decide whether, if the aid should take the form of a tax credit or if it should come from appropriated funds. The first course will permit the parent or the child to decide, at the expense of all the taxpayers of the United States, what institution will be assisted. The second course will permit the Congress on the basis of sound public policy through a general law to determine what the aid to public and private institutions of learning in this country shall be.

AMENDMENT AIDS COLLEGES, NOT PARENTS

I would never have Senators forget that point throughout the debate. This is a Federal-aid-to-education bill under the guise of a tax credit. It is a proposal whereby the Treasury of the United States says to the parent of the child, "Here is the money." It could even be more valuable to the parent of that child than a tax deduction. This is a handout to the parent of the child after all tax deductions under existing law are considered, and it comes down then to what is left. That is the amount of money he would otherwise have to pay in taxes. It is proposed to say to him, "We give you a credit of so many hundred dollars from money you otherwise would pay into the Treasury of the United States."

CHURCH-STATE ISSUE

I have battled on the floor of the Senate—and against some pretty long odds at times—for what I consider to be a fair deal within the Constitution of the United States for the church-related and the private colleges of America.

I know that there are those who do not like to have the church-state issue discussed in connection with the Ribicoff amendment; but it is imbedded in it. We cannot escape the fact that the Ribicoff amendment raises head on the state-church issue in this Republic. I prefer to meet that issue by amended legislation, not by tax indirection.

There is no doubt that a great many of the religious college administrators in this country are fully in support of the amendment. They see an opportunity to obtain substantial financial aid through this amendment that they could not get any other way.

I shall fight to obtain for the religious affiliated colleges in this country the aid to which I think they are entitled under the Constitution of the United States, but no more.

Consider the total amount of money which is going to pour into the bank accounts of the church-related colleges of this country and into Yale in Connecticut, Princeton in New Jersey, and Harvard in Massachusetts through the operation of this amendment, if it ever is entered on the statute books. I cannot escape the fact that every dollar of that money is the taxpayers' dollar. I do not think it is right for us to do this until the state-church issue is settled by a U.S. Supreme Court decision.

JUDICIAL REVIEW

There is pending before the Senate now a bill, of which I am the author, and on which there are a goodly number of cosponsors, which seeks to establish a procedure for judicial review in connection with the question of the extent to which the taxpayers' dollars can be used to help finance religious affiliated colleges and schools.

The senior Senator from Oregon pro-

posed and fought for, and the Senate passed as the higher education facilities bill, which provided categorical-use grants to religious affiliated as well as public colleges. I think that approach is constitutional. I think it is the kind of approach we should make to the church-state issue.

TAX CREDIT NO SOLUTION TO CHURCH-STATE PROBLEM

If one thinks that, by way of a tax credit "gimmick," there is going to be eliminated the church-state issue of aid

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to church-related schools, he could not be more badly mistaken.

The adoption of the amendment—and I sincerely hope it will not be adopted—will raise that issue in an inflamed form. Already telephone calls, letters, and other communications make it clear to me that across the country great dissension is being raised over the Ribicoff amendment on the ground that it is an attempted circumvention of the church-state separation principle.

It is a great mistake, in my judgment, to approach the issue that way. We are making progress in resolving constitutionally the state-church issue. It is my view that we should give the maximum support to all of the colleges of the country, private and public, including the church-related college, that can be given under a general aid bill within the limitations of the Constitution. That is why I am working so hard to try to obtain consideration for the judicial review bill I have authored, not only in connection with higher education, but also secondary and elementary schools, because there is a great problem in that connection, too.

One of the controversies which I fear will be stirred up over the Ribicoff amendment, if it ever becomes law, is the whole question of the aid and the form of aid which can be given, with propriety under the Constitution, to parochial secondary and elementary schools.

I have not made these comments because I am happy to make them. I would prefer not to have to discuss the subject. But in my capacity as chairman of the Subcommittee on Education of the Committee on Labor and Public Welfare, I would be derelict in my duty if I did not point out that, in my judgment, the Ribicoff amendment does raise the church-state issue and will arouse great controversy.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. MORSE. Because of the nature of the point I make, I think it is only fair to yield to the able Senator from Connecticut, but I shall not yield when I reach the other points.

Mr. RIBICOFF. How does this amendment raise the church-state issue?

Mr. MORSE. It raises the church-state issue because the Senator proposes to give a tax credit, which benefits the parent who finances the education of his child in a Catholic, a Presbyterian, a Lutheran, a Jewish or a Baptist or any other denominational college or university. I note that there will be no check over the programs of the church-related schools which ultimately get the money under the tax credit proposal.

Mr. RIBICOFF. The Senator knows that the private colleges will not get this money under the tax credit. It will go to the parents.

Mr. MORSE. The Senator can console himself by such a statement, but if the tax credit is given to the parents, it will be given to the Catholic schools or the Presbyterian schools or the Baptist schools. Whose money is it? It is the public money which would be given to the parent under the amendment. The Senator should not try to kid me by such fantastic logic.

Mr. RIBICOFF. Mr. President, I am not kidding myself. Neither do I expect the Senator from Oregon to kid the Senate on this issue.

Mr. MORSE. I will not run away from the mathematical facts, as the Senator is apparently doing.

Mr. RIBICOFF. I am not running away from anything.

Mr. MORSE. How does the Senator think these schools will get the money? How will the Catholic schools and the Presbyterian schools get the money? Where do they get the tax credit dollars? They get them from the student who takes them to the Catholic school or the Presbyterian school or the Baptist school. That is where they get the dollars. Those dollars are not the student's dollars. They are public dollars. We are indirectly giving those dollars to the schools from the Treasury of the United States.

Mr. RIBICOFF. The overwhelming amount of the money goes to families whose children attend public and private colleges which are nonreligious.

Mr. MORSE. But we do not know that until the amendment starts to work.

Mr. RIBICOFF. When it starts to work, the money goes to the parents, basically.

Mr. MORSE. And they decide where the child shall go to school.

Mr. RIBICOFF. As they decide at the

present time. It makes no difference where they decide to send the child.

Mr. MORSE. There is no restriction with respect to a Catholic or Presbyterian or Baptist college, as there is under Public Law 88-204, which restricts the money to a categorical use.

Mr. RIBICOFF. When a charitable contribution is made to a private college, whether it be Catholic or Baptist or Presbyterian, the same situation exists.

Mr. MORSE. It is an old legal maxim that when one pierces the veil, one reveals the subterfuge which is attempted. I have pierced the veil, and the Senator from Connecticut does not like it. The American people understand it. He will know that they understand it before we are through with this issue.

Mr. RIBICOFF. I understand the issue very well. It is an issue that we should debate here and now. This issue involves a tax credit. It is not going to the school, whether it be a State school or a private school or a church school. It goes to the parent.

Tuition fees have gone up 25 percent during the last 5 years.

If the Senator talks about schools raising the tuition, I point out that the schools have already raised their tuition. When they find that the parents have extra money in their pockets, they may again raise the tuition fees. Therefore, if we follow the Senator's logic, we could say that the basic tax reduction bill being proposed by the administration aids religious institutions, because colleges, knowing that the parents will have extra dollars in their pockets, will be able to raise their tuition fees. That argument is just as logical as the one the Senator uses by saying that, because there is a tax credit for education, the money will go to religious institutions.

I respect the Senator from Oregon. He knows that privately and publicly and from platforms I have given him great credit for his fight and leadership in this field. I have never doubted the sincerity of the Senator from Oregon. I have always defended his sincerity and have always contended that he was sincere.

It is rather strange that at this stage in the debate the distinguished Senator from Oregon should appear to question my sincerity, because my respect for him is very high indeed.

I wish to argue this issue on its merits. To say that I am using this issue as a subterfuge for benefiting religious schools is unworthy of the great Senator from Oregon, for whom I have such high respect.

Mr. MORSE. If the Senator's sincerity is being questioned, he is questioning it himself. I assure the Senator I am not attacking it.

His judgment can be defended on this issue.

However, when he tries to make the fallacious argument that Catholic and Presbyterian and Baptist colleges are not going to get the money out of the U.S. Treasury in the long run by way of the tax credit which he proposes, by handing it to the parent, I do not go along with him. His amendment would take money from the Treasury thus permitting the parents to spend it for tuition wherever they want to spend it, in a Catholic or a Presbyterian or any other private denominational institution, with no restraint whatever put upon their decision at all. That is what would happen.

We had a great fight on the higher education facilities bill, in seeing to it that money for categorical uses only was made available to Catholic, Presbyterian, Baptist and other institutions of higher education. I was in favor of it. I voted for it. In fact, I proposed it. As we battled for it, we put restraints on it. We made it clear that not a dollar of that money could be used except for categorical use purposes. There is no restriction in the pending amendment upon the use of the money that is proposed to be given to these beneficiaries. It is possible that it will be held legal to proceed in this manner. The courts will have to decide that question.

The Senator from Connecticut obviously disagrees with my argument. He is entitled to do so. However, I do not intend for a moment to let him think that he is going to persuade me into believing that there is no church-state issue in his amendment, just because he proposes to give the money to the parents in the first instance.

We must take a look at the effect of the use of the money. The presidents of church-related institutions of higher education are in a terrific drive to have this amendment adopted. They know the effect of it. They know that they

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will get in this amendment what they could not possibly get through a general Federal aid bill. That is the difference between us.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. MORSE. I yield.

Mr. RIBICOFF. If we should follow the logic of the distinguished Senator from Oregon, the Senator would be against allowing deductions for charita-

ble contributions to religious education or to religious colleges, be they Catholic or Protestant or Jewish.

Mr. MORSE. No. We have an overall, general public policy, which has prevailed in this country, that deducations for humanitarian purposes are considered to be in accordance with the Constitution. In the pending amendment, I believe we have a "gimmick" which is designed to get around the first amendment to the Constitution. That is what is in this amendment.

Mr. RIBICOFF. How can the Senator say this is a "gimmick," when the money is going to the parents, not to the college? I point out that, according to statistics, there are only 353,167 students in Catholic colleges, and 2,700,000 students in public colleges.

Mr. MORSE. If I have ever heard a non sequitur, that is one. We must wait to see how many will be affected and who will go to these schools after the adoption of the amendment.

Mr. RIBICOFF. The amendment has nothing to do with that. The amendment is specifically designed to help parents to decide to what college their children shall go, in exactly the same way as we give a deduction for charitable contributions, irrespective of the type of college to which a parent will make his contribution.

Mr. MORSE. I have no quarrel there.

Mr. RIBICOFF. If this amendment is to be opposed on this ground, then to follow the logic of the Senator, and not to indulge in a non sequitur, another amendment would have to be proposed to deprive every church-related college of tax-exempt status and every taxpayer of the right of deduction for a charitable contribution to such a college.

I believe that is the problem we face if we adopt the logic of the Senator from Oregon.

It is surprising indeed, that this argument is projected at this time in the debate. It is very interesting, because this is the first time it has been done, and it indicates how frightened the opponents of this amendment are, when at this late time in the debate the accusation is made that it raises the church-state issue.

Mr. MORSE. I am sorry if the Senator from Connecticut has not heard of it earlier because for weeks, while this proposal has been under discussion, there has been great activity by private schools and private school administrators. They have been urging the adoption of this amendment, because they feel it is the best way in which they can get the money that they could not get before.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. MORSE. I will first complete my argument. If I have time remaining, I will yield to him. But I wish to complete my main speech.

EFFECT OF RIBICOFF AMENDMENT

I realize what chasms apart we are. I repeat my argument that when we take tax dollars—I do not care what the vehicle is; I do not care what the medium is for transferring them—we can apply the doctrine of law that the veil can be pierced to follow through to see what the effect is. In this instance, the effect will be that we will make available through this device, without any restrictions as to how a religious school may spend accumulated funds in the Treasury, with no such categorical use restrictions as are in the aid-to-higher-education bill which was passed a few weeks ago, huge sums of money without specific constitutional protection to the taxpayers.

SPECIAL PRIVILEGE

If we are to consider it as a tax break to parents of college students, I think we have riddled our tax system far too much already with special privileges. I am astonished to see so many Members of Congress who ordinarily oppose special privilege taxation supporting this amendment. And I am disappointed that a move that had gained some strength not long ago to wipe out special tax features and then reduce rates substantially all across the board has fallen victim to the pressure of one special interest after another.

Let us bear in mind that this is not basically an education measure. If it were, it would be before the Subcommittee on Education of the Committee on Labor and Public Welfare. I once said that I thought it would be good to have hearings on educational proposals considered by the Subcommittee on Education. But I agree that the bill is basically a tax measure. It is not a measure to help the young people or to ease a financial strain on their parents. The question is whether a financial strain should be eased for one class of taxpayers when it will not help many other parents who also would like to provide their children with a college education. It is a question of whether sending a child to college is the kind of expense that justifies shifting a substantial tax burden onto taxpayers whose incomes are not large enough to take advantage of the credit, or who have no college-age children.

EDUCATION CONSIDERED AS AN INVESTMENT

Basically, I see no difference between the Ribicoff amendment, and the oil depletion allowance or any other of the special privileges in our tax code. It is simply a good investment to send a

youngster on to college. It is profitable for the child and profitable for the Nation. A college-educated man or woman stands to make an income several times that of the man or woman who lacks a higher degree.

Figures brought out in the Education Subcommittee show that in the year 1961, men 25 years of age and over had the following incomes, according to their years of schooling:

Less than 8 years	$2,998
Grammar school (at least 8 years)	4,206
1 to 3 years of high school	5,161
4 years of high school	5,946
College (1 to 3 years)	7,348
College (4 years or more)	9,817

Over their economic lifetime, meaning from age 18 to death, these men will realize the following total incomes according to their educational levels:

Less than 8 years	$151,348
Grammar school (at least 8 years)	204,530
1 to 3 years of high school	234,960
4 years of high school	272,629
College (1 to 3 years)	333,581
College (4 years or more)	452,518

Certainly a college education is good for the child and good for the Nation as a whole. But does that mean that on top of the financial advantage of the education itself we should allow a tax rebate for the investment? My answer is no. We might with equal justification allow a tax rebate for any other sound financial investment.

BENEFITS NOT ACCORDED LOW-INCOME FAMILIES

Senators know that parents with an adjusted gross income of $5,000 or less will have no taxable income against which this credit can be applied. They will gain nothing from it. Like so many other tax features, you have to have considerable income to begin with before you get preferred treatment. The Bible refers to this system as one of: "To them that hath, it shall be given," which in American parlance is called: "Them as has, gits."

Under the Ribicoff amendment, if you have at least a middle bracket income or more, you will get a tax break when you send your children to college. If you are in the lower brackets, you will get no tax break from sending your children to college.

This is the kind of inequity that we should be eliminating from the revenue code instead of adding.

If I were asked what kind of taxpayer would benefit most from this amendment I would say the taxpayer with no more than four children who has an income of at least $10,000 and who plans to send his children to college in any event. Taxpayers with many children, or with low incomes who send their children to public school, will benefit much less, if at all.

College-educated American families are going to send their children to college in any case, tax credit or no tax credit. We know that to be true. That is the pattern of American family life and education. Higher education tends to beget higher education within a family. Our social mores and economic desires perpetuate a need for higher education once it is established in a family.

These parents do the right thing by themselves, by their children, and by their Nation. They do not need a tax credit to induce them to do it, however much they might like to have one. We would all like to have a tax credit for our sound investments in our own and in the Nation's future. Education is not the only such investment; why should it receive this special reward?

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BAD PRECEDENT

This amendment makes no sense unless we plan to continue down this road and give tax credits for all kinds of investments and for all expenditures on self-improvement. I am against them in principle, and therefore I am opposed to the Ribicoff amendment as a tax privilege.

So am I also opposed to it for its effect upon our educational system. From all the data and figures I have accumulated on the amendment, I am convinced that it will make more difficult the overcoming of our Nation's greatest economic problem—the education, retraining, and absorption into useful employment of young people who lack the family finances and family motivation to educate themselves.

AMENDMENT WILL NOT SOLVE POVERTY PROBLEM

Let Senators not be deluded. This is our great problem of education. It is also our problem of economics; our problem of poverty. It is the problem of bringing into the mainstream of American life the boys and girls whose families before them were outside it. It takes shape in the form of generations who continue on public welfare because their parents were on public welfare and their parents before them, and whose own children will be on welfare, too, unless something is done to break this vicious circle.

In terms of higher education, it takes the form of dropouts from high school, or brilliant high school graduates who do not go on to college because their par-

ents have no interest in encouraging them, and whose cultural background does not prepare them nor inspire them nor encourage them nor require them to obtain education at the college level.

This is a terrible loss both for the young people and for the Nation. I have already alluded to the reduced incomes they will earn because of their educational deficiency. These same figures are a measure of the financial loss to the Nation, both from the output that will not be realized and the revenues that will not be collected.

PROJECT TALENT FINDINGS

How serious this problem is was brought out recently by the Commissioner of Education before the Education Subcommittee. His testimony about "Project Talent" shows a distressingly high proportion of young people with remarkable talent and ability who do not enter college upon the completion of high school.

Based on the 1961 survey, there were some 11,400 young boys and girls who were in the top 10 percent of their high school graduating classes who did not go on to college. They came from families where the family income was less than $6,000 a year—the very families who will get little or nothing from this amendment. This is the group that our national efforts must be directed to if the recurring cycle of educational deficiency, underemployment of talent, and unemployment itself is ever to be attacked successfully.

I say to Senators: We are not attacking the major education problem of this country if we do nothing for this group of young people, and we will do nothing for them with the Ribicoff amendment.

Moreover, 24,800 more young people were in the next to the top 10 percent of their classes and still in the upper fifth who did not go on to college whose family incomes were less than $6,000. We will be doing little or nothing for this group, either, under the Ribicoff amendment.

It is the approximately 46,000 boys and girls in the top 10 percent of the 1961 high school classes whose family incomes were over $6,000 and who did go on to college who will benefit from this amendment. In my opinion, that is bad tax legislation as well as bad education legislation.

Next, it is my opinion that if this amendment is ever adopted, it will enlarge and extend the imbalance, to which I have referred. The testimony has been that colleges and universities, especially private ones, will promptly increase their tuition costs in order to gain a windfall from the tax credit. Many of their administrators have said so. That is what the presidents of Catholic, Presbyterian, Baptist, Lutheran, and other church colleges and of private colleges say they will have to do, to receive any benefit. They will have to raise their tuition fees in order to receive the benefit of a tax credit. The testimony has been that colleges and universities, especially the private ones, will promptly increase their tuition, in order to gain a windfall through the tax credit.

That is a major source of support for this amendment. The private schools are not interested in the tax break for parents; they are interested in absorbing as much of it as they can, as soon as they can, and they have said so in public many times. They will increase their tuition; they will add to the rising cost of education to the rising number of college age children by raising the tuition; and the pressure will be on. The boards of regents and the boards of education of State institution after State institution will also raise the tuition. That will happen in all public colleges, State universities, land-grant colleges, and all the rest; they will not be able to withstand the temptation when they are under that pressure.

Mr. RIBICOFF. Will the Senator from Oregon yield?

Mr. MORSE. Not until I conclude my argument. I know the answer the Senator from Connecticut will make, for I have heard him state it all afternoon; and I disagree with him.

The boards of regents and the boards of education will meet the rising costs of education and the rising numbers of college-age children by raising the tuition. That is one avenue open to them. They plan to take advantage of it, and indeed many schools which do not favor having the problem met by increased tax revenues are backing the Ribicoff amendment as the alternative.

But that is not going to solve the problem of the loss of topflight students who cannot afford college. It will increase that problem. Higher tuition charges will exacerbate what is already a bad situation. By adopting this amendment, the Senate will merely act to raise the family income level below which the children cannot expect to attend college, and will merely act to increase the numbers of otherwise qualified high school graduates who will not get a college education because the Senate will price many more of them out of the market.

Too many are already priced out of the market. I have already referred to those in the top 10 percent of their high school classes who do not go on to college. All told, over 100,000 boys and girls who graduate from high school each

year with the qualifications for college do not go to college. Enactment of this amendment will drive this figure much higher in the years to come.

A recent study, Mr. President, indicates that it is 2½ times as likely that a child will go to college if his parents' income is in excess of $9,000 than if it is less than $5,000; and that a child in the lower academic half of his high school class is more likely to attend college if his parents' income exceeds $9,000 than is even a child in the upper quarter of his class, if his parents' income is less than $5,000. An estimated one-third of our brightest high school graduates are unable to attend college, primarily for financial reasons.

Mr. President, I am greatly concerned about another problem that will arise if, by mistake, Congress were to adopt the Ribicoff amendment. We know how the legislative process works. Toward the end of last session, the Senate passed the higher education facility bill, and also passed the "omnibus" vocational education bill. We still have before us the fundamental problem of providing aid to elementary school and secondary school education.

I have already outlined to the Senate the problem we face concerning the talented young men and young women who could go to college if means to enable them to do so were provided. What will happen to those from the low-income family group?

If anyone thinks we can just keep on passing education legislation, session after session, he is merely ignoring the facts in regard to how the legislative process works. Mr. President, cannot you hear Senators who then would be trying to find reasons for not voting for another aid to education bill of vital importance, say, "But consider what we have done for education in the last 2 or 3 years. We should wait a while, to see how those bills work."

Mr. President, it will then be easy for the opponents of this bill to join with the opponents of other education bills and to say: "Of course we need educational fellowship and scholarship legislation. Of course we need Federal aid to education legislation." But, Mr. President, in Congress there is always a tendency to slow down, once a bill or two of major importance in a given field are put on the books; and I believe one of the

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effects of the Ribicoff amendment would be to slow down the legislative process in coming to grips with the problem of the students who need the aid most.

I believe it would then be found that a very large percentage of the students most in need of aid would not receive it under this amendment, and I am also afraid that at that time they would find objection in Congress to the passage of further legislation in their behalf, because certainly they come from families who will see that they get into colleges, somehow, in some way, in almost any way, as the figures I have already pointed out show. Those figures have been put in the RECORD, and others will continue to be recorded.

As Senators know, I believe in Federal assistance to our colleges and universities. Few have devoted more time and effort to this subject than I have in the past 3 years. In fact, I cosponsored my first education bill in 1947, and since then I have either authored or cosponsored every major piece of legislation for Federal aid to education.

I do not doubt that after a few years, a very large sum—close to $1 billion a year—would under the Ribicoff amendment, go to enlarge the resources of institutions of higher learning.

But that $1 billion could be used with infinitely more efficiency and effectiveness to promote education. Just think, Mr. President, of the administrative bureaucracy which it would be necessary to add to the Office of the Secretary, merely in order to administer this program, unless its administration was to be shockingly wasteful, or unless the money was to be shockingly misused. Just consider the administrative setup which would be required under the Secretary—the bill says the Secretary or the delegate—to carry out the administrative rules and regulations as would have to be prepared in order to make sure the money was spent in accordance with the purposes of the bill. What a waste that would be. I do not believe we need to set up an administrative system of that type, Mr. President. I believe it is much better to hold fast to the overall program we have been following—namely a program of passing education legislation within the framework of Federal aid to education, to meet the various categories of need.

Mr. President, in that way, we shall succeed in having the academic facilities enlarged, without having the tuition charges increased, if we follow the program we have been following under the College Construction Act of 1963.

However, the Ribicoff amendment envisions raising more money for schools by having the tuition raised—charges which then would be met by tax exemptions. But, Mr. President, that is not the sort of aid our educational structure needs.

I suppose that in view of the current competition among prospective students to gain admission to institutions of higher education, there is not much danger that those institutions will price themselves out of students. There is danger, however, that they will price themselves out of quality, by increasing the correlation between education and the ability to pay, rather than between education and the ability to learn. There is a great difference, Mr. President; and I think we ought to be directing our attention to the large group of potential American students who have the ability to learn, although we have not yet passed a Federal aid to education bill which provides for enough scholarships and fellowships and loan provisions to make it possible to assure such students that they will be able to go to college. That is the kind of legislation we ought to be fighting for, Mr. President—not for the tax-credit handout legislation.

Mr. President, it must be remembered that the intellect of our youth is a vital human resource that must be developed, not only for the sake of the individual, but also for the sake of our national economic growth, our cultural advancement, and our international understanding. Aid to higher education must enhance the maximum development of able students, regardless of whether they can pay for it. To slant our aid to institutions by favoring those most able to pay would not only be undemocratic; it would also be a waste of our human resources.

American higher education needs expanded facilities that will be available at least to the same percentage of young people graduating from high school, and preferably to an increasing percentage of those youths. Legislation which did not accomplish this purpose would not deal with the education problems that face the American people.

Mr. President, I think it would be a great mistake for the Senate to pass proposed legislation which would discriminate against taxpayers who did not have children who were ready to go to college, because let us not forget that someone has to pay for the cost of operating this Government.

CLASS LEGISLATION

When we give a tax credit to the parent of a potential college student who can qualify under the Ribicoff amendment, we merely pass the tax burden on to those who do not qualify for this handout. I always thought we considered discriminatory legislation or class legislation in the field of taxation to be bad, and not sound policy. It is no answer to me to say, "Ah, but we have other such legislation honeycombed elsewhere in this bill and in the tax laws." If so, Mr. President, we should get them out. That should be the answer. Let us eliminate the tax loopholes, not add to them, for class legislation in the field of taxes is unjust to the great body of U.S. taxpayers who are not the beneficiaries under the discriminatory favoritism that such legislation makes available to them.

This amendment is not a step backward; it is a march backward, leagues in length, away from the field of fair taxation. This proposal would impose a greater burden upon those who do not qualify under the terms of the amendment.

TESTIMONY OF THE COMMISSIONER OF EDUCATION

Mr. President, I have here a statement by the Commissioner of Education, which was given this morning before a House committee. I wish to read it. This is a statement by a great educator, for Commissioner Keppel was one of the great deans of education in the country before his appointment as Commissioner of Education. He is recognized as one of the Nation's outstanding educational authorities.

Commissioner Keppel testified:

> It has been and continues to be my view that the Federal resources should be utilized to assist increasing numbers of able but needy students to continue with their education. Tax credit proposals, in my judgment, contribute very little toward achieving this goal. Since actual college costs are now considerably more than tuition, it is reasonable to assume that a tax credit amendment would encourage institutions to raise tuition and thus make it even more difficult for students from low-income families to get a college education. It is my feeling that the limited Federal resources should be pinpointed to the need.
>
> I would urge that rather than the indirect and possibly regressive approach of a tax credit proposal, that favorable consideration should be given to the forms of direct aid contained in the administration's proposals in S. 580. These proposals include insurance of commercial loans to college students, a work study program providing up to one-half the pay of students employed by colleges, increasing the number of National Defense Education Act fellowships, and extensive enlargement of the National Defense Education Act student loan program.
>
> Furthermore, if funds of the magnitude suggested in this tax credit proposal are to be made available for extending higher educational opportunity, I feel that they could be used to much greater advantage by establishing a scholarship program along the lines of the program recommended by the President to the 87th Congress.

Mr. President, that is the opinion of the U.S. Commissioner of Education. I have also talked with him in the past

several weeks in connection with my work in the Senate Subcommittee on Education.

The PRESIDING OFFICER (Mr. McNAMARA in the chair). The time of the Senator from Oregon has expired.

Mr. MORSE. Mr. President, I ask unanimous consent that I may proceed for 5 additional minutes; and if I have not finished by that time to have the rest of my remarks printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered; and the Senator from Oregon is recognized for 5 additional minutes.

Mr. MORSE. The U.S. Commissioner of Education has made it clear to me time and time again that he believes that legislation of the Ribicoff amendment type not only would be regressive in its implications so far as taxation is concerned, but it would also be regressive from the standpoint of advancing a sound educational program for the young men and women of this country who need it most.

TESTIMONY TAKEN BY EDUCATION SUBCOMMITTEE

My attention was first called to this proposal last May, when individuals representing 20 colleges asked permission to testify before the Education Subcommittee which I head in behalf of a proposal

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to aid colleges and universities through tax credits. The presidents of Rockford College, Earlham College, and Stetson University appeared before the committee as representatives of the group of 20 college presidents to recommend, and I quote, "that the Federal Government seek a wholly new approach to providing financial assistance to higher education." The proposal involved tax credits against tuition and fees in higher education, and tax credits for gifts to institutions of higher education. Tax credits, of course, involved a deduction from the amount of net income taxes owed after all deductions, and therefore are in their total amount funds which otherwise would go to the Treasury for general governmental purposes. These gentlemen were explicit in describing their proposal as Federal aid to higher education, but were advised that because amendments to the tax laws were involved, the Senate Finance Committee had jurisdiction.

I was particularly interested in their proposal, however, because a year earlier 13 of the 20 college presidents supporting this proposal for Federal aid, including the 3 who attended the hearing, had been among a group of 29 college presidents who expressed undying opposition to Federal aid to higher education in a statement widely disseminated to the press and appearing in the CONGRESSIONAL RECORD.

ROGER FREEMAN TESTIMONY

A witness before the Education Subcommittee of the Senate Labor and Public Welfare Committee was Dr. Roger A. Freeman, staff member of the Hoover Institute for War, Revolution, and Peace, Stanford University, who opposed the pending legislation and advocated tax-credits as a more effective method of aiding higher education than grants and loans. Dr. Freeman, in an extended statement before the Senate Finance Committee, devoted a major section to the argument for tax credits. After describing the difficulties surrounding legislation for construction grants, and noting that these are not available for salaries and operations, Dr. Freeman observed that:

> It is for this among other reasons that numerous proposals have been introduced to achieve by indirect means what apparently cannot be accomplished directly.

Dr. Freeman advocated both tax-credits for educational expenses and for gifts to higher education, but devoted most of his attention to the former. That he viewed tax-credits for educational expenses as a means of revenue for colleges and universities is clear from his testimony. Discussing a table of tax-credits which he had devised, Dr. Freeman said:

> The tax-saving, or revenue loss, under my schedule, may be estimated at $700 million per annum or more. Institutions may be expected to recoup as much as three-fourths of that amount through increased tuitions. They could apply the added funds to salaries or earmark part for the service of bonds issued to finance the construction of academic facilities. Congress could determine how much it desires to aid institutions of higher learning and revise the credit schedule accordingly as time goes on.

Applying Dr. Freeman's estimates that colleges and universities would recapture three-fourths of the amount of the tax-credit allowed by raising fees, to the Treasury estimates of revenue loss, we find that under his proposal some $528 million of the first year's revenue loss of $750 million would flow to colleges through tuition increases, and by 1970 the figure on tax funds going to colleges and universities under this plan would be $975 millions, out of $1.3 billions. Mr. President this is Federal aid to higher education on a scale far beyond that ever considered by the education committee and it could, of course, be used for any purpose, including sectarian instruction.

A press release issued by Stanford University in connection with Dr. Freeman's testimony further bears out this interpretation. However, may I say emphatically in this connection that Dr. Freeman in advocating this approach does not represent the views of Stanford University, whose president, Dr. Wallace Sterling, has stated his strong opposition to this form of Federal aid. Dr. Freeman appeared as an individual, under the fine tradition of academic freedom that prevails at Stanford, to express his own views.

OTHER VIEWS

Mr. President, I dwell on these points because the tax-credit proposal as applied to tuition and fees has been characterized by its sponsors in this body as aid to hard-pressed parents, and not as intended to provide aid to colleges. I do not doubt for a minute the sincerity of their views, but I believe the record should also make clear the fact that many of the chief supporters of this legislation outside the Congress regard it quite differently.

For example, the Chicago Tribune, in endorsing this proposal in an editorial appearing on December 1, 1963, said, and I quote:

> This would be new educational money, shifted in effect from Federal to collegiate treasury with a minimum of fuss.

It is interesting to note that in a signed article in the publication Human Events for November 23, 1963, President John Howard of Rockford College said:

> Project the Federal aid programs ahead, not too many years the way things are going, to the time when all colleges and universities will receive the largest part of their budgets from the U.S. Treasury. It is likely that all faculty members in that day will feel some obligation to vote for whichever party promises the largest amount of additional educational subsidies, regardless of other partisan differences.

Mr. President, if Dr. Howard's views are correct, and I do not share them, what will be the effect of making the colleges dependent by 1970 on receipt of nearly a billion dollars of Federal funds for general operational purposes? Does anyone believe that the tax laws, like other laws, are not subject to change or amendment, or that colleges will be less dependent on the Federal Treasury and tax structure because of a device calculated to do indirectly what Dr. Freeman says cannot be done directly?

As further evidence I quote from a statement by President George C. S. Benson, of Claremont Men's College, California, when the tax-credit proposal was being discussed in 1958. In reply to the question of whether or not colleges would increase tuition to recapture the tax credit from the parents he wrote under date of May 5, 1963:

> I can assure you that they would. I have seen them increase tuition substantially without the tuition deduction and I feel sure they would do so more certainly if there were a tuition deduction.

Dr. Benson was one of the 20 sponsors of the statement in favor of the tax-credit approach to which I referred earlier, and one of the 29 who in 1962 opposed all Federal aid.

Writing in the December 1963 issue of the Journal of Higher Education in support of the tax-credit approach, Dr. Virgil Blum, chairman of the department of political science at Marquette University, used as an illustration that a university with 5,000 full-time tuition paying students could, by increasing its tuition fees by the amount of the tax credit proposed—in this instance $465—get an increase of $2,250,000 in income from tuition charges.

In recent weeks, Mr. President, an organization called the Citizens National Committee for Higher Education, Inc., has appeared on the scene. Headed by Dr. O. C. Carmichael, Jr., former president of Converse College in South Carolina and now chairman of the board of the Associates Investment Co., of South Bend, Ind., and other financial institutions, this group has headquarters in South Bend, and its chief objective since formation has been advocacy of the tax credit plan, although it has other more general stated objectives. Vice president of this committee is President Edmunds of Stetson University, to whom I have referred earlier.

In conclusion, Mr. President, I should like to quote from a leaflet issued by the student council of a college which I will not name, urging all students to write their Representatives and Senators in support of tax credit legislation.

Under the heading: "Why Action Now?" the leaflet says:

> Congress is now in the process of revising the tax code. It's much easier for Congress to adopt the tax credit plan as a part of a tax revision bill, than to enact it as a separate program.

This is an interesting observation, Mr. President. This proposal was not, so far as I am aware, considered by the House Ways and Means Committee. It is not in the tax bill as passed by the House. It was rejected by the Senate Finance Committee. If it is a worthy proposal I see no reason why it cannot be made the subject of full hearings in both Houses and enacted as a separate proposal. It involves three-quarter billion in revenue immediately and $1.3

billions by 1970. If it is adopted, tax rates will have to be higher than otherwise to make up the revenue loss, or other educational programs of a much less controversial nature must suffer.

Mr. President, at this point, I also ask unanimous consent to have printed in the RECORD a synopsis of the objections to tax credit or tax deduction legislation

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from the Treasury Department; a summary of my arguments in opposition to the Ribicoff amendment, a letter to the chairman of the House Ways and Means Committee dated December 12, 1963, from the Department of Health, Education, and Welfare in opposition to sundry educational tax credit and tax deduction bills. A telegram addressed to me on January 22 from President James H. Janson of Oregon State University at Corvallis, Oreg., in opposition to the amendment; a statement on tax credits for educational purposes adopted January 31, 1964, by the Executive Committee of the Association of State Universities and Land Grant Colleges, an excerpt from the Report of the Commission on Legislation of the Association of American Colleges, and a press release dated January 31, 1964, issued by the Association of State Universities and Land Grant Colleges in opposition to the proposed amendment.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

PROPOSALS FOR AID TO HIGHER EDUCATION THROUGH TAX DEDUCTIONS OR CREDITS FOR COLLEGE EXPENSES

Numerous bills now pending in the Congress propose aid to higher education through income tax deductions or credits for college expenses or additional exemptions for college students.

The tax credit proposals are generally limited to expenses for college tuition, fees, and books. Some provide for a flat percentage of these expenses (generally 30 percent) to be allowed as a credit against tax liability; others a graduated percentage (declining as the expenses increase) which is intended to reduce the amount of the credit for persons attending private institutions with higher tuition charges.

These tax allowances would be costly to the Federal Government in terms of loss of revenue and would be an inefficient and inequitable means of achieving the objectives of sponsors of this legislation.

The graduated credit proposals (such as the Ribicoff amendment), although limited to tuition, fees, and books, would cost from $725 million to $800 million annually at present levels and $1.3 billion to $1.5 billion within the next few years.

Sponsors of tax allowances place emphasis on different objectives: (1) to assist persons in financing a college education, (2) to give tax relief to middle-income families with children in college, (3) to give indirect assistance to institutions of higher education by making possible tuition increases (thereby providing either an alternative to direct grants to such institutions or a supplement to direct aid).

A deduction or credit, regardless of its form, will not give relief where it is most needed. Large families with low incomes would receive little or no benefit while families of fairly substantial means who would send their children to college in any event would get the most relief.

The tax saving from a deduction or credit in many cases would be of negligible value to millions of low-income families who pay little or no taxes. In 1962, 40 percent of the 47 million families had incomes of less than $5,000. Income tax data for 1960 show that of the 15.4 million joint returns with adjusted gross income of $5,000 or less, 6.6 million, or 43 percent, were nontaxable. Many others who may have sufficient taxable income to take advantage of a deduction or credit would be unable to supply the remaining costs, such as room and board, which can be more substantial than tuition costs.

The dual objectives of encouraging college attendance and indirectly assisting institutions of higher education are inconsistent because to the extent that tuition increases result from the tax allowance the problem of financing a college education becomes more difficult, particularly for students from low income families who may benefit least from the tax allowance.

Some sponsors of tax allowances suggest that students from low income families should be taken care of through scholarships. They suggest that most scholarship assistance now goes to students from low income families. The College Scholarship Service, however, reports that the median income of families of students receiving scholarships from colleges and universities is $8,500 (which means that families of half of the recipients have income above $8,500).

Tax deductions or credits based on college tuition discriminate against students in public institutions. A large proportion of students needing financial assistance attend public institutions where tuition is lower. Office of Education data indicate that the median charge for tuition and fees in all public institutions of higher education in 1962–63 was $170 as compared with $690 in all private institutions. The credit under the Ribicoff amendment on this median charge would be $165 for public institutions and $253 for private institutions. Any deduction or credit based on tuition, regardless of its form, will give more benefit to students in the higher priced institutions.

Federal aid to higher education by means of a tax allowance would give little or no assistance in meeting college expenses to students in those States with a strong tradition of providing higher education at low or no student tuition cost. Institutions in such States could benefit only if they impose tuition or increased tuition charges, as the case might be.

A deduction or credit for college expenses will set a precedent for allowing similar allowances at the elementary and secondary levels. Bills providing such allowances are pending in Congress.

With respect to the indirect assistance provided to the institutions themselves, the share of aid each would get would depend on its tuition level, and the higher the tuition the more benefit it would receive. It is doubtful that this distribution would give Federal assistance where it is needed most or would correspond to the way in which direct aid would be distributed by the Congress.

Nontax legislation now pending in the Congress will give considerable aid to college students and institutions of higher education. H.R. 4955 will aid students through expansion of the present National Defense Education Act loan program. H.R. 6143 will give direct aid to institutions for construction of facilities.

The American Council on Education has recommended that first priority in the thinking of the Congress and the Executive be given to the construction of academic facilities and the preparation of qualified teachers and a second priority to student financial assistance.

The need for tax allowances of the type proposed will be greatly reduced by the rate reductions which all income classes will enjoy under the tax bill before the Congress. The Ribicoff amendment for the families benefited would in most cases more than double their tax cut under the bill, thereby giving these families a disproportionate share of the tax reduction.

PROPOSALS FOR AID TO HIGHER EDUCATION THROUGH TAX DEDUCTIONS OR CREDITS FOR COLLEGE EXPENSES

Numerous bills now pending in the Congress propose income tax deductions or credits for college expenses or additional exemptions for college students.

I. TYPES OF PROPOSALS

The deduction proposals in some cases are limited to expenses for tuition, fees, and books, but frequently extend to all types of college expenses, including meals and lodging and travel expenses up to a specified dollar limit.

The tax credit proposals are usually limited to college tuition and fees (plus expenses for books, supplies, and equipment in some cases). Earlier credit proposals provided for a flat percentage of tuition (generally 30 percent) to be allowed as a credit against tax liability. More recent credit proposals allow a graduated percentage of tuition which declines as tuition increases. The various types of graduation are indicated in table 1. One graduated credit has an additional feature under which the credit, determined on the basis of the graduated percentage, is reduced for taxpayers with adjusted gross income in excess of $25,000 and is completely disallowed at $57,500 of adjusted gross income.

II. REVENUE LOSS

All of these tax allowances for college expenses would be costly to the Federal Government in terms of loss of revenue. The graduated credit proposals, although limited to tuition and fees and books, would cost from $725 million to $800 million annually at present levels, depending upon the nature of the graduation.[1] If the present trend in tuition costs and number of students continues, the annual loss from these credits would be $1.3 billion to $1.5 billion within the next few years.

A deduction for tuition, fees, and books would cost $375 million annually at current levels; at projected levels the cost would be $700 million in a few years. A broader deduction covering in addition to tuition, fees and books expenses of a student for room and board while away from home and travel would cost $900 million at current levels and $1.7 billion at projected levels in a few years.

If, as is generally assumed, colleges and universities increase their tuition charges as a result of the tax allowance more than they would otherwise have done, the revenue loss will be still greater in all cases.

An additional exemption for a college student would cost about $400 million at current levels and $600 million in a few years.

The revenue cost of other proposals with various types of limitations, at 1964–65 levels, is shown in table 1 below. The extent to which these revenue costs may be expected to increase within the next 5 years is indicated by the projected increases in college enrollments shown in table 2 below. By 1970 the estimated 4.8 million enrollment in 1964 is expected to reach 7 million (an increase of 46 percent.

III. OBJECTIVES OF PROPOSALS

1. Assistance to students

Sponsors of tax deductions or credits for college tuition have stated their objectives in different ways. Sponsors of earlier legislative proposals expressed concern about the economic barriers which prevent capable students from obtaining a higher education and offered tax allowances as a means of overcoming these barriers and encouraging college attendance.

In connection with the introduction of recent bills, however, sponsors of such legislation have recognized that tax allowances for college expenses would not necessarily give relief where it is most needed, that families of fairly substantial means who would send their families to college in any event would get the most relief, and that the tax saving

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from a deduction or credit, in most cases would not be sufficient to be a deciding factor in determining whether a child can go to college.

It has also been recognized that the full benefits of a deduction or credit for college tuition would not necessarily accrue to taxpayers since colleges could be expected to increase their tuition charges.

2. Assistance to students and aid to institutions of higher education

The sponsor of one bill has stated that the

[1] The various types of graduated credits are shown in table 1 below.

various proposals for deductions or credits for college expenses have dual objectives: First, to assist persons in financing a college education, and second, to provide indirect assistance to institutions of higher education. The assistance to institutions would come through the expected tuition increases. This indirect method of aiding higher education is offered by some as an alternative to direct grants to institutions of higher education, and by others as a supplement to direct aid.

3. Tax relief for middle-income families

One sponsor of a recent legislative proposal has shifted the emphasis more completely from encouraging college attendance to the giving of relief to middle-income families with children in college. He states, "But I frankly recognize that the amount of the credit will not make the decisive difference for a majority of taxpayers as to whether or not they can afford the costs of a college education. It will be helpful to all taxpayers, but probably not decisive for many of them."[2] He refers particularly to the need for relieving the burden of college expenses on middle-income families. College expenses are compared with medical expenses and casualty losses and it is suggested that college expenses are just as entitled to tax relief as these other types of expenses.

IV. EFFECT OF TAX DEDUCTION OR CREDIT

1. Fails to give benefit where most needed

Insofar as the objective of the proposed tax allowances is to encourage college attendance by helping to overcome economic obstacles, it is highly doubtful that they would be effective. A deduction or credit would be of negligible value to millions of low income families who pay little or no taxes. In 1962, 40 percent of the 47 million families had incomes of less than $5,000. One family in five had an income of less than $3,000, and another one in five received income between $3,000 and $5,000. A large proportion of families with incomes of $5,000 or less would have no tax liability against which the tax credit could be offset. Statistics of income data for 1960 indicate that of the 7.1 million joint returns with adjusted gross income of $3,000 or less, 5.1 million, or 70 percent, were nontaxable. Of the 15.4 million joint returns with adjusted gross income of $5,000 or less, 6.6 million, or 43 percent, were nontaxable. In addition, many others would not have sufficient taxable income to take full advantage of a deduction or credit. Furthermore, many families in these groups, even if they had sufficient taxable income to take advantage of the tax allowance, would be unable to supply the remaining costs of college, such as room and board, which can be more substantial than tuition costs.

While recognizing that low income families will receive little benefit from such allowances, some sponsors of tax allowances contend that this is no reason for denying tax relief for middle income families and point to scholarship aid as a means of assisting students from low income families. They suggest that most scholarship assistance now goes to students from low income families.

A recent study of the American Council on Education on "Financial Aid to the Undergraduate," however, states: "Evidence also suggests that scholarship funds are going to children of families with incomes substantially above that of the average for families in the United States. This may be due to the fact that high-income families are more ap to seek education and to seek higher-priced education, which usually is found in institutions with large scholarship funds. Whatever the reason, lower economic classes are not favored by scholarship funds proportional to their numbers, abilities, or economic status."

The College Scholarship Service reports that the median income of families of students receiving scholarships from colleges and universities is $8,500 (which means that families of half of the recipients have income above $8,500). Office of Education data show that a small percentage of colleges and universities controls a substantial proportion of scholarship funds and a few States (with large total population) provide most of the scholarships supported by State funds. This concentration of scholarship funds means that scholarships presently available do not take care of low income families.

2. Difficulty of achieving through tax allowances dual objectives of aid to students and aid to institutions

The dual objectives of encouraging college attendance and indirectly assisting institutions of higher education, are inconsistent because to the extent that tuition increases result from tax allowances the problem of financing a college education becomes more difficult, particularly for students from low income families who may benefit least from a tax allowance.

3. Discrimination against students in public institutions

Sponsors of a graduated tuition credit have indicated that the purpose of the graduated credit (declining as tuition increases), as opposed to a flat percentage credit, is intended to avoid giving greater assistance to persons attending private institutions with higher tuition charges.[3] As they point out, traditionally a large majority of students needing financial assistance attend public institutions where tuition is low. Despite the graduation feature, however, the operation of the proposed credit would discriminate against those attending public institutions who generally come from modest income families.

Tuition charges at public institutions are generally lower than at private institutions and this would place a maximum limitation on the allowable credit which would be much lower than that applicable at private institutions. Private institutions have higher tuition charges. Consequently the benefit derived from the proposed credit would tend to be greater. Moreover, students at private institutions tend to come from higher income families.

The discrimination of a tax credit based on tuition in favor of those who attend private institutions is best illustrated by typical tuition fees at private and public institutions. Office of Education data indicate that the median charge for tuition and fees

[2] Senator RIBICOFF's statement in connection with the introduction of his proposed graduated tax credit (CONGRESSIONAL RECORD, Nov. 21, 1963, p. 21491).

[3] See table 1 for the various types of graduation proposed.

in all public institutions of higher education in 1962–63 was $170 as compared with $690 in all private institutions.[4]

The credit provided under the Ribicoff amendment on this median charge for tuition and fees (plus an allowance of $90 for books) would be $165 for public institutions and $253 for private institutions. Although the graduation provided by the Ribicoff credit gives most relief (75 percent) on the first $200 of expenses and the percentage allowed on expenses above $500 drops to 10 percent, the assistance given to students in public institutions is severely limited by the automatic ceiling placed on the credit by the lower tuition charges of these institutions. The maximum creidt ($325 on expenses of $1,500) will generally not be available to students attending public institutions. On the other hand, for many students attending private universities a credit will be available on amounts above $1,000. At least 50 percent of the private universities and 10 percent of the private liberal arts colleges had charges of over $1,000 at the undergraduate level in 1962–63.[5]

A credit based on tuition would also be discriminatory as between various regions of the country because of the wide variation in tuition charges. Little or no assistance in meeting college expenses would be given to students in those States with a strong tradition of providing higher education at low or no student tuition. Institutions in these States will derive no assistance from tax allowances unless they impose larger tuition.

4. Proposed credit for college tuition is not analogous to deductions for medical expenses

The analogy drawn between the medical expense deduction allowed under present law and the proposed tax credit for college tuition may be questioned. The medical expense deduction relates only to "extraordinary" expenses (under present law those in excess of 3 percent of adjusted gross income). It rests on the assumption that most taxpayers have "ordinary" medical expenses and a deduction is allowed only when expenses exceed this "ordinary" level. The tuition credit would be allowed with respect to the first dollar of tuition paid.

The medical expense deduction is available only to those who itemize their deductions.[6] Taxpayers using the 10 percent standard deduction derive no additional benefit from the medical expense deduction. The proposed tax credit for college expenses would be available to taxpayers in addition to the standard deduction.

College expenses are of an optional nature as contrasted with medical expenses which cannot be avoided. Also, in the case of college expenses the taxpayer has some control over the amount of expenditures since in the selection of a college he generally has the choice of a low cost public institution or an expensive private institution.

Finally, the medical expense deduction was enacted during World War II when heavy wartime tax rates were being imposed. The credit for college expenses is being offered as an amendment to a tax reduction bill which provides $8.9 billion reduction in individual income taxes with relief to all income classes.

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5. Effect of Ribicoff tax credit on tax reduction under H.R. 8363

The table below shows the tax reduction provided by the tax bill, H.R. 8363 (as passed by the House), for a married couple with two dependents as compared with the Ribicoff tax credit on (1) median tuition and fees plus books, and (2) the maximum allowable credit.

Income	Present tax	Tax Cut under H.R. 8363	Ribicoff tax credit [1]: On median tuition and fees plus $90 for books [2] — Public	Ribicoff tax credit [1]: On median tuition and fees plus $90 for books [2] — Private	Ribicoff tax credit [1]: On maximum allowable expenses ($1,500)
$5,000	$300	$77	$165	$253	$325
$6,000	456	113	165	253	325
$7,500	720	144	165	253	325
$10,000	1,196	202	165	253	325
$12,500	1,664	264	165	253	325
$15,000	2,213	348	165	253	325
$25,000 [1]	4,821	758	165	253	325

[1] Senator Ribicoff's amendment to H.R. 8363 proposes a graduated tax credit for college tuition, fees, and books as follows: 75 percent of the first $200, 25 percent of next $300, and 10 percent of next $1,000 (with a maximum credit of $325). The credit is reduced by $1 for each $100 of income in excess of $25,000 so that no credit is allowed to taxpayers with incomes in excess of $57,500.

[2] Median tuition and fees in all institutions of higher education for 1962–63 were, for public institutions, $170; for private institutions, $690. The cost of books and supplies is estimated at $90 per student (Office of Education, Department of Health, Education, and Welfare).

[4] "All institutions of higher education" include in addition to universities and liberal arts colleges, teachers, technological, other professional, and junior colleges. The median charge in universities is $268 for public and $1,038 for private universities; in liberal arts colleges is $168 for public colleges and $751 for private colleges.

[5] Louis A. D'Amico and W. Robert Bokelman, "Tuition and Fees Charged by Universities and Liberal Arts Colleges: 1962–63," Higher Education, Office of Education, Department of Health, Education, and Welfare.

[6] In 1960, more than 14 million of the total of 24 million returns with itemized deductions took a medical expense deduction. It is estimated that about 4 million returns would have some credit under the Ribicoff credit.

V. TYPES OF EDUCATION COVERED

Many proponents of a tax allowance for tuition have talked in terms of providing relief to parents who are sending their children to college. The recent tax credit proposals, however, are not limited to expenses of full-time students who are candidates for a baccalaureate or higher degree, but would apply to all education above the 12th grade in institutions of higher education. This means that expenses for all types of advanced education, professional and technical would qualify for the credit. Since educational expenses which qualify as business expenses are already deductible under present law, it would be necessary to integrate the proposed credit with this deduction to avoid a double allowance. The question has been raised by technical, trade, and business schools whether the tax allowance would apply to their tuitions. As most of the bills are drafted, the tax allowance is restricted to institutions of higher education and to education above the 12th grade and would not be applicable to trade and vocational schools.

Provision of a deduction or credit for college tuition would also raise the question of a similar allowance for tuition in elementary and secondary schools. In fact, several bills now pending in Congress propose such a deduction.

VI. TAX ALLOWANCES VERSUS DIRECT AID

In evaluating the proposed tax credit as a means of encouraging college attendance and aiding institutions of higher education, it is necessary to consider the cost to the Government and whether, if this amount of Federal funds can be devoted to this purpose, a tax allowance is preferable to a program of direct aid to higher education. An advantage of direct aid in general, as compared with a tax allowance, is that the Congress retains control of the amount of aid through the appropriation process and can distribute the aid where needed most. Tax allowances have been termed a kind of "backdoor" appropriation which is not subject to regular review by the Congress.

Legislation now pending in Congress (H.R. 6143) which has been agreed upon in conference between the two houses and passed by the House would give direct aid to colleges and universities through loans and grants for construction of facilities. Another bill (H.R. 4955) which is now in conference would aid students through expansion of the present National Defense Education Act loan program.

In addition to these forms of assistance, the administration has recommended a new program of Federal insurance of commercial loans by banks and other institutions which is designed to help students who cannot meet the needs test under the National Defense Education Act loan program. The Federal guarantee would encourage banks and other credit institutions to lend for educational purposes on interest and repayment terms suited to the special needs of college students and their parents. The insured loans would be available to all self-reliant students in good standing willing to invest in their own future.

In recognition of the fact that many students rely on employment, the administration has also recommended a new work-study program under which the Government would provide up to half the pay for students employed by the colleges in work of an educational nature as, for example, laboratory, library, or research assistants.

It is noteworthy that the American Council on Education, which several years ago sponsored a 30-percent tax credit for tuition, no longer includes a proposal for a tax credit in its program of Federal action for higher education. In their proposed program of Federal action, adopted this year, the council stated "the construction of academic facilities and the recruitment and preparation of qualified college teachers must have first priority for the academic community and should have first priority in the thinking of the Congress and the executive. The need for more student financial assistance holds a second priority."

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TABLE 1.—*Revenue cost of various proposals for tax deductions or credits for college expenses*

Deductible item	Limitation	Incurred for—	Revenue loss, calendar year: 1964	Revenue loss, calendar year: 1970
			Million [a]	*Billion*
Tax credits:				
1. 30 percent of tuition, fees and books	No limit	Taxpayer, spouse, or dependent	$525	$1.0
2. 20 percent of tuition, fees and books	do	do	350	.7
3. Graduated tax credit for tuition, fees and books:				
(a) Ribicoff amendment to H.R. 8363:				
75 percent of 1st $200				
25 percent of next $300	$325 [1]	Taxpayer and any other individual	750	1.3
10 percent of next $1,000				
(b) Goldwater-Curtis bills (S. 2269 and H.R. 8981): [2]				
100 percent of 1st $100				
30 percent of next $400	$420	Taxpayer, spouse, or dependent	725	1.4
20 percent of next $1,000				
(c) Humphrey bill (S. 1677):				
75 percent of 1st $100				
40 percent of next $400	$485	do	800	1.5
30 percent of next $500				
20 percent of next $500				
4. $100 credit for each full-time student; credit prorated for part-time students.	$100 per student	do	375	.5
Additional exemption:				
1. $600 extra exemption for each full-time college student	$600 per student	do	400	.6
Itemized deductions:				
1. Tuition, fees, and books	No limit	do	375	.8
2. Tuition, fees, and books	$300	do	250	.4
3. All costs, including tuition, room, board, and travel, etc.	No limit	do	900	1.7
4. Tuition, fees, books; living expenses in excess of home living expenses	do	do	550	1.0
5. Tuition, books, and living expenses, less $600 personal exemption	do	Dependent	425	.9
6. Graduated deduction of tuition, books, and fees, by adjusted gross income classes:				
Adjusted gross income class: — *Percent deductible*				
0 to $5,000 — 100				
$5,000 to $7,500 — 75				
$7,500 to $10,000 — 50	do	Taxpayer, spouse, or dependent	150	.3
$10,000 to $12,500 — 25				
$12,500 or more — 0				
7. Deduction of tuition and fees in excess of 5 percent of taxpayer's adjusted gross income (Keating amendment to H.R. 8363).	do	do	70	.13

[1] The credit is reduced by 1 percent of the amount by which the taxpayer's adjusted gross income exceeds $25,000 and is completely disallowed at $57,500 of adjusted gross income.

[2] Limited to tuition and fees.

Source: Office of the Secretary of the Treasury, Office of Tax Analysis.

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TABLE 2.—*Projections of college enrollments to 1970 (fall 1963–70)*

Year	Enrollment
1960 (actual)	3,583,000
1962 (actual)	4,174,936
1963	4,386,000
1964	4,775,000
1965	5,220,000
1966	5,668,000
1967	6,074,000
1968	6,397,000
1969	6,674,000
1970	6,959,000

Source: Office of Education, Department of Health, Education, and Welfare.

SUMMARY OF ARGUMENTS AGAINST TAX CREDIT FOR COLLEGE EXPENSES

A. Such a credit will cost $750 million currently and $1.3 billion in 1970.

B. The credit will not expand educational opportunities because it does not give relief where relief is most needed.

1. The most serious problem in education is that able students from low-income families are not able to afford a college education. The credit is of no value to a family whose income does not require a payment of tax. The credit will probably not enable any additional families to educate their children.

2. It will principally provide relief to middle-income families who already send their children to college. There is no justification for using Federal funds to relieve the burden on this group before assuring that children from low-income families receive a college education.

C. The credit will encourage tuition increases which will make it even harder for low-income families to afford college educations. Colleges will inevitably raise tuition costs as a result of the credit. For example, a college with tuition of $200 could increase the tuition to $350 without any additional cost to a parent with sufficient income to take full advantage of the credit.

D. Since the total amount of the credit increases as the tuition increases, the credit discriminates in favor of private universities which normally charge much higher tuition than State universities. This will tend to give greater benefits under the provision to persons living in those areas where children normally attend private universities.

E. No intelligent judgment can be made on this proposal without considering it in connection with other proposed methods for providing assistance for higher education.

The Education Subcommittee is considering work-study proposals of title I of S. 580, and the student loan insurance proposals of S. 580. A Federal scholarship program would cost far less and do more good for those who have both talent and need. Our legislative road is made more difficult by tax proposals such as this.

DECEMBER 12, 1963.

Hon. WILBUR MILLS,
Chairman, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your requests for reports on H.R. 22, H.R. 49, H.R. 134, H.R. 383, H.R. 595, H.R. 794, H.R. 852, H.R. 1809, H.R 2121, H.R. 2386, H.R. 2831, H.R. 3393, H.R. 3430, H.R. 3540, H.R. 3778, H.R. 4539, and H.R. 4775.

Generally speaking, these bills would allow a deduction, a tax credit, or an additional or expanded personal exemption, frequently within limitations, for tuition, fees, and, in some bills, a variety of other expenses relating to the education of the taxpayer, his spouse, or his dependents at an institution of higher education. The bills are similar to many of those discussed in this Department's adverse report of September 14, 1961, on H.R. 233 and related bills.

In his message to the 88th Congress proposing a program for education, the President has expressed the Nation's concern over the distressing fact that "only 8 percent of our adults have completed college; and only 16 percent of our young people are presently completing college. * * * one of our most serious manpower shortages is the lack of Ph. D.'s in engineering, science, and mathematics; only about one-half of 1 percent of our school age generation is achieving Ph. D. degree in all fields." To remedy this, the President has urged "special attention to increasing the opportunities and incentives for all Americans to develop their talents to the utmost—to complete their education and to continue their self-development throughout life."

In prior reports to the Congress on bills similar to those that are the subject of this letter, the Department has repeatedly stressed that many of the Nation's most able young people do not continue their studies beyond high school because of the substantial economic burden that their further education would thrust upon them and their families.

Title I of the proposed National Education Improvement Act of 1963, introduced as H.R. 3000, is in large measure a response to this problem.

A major objective of its four parts is to encourage able students to undertake and continue their higher education by offering them various means of meeting the financial obligations that this would entail.

The deficiency of the instant bills, in our view, is that despite their cost (probably between $120 and $450 million annually) they would contribute very little toward the goal of enlarging the opportunity of the Nation's youth to obtain a college education or to engage in graduate work.

Realistically speaking, the higher education of children from families that enjoy a relatively large increase would be unaffected, in the main, by the tax incentives proposed. These families will, in most cases, provide their children with a higher education in any event. On the other hand, low-income families would derive little or no benefit from the proposals because they pay little or no tax. Yet it is the low-income family that is most in need of assistance and encouragement in seeking to obtain a higher education for its children.

In general, the bills would provide assistance in inverse proportion to the taxpayer's need for such assistance.

In this regard, the proposals to allow a tax credit equal to a fixed percentage of tuition

and fees are less defective than those to allow a deduction for this purpose because, to the extent that the taxpayer has taxable income, the credit would give a benefit without regard to the size of such income. Nevertheless, high-income families would enjoy the greatest benefit from a tax credit because their children are, in the main, educated at the more expensive schools. Conversely, lower-income families, with little or no tax to pay, or with much smaller educational expenses, would derive correspondingly less benefit. As was pointed out in a recent note in the Harvard Law Review (76 Harvard Law Review, 369, 384) on "Federal Tax Incentives for Higher Education," in regard to bills which would allow a 30-percent tax credit for tuition: "Students in reduced circumstances, if they did attend college, probably would attend a public institution with low tuition, probably $400 or less. To such families the 50 percent credit would be worth about $120, and correspondingly less if the tax otherwise due were less than that amount. It seems doubtful that many students would be able to attend because of such a saving, when they faced room and board expenses of $500 or more."

H.R. 22 would take a somewhat novel approach. It proposes a tax credit of up to $50 per year per child during the child's precollege years, obtainable by the taxpayer's purchase of "educational investment certificates" of equivalent amount from designated financial institutions, which certificates would eventually be available for defraying the child's higher educational expenses (including room and board). The bill would also allow a tax credit of up to $100 for each dependent of the taxpayer for current higher educational expenses (not including room and board). These proposals would not favor students attending the more expensive schools, and by in effect allowing the accumulation of credits during the years before the child is old enough to go to college could provide even the relatively low-income taxpayer with several hundred dollars per child for the education of his children. However, many taxpayers would still not earn enough to enable them to obtain the full benefit of the credits, and the more children the taxpayer has the more income will be necessary to enable him to do so. In any case, the accumulated credits would be far from sufficient to meet the costs of a college education.

Moreover, in view of the fact that tuition now averages $700 to $800 below the cost of the education furnished, the enactment of legislation affording credits for educational expenses might well result is no benefit to the student whatsoever, because of the substantial possibility that it would be the occasion for increases in tuition. Indeed, the tax credit proposals might well worsen the financial position of the student with the least means, because not only would he be unable to avail himself of their benefits, but he would be required to meet the increased tuition charges that the enactment of the proposals would be likely to stimulate.

It has been argued that deductions or credits for educational expenses would release college and university scholarship funds to assist the neediest students, but the difficulty with the argument is that scholarship funds are now generally allocated to assist students from the neediest families, who would benefit little, if at all, from such deductions or credits. The problem is not in the allocation of institutional scholarships, but in their limited availability.

In our view, aid to the educational structure should be pinpointed to the need, as the President's proposal attempts, and should be in a form amenable to adjustment to the changing needs of education.

For these reasons we recommend against the enactment of the instant bills.

We are advised by the Bureau of the Budget that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

WILBUR J. COHEN,
Assistant Secretary.

DISCRIMINATION OF A TAX CREDIT BASED ON COLLEGE TUITION AGAINST STUDENTS IN PUBLIC INSTITUTIONS AND AGAINST TAXPAYERS IN STATES WITH HIGHLY DEVELOPED PUBLIC EDUCATION SYSTEMS

A tax credit based on college tuition would discriminate against students in public institutions and against taxpayers in States with highly developed public education systems reaching through the college level.

The tax benefit from a tax credit based on college tuition generally would be extremely limited for students attending public institutions of higher education because of the low level of tuition at such institutions. Traditionally a large majority of students needing financial assistance attend public institutions there tuition is low. A tax credit based on tuition would thus discriminate against those attending public institutions who generally come from modest income families. This discrimination is best illustrated by typical tuition fees at private and public institutions. Office of Education data indicate that the median charge for tuition and fees

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in all public institutions of higher education in 1962–63 was $170 as compared with $690 in all private institutions.[1]

The credit provided under the Ribicoff amendment, for example, on this median charge for tuition and fees (plus an allowance of $90 for books) would be $165 for public institutions and $253 for private institutions.[2] Although the graduation provided by the Ribicoff credit gives most relief (75 percent) on the first $200 of expenses

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[1] "All institutions of higher education" include in addition to universities and liberal arts colleges, teachers, technological, other professional and junior colleges. The median charge in universities is $268 for public and $1,038 for private universities; in liberal arts colleges is $168 for public colleges and $751 for private colleges.

[2] The Ribicoff amendment provides the following credit: 75 percent on the first $200, 25 percent on the next $300, and 10 percent on the next $1,000, with a maximum credit of $325. The tax savings from the Ribicoff

and the percentage allowed on expenses above $500 drops to 10 percent, the assistance given to students in public institutions is severely limited by the automatic ceiling placed on the credit by the lower tuition charges of these institutions. The maximum credit ($325 on expenses of $1,500) will generally not be available to students attending public institutions. Tuition and fees in 1962–63 in 25 percent of all public institutions were less than $100 and in 10 percent were less than $20.[3] On the other hand, for many students attending private universities a credit will be available on amounts above $1,000. At least 50 percent of the private universities and 10 percent of the private liberal arts colleges had charges of over $1,000 at the undergraduate level in 1962–63.

Because of the great regional diversity in the American higher education system some regions of the country would benefit significantly from a tuition tax credit while others would receive little benefit. In the East high tuition private institutions predominate. In the West universities and colleges supported by public funds become increasingly important. These public institutions of higher learning have been developed and operated at great cost to the taxpayers in the States which have them. The main philosophy behind the creation of these institutions was to provide higher education opportunities at low cost to all capable students. It is a worthy objective which, in fact, is attained. But it should be emphasized that it has been achieved by the taxpayers of States which voluntarily have taken on a substantial financial burden.

In view of the regional differences in the structure of higher education as between States, a credit for tuition must redound more to the benefit of residents of States which have limited public institutions of higher education, since private schools are characterized by higher tuition charges than public ones. Conversely, residents of States with extensive public institutions would not only bear the cost of supporting their State and community colleges through their existing tax systems, but also they would bear a higher proportion of Federal income taxes since they would not share as extensively in any Federal tax credit scheme. No existing exemption or credit in the Federal income tax has such diverse regional implications as would one for higher education.

The following table shows the number of public and private institutions and their distribution by major regions:

Number of institutions by region and type of institution, fall 1962 [1]

	Total	Public	Private	Percent of total	
				Public	Private
North Atlantic	571	128	443	22.4	77.6
Great Lakes and Plains	594	193	401	32.5	67.5
Southeast	434	161	273	37.1	62 9
West and Southwest	429	236	193	55.0	45.0
Total United States	2,028	718	1,310	34.5	64.6

[1] The States included in each of the major regions are shown in App. A.

Source: U.S. Department of Health Education and Welfare, Office of Education.

It is significant that in the West and Southwest region 55 percent of the colleges and universities are public as compared with only 22 percent in the North Atlantic region.

More significant is the number and distribution of students by type of institution and region as shown in the following table:

Enrollment in institutions of higher education, by type of institution and region, fall, 1962

Region	Total	Public	Private	Percent of total	
				Public	Private
North Atlantic	1,112,843	363,720	749,123	32.7	67.3
Great Lakes and Plains	1,194,374	764,652	429,722	64.0	36.0
Southeast	677,795	460,801	216,994	68.0	32.0
West and Southwest	1,175,710	950,465	225,245	80.8	19.2
Total United States	4,160,722	2,539,638	1,621,084	61.0	39.0

Source: U.S. Department of Health, Education, and Welfare, Office of Education.

Of the more than 4.2 million students enrolled in the 2,028 institutions of higher learning throughout the United States in the fall of 1962, 61 percent were in public institutions, and 39 percent were in private institutions. The regional distribution, however, is more important (State-by-State detail is shown in app. A). In the North Atlantic region, 67 percent of the students attend private institutions, while only 33 percent attend public institutions. This is almost the reverse of the nationwide distribution. In some of the North Atlantic States the percentage of students attending private institutions reaches 80 and 85 percent (Massachusetts and Pennsylvania, respectively). In sharp contrast is the situation in the West and Southwest region where 80 percent of the students attend public institutions, and only 20 percent attend private institutions. In New Mexico 94 percent of

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tax credit on the median charge for tuition and fees (plus $90 for books) in public and private institutions in the various regions of the country are as follows:

	Institution median tuition plus books		Institution tax credit	
	Public	Private	Public	Private
All institution	$260	$780	$165.00	$253.00
North Atlantic	334	945	183.50	269.50
Great Lakes and Plains	275	763	168.75	251.30
Southeast	262	598	165.50	234.80
West and Southwest	193	731	144.75	248.10

[3] The low 10 percent includes the large number of free junior colleges.

students are in public institutions, in Arizona 98 percent, and in California 85 percent. Of the 551,000 students enrolled in all California institutions, 50 percent are in publicly supported junior colleges supported by local school districts which have free or very low tuition.

As is indicated in the following table, 46 percent of the total number of students attending private institutions in the United States in the fall of 1962 were enrolled in private institutions in the North Atlantic region:

Percentage distribution of enrollment by type of institution and by region, fall, 1962

	Total	Public	Private
North Atlantic	26.8	14.3	46.2
Great Lakes and Plains	28.7	30.1	26.5
Southeast	16.3	18.2	13.3
West and Southwest	28.2	37.4	13.9
Total	100.0	100.0	100.0

Four States alone—New York, Pennsylvania, Massachusetts, and Maryland—account for 36 percent of all students enrolled in private colleges and universities. The North Atlantic and Great Lakes and Plains regions together account for nearly three-fourths of all students enrolled in private institutions.

On the other hand, the West and Southwest region has 37 percent of the total number of students attending public institutions; and four States—California, Oklahoma, Texas, and Washington—have 29 percent of all students enrolled in public colleges and universities.

APPENDIX A

State-by-State enrollment in institutions of higher education, by type of institution, fall, 1962

Region	Total	Public	Private	Percent of total	
				Public	Private
NORTH ATLANTIC					
Connecticut	59,092	24,317	34,775	41.2	58.8
Delaware	8,979	7,788	1,911	86.7	13.3
Maine	15,025	9,078	5,947	60.4	39.6
Maryland	65,110	40,086	25,024	61.6	38.4
Massachusetts	155,647	28,987	126,660	18.6	81.4
New Hampshire	13,176	6,205	6,971	47.1	52.9
New Jersey	101,419	50,297	51,122	49.6	50.4
New York	395,174	144,897	250,277	36.7	63.3
Pennsylvania	214,244	31,332	182,912	14.6	85.4
Rhode Island	22,699	10,371	12,328	45.7	54.3
Vermont	11,123	5,151	5,972	46.3	53.7
District of Columbia	51,155	5,211	45,944	10.2	89.8
Total	1,112,843	363,720	749,123	32.7	67.3
GREAT LAKES AND PLAINS					
Illinois	230,115	121,419	108,696	52.8	47.2
Indiana	111,861	69,025	42,836	61.7	38.3
Iowa	64,928	32,416	32,512	49.9	50.1
Kansas	59,900	48,512	11,388	81.0	19.0
Michigan	182,827	146,253	36,574	80.0	20.0
Minnesota	89,301	67,777	21,524	75.9	24.1
Missouri	96,851	47,343	49,508	48.9	51.1
Nebraska	36,379	25,937	10,442	71.3	28.7
North Dakota	16,026	15,459	567	96.5	3.5
Ohio	202,374	115,303	87,071	57.0	43.0
South Dakota	16,409	11,819	4,590	72.0	28.0
Wisconsin	87,403	63,389	24,014	72.5	27.5
Total	1,194,374	764,652	429,722	64.0	36.0
SOUTHEAST					
Alabama	47,654	34,556	13,098	72.5	27.5
Arkansas	30,878	22,753	8,125	73.7	26.3
Florida	89,802	61,596	28,206	68.6	31.4
Georgia	56,228	38,277	17,951	68.1	31.9
Kentucky	53,361	35,544	17,817	66.6	33.4
Louisiana	66,692	51,022	15,670	76.5	23.5
Mississippi	41,163	33,887	7,276	82.3	17.7
North Carolina	84,387	47,819	36,568	56.7	43.3
South Carolina	35,142	20,040	15,102	57.0	43.0
Tennessee	72,844	44,248	28,596	60.7	39.3
Virginia	65,944	45,182	20,762	68.5	31.5
West Virginia	33,700	25,877	7,823	76.8	23.2
Total	677,795	460,801	216,994	68.0	32.0

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State-by-State enrollment in institutions of higher education, by type of institution, fall, 1962—Continued

Region	Total	Public	Private	Percent of total	
				Public	Private
WEST AND SOUTHWEST					
Alaska	3,878	3,549	329	91.5	8.5
Arizona	43,736	42,995	741	98.3	1.7
California	551,524	466,737	84,787	84.6	15.4
Colorado	52,640	42,384	10,256	80.5	19.5
Hawaii	12,999	11,575	1,424	89.0	11.0
Idaho	13,912	10,869	3,043	78.1	21.9
Montana	14,997	12.826	2,171	85.5	14.5
Nevada	4,761	4,761	---------	100.0	----
New Mexico	20,839	19,630	1,209	94.2	5.8
Oklahoma	63,6 7	51,664	12,033	81.1	18.9
Oregon	51,948	41,233	10,715	79.4	20.6
Texas	216,641	149,494	67,147	69.0	31.0
Utah	38,940	25,157	13,783	64.6	35.4
Washington	77,491	59,884	17,607	77.3	22.7
Wyoming	7,707	7,707	---------	100.0	----
Total	1,175,710	950,465	225,245	80.8	19.2
Total, United States	4,160,722	2,539,638	1,621,084	61.0	39.0

Office of the Secretary of the Treasury, Office of Tax Analysis.

Source: U.S. Department of Health, Education, and Welfare, Office of Education.

CORVALLIS, OREG.,
January 21, 1964.

Senator WAYNE MORSE,
Senate Building,
Washington, D.C.:

Essential to register strongly our views on income tax credit proposal coming to Senate soon.

From my understanding, this bill highly discriminates against public institutions and low income students and families. Has effect of negating basic principles of income tax philosophy. Public higher education needs help and not additional handicaps in maintaining comparable quality of education. The public institutions will continue to serve the large numbers of students; we need to do our work as well as possible for all students.

Best personal wishes to you.

JAMES H. JENSEN,
President of OSU.

STATEMENT ON TAX CREDITS FOR EDUCATIONAL EXPENSES BY EXECUTIVE COMMITTEE OF THE ASSOCIATION OF STATE UNIVERSITIES & LAND-GRANT COLLEGES, FRIDAY, JANUARY 31, 1964, WASHINGTON, D.C.

Proposals for a direct deduction from income taxes owed the Federal Government because of tuition and required fees paid colleges and universities have attracted substantial popular support because of two widespread and contradictory assumptions: (a) That they will provide relief to hard-pressed parents, and (b) that they provide a way around the problems related to direct Federal aid to nonpublic institutions. We believe the tax-credit proposals to be unsound from the standpoint of fiscal policy, educational policy, and national policy in general. The Treasury Department has stated the objections from the standpoint of national fiscal policy. The cost is estimated at $750 million the first year and to reach $1.3 billion annually in 3 years. This loss to the Treasury would have to be made up through increased tax rates.

Some proponents of this legislation have made it clear that its essential purpose is to give tax support to educational institutions proportional, to some extent at least, to the fees charged students. Since the fees would have to be raised to provide the additional income desired, the benefit would flow to the college, not the taxpayer. To the extent that fees were raised, students from low-income families would find their educational costs increased rather than decreased. Institutions with low tuition charges would be placed under pressure to increase them in order to collect Federal aid by this route. Institutions which wish to engage in discriminatory practices and still enjoy Federal support would be encouraged to do so.

This association takes the position that, to the extent that Congress finds it in the national interest to provide either general or specific purpose support from public funds for institutions of higher education, ways can and should be found for doing this which retain the principles of public accountability for the expenditure of public funds, which are fiscally and educationally sound, and which do not in their operation discriminate against large groups of students and institutions. The tax-credit approach does not meet these standards.

EXCERPT FROM THE REPORT OF THE COMMISSION ON LEGISLATION OF THE ASSOCIATION OF AMERICAN COLLEGES

"From the beginning there seems to have been confusion about the aims of the proposal (tax credit plan). The original promoters claimed that their plan would help both colleges and parents, and the validity of the claim has been generally accepted ever since. Still, the proposals continue to force the counterargument that it is hard to see how both the college and the parents can benefit at the same time. In order to gain any financial advantage the college would presumably have to increase its charges to students, but if charges were raised they would tend to nullify any advantage derived by parents from tax remission. The poorest parents, who would get little or no relief from tax credits, would be even worse off than they are now. The force of this argument is such that we believe that, before giving further support to this proposal, the association should make a truly serious study of the results that might realistically be expected of it."

MEMBERS OF THE COMMISSION

Calvert N. Ellis, president, Juniata College, Huntingdon, Pa. (chairman); Sister Maryann Ida, president, Mundelein College, Chicago, Ill.; A. Blair Knapp, president, Denison University, Granville, Ohio; John D. Moseley, president, Austin College, Sherman, Tex.; Glenn S. Dumke, chancellor, California State College System, Inglewood, Calif.; Paul S. Havens, president, Wilson College, Chambersburg, Pa.; Otto F. Kraushaar, president, Goucher College, Towson, Baltimore, Md.: John R. Howard, Lewis & Clark College, Portland, Oreg.; Rev. Paul C. Reinert, president, St. Louis University, St. Louis, Mo.

STATEMENT OF ASSOCIATION OF STATE UNIVERSITIES & LAND-GRANT COLLEGES, WASHINGTON, D.C.

WASHINGTON, D.C.—Tax credits for college expenses will force tuition costs up and provide little relief to hard-pressed parents, a group of State university presidents said here today.

The Interim Executive Committee of the Association of State Universities & Land-Grant Colleges meeting in Washington January 30 and 31 expressed opposition to efforts to add a tax credit amendment to the tax reduction bill now pending before the Senate.

President Novice Fawcett, of Ohio State University, chairman of the executive committee, said his association's position coincides with that of the legislative commission of the Association of American Colleges. The commission which includes presidents of eight private colleges and one State college system, recently reported that "it is hard to see how both the colleges and parents can benefit (by the tax credit proposal) at the same time. In order to gain any financial advantage the college would presumably have to increase its charges to students, but if charges were raised they would tend to nullify any advantage derived by parents from tax remission. The poorest parents, who would get little or no relief from tax credits, would be even worse off than they are now."

President Fred H. Harrington of the University of Wisconsin, chairman of the Legislative Committee of the Association of State Universities & Land-Grant Colleges, noted that Dr. Roger Freeman of the Hoover Institution at Stanford University testified before the Senate Finance Committee that colleges

would recapture 75 percent of the tax credit by tuition increases.

The Senate Finance Committee recently rejected a tax credit amendment to the tax bill by a 10 to 7 vote, but sponsors announced they would ask for a vote on the amendment on the floor of the Senate.

President Harrington called attention to the high cost of the amendment and said it would necessitate higher tax rates than the scheduled reductions in the administration bill. The Treasury Department estimates the tax credit amendment would cost $750 million the first year and increase to about $1.3 billion annually within 3 years.

(Members of the association's interim executive committee participating in the press conference were President Elmer Ellis, of the University of Missouri, who is also president of the association; President Novice Fawcett, of Ohio State University, who is chairman of the executive committee; President Fred Harvey Harrington, of the University of Wisconsin, who is chairman of the association's legislative committee; President Richard Harvill, of the University of Arizona; President James Jensen, of Oregon State University; President William Morgan, of Colorado State University; and President Wayne Reitz, of the University of Florida; also, Russell I. Thackrey, executive secretary of the association.)

Mr. MORSE. Mr. President, I close by saying to the Senator from Connecticut that he and I are poles apart in regard to this matter. I have expressed my sincere conviction that the church-state issue is written all over the Ribicoff amendment. I feel we cannot escape the church-state issue in the application and the implementation of the Ribicoff amendment.

Adoption of the amendment would give to parents the choice of deciding how they would spend hundreds of dollars of the taxpayers' money which wiuld be given to them as a free gift under the Ribicoff amendment. In many instances the public money would be spent in aiding Catholic, Presbyterian, Baptist, Episcopalian, and Lutheran or other denominational or church-related institutions of higher education over which there is no restraint or check in regard to the expenditure of the public money.

The cost of this amendment, which would have to be made up from a bigger tax bite elsewhere is estimated to rise from $750 million to a high of $1.3 billion.

As I say, I pierce the veil and look at the effect. I do not accept the argument made by the Senator from Connecticut that the church-state issue is not in-

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volved merely because the Senator from Connecticut tells us that it is not involved.

It is involved. It is involved because we have to look where the money will be spent.

Find for me, please, half a dozen presidents of Catholic, Lutheran, or Baptist schools in this country who do not want the amendment. They know on which side their bread is buttered. They know the effect and the value of the Ribicoff amendment as a device to circumvent the first amendment to the Constitution. By it they hope to obtain millions of dollars which Congress could not directly appropriate in aid of church-related or religious schools.

Mr. RIBICOFF. Mr. President, will the Senator from Oregon yield?

Mr. MORSE. The Senator from Connecticut should obtain his time from the Senator from Louisiana, but I would be glad to answer any question I can, once the Senator obtains his time.

Mr. LONG of Louisiana. Mr. President, has the time of the Senator from Oregon expired?

The PRESIDING OFFICER (Mr. RANDOLPH in the chair). The time of the Senator from Oregon has not expired. He has about 2 minutes remaining. He said he would answer any question that the Senator from Connecticut might wish to ask.

Mr. MORSE. Yes; I will be glad to do so.

Mr. RIBICOFF. The Senator from Oregon contends that because I say something is not so, that does not mean it is not so. I can return the compliment by saying the fact that the Senator from Oregon says something is so does not mean that it is necessarily so.

Mr. MORSE. On that point we agree.

Mr. RIBICOFF. We agree. Furthermore, the Senator from Oregon talks about $750 million to be made available for parents to spend as they wish, to pay tuitions at any private college, be it Catholic, Presbyterian, Jewish, or Baptist. By the same argument, any part of the $11.6 billion provided as savings to taxpayers in the bill could likewise be allocated to pay these fees or contributions——

Mr. MORSE. But the total tax saving is not earmarked for a specific educational purpose to aid Catholic, Presbyterian, and other colleges.

Mr. RIBICOFF. No, it is not earmarked. It is earmarked to go into the pockets of parents to be spent as they see fit for clothing, to paint their house, or, with the money they have left, to pay their medical expenses.

I point out, too, that if the Senator from Oregon were to follow his argument to its logical conclusion, it would be incumbent upon him, and his duty, to

strike out from the Internal Revenue Code the deductibility of charitable contributions to church-related colleges and universities.

The PRESIDING OFFICER. The time of the Senator from Oregon has expired.

Mr. MORSE. The Senator knows that I have already answered that point. There is a public policy which has been considered as consistent with the Constitution, that for charitable and humanitarian uses certain deductions are available to all. Such is the policy. What the Senator and I disagree upon is that the tax credit money is, without a word, earmarked for the benefit of religious colleges and universities.

Mr. RIBICOFF. The Senator from Oregon, who is an alert scholar, says that such deductions are historical. But they go back only 50 years or less. The Internal Revenue Code provides for deductibility of charitable contributions, and the 16th amendment authorizing the code goes back only to 1913.

Mr. MORSE. A half century makes a great deal of history.

Mr. RIBICOFF. When we examine the record back to 1913 and observe what changes have since been made in the Internal Revenue Code, we can understand that there is no reason why we cannot give a deduction or a tax credit to parents for educational expenses just as we give them a deduction for charitable contributions.

Mr. MORSE. I say again that a half century makes a great deal of history.

Mr. RIBICOFF. Let us then start on another half century.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LONG of Louisiana. I yield 3 minutes to the Senator from Oklahoma.

Mr. EDMONDSON. Mr. President, I thank the Senator from Louisiana for yielding to me this brief opportunity to speak on behalf of the Ribicoff amendment. Earlier today it was stated that a $200 tax credit would be a small percentage of the cost of higher education and would be no incentive to encourage people to send their children to an institution of higher learning.

As was stated at the time, although the question is debatable, it is worthy of note for the RECORD that when the amount involved is computed in relation to one State—as I did roughly for the State of Oklahoma—we are enabled to make some observations. I found that the dollar relief for the State was approximately $9 million. Although it might appear that the average of $200 per student would be a small amount, when the total amount involved is computed, we see that it amounts to $9 million.

It is easy to see the substance of the proposal and its materiality when we consider that last year there was a lengthy debate on the question of relief for higher education. The Congress passed a bill which would provide substantial sums of money for facilities construction at our institutions of higher learning. That authorization was computed for my State to amount to approximately $4 million.

So when we turn the picture around and look at all the lengthy debate over that facility construction authorized in the higher education bill that was passed, and observe, in the very short time we are given the opportunity to consider the Ribicoff amendment, that the relief in the instance of that one State is twice as much directly to the taxpayer who is providing that higher education, I find it to be substantial relief to the taxpayer, and for that reason worthy of adoption. I shall support the amendment.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield 2 minutes to the Senator from Ohio.

Mr. LAUSCHE. I look sympathetically upon the proposal of the Senator from Connecticut. But according to the statements made, it would add to the expected deficit resulting from the passage of the bill an additional deficit of $650 million for the first year.

Why did not the Senator from Connecticut attempt to provide new revenues that would replace the losses in revenue which would result from the adoption of his amendment?

The Senator from Connecticut knows that I offered an amendment today which would recapture about $850 million in order to finance the program envisioned in the amendment of the Senator from Connecticut. My amendment is not germane, and therefore will not come before the Senate. Why does not the Senator from Connecticut, on his own volition, modify his own amendment so as to recapture moneys which would be adequate to finance his program?

Mr. RIBICOFF. If the distinguished Senator from Ohio will look at the votes on the amendments in the Finance Committee, he will see that I voted against loopholes that are in the tax bill which exceed the sum of $750 million.

The amendment offered by the Senator from Ohio does not involve a question of germaneness. It is subject to a point of order in relation to my amendment. But in the event the Ribicoff amendment is rejected tomorrow, an amendment subsequently offered by the

distinguished Senator from Ohio that would recapture some oil depletion money would then not be subject to a point of order. If my amendment is rejected, I shall join the Senator from Ohio as a cosponsor of his amendment, and fight shoulder to shoulder with him.

But the argument I made in the absence of the Senator is that the Senate has a duty of seeking priorities. The Senate has the duty to cast its votes in respect to the many amendments proposed to the bill. The Senator will have an opportunity to vote for the Ribicoff amendment.

The distinguished Senator from Delaware [Mr. WILLIAMS], the distinguished Senator from Tennessee [Mr. GORE] and the distinguished Senator from Illinois [Mr. DOUGLAS], will offer a series of amendments which, if adopted by the Senate, would provide revenues in excess of $750 million.

An opportunity will be afforded to the Senate to be affirmative and to take positive action on the priorities, and determine whether it believes, on the basis of priority, that education is important.

Let the Senate adopt the Ribicoff amendment, which would provide the priority that we believe is necessary for the future of our country. Then let us get together in respect to the loopholes and the giveaways that exist throughout the bill. Let us vote out those provisions; that action would result in revenues

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which would more than make up the $750 million.

Mr. LAUSCHE. What will the Senator from Connecticut do in the event his amendment——

The PRESIDING OFFICER (Mr. EDMONDSON in the chair). The time of the Senator has expired.

Mr. LONG of Louisiana. Mr. President, I will yield one more minute, but I hope that Senators will conclude their colloquy soon in order that those of us who wish to speak against the amendment will have an opportunity to be heard.

Mr. LAUSCHE. What will the Senator from Connecticut do in the event his amendment is adopted? Will he then join the Senator from Ohio in trying to find revenues that will finance his program?

Mr. RIBICOFF. The Senator has my assurance that I shall join with him and other Senators in seeking to find revenues that would far exceed the $750 million. I think we can find a series of amendments which would accomplish that objective.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LONG of Louisiana. I yield 1 additional minute.

Mr. LAUSCHE. Will the Senator from Connecticut join the Senator from Ohio in exacting from the oil and gas producers a greater share of their income, and also reducing the concessions that have been made to corporations by 1 percent to provide the money needed to finance the program?

Mr. RIBICOFF. Yes; I will join the Senator. I point out that in the Committee on Finance I joined the Senator from Delaware [Mr. WILLIAMS]. My vote was one of four votes in support of the proposals of the Senator from Delaware [Mr. WILLIAMS] on oil depletion allowances. Under those circumstances I certainly will again support the proposals of the Senator from Delaware when they come to the floor of the Senate. Not only that, but I shall be glad to sit down and show the distinguished Senator savings of hundreds of millions more that could be made in the bill.

Mr. LAUSCHE. Mr. President, will the Senator yield me 1 more minute?

Mr. LONG of Louisiana. I yield 1 additional minute.

Mr. LAUSCHE. Mr. President, I ask that my amendment No. 329 to the Ribicoff amendment be brought before the Senate for consideration. It is my understanding that challenges have been made as to its germaneness. I wish that issue decided at the present time.

Mr. LONG of Louisiana. Mr. President, I ask the Chair to rule on whether or not the Lausche amendment is germane to the Ribicoff amendment.

The PRESIDING OFFICER. The amendment has not been offered up to this time.

Mr. LAUSCHE. Mr. President, I ask unanimous consent that I may offer the amendment at this time, even though under the agreement amendments are not in order until 8 o'clock.

The PRESIDING OFFICER. Does the Senator from Louisiana yield for that purpose?

Mr. LONG of Louisiana. I yield for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will read the amendment offered by the Senator from Ohio to the amendment offered by the Senator from Connecticut [Mr. RIBICOFF].

The legislative clerk read the amendment (No. 405), as follows:

On page 7, after line 3, insert the following new sections:

"SEC. 2. AMENDMENT OF PROPOSED CORPORATION INCOME TAX RATES."

On page 13—

(a) strike out "28 percent," in line 14, and insert "29 percent," and

(b) strike out "26 percent," on line 17, and insert "27 percent,".

"SEC. 3. PERCENTAGE DEPLETION FOR OIL AND GAS WELLS."

At the end of the bill, add the following new section:

"SEC. —. PERCENTAGE DEPLETION FOR OIL AND GAS WELLS.

"(a) GRADUATED RATES.—Section 613 (relating to percentage depletion) is amended—

"(1) by striking out in subsection (a), 'specified in subsection (b)' and inserting in lieu thereof 'specified in subsections (b) and (d)';

"(2) by striking out paragraph (1) of subsection (b) and inserting in lieu thereof the following:

" '(1) OIL AND GAS WELLS.—The percentage applicable under subsection (d)(1).'; and

"(3) by redesignating subsection (d) as (e), and by inserting after subsection (c) the following new subsection:

" '(d) OIL AND GAS WELLS.—

" '(1) PERCENTAGE DEPLETION RATES.—In the case of oil and gas wells, the percentage referred to in subsection (a) is as follows:

" '(A) 27½ percent—to the extent that, for the taxable year, the taxpayer's gross income from the oil and gas well, when added to (i) the taxpayer's gross income from all other oil and gas wells, and (ii) the gross income from oil and gas wells of any taxpayer which controls the taxpayer and of all taxpayers controlled by or under common control with the taxpayer, does not exceed $1,000,000;

" '(B) 21 percent—to the extent that, for the taxable year, the taxpayer's gross income from the oil and gas well, when added to (i) the taxpayer's gross income from all other oil and gas wells, and (ii) the gross income from oil and gas wells of any taxpayer which controls the taxpayer and of all taxpayers controlled by or under common control with the taxpayer, exceeds $1,000,000 but does not exceed $5,000,000; and

" '(C) 15 percent—to the extent that, for the taxable year, the taxpayer's gross income from the oil and gas well, when added to (i) the taxpayer's gross income from all other oil and gas wells, and (ii) the gross income from oil and gas wells of any taxpayer which controls the taxpayer and of all taxpayers controlled by or under common control with the taxpayer, exceeds $5,000,000.

" '(2) CONTROL DEFINED.—For purposes of paragraph (1), the term "control" means—

" '(A) with respect to any corporation, the ownership, directly or indirectly, of stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote, or the power (from whatever source derived and by whatever means exercised) to elect a majority of the board of directors, and

" '(B) with respect to any taxpayer, the power (from whatever source derived and by whatever means exercised) to select the management or determine the business policies of the taxpayer.

" '(3) CONSTRUCTIVE OWNERSHIP OF STOCK.—The provisions of section 318(a) (relating to constructive ownership of stock) shall apply in determining the ownership of stock for purposes of paragraph (2).

" '(4) APPLICATION UNDER REGULATIONS.—This subsection shall be applied under regulations prescribed by the Secretary or his delegate.'

"(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply only with respect to taxable years beginning after the date of the enactment of this Act."

Mr. LAUSCHE. Mr. President, the amendment offered is not germane because it contemplates an increase of revenues, while the amendment of the Senator from Connecticut contemplates providing relief for parents to send their children to institutions of higher learning for education. Is that correct?

The PRESIDING OFFICER. The amendment is not germane and is subject to a point of order.

Mr. LONG of Louisiana. I make the point of order. In any event, the position of the Senator from Louisiana, as spokesman for the committee, would be to block any amendment which has as its purpose the suspending of taxes with one hand and the imposition of taxes with the other hand. If a Senator wishes to offer an amendment which provides that some companies should pay more taxes, I think the amendment should be offered on its own merits and the Senate should vote on it.

The Senator from Louisiana will insist on a division when amendments are offered that have double-barreled purposes—to give relief with one hand at the expense of someone else. If someone is entitled to relief, an amendment for that purpose should be offered and the Senate should act on it. If someone else should be taxed additionally, an amendment should be offered for that purpose, to stand or be rejected on its own merits.

Mr. DOMINICK. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. LONG of Louisiana. I yield.

Mr. DOMINICK. I should like to inquire whether the point of order was sustained.

The PRESIDING OFFICER. The Chair was waiting for the Senator from Louisiana to conclude before he ruled.

Mr. MANSFIELD. Mr. President, I ask for a ruling on that point.

The PRESIDING OFFICER. The point of order is sustained.

Mr. LONG of Louisiana. Mr. President, the amendment of the Senator from Connecticut [Mr. RIBICOFF] would provide a graduated tax credit for expenses of tuition, fees, books, supplies, and equipment paid to an institution of higher learning. I consider the Ribicoff amendment to be outside the scope of the bill, and believe it should be deferred until it can be given further study. The amendment also is undesirable for the reasons I shall now state.

First, the revenue loss would be very substantial. It would result in a revenue loss of $750 million at current levels and of $1.3 billion in 1970. This cost can best be evaluated by comparing these amounts with those contained in the recent legislation providing aid to higher education. It is six times the cost of the National Defense Education Act student loan program. The expansion of the Na-

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tional Defense Education Act student loan program involves an increase in the authorizations from $90 million to $125 million for 1964 and $135 million for 1965. The total loans and grants for higher education facilities authorized for the 3 years 1964–66 amount to $1.2 billion.

Second, the amendment would not provide relief where it is most needed, and therefore would not expand educational opportunity. The tax credit would be of negligible value to millions of low income families who pay little or no taxes.

A large proportion of families with incomes of $5,000 or less would have no tax liability against which the tax credit could be applied. Of the 15.4 million joint returns with adjusted gross income of $5,000 or less in 1960, 6.6 million, or 43 percent were nontaxable.

The Senator from Connecticut [Mr. RIBICOFF] makes no claim that his proposed credit will help lower income families or expand educational opportunity. On the contrary, he has stated:

> But I frankly recognize that the amount of the credit will not make the decisive difference for a majority of taxpayers as to whether or not they can afford the costs of a college education. It will be helpful to all taxpayers, but probably not decisive for many of them. (CONGRESSIONAL RECORD, Nov. 21, 1963, p. 21,491.)

He presents his proposal as a means of providing tax relief to middle income families. It is difficult to justify the use of Federal resources of so substantial an amount for relief of families who are sending their children to college while many qualified students are unable to go to college because of lack of financial means. The Office of Education estimates that each year some 120,000 to 200,000 qualified high school graduates fail to go to college because of financial inability to do so.

Third, the dual objectives of aid to students and aid to institutions are inconsistent.

Sponsors of a tax credit for tuition have stated different objectives. Senator RIBICOFF has asked that the credit be viewed primarily as a tax measure for providing relief to middle-income families and only secondarily as an educational measure. On the other hand, the credit has been offered by representatives of institutions of higher education, particularly private institutions, as a means of giving institutions additional funds through increased tuition charges.

As the Commission on Legislation of the Association of American Colleges pointed out recently:

> It is hard to see how both the college and the parent can benefit at the same time. In order to gain any financial advantage the college would presumably have to increase its charges to its students, but if charges were raised they would tend to nullify any advantage derived by parents from the tax remission.

Tuition increases will be a new hardship on low-income families. The nontaxable person and the taxpayer who has insufficient tax liability to take full advantage of the tax credit would obtain little or no benefit from the credit, but might be subject to increased tuition charges. These persons would be less able to afford college educational expenses than before the credit.

An important limiting factor on the amount of the credit is the tax liability of the taxpayer. Senator RIBICOFF states that the credit benefits the $30,000 man less than the $5,000 man. He refers to the fact that the credit is reduced for taxpayers with income above $25,000 and the maximum credit for the $30,000 man would be reduced by $50 to $275. Under the tax bill a married couple with $5,000 adjusted gross income with two dependents and average itemized deductions has a tax liability of $218 and can use only this amount of credit regardless of the tuition paid. If the $30,000 taxpayer has two children in college he could have a tax credit of as much as $550.

Senator RIBICOFF contends that since his amendment allows only a 10-percent credit on expenses over $500, and every added $100 over $500 results in only a $10 saving, the credit would not give an incentive to the colleges to raise tuition. The important point, however, is the amount of the total credit. For example, a college which now charges $200 can increase tuition to $350 without additional cost to the parents receiving the credit; one now charging $500 can raise tuition to $725; one now charging $1,500 can raise tuition to $1,825. Senator RIBICOFF contends that tuition costs will go up whether tax relief is granted or not. The point, however, is the tax credit would obviously remove restraints on tuition increases.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. RIBICOFF. Did the manufacturers of machinery raise their prices to their customers when the customers received the investment tax credit which was given to them in 1962?

Mr. LONG of Louisiana. I believe the intent was to encourage people to buy more machinery. I believe they did buy more machinery.

Mr. RIBICOFF. Did the manufacturers raise the prices to their customers?

Mr. LONG of Louisiana. Not so far as I know; but I believe that the competitive effect on many manufacturers probably had as much to do with the fact that prices of machinery were not raised as anything else.

Mr. RIBICOFF. Why would the distinguished Senator feel that the colleges would automatically raise their tuition to the recipients of the proposed tax credit?

Mr. LONG of Louisiana. I doubt that colleges can be expected to compete with each other for more students in today's market where more and more students will be seeking a college education. There are some indications already—and I believe there will be more—that schools would find this credit an appropriate handle to say to parents, "Since you are going to get a tax credit of $325, you can afford to pay us $325 more in tuition."

Mr. RIBICOFF. Let me inquire further on this point. Since the Senator advocates the passage of the pending bill—and I will join him in voting for it—and because that bill involves an overall tax savings of $11.6 million, if the Senator believes that colleges will raise their tuition fees because there are extra funds in the possession of the taxpayers, why would not this bill be a grabbag for colleges to dip their hands in to get this money, if there is such a question concerning the integrity and good faith of American colleges?

Mr. LONG of Louisiana. I believe the argument is clear to many of us who oppose the amendment that this credit would be an incentive, and would offer considerable encouragement, to colleges who may be short of funds to raise their fees in order to obtain more revenue for schools, and that that would be the likely result of the adoption of the amendment.

The amendment does not foreclose anything of this nature from taking place.

I should like to yield further, but now our time is running out. I am sure the Senator will concede that those of us who are opposing the amendment have yielded time both to the proponents and the opponents, and we have even yielded some time to Senators who wished to talk about Bobby Baker.

Mr. RIBICOFF. I thank the Senator for his courtesy throughout the entire debate.

Mr. LONG of Louisiana. I thank the Senator.

Fourth, students of low-income families are not taken care of by scholarships. Some advocates of the tax credit, the Senator from Connecticut said it this afternoon, contend that the fact that the credit will not help low-income families is no reason for opposing it and point to scholarships as the answer for low-income families. They suggest that most scholarship assistance now goes to students from low-income families.

The fact is that scholarships presently available do not take care of low-income families.

Various recent studies state that scholarship funds are going to children of families with incomes substantially above the average for families in the United States. This is due to the fact that high-income families are more apt to seek education and to seek higher-priced education which usually is found in institutions with large scholarship funds. Elmer West of the American Council on Education states:

> Whatever the reason, lower economic classes are not favored by scholarship funds proportional to their numbers, abilities, or economic status.

A small percentage of colleges and universities control a substantial proportion of scholarship funds and a few States—with large total population—provide most of the scholarships supported by State funds. This concentration of scholarship funds means that scholarships presently available do not take care of low-income families.

Some have reasoned that rising college tuition will permit institutions to

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set aside an increasing share of income to their scholarship funds. Experience in this regard reveals that prevailing competitive pressures for increased faculty salaries, for expanded research budgets, and for college facilities to house mounting student enrollments more often mean that student financial aid funds are diverted rather than increased.

Fifth. The amendment gives double tax relief to a special group of taxpayers. The effect of the Ribicoff tax credit would be to grant one class of taxpayers a grossly disproportionate share of the total tax reduction. Families who would benefit from the Ribicoff credit would receive double relief under the tax bill. Under the Ribicoff amend-

ment, the tax credit on the median cost of tuition—plus $90 for books—at a public institution would be $165 and at a private institution, $253. The maximum credit would be $325. Tax reductions of this magnitude are greater than those which most taxpayers would enjoy under the tax bill. Thus, a married couple with two dependents and average deductions would receive under the tax bill—before the Ribicoff amendment—the following reductions:

Adjusted gross income:	*Tax cut*
$5,000	$82
$6,000	118
$7,500	159
$10,000	223
$125,000	287

Thus a taxpayer with $10,000 of adjusted gross income who paid median tuition at a private institution would receive more than twice as much tax reduction under the Ribicoff amendment as under the present tax bill.

Senator RIBICOFF's credit has a limitation based on income, but the limitations begin at such a high level as to be ineffective. A taxpayer can have a full credit until his income reaches $25,000 and some credit, although reduced, is allowed until income reaches $57,500. In 1961 only 1.3 percent of taxable returns had adjusted gross income of more than $25,000.

Sixth. The amendment discriminates against students in public institutions and against taxpayers in States with highly developed public education systems. The benefit from a tax credit based on tuition would be extremely limited for students attending public institutions. Under the Ribicoff amendment the tax credit on the median cost of tuition—plus $90 for books—would be $165 at a public institution and $253 at a private institution. Tuition and fees in 1962–63 in 25 percent of all public institutions were less than $100—on which the credit would be $75. On the other hand, for many private institutions a credit will be available on $1,000—amounting to $275.

The sponsor of the amendment contends that the credit favors low tuition colleges because the credit allowed on $1,000 tuition—$275—is only 27 percent of the tuition while the credit on $200—$150—is 75 percent of the tuition. The fact remains, however, that the total amount of the credit is $275 in the high tuition college while it is only $75 in the low tuition college in this example. Despite the graduation of the credit, the fact that public institutions have low tuition charges places a ceiling on the total benefit which can be received for a student in a public institution.

The relative importance of public and private institutions of higher education varies greatly as between regions and States in this country. A credit for tuition would be of most benefit to residents of States which have limited public institutions of higher education since private schools are characterized by higher tuition charges than public ones. In the West and Southwest 55 percent of the colleges and universities are public as compared with only 22 percent in the North Atlantic region. Also, in the North Atlantic region, 67 percent of the students attend private institutions while only 33 percent attend public institutions. This is almost the reverse of the nationwide distribution.

Per capita expenditures of State and local governments for higher education in California were $45.14 in 1962 as compared with $6.47 in Massachusetts. Heavy State and local expenditures for institutions of higher education make possible low or free tuition. Consequently, the tuition tax credit would be of little benefit in such States.

Seventh. The tax credit amendment should be considered along with other methods of granting assistance to those seeking higher education. To date there have been no full public hearings held by any committee, including the Labor and Public Welfare Committee, concerning the use of tax credits to assist those seeking higher education in comparison with other methods of granting assistance. These proposals involve a fundamental change in the traditional methods of providing such assistance, as well as a significant change in the tax laws. Full public hearings should be held on these proposals, so that all interested parties, such as the educational institutions involved, may be afforded an opportunity to be heard. For example, the Association of State Universities and Land-Grant Colleges is strenuously opposed to the use of tax credits or deductions to assist higher education. The American Council on Education is not sponsoring a tax credit.

Neither has there been full consideration by Congress of competing methods to assist those seeking higher education which do not involve the use of the tax system. For example, a broad federally guaranteed student loan program has been part of the administration's program—see S. 580—and bills have been introduced by Senators HUMPHREY and HARTKE—S. 390 and S. 1115—along similar lines. President—then Senator—Johnson sponsored a bill in the 86th Congress—S. 2710—which provided Federal guarantees of loans to both students and institutions of higher education. Thirty-

two other Senators cosponsored this bill. The administration's guaranteed loan program would encourage banks and other credit institutions to lend for educational purposes on interest and repayment terms suited to the special needs of college students and their parents. There is no means test involved in the administration's program, so that it would be available to middle and upper income families as well as low income families. This program would provide a significant encouragement for college attendance, and would involve far less revenue cost than the use of tax credits or deductions. To date, no full public hearings have been held on federally guaranteed student loan proposals. Again it would be desirable to have the benefit of full public hearings on the full range of and competing priorities involved in such proposals before considering the use of tax credits or deductions.

Mr. President, I ask unanimous consent to have printed at the conclusion of my remarks the estimated revenue loss from this proposal, together with a table showing the percentage of the proposal that would fall in various income brackets. I believe the revenue loss alone indicates that a large percentage of the tax advantages of this proposal would go to those who are well able to provide for the cost of educating their own children, while altogether too little—in fact, pitifully little—of the estimated benefit of the amendment would go where it is badly needed—to aid those having incomes of $3,000 or less, and who have a desire and a genuine need for some sort of assistance to help their children obtain higher education.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REVENUE EFFECT

It is estimated that, if individual income taxpayers were granted the tax credit for higher education expenses provided for in proposed amendment 329 to H.R. 8363, the revenue loss would be $740 million. This estimate assumes levels of college attendance, tuition, and scholarship grants estimated for calendar year 1964 and the individual income tax provisions of H.R. 8363 as passed by the House of Representatives.

The table below, which gives the distribution of the revenue loss by adjusted gross income class, indicates that 79 percent of the tax savings would go to taxpayers with adjusted gross income of $5,000 to $20,000.

Estimated revenue loss which would result from granting individual income tax credit for expenses of higher education as proposed in amendment 329 to H.R. 8363

Adjusted gross income class (thousands)	Revenue loss	
	Amount (millions)	Distribution (percent)
0 to $3	$10	1
$3 to $5	85	11
$5 to $10	375	51
$10 to $20	205	28
$20 to $50	65	9
$50 and over	(1)	(2)
Total	740	100

[1] Less than $2,500,000.
[2] Less than 0.5 percent.

Source: Staff of the Joint Committee on Internal Revenue Taxation, Dec. 12, 1963.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. DOMINICK. During the process of the Senator's able discussion of reasons why he is opposed to the amendment, he cited some figures to show that tuition and fees of public institutions

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would be about $170, and of private institutions, about $250.

Mr. LONG of Louisiana. Those are the median figures.

Mr. DOMINICK. The Senator indicated that by virtue of this cost there would be a higher credit for the $250. The Senator was really favoring the higher or independent institutions. I think that what the Senator has forgotten in the process is that this amount includes also the fees for books and supplies.

Mr. LONG of Louisiana. Those figures take $90 into account for books.

Mr. DOMINICK. The figures which the Senator from Connecticut [Mr. RIBICOFF] has placed on our desks would indicate that the expenses in a majority of the universities—and I am speaking of State universities throughout the country—range from $250 to $390. One of the reasons, on account of this estimate, why we have definitely applied the first 75 percent of the credit to the first $200 of expenses is to make certain that the maximum credit would be received for the lower cost institutions. I wished to make that fact clear.

Mr. LONG of Louisiana. In the figures to which the Senator has referred,

it would be my impression that the second column—in other words, the dollar benefit of tax credit—would be the important figures to consider. Those figures seem to be very much in line with the representations I made for the RECORD.

Mr. DOMINICK. Then I misunderstood the Senator's presentation.

Mr. LONG of Louisiana. The Senator will notice that those figures are all considerably below the $325 maximum to which I made reference.

Mr. ANDERSON. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. ANDERSON. The reason they are low is that that money does not go to private schools. If it went to private schools, it would be found to be very definitely demonstrated.

Mr. LONG of Louisiana. When it goes to private schools, the maximum is reached in a great number of cases.

Mr. President, I desire to yield to the Senator from New Mexico, who has been waiting for some time to address the Senate. How much time remains?

The PRESIDING OFFICER. Four minutes.

Mr. LONG of Louisiana. I apologize to the Senator and yield to him. I had hoped it would be possible to reserve more of my time.

Mr. ANDERSON. First, Mr. President, I wish to call attention to what I think are two important editorials, the first published in the Washington Post of Friday, July 6, 1962, the other published in the Washington Post of Monday, December 16, 1963. Both editorials deals with the question of what sort of amendment this is and what it means to us. I call attention to a statement made in the first editorial, which is entitled "Schools and Taxes." The editorial refers to Secretary Ribicoff, because at that time the present junior Senator from Connecticut held the position of Secretary of Health, Education, and Welfare. The editorial states, in part:

> The Secretary's proposal seems to us to raise some extremely troublesome questions. If a Federal income tax credit is justified in the amount of the Federal Government's contribution to public education, is there not, then, equal justification for State and local tax credits in proportion to State and local contributions to the public schools? And if such credits should be granted, what would happen to public school financing?

We should remember that when the proposal was made to strike down the Federal tax on communications, Governor Rockefeller, of New York, was at once ready to claim that tax for his State. In other words, once the Federal Government eliminated that excise tax, Governor Rockefeller was ready to take it up at once.

The same thing will happen in this instance. If this proposal is proper and Congress can provide for the payment of tuition costs in private institutions of higher learning, there is no reason why it should not be asked to take care of such costs in private grade and elementary schools.

The Washington Post points this out by asking:

> If a tax credit is justified as a means of recognizing that private school parents lift a burden from the shoulders of the community, is it not equally justified in the case of taxpayers who lift a burden from the community by, say, building and maintaining their own tennis courts, swimming pools and other conveniences which keep them from crowding public facilities of the same sort?

Then the editorial contains an interesting paragraph, because I understand that if things go well in the House, the Senate may soon be entering upon a discussion of civil rights. The Post editorial stated:

> If the suggested tax credit should be granted as part of a Federal aid-to-education measure, would tax credits be available to parents in Southern States who removed their children from integrated public schools in order to put them into segregated private schools?

We had better be prepared to answer that question. It will be before us. We cannot avoid it.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the two editorials published by the Post, the one entitled "Schools and Taxes," the other entitled "Tax Credits for Education?"

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington (D.C.) Post, July 6, 1962]

SCHOOLS AND TAXES

Secretary Ribicoff, on the eve of his departure from the Department of Health, Education and Welfare, has come forward with a proposal that a Federal tax credit be granted to parents who send their children to private schools. His reasoning, as stated yesterday to a reporter, is as follows:

"Tax credits or deductions would give recognition to at least a part of the burden which private school parents are lifting from the shoulders of all the taxpayers of their communities. A credit might work this way. If a public aid bill were to be figured on a per pupil payment to the States of $20, then a tax credit of $20 for parents of private school pupils would seem entirely reasonable."

The Secretary's proposal seems to us to raise some extremely troublesome questions. If a Federal income tax credit is justified in the amount of the Federal Government's contribution to public education, is there not, then, equal justification for State and local tax credits in proportion to State and local contributions to the public schools? And if such credits should be granted, what would happen to public school financing?

If a tax credit is justified as a means of recognizing that private school parents lift a burden from the shoulders of the community, is it not equally justified in the case of taxpayers who lift a burden from the community by, say, building and maintaining their own tennis courts, swimming pools and other conveniences which keep them from crowding public facilities of the same sort? Would not the whole theory of progressive income taxation break down if Mr. Ribicoff's formula were generally applied?

If the suggested tax credit should be granted as part of a Federal aid-to-education measure, would tax credits be available to parents in southern States who removed their children from integrated public schools in order to put them into segregated private schools? And in this event, would the Federal Government not be in the business of subsidizing a circumvention of the U.S. Constitution?

There would, of course, be an effective rebuttal to these questions if the tax credit were made available to further a settled public policy—if, in this instance, it were public policy to foster the development of private schools throughout the Nation. While American policy has always been hospitable to private schools, however, and has recognized them as an important and useful alternative to the public schools for those who prefer them, the main thrust of American policy in respect to elementary and high school education has long been to foster a system of free public schools available to every American child regardless of race or creed.

The public school system has been one of the most unifying influences in American life. Few institutions have contributed so much to American growth and to the development of an American ethos. Mr. Ribicoff's proposal would, we fear, take a dangerous step toward abandonment of that long settled, wise and salutary public policy.

[From the Washington (D.C.) Post, Dec. 16, 1963]

TAX CREDITS FOR EDUCATION?

The proposal to grant tax credits in order to lighten the burden of parents who are sending their children through college has an instant but superficial appeal. It is frequently defended by invoking an analogy: If the Federal Government can subsidize homeownership by making the interest on mortgages tax deductible, why shouldn't the same principle be applied to expenditures for higher education? The answer is that the analogy is not very close, and even if it were, there are other considerations which make such tax credits thoroughly undesirable.

Senator ABRAHAM A. RIBICOFF and a number of his colleagues are sponsoring an amendment to the administration's tax bill which would provide for educational tax credits on a graduated basis. Taxpayers with income of less than $25,000 would receive a credit of $325 on the first $1,500 of tuition paid, a person with a $35,000 income would get a credit of only $225—and so on up the income scale where a taxpayer in the $60,000 bracket would get no credit at all. The cost of this proposal in terms of revenue losses would run to more than $700 million in the

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first year, and with added deductions for gifts to institutions of higher learning it would soon cost the Treasury more than a billion dollars annually.

Some of the objections to the Ribicoff proposal are immediately apparent; others are not. First, it discriminates against those families who cannot in any case help their children through college. And unlike direct Federal grants, tax credits would provide no assistance to talented young people of limited means who must work their way through college. Worse still, the granting of tax credits would encourage private and public institutions to raise tuition and other fees.

The prospect that the granting of tax credits will touch off another round of tuition increases, thus making it even more difficult for persons of limited means to obtain a higher education, was anticipated by Dr. Roger A. Freeman in his testimony before the Senate Finance Committee. According to Dr. Freeman:

"If you grant a tax credit * * * you give the institutions an opportunity to increase their tuitions without putting a corresponding burden upon the families and the students. The main purpose * * * is to increase the funds of the institutions."

The great State universities of this country, which are the beneficiaries of Federal land grants, have been guided by the principle that opportunities in higher education would be available to all talented young people, irrespective of financial resources. An adherence to that philosophy over the past century contributed rapid economic growth and greater social mobility. Granting tax credits in place of Federal grants will provide some relief for middle- and upper-income families. But by encouraging tuition increases which would tend to close the college doors to the children of the poor, the discriminatory tax credit plan would only set the clock back.

Mr. ANDERSON. I should like to make it clear, in delineating the question of spending money in this way, that such a proposal might be all right if tax credits were made available to further a national policy, if this were a public policy to foster the development of private schools throughout the Nation. While American policy has always been hostile to private schools, it has recognized them as useful for those who prefer them. Nevertheless, the main thrust of American policy in respect to elementary and high school education has long been to foster a system of free pub-

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lic schools for every American, regardless of race or creed.

This situation has been called to the attention of many people, and the Joint Office of Institutional Research has published some material on it. That was interesting, because they pointed out that some questions was raised as to whether interest rates would be raised.

Mr. President, this situation has been called to the attention of many persons and many organizations.

An analysis of the tax credit plans for educational expenses has been published by the Joint Office of Institutional Research, and I thought it interesting to note what is set forth in that analysis on the question of whether the tuition rates should be raised. I cannot state whether they will be raised or will not be raised; but Dr. Roger A. Freeman, of the Hoover Institution on War, Revolution, and Peace, of Stanford University, is another very vigorous proponent of the tax credit plan, and he is generally recognized as the originator of the sliding-scale proposal incorporated in legislative proposals which apparently are presently enjoying very wide support. I quote from his statement:

> The tax saving, or revenue loss, under my schedule may be estimated at $700 million per annum, or more. Institutions may be expected to recoup as much as three-fourths of that amount through increased tuitions.

I do not know whether Dr. Freeman is right or is wrong, but certainly he is generally recognized as the originator of the sliding-scale proposal, and he has been a very vigorous proponent of it.

The PRESIDING OFFICER. All time on the Ribicoff amendment has expired.

Mr. SMATHERS. Mr. President, are any amendments to the Ribicoff amendment now pending or at the desk?

The PRESIDING OFFICER. No.

Mr. SMATHERS. If not, Mr. President, I ask unanimous consent that the Ribicoff amendment be laid aside until tomorrow morning.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SMATHERS. Mr. President, at this time I yield to the Senator from New Mexico.

Mr. ANDERSON. I thank the Senator from Florida.

Mr. President, a moment ago I quoted the statement made by Dr. Roger A. Freeman, who, as I stated, is generally recognized as the originator of the sliding-scale proposal incorporated in legislative proposals which apparently enjoy very wide support.

I am not an expert on this matter; but Dr. Freeman professes to be, and he has been an advocate of every bit of this proposal, and he states that these institutions will obtain this money through increased tuition. Perhaps he is correctly informed as to that, or perhaps he is not; but he seems to be in a very good position to be informed and to be able to prove the accuracy of the statement he has made, if anyone can prove it.

The analysis published by the Joint Office of Institutional Research also includes a statement by Dr. Virgil Blum, chairman of the Department of Political Science at Marquette University. In an article which he wrote, which was published in the December 1963, issue of the Journal of Higher Education, at page 479 and following, he stressed the flow of Federal funds to colleges and universities. He has had a great deal to say about this educational plan; and then the article to which I have referred he discussed a bill which had been introduced by the Senator from Minnesota [Mr. HUMPHREY]. In the article, Dr. Blum wrote:

> In view of the critical financial condition in which so many colleges and universities find themselves, Senator HUMPHREY's tax-credit plan merits consideration.

Also in the same article, Dr. Blum discussed aid to students, in the following terms:

> A university which charges $950 in tuition fees, but actually spends $1,800 a year to educate a student, gives each student a subsidy of $850. Under the Humphrey plan, such a university could raise its tuition by $450 to $1,400, the student thereafter receiving these aids: from his father, in tuition payments, $935; from the Federal Government, in tax credits, $465; and from the university, $400. Under such conditions, a university of 5,000 full-term tuition-paying students would get an increase of $2,250,000 in income from tuition charges.

Mr. President, the Citizens National Committee for Higher Education, an organization formed to support the tax-credit plan both for educational expenses and for gifts to education, stated, in setting forth the advantages of the plan:

> It would effect a significant tax reduction for several million individual taxpayers, many of whom are hard-pressed by the extraordinary costs of college education for their children.

At a later point, the same Committee stated, however, that the legislation would—

> permit the entire amount of each allowable credit to go directly to an institution of higher learning.

The leaflet or booklet containing those statements was published by the com-

mittee, at South Bend, Ind.; and that group had also been supporting this proposal.

The analysis states:

> Again it is difficult to comprehend how the same funds could both relieve individuals and provide increased income for colleges and universities. It might do one or the other, but not both.

Therefore, Mr. President, I think this matter could well have been considered by the Education Subcommittee and could well have been passed upon by it.

Finally, Mr. President, I point out that the analysis to which I have been referring states:

> U.S. Government figures also show that 43 percent of all U.S. families with incomes under $5,000 pay no Federal income tax. This is a total of about 8 million families, or slightly more than one-sixth. None of these who have children in college would benefit from the tax-credit plan; all would be adversely affected by a rise in tuition charges.
>
> Also adversely affected would be students who are attempting to work their way through college and are essentially self-supporting. A study at one major public university showed that one-half of the male students, and one-third of the women, were completely "on their own," without family help.
>
> Under the tax-credit plan, both children of families which pay no Federal income taxes and students who are self-supporting would face substantial increasse in the costs of attending college, with no compensating tax relief.

In short, Mr. President, not one of those families would have in college one child who could benefit by 1 penny by means of this proposal.

When we begin to consider such proposals, I believe we should carefully consider who would be benefited—whether the institutions or the pupils or the parents. When we give careful consideration to that aspect of the proposal, I believe we then reach the conclusion that this proposal would not result in a very wise use of public funds.

[*February 4, 1964*]

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REVENUE ACT OF 1964

The Senate resumed the consideration of the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes.

Mr. MANSFIELD. Mr. President, I move that the unfinished business be laid down and be made the pending business.

The ACTING PRESIDENT pro tempore. Under the unanimous-consent agreement, the unfinished business is now before the Senate.

The question is on agreeing to the amendment proposed by the Senator from Connecticut [Mr. RIBICOFF], on behalf of himself and certain other Senators, inserting a provision dealing with tax credits for certain educational expenses.

Upon said amendment there is a unanimous-consent agreement limiting to 1 hour the debate thereon.

Mr. MANSFIELD. Mr. President, if the Senator from Louisiana [Mr. LONG] will yield 1 minute to me, I should like to ask unanimous consent that there be a pro forma quorum call, so that Members will be alerted; and in that connection, I ask unanimous consent that 1 minute be devoted to the quorum call, with one-half of that time to be charged to each side under the unanimous-consent agreement.

Mr. LONG of Louisiana. Mr. President, I yield for that purpose.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered; and the clerk will proceed to call the roll.

The Chief Clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. In accordance with the order, inasmuch as 1 minute has now expired, let the Chair ask whether there is objection to rescinding at this time the order for the quorum call? Without objection, the order for the call of the roll is rescinded.

Mr. COOPER. Mr. President, will the Senator from Connecticut yield briefly to me?

Mr. RIBICOFF. Mr. President, I yield 4 minutes to the distinguished Senator from Kentucky.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized for 4 minutes.

Mr. COOPER. Mr. President, I intend to vote for the amendment offered by the Senator from Connecticut [Mr. RIBICOFF], on behalf of himself and other Senators.

This has been a difficult decision for me to reach. My first inclination was to vote against the amendment. However, after studying the report, listening to the debate and considering the arguments of the Senator from Connecticut [Mr. RIBICOFF], Senator DOMINICK, Senator PROUTY, and other Senators, I have reached the conclusion that I shall vote for the amendment.

Let me say, with all deference to the authors of the amendment, that I do not think it is perfect. I hope very much that if the amendment is agreed to by the Senate the upper limits of those who would receive tax credits will be reduced, because the amendment would accord too much aid to those in the upper income brackets. I would suggest an upper level on $10,000 to $15,000 in income, for those who are able to pay for the education of their children should do so.

I also note that the amendment would not reach those in the lowest income brackets who pay little or no taxes, and does not provide aid and incentive in sending their children to college. Nevertheless, they can be reached through other legislation providing loans and scholarships; and I do not think the fact that they are not reached by this amendment constitutes an argument sufficiently strong to warrant denying assistance to taxpayers in low and middle income brackets, who need help in sending their children to college. The amendment would provide aid to the parents of hundreds of thousands of children in college and over 60 percent of its relief would accrue to taxpayers with incomes between $3,000 and $10,000.

We cannot always wait until we develop a perfect bill. I believe that the fundamental bill which should be enacted is one which would give aid to the primary schools, the elementary schools, our high schools. However, it is evident that the questions of integration, of religion, and even of cost, and other objection, raised by those who do not think education is important, would, in my judgment, make it very difficult to enact such a measure. Nevertheless as one who has supported and cosponsored such measure since I joined Senator Taft in 1947 in his bills which would have aided such schools. I believe they will eventually be enacted. But we cannot wait for perfection. This amendment gives aid and encouragement to the education of thousands of young men and women at the college level. That is the reason

I have determined to vote for it. I believe that education is, after our national security, the first imperative of our land. In this age, it is the base of our military strength and our economic strength. We cannot move forward without it. Of course, our age-old interest in the fullest development of every individual is a primary consideration.

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The amendment has defects, but there are good reasons for its adoption. Its defects can be corrected in conference. The problem of cost must be weighed, but there are other programs supported by our government which are not as important as education. After studying the matter and listening to the able arguments of my colleague Senator RIBICOFF and others, I support the amendment which will give assistance in the field of education, basic to the growth and security of our country, and the development of our people.

Mr. CLARK. Mr. President, in the absence of the Senator in charge of the bill, I should like to ask the majority leader if he would yield me 3 minutes in opposition to the amendment.

Mr. MANSFIELD. I am glad to yield 3 minutes to the Senator from Pennsylvania.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized for 3 minutes.

Mr. CLARK. As a member of the Education Subcommittee of the Committee on Labor and Public Welfare, I shall reluctantly vote against the Ribicoff amendment. Educational proposals of the Kennedy and the Johnson administrations, with respect to scholarships and loans to students who could not without assistance afford to go to college, are now pending before the Education Subcommittee of which the distinguished Senator from Oregon [Mr. MORSE] is chairman.

This approach was contained in Senate bill 580, the omnibus education bill of the administration which is, in my opinion, a sounder method of dealing with the need to get more talented young men and women into college than the pending amendment, for the following reasons:

First, because the credit under the Ribicoff amendment would cost $750 million currently, and $1,300 million by 1970.

Second, the credit would not expand educational opportunities because it does not give relief where relief is most badly needed.

The most serious problem in education is that able students from low-income families are not able to afford a college education. This credit will be of no value to such a family. On the other hand, it would provide relief to middle-income families who already send their children to college.

The credit would encourage tuition increases. Since the total amount of the credit increases as the tuition increases, the credit discriminates in favor of private universities which normally charge much higher tuition than State universities. This would tend to give greater benefits under the provision to persons living in areas where children normally attend private universities.

No intelligent judgment can be made on this proposal without considering it in connection with other proposed methods for providing assistance to higher education. Under the Senate rules, that obligation is lodged with the Committee on Labor and Public Welfare, and its Subcommittee on Education.

I urge Senators not to legislate on some important and educational matter on the basis of a report of an amendment to a bill coming from the Finance Committee. The Committee on Labor and Public Welfare should be given an opportunity to deal with this question.

Mr. President, I yield back the remainder of my time.

Mr. RIBICOFF. Mr. President, I yield 3 minutes to the senior Senator from Connecticut, my good friend and colleague [Mr. DODD].

The ACTING PRESIDENT pro tempore. The Senator from Connecticut is recognized for 3 minutes.

Mr. DODD. Mr. President, I thank my colleague. I wish to commend him and explain to him and to other Senators that I was not able to be present tin the Chamber yesterday because of pressing personal commitments in Connecticut. However, I did read the CONGRESSIONAL RECORD this morning, and I believe the argument made by my colleague, the Senator from Connecticut, is unanswerable. I believe he deserves great credit for the manner in which he has presented his case.

Mr. President, the Senate is now considering one of the most far-reaching and important amendments that will be offered to the tax bill.

I support the proposal to allow a modest tax credit to those who are paying the expenses of higher education for themselves or their children. This amendment is not only proper and sensible as a matter of justice, it is also, I believe, essential to our national effort to aid education.

Two of our greatest objectives in the 88th Congress are to pass a substantial tax cut and to do something for education.

In the amendment sponsored by my colleague, the Senator from Connecticut, myself, and 12 other Senators, these 2 objectives join forces.

One reliable study cited earlier in this debate shows that in the past 4 years costs at a typical group of private colleages have gone up 29 percent while costs at a comparable group of public colleges have risen 21 percent.

There is no letup in sight in the rising costs of obtaining a higher education, and the time is long overdue for the Federal Government, through the tax laws, to do something to help lessen the heavy burdens that so many parents and students are carrying.

The ACTING PRESIDENT pro tempore. The time of the Senator from Connecticut has expired.

Mr. RIBICOFF. Mr. President, I yield 1 more minute to my colleague, the Senator from Connecticut.

Mr. DODD. I thank my colleague.

For 10 years I have been trying to call attention to the great need for fairer tax treatment in this area.

I have supported and introduced bills, both in the House and as a Member of the Senate, to provide this kind of tax relief. And, many colleagues in both bodies have pressed for this kind of legislation.

But every administration as far back as I can remember has been strongly opposed, and our efforts have been unsuccessful.

I am hopeful that this year, however, the time has come when Congress will no longer ignore this issue, and will not bow down to the opposition of the Treasury Department.

Under the leadership of my able colleague from Connecticut, Senator RIBICOFF, who is a member of the Finance Committee, 14 of us who have proposed various ways to allow tax relief for educational purposes have agreed upon a common approach which is contained in the amendment we will vote upon shortly.

This amendment has been carefully drawn by my colleague to meet the various arguments that have been raised against it.

To meet the objection, that it inordinately benefits those in the higher income brackets, there is a sliding scale of tax credits which seeks to equalize benefits for all economic levels.

Similarly, it takes into account the fact that expenses of publicly supported institutions are less than those of private colleges and universities.

There are some who oppose it on the ground that it would be of no help to those who pay no income tax at all, and would be of no help to those who do not pay the cost of higher education and, therefore, is discriminatory. This is a specious argument and were it applied to all of the tax deductions and credits, they would all have to be eliminated. Medical deductions are of no use to people who are not sick. Dependency deductions are of no use to those who have no dependents, and, of course, no deductions apply to those who pay no taxes. But that does not make these deductions discriminatory.

So long as we are to have a very complicated system of tax deductions and credits, there is no more worthy cause than credits for money spent for higher education.

For most people, the years when children are away at school are years of crushing financial burdens, years during which they must deprive themselves and frequently go heavily into debt as well.

The tax credit would lessen this burden to a substantial degree and would also provide needed tax relief for students who are working their way through school and who need every dollar they can get for educational purposes.

It is time we recognized the fact that the financing of educational costs is more than a personal problem faced annually by millions of people.

It is a vital national problem and should be recognized as such in our tax laws.

This is no tax loophole that we are trying to open up. These parents and students are making a tangible contribution to the future of our country, and they need and deserve the limited assistance provided in this amendment.

This week is the best opportunity we will have for a long time to make an educational tax credit a part of our tax laws.

We should not give in to the complaint of the Treasury Department that this

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credit will cost the Federal Government too much revenue.

For 3 years the Treasury Department has been contending that a multibillion-dollar tax cut was fiscally sound and essential to the economy of the country. In this background we should not take very seriously the contention that a $750 million loss in revenue for so worthy a cause woulld harm the Nation's fiscal posture.

And we should not give in to the argument that further hearings should be held by the tax and the education committees in both Houses, before this bill is voted on in the Senate.

I have heard these arguments before.

They sound reasonable and have a certain appeal. But this issue has been studied and debated for many years, and we have no assurance that further study will lead to any progress.

I believe we have waited long enough to take this important step and I urge my colleagues who have not yet made up their minds to join with us in voting for this educational tax credit amendment.

Mr. AIKEN. Mr. President, I am in favor of every young person in the United States who has the ability and the willingness to learn to get a college education with public support or at public expense if necessary.

Congress has made great strides in that direction during the past year, under the leadership of the chairman of the Subcommittee on Education of the Committee on Labor and Public Welfare, the senior Senator from Oregon [Mr. MORSE] and my colleague Senator PROUTY, of Vermont.

I am opposed to awarding assistance for higher education on the basis of wealth, or for the purpose of acquiring a college degree for use as a status symbol. Assistance should be given on the basis of ability and willingness to learn, and thus to make a later contribution to the United States.

I do not believe the amendment offered by the Senator from Connecticut [Mr. RIBICOFF] is a start in the right direction. I believe that it leads in the opposite direction.

Some of the greatest men in our society, scientists, lawyers, doctors, and men in public office, have come from the lower economic levels of life and I believe that if they had the willingness and the ability to learn, so have other young people in the lower economic levels of today. They should be given equal opportunity with those young people whose parents are able to send them to the more expensive colleges.

Mr. LONG of Louisiana. Mr. President, I yield myself 3 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana is recognized for 3 minutes.

Mr. LONG of Louisiana. I went to college at the Louisiana State University under what was the forerunner of the NYA program to help young men and women work their way through college.

I helped a number of young boys who were classmates of mine, and others, to obtain entry into the university and also to find work so that they could earn their way through school. Most of those young men were sons of large families or were themselves orphaned, or were the sons of foreign families who would have received no benefit whatever from this proposal had it been law.

For a fraction of the cost of adoption of this amendment, we could have a loan program, not merely a $100 handout or a $200 handout. The amendment is so framed that the more expensive the school attended the larger the handout would be.

For a fraction of the cost of the program embodied in the amendment our Government could have a sound loan program which would assure every young man and young woman an opportunity to provide himself or herself with a college education.

What do the sponsors of the amendment say about that proposal?

The amendment would not help those who are most needful. The young man or woman who had to work his or her way through college would receive relatively little of the benefits which would result from the $1,300 million program.

What do the sponsors say about that? They say we should do whatever is necessary to help the young people who work their way through school, but we should do, also, what is proposed in the amendment.

Mr. President, the question is one of priority. Should we start giving $1.3 billion of tax money from the Federal Treasury to people who do not need it, do not require it, do not expect it, and who are well able to educate their own children, or should we start by giving the first $1.3 billion to people who do need it?

The proposal is very similar to the case of a Senator who might come here and say, "Let us not provide aid to the aged at the Federal level. Let us give a tax credit of $100 to every man or woman who must look after an aged father or aged mother." How would such a program work?

Usually if a man is poor and aged, his son is likely to be in about the same condition as his old dad. He is a poor man, too. He is not paying much in the way of taxes and could not take advantage of such a tax credit. People of wealth would have the benefit of the $100 tax credit to enable them to give their fathers and mothers that extra assistance without any need requirement.

The amendment has in it practically no need requirement. Those who are already wealthy would be in a position to dip into Uncle Sam's Treasury to help their own folks who do not need it. Those who are hungry and have little ability to provide for the needs of their own families, much less their grandfathers, and grandmothers, would receive no benefit because they would have no income on which to take the credit in the beginning.

The ACTING PRESIDENT pro tem-

pore. The time of the Senator has expired.

Mr. LONG of Louisiana. I yield myself 1 additional minute.

If we want to do first things first, if we want to help young people who desire to go to school, I suggest that the proposed credit would not even begin to meet their expenses. What they need is about a $2,000 a year, which they can either borrow or earn. Not enough would be provided to help them.

If we wish to help students we should start with the kind of bill which the Senator from Oregon is studying and recommending to this body. If all we wish to do is to make a great, generous display of the gratuities of the Federal Government by passing out tax advantages to people who have no real need for them and people who would put their children through school anyway, I suggest to Senators that they vote for the amendment, because that is what it would do. Those who can afford to put their children into expensive eastern colleges where the cost is $2,500 or $3,000 a year in tuition would receive more benefit than those who cannot afford to put their children in expensive eastern colleges.

Mr. DOMINICK. Mr. President, will the Senator yield for a question?

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. LONG of Louisiana. Mr. President, I yield myself 1 additional minute. I yield to the Senator from Colorado.

Mr. DOMINICK. Is the Senator aware that every person who puts himself through college must pay taxes on the income he receives with which he pays the cost? Every elevator boy in the Capitol and every employee here who is attending school is pleading for us to adopt the amendment in order to help him along.

Mr. LONG of Louisiana. The credit would be limited to whatever the tax would be. If a person pays little tax, he would have nothing against which to take the credit. If the Senator will look at page 1733 of the testimony, he will see who would receive the distribution of the benefits. They are those who have adjusted gross incomes of $3,000 or less. What would they get? One percent. That is where the need is. The other 99 percent of benefits would go to those who are in a position to provide adequately for the education of their children.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. Mr. President, I yield myself 3 additional minutes, and yield to the Senator from Oregon.

Mr. MORSE. Does the Senator from Louisiana agree with the Senator from Oregon that the elevator boys and employees who are appointed and are beneficiaries of that employment are fortunate to have jobs that enable them to pay their way through college, and that they ought to be happy that they have jobs so that they can pay the small amount of taxes that is collected from their income?

Mr. President, the question is basic. What are we trying to do? We are trying to breed a younger generation in

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this country into believing that they ought to get everything that they can get for nothing.

It is about time that we adopt a program which would put a stop to handouts such as those which would be provided under the Ribicoff amendment.

Mr. LONG of Louisiana. Mr. President, how much additional time have I under the time I have allotted to myself?

The ACTING PRESIDENT pro tempore. The Senator has an additional minute.

Mr. LONG of Louisiana. Mr. President, the Senator from Oregon has exactly stated the point. An elevator boy who is being paid $400 to $500 a month would be benefited by the proposal. How about the boy who does not have a job and who would receive no benefit? That is what is wrong with the proposal. We would provide Federal money to the tune of $1,300 million for the benefit of those who do not need it, those who would go to college anyway, and those who are already in college. We would deny help to those who really need it. We would deny assistance to the man who has a wife and 10 children, and does not pay taxes and should not pay any taxes. He may be making $5,000 or $6,000 a year. He must feed his family on red beans and rice.

Let us try to find the money necessary to put those children through school. Suppose we help them. With a $100 or so as a credit we would help a limited number of people, but continue to deny help to those who are most in need.

Mr. RIBICOFF. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield on the time available to the Senator from Connecticut.

The ACTING PRESIDENT pro tempore. The time of the Senator from Louisiana has expired.

Mr. RIBICOFF. Mr. President, I yield myself 2 minutes.

I have listened to the argument of the distinguished Senator. I have heard of his deep concern about the youngsters who work and might get a tax credit. How concerned is the distinguished Senator about the $2 billion under the investment credit and the additional hundreds of millions under the new investment credit amendments in this bill which would go to General Motors and other corporations whose earnings are the highest ever?

Mr. LONG of Louisiana. That is an entirely different subject. To begin with, I have had some doubts about the investment credit proposal. One doubt I had about it concerned the fact that once we open the Treasury to some groups, we invite others to get their fists in too.

It is like proposing that Uncle Sam write checks for that amount of money. We would be opening Pandora's box. That is one aspect of the proposal which raises doubt as to the investment credit.

Perhaps if the amendment of the Senator from Connecticut is agreed to, we shall have to proceed to strike the proposed section 203, thus repealing the Long amendment, which would cut by 40 percent the credit benefit provided for General Motors and others.

If we wish to provide the proposed program for education, in my judgment, we ought to start at the bottom, with those having the lowest incomes, and work up—we should start with youngsters who otherwise would not be able to attend college, rather than to start at the top with those who are already in school and whose families are able to send them to school to begin with.

Mr. RIBICOFF. How about the $140 million provided in the tax bill for the benefit of a few department stores, none of which need the money—although they think they need the money—rather than the elevator boy who is operating an elevator in the Capitol for a wage of $400 a month? How about the $140 million which would benefit the department stores? Let us begin to look at the loopholes in the bill.

Mr. LONG of Louisiana. We are talking on the Senator's time.

Mr. RIBICOFF. Yes.

Mr. LONG of Louisiana. What we are talking about is the method of taxing revolving credit. That is a provision which, if the committee amendment is retained would largely be a one-time revenue loss. The provision is concerned with the procedure of applying taxes on the revolving credit balance. Those involved would not escape taxes. It would be a question whether the taxpayer would pay tax, in the year the sale is made or in the year the credit balance is paid. It is a one-time loss.

The ACTING PRESIDENT pro tempore. The time of the Senator from Connecticut has expired.

Mr. RIBICOFF. Mr. President, I yield to the distinguished Senator from New York 3 minutes.

Mr. KEATING. Mr. President, I ask the Senator from Connecticut if I may have 5 minutes.

Mr. RIBICOFF. Mr. President, how much time have I remaining?

The ACTING PRESIDENT pro tempore. The Senator from Connecticut has 22 minutes remaining.

Mr. RIBICOFF. I yield 5 minutes to the distinguished Senator from New York.

Mr. KEATING. Mr. President, the able and distinguished junior Senator from Connecticut [Mr. RIBICOFF] and a number of my other distinguished colleagues and cosponsors of this amendment have, in the last 2 days, set forth with clarity and persuasion, the objectives and the details of this amendment. By now, everyone has had a chance to familiarize himself with the technicalities of our plan—the sliding scale tax credit, the ceiling to prevent windfalls to wealthier taxpayers, the inclusion of fees, books and supplies as well as tuition, and the availability of this credit to anyone who actually pays the bills—so I will not take valuable time to repeat the details. It is sufficient to state that those of us who have, for years, supported some kind of tax relief for those making this kind of investment in America's future, have agreed that this measure should be enacted now.

In the few minutes remaining before we vote, therefore, I would like to answer what seem to be the two major objections to this amendment; namely, first, that it is not the best means of aiding higher education, and, second, that it costs too much.

The first charge, the primary argument of the Department of Health, Education, and Welfare, is made by those who wish to retain the image of "progressive and liberal friend of education" while voting against the amendment.

Their argument implies that the sponsors of this proposal have offered it as a panacea for all the financial problems of American higher education and as an alternative to all other forms of more direct aid. This is simply not so. We have not abandoned construction grants to universities, scholarship aid to needy students, research stipends, insured loans or student work programs. I, for one, hope I am given the oppor-

tunity to vote on a score of new and imaginative proposals to aid education in the next few years.

But 18 years in the Congress has taught me a certain amount of pragmatism. I know better than to advise a hungry man to pass up a piece of bread because a whipped-cream cake is on the way. Let's hope we get both, but let's not bet on "double or nothing."

The cost argument is less subtle. It is made by those who acquiesce in oil-depletion allowances, investment credits, dividend received credits, foreign tax credits, entertainment deductions, and a score of other tax gimmicks, but who, in admirable candor, declare that tax relief for investors in America's future is too costly. Well, Mr. President, it is very possible that if this amendment is not adopted, the American taxpayer will have to assume the considerably greater cost of an expanding public university system. Let me elaborate briefly, and prove my point with a few interesting figures.

There are 1,357 independent colleges and universities in this country. I make no judgment on whether these colleges are better than the large State universities but do state that they provide the diversity in higher education which Americans generally agree is desirable, and should be fostered. Since they are privately endowed, they also save the taxpayer a considerable amount of money.

In 1949, 50.4 percent of all college students attended private institutions; by 1962, the percentage had dropped sharply to 38.3 percent. The reason: a "tuition gap." The Office of Education has estimated that the average tuition and fee charge to a student in a State university is $185. This is one-eighth of the cost of educating him, and the taxpayer, of course, makes up the difference, to the tune of over $2 billion a year. This figure does not include capital outlay, but merely operating costs.

The private institution, which does not have the benefit of this taxpayer subsidy, has been forced to increase tuition charges 100 percent or more during the last 10 years. The resulting "tuition gap" has caused a shift in student population from the private to the public colleges at an average rate of 1.4 percent a year. Dr. Carroll V. Newson, former president of New York University, has

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estimated that "by 1975, perhaps not more than 4 percent of the post-secondary students of the country will be attending private institutions." Even if the rate of shift remains constant, at 1.4 percent a year—which is doubtful—and 80 percent of the students are in public colleges by 1975, the taxpayer will have to shell out $8½ billion in capital outlay and $6 billion a year in operating costs to accommodate the increase. If we can preclude the shift by tax relief and keep the ratio of public to private college students substantially the same as it is today, the taxpayer would save $3.6 billion in construction costs and $1½ billion a year in operating costs. The Treasury has estimated that this plan will cost $750 million a year in reduced revenue. In view of the figures I have just cited, it is worth every penny it costs.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. KEATING. I shall not take more time in view of the time situation.

I hope the amendment will be adopted.

The ACTING PRESIDENT pro tempore. Does the Senator from Louisiana desire to yield any time?

Mr. RIBICOFF. Mr. President, I yield 2 minutes to the Senator from Delaware [Mr. WILLIAMS].

The ACTING PRESIDENT pro tempore. The Senator from Delaware is recognized for 2 minutes.

Mr. WILLIAMS of Delaware. Mr. President, the purpose of the amendment of the Senator from Connecticut is to allow those parents who wish to educate their children to pay the tuition and then get a deduction when they file their tax returns. I see nothing wrong with the proposal.

The argument made by the Senator from Louisiana that this is a gift from the Treasury has developed from the theory that all that a man earns belongs to the U.S. Government and that when the Government reduces his taxes it is giving him something. That is a new philosophy and one to which I do not subscribe.

I always felt that what a man earned was his own. Sure he must pay taxes, but it is the taxpayers who gives to the Government.

The Senator from Louisiana says that a poor man does not get anything from this measure. No tax cut will help the unemployed. A tax cut will not help those whose income is so low that they pay no taxes. That is understood. But this proposal is for the benefit of those in the low-income groups who do pay taxes and who do have to pay tuition costs to educate their children.

It is far better to let people select their own colleges and make their own payment. The American people can better prepare themselves to educate their own children if we give them a deduction or a credit, rather than to make them send

all their money to the Federal Treasury and then have the Federal Treasury set up a bureaucracy to distribute a part of it back to him. That is not the way to have people educate their children. This amendment offers a much better approach. I have greater confidence in the ability of the American people to select their own colleges than in anyone in the Federal Government.

Mr. RIBICOFF. Mr. President, I yield 2 minutes to the Senator from Kentucky [Mr. MORTON].

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized for 2 minutes.

Mr. MORTON. Mr. President, I shall support the amendment offered by the Senator from Connecticut. I do not think I have to answer the argument made by the Senator from Louisiana as to the rich benefiting from the proposal. I think it was eloquently set forth in the presentation made yesterday by the Senator from Connecticut [Mr. RIBICOFF].

I notice that the presidents of some of our American universities have come out in opposition to the amendment, saying that the only thing that will happen is that college tuition will go up $200 a year if this amendment is adopted. I have greater confidence in the present trustees and in the presidents of the colleges and universities of this country than that. I do not believe that they would be so irresponsible as to follow such an obviously selfish plan.

I could hardly believe it when I read that their opposition was based on the ground that this amendment would increase the cost of college education. We all know that in the next few years more and more people are going to college. We all know that, unfortunately, we are in a situation in which the costs of education are going up. But when the presidents of great colleges and universities in this country say the costs are going up because we are giving a tax break to those who would prefer to educate their own children rather than to have them educated under some kind of scholarship fund administered by the Government, I must decry such statements.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. RIBICOFF. Mr. President, I yield 2 minutes to the Senator from Nebraska [Mr. CURTIS].

The ACTING PRESIDENT pro tempore. The Senator from Nebraska is recognized for 2 minutes.

Mr. CURTIS. Mr. President, this is a poor boy's amendment. It provides that if anyone pays tuition and fees to send a neighbor boy to college, he receives a tax benefit. This is one incentive for the citizens of the United States to assist worthy young people to go to college. It channels the tax benefit in such a way that there is no Federal control. No ruling of the Supreme Court or any other conflict will determine what may be taught in that school. If a parent wants his child or his neighbor or a poor boy who is a member of the Boy Scout troop to have an opportunity to go to college where there is compulsory religious instruction, he may do so. It avoids a huge bureaucracy. It avoids a situation in which, if one institution receives a grant, all the rest will demand it.

I hold in my hand a book of 358 pages, each page containing three columns of fine print, containing names of institutions a contribution to which is allowed as a tax deduction.

The ACTING PRESIDENT pro tempore. The time of the Senator from Nebraska has expired.

Mr. CURTIS. Many of them are not as worthy of a deduction as would be a contribution for a college education.

Mr. RIBICOFF. Mr. President, I yield 1 minute to the Senator from New Hampshire.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire is recognized for 1 minute.

Mr. COTTON. Mr. President, there are observations I would like to make on this bill, but I was unavoidably absent yesterday, and I have but 1 minute today.

All these forensics to which we have been listening leave me unimpressed. It is the old lullaby we are given, that if we refuse to do something for somebody today, sometime next month or next year we shall be given an opportunity to do something more magnificent and bounteous for him.

I listened to that lullaby when I was trying to get doctors for rural communities. I listened to that lullaby when we were trying to abolish some of the pocket-picking war excise taxes. I have listened to the lullaby many times on the floor of the Senate.

I consider this to be a fair amendment, which sends money back where it is needed, without the administrative cost or the setting up of a new bureaucracy. I do not intend to wait for some future opportunity. This is a chance to do something for people who are straining their resources to educate their children, and do it now. I shall vote for it.

Mr. LONG of Louisiana. I yield 4 minutes to the Senator from Maine.

The ACTING PRESIDENT pro tempore. The Senator from Maine is recognized for 4 minutes.

Mr. MUSKIE. Mr. President, democracy is an exacting form of government and requires an educated and informed citizenry. In recent years, the cold war has become in large part a battle for men's minds, and it is no exaggeration to say that our educational system is one of freedom's first lines of defense.

If we are to survive, if we are to prosper, if we are to achieve for every American that opportunity for spiritual and material fulfillment to which each is entitled, we must insure that our educational system effectively serves our needs. Above all, we must see to it that its opportunities are fully available for the development of our young people whatever the limitations of their own financial resources.

The Senator from Connecticut has performed a great service. Although he describes his amendment as a tax measure, rather than an education measure, it is clearly designed to advance the cause of education.

But worthy as is that cause, agree though I may with its objective, I do not believe that this is the time or the place for enactment of this measure.

Whatever it may be called, this amendment is an education measure. The pending business is a tax bill. The two should not be confused. An overwhelm-

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ing and most unusual national consensus has coalesced in support of this tax bill, as an economic measure. Adoption of this amendment would throw the proposed rate structure into confusion and may seriously delay—or even jeopardize—passage of this most important bill.

For the proposed amendment will, in fact, be the most expensive education bill for individuals ever enacted—with the sole exception of the GI bill. Its cost alone—$750 million the first year, $1.3 billion by 1970—requires that it be considered in conjunction with our overall education policy. Federal aid to education on such a massive scale deserves the deliberate, careful scrutiny of Congress within the framework of our national policy in this important area.

It should not be in the form of an amendment to an economic measure.

It should not be considered without the benefit of wide-ranging and detailed hearings. Our educational needs are many; our resources, great as they are, are limited. Is every Member of this body firmly convinced that the priorities established by this amendment are warranted in an investment of such magnitude? Is it not possible that a more searching investigation will reveal that a different order of priorities is called for?

Mr. President, the objections I have raised have not been directed to the merits of the amendment. They have been concerned with the wisdom of approving it at this particular time.

In addition, there are, it seems to me, some valid questions with respect to the amendment itself which require consideration.

As proposed, the amendment would be of little or no help to those countless thousands of young Americans who cannot now afford to go to college. It will do nothing at all for the millions of Americans in the lower income brackets. It will simply make it a little easier for those who can already afford to send their children to college. Certainly, this is a laudable objective. But should not a program of this magnitude provide some assistance to those who cannot now even begin college?

Second, there seems to be little doubt that many colleges will increase their tuition rates. Thus, it may well be that the taxpayer entitled to the credit will obtain no real benefit, while the problem of getting a college education will become even greater for those now unable to do so.

Third, the fact that the amount of the credit depends upon the tuition rate means that the amendment provides the greatest measure of relief where it is generally needed least: To taxpayers paying tuition for students at high-tuition colleges. Those students attending low-tuition institutions will, in most cases, be unable to qualify for the maximum credit.

Finally, Mr. President, I should note that, as a father of five whose college careers will begin in 4 years, I find the benefits under the Ribicoff amendment very tempting. But, I would like to point out that this would be in addition to benefits already afforded me under the bill. The relief would be most helpful to me, but it would be of little value to families in Maine with income of $5,000 and less.

The Ribicoff amendment would provide, in effect, double relief for a small portion of the middle income group—relief which would not be available to our lower income families. The tax bill, as reported to us by the Finance Committee, is designed to provide equitable relief to a wide spectrum of taxpayers. The Ribicoff amendment would distort that effect.

Here are some examples, using the average family, with two children at $10,000. Such a family would receive a $223, or 19-percent cut under the tax bill. The Ribicoff amendment would add

a $325 cut, or an additional 26 percent, for a total net reduction of 45 percent. At $15,000, such a family would receive a $369, or 17-percent, cut under the tax bill. The Ribicoff amendment would add a $325 cut, or an additional 15 percent, for a total net reduction of 32 percent. At $20,000, such a family would receive a $560, or 16-percent cut under the tax bill. The Ribicoff amendment would add a $325 cut, or an additional 10 percent, for a total net reduction of 26 percent.

Mr. President, I hope that the interest in meeting our educational need which has been kindled by this amendment will continue long after this tax bill is passed. I hope that this Congress, which wrote a remarkable legislative record in the field of education last year, will not rest upon its past achievements, for much remains to be done. And although I will vote against this amendment, I wish to make it unmistakably clear to the Senator from Connecticut and to the rest of my colleagues that this is not a vote against the objective of the amendment. It is rather an expression of my belief that the objective can be better served, the priorities more precisely established, and the resources more equitably distributed.

Mr. President, I ask unanimous consent that several telegrams from both supporters and opponents of the proposed amendment, in Maine, be inserted in the RECORD at this point.

There being no objection, the telegrams were ordered to be printed in the RECORD, as follows:

AUGUSTA, MAINE, *February 3, 1964.*

Senator EDMUND S. MUSKIE,
Senate Office Building,
Washington, D.C.:

I respectfully urge you to oppose the Ribicoff amendment 329. Scholarships and loans make it possible for many students to go to college who couldn't otherwise go. Tax credits rarely make that much difference. Maine teachers have expressed repeatedly their support of a scholarship and loan program. They have never shown any enthusiasm for tax credits which would reduce taxes to the benefit of many who are able to finance the education of their own children.

CLYDE RUSSELL,
Executive Secretary, Maine Teachers Association.

ORONO, MAINE, *February 3, 1964.*

Senator EDMUND S. MUSKIE,
Washington, D.C.:

Affirmly believe the Ribicoff-Keating tuition tax credit plan derimental to broadening of opportunity in higher education. Respectfully request your opposition.

LLOYD H. ELLIOTT,
President, University of Maine.

PORTLAND, MAINE, *February 3, 1964.*

Senator EDMUND MUSKIE,
Senate Office Building,
Washington, D.C.:

Diocesan school department approves Ribicoff tax credit bill. Would appreciate your support.

Msgr. ARMAND E. CYR,
Superintendent.

PORTLAND, MAINE, *February 3, 1964.*

Senator EDMUND MUSKIE,
Senate Office Building,
Washington, D.C.:

We favor the Ribicoff tax credit bill.

ST. DOMINICS MOTHERS CLUB.

Mr. LONG of Louisiana. Mr. President, I yield 2 minutes to the Senator from Florida.

Mr. SMATHERS. Mr. President, I believe we all agree that all of us are in favor of education for all of our students. The question is how to proceed to carry out that wish in the best possible way. For my own part, and in the opinion of most people who are really concerned about this problem, the best way to proceed is through the Committee on Labor and Public Welfare, with a total program which correlates the National Defense Education Act to the student loan program and all the other programs. If we have money to give away, let us give it to the students who need it the most.

My objection to the amendment—and I do not like to call it the rich man's amendment—is that it helps parents who do not need any particular help.

If we take the figures given by the author of the amendment, we see that that means persons who make $35,000 a year. Such a person, under the amendment, would get a tax cut of $675. That is a straight credit. Such a person would send his children to Princeton or Harvard, no matter what. Therefore, what we do is give the money to people who do not need it.

As had been pointed out, what would happen with respect to private schools would be that private schools would raise their tuition, so that everyone who sent his children to private schools would have to pay an additional $350. The poor boy who does not have a family, who does not have a father, would not be able to go to school. We thus will make the problem more insurmountable for him so far as obtaining an education is concerned.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield.

Mr. PASTORE. I should like to have it made clear to me just what is the

basis for the argument that if we give parents some kind of consideration in helping them send their children to college that——

Mr. SMATHERS. I would like to have the Senator ask me a question, but I would appreciate it if he would take the time from the side controlled by the author of the amendment.

Mr. RIBICOFF. I am pleased to yield a minute to the Senator for that purpose.

Mr. PASTORE. Where do we get the notion that the university will raise its tuition merely because, for meritorious reasons, we give some credit to parents of the middle class who want the pride

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and respect of paying their own children's tuition. This amendment would give them a little help in bearing the terrific expense involved. Does that mean that the university will raise its tuition as a device to nullify the relief? Where do we get that notion?

Mr. SMATHERS. I am glad the Senator asked that question. I will read him what the originator of the sliding scale proposal which is apparently incorporated in the amendment, said. He is Dr. Roger A. Freeman of the Hoover Institution on War, Revolution, and Peace, of Stanford University.

Mr. RIBICOFF. Mr. President——

Mr. PASTORE. Let the Senator from Florida finish.

Mr. SMATHERS. Let me answer the Senator's question. He asked me a question, and he is entitled to have an answer. This is what he says——

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. LONG of Louisiana. I yield 1 more minute to the Senator from Florida.

Mr. SMATHERS. Dr. Freeman said:

> The tax saving, or revenue loss, under my schedule may be estimated at $700 million per annum, or more. Institutions may be expected to recoup as much as three-fourths of that amount through increased tuitions.

Mr. PASTORE. The schools must adjust their charges as their costs mount. They will do it whether we adopt this amendment or not.

Mr. SMATHERS. This is what the original author of this idea says about it.

Mr. PASTORE. The schools will raise or lower their tuition whether we do this or not. Charges will change with the times—as costs are greater or less.

Mr. SMATHERS. No; they say they will do it if such an amendment is adopted.

Mr. PASTORE. That is nonsense to me.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. SMATHERS. I am happy to yield, if I have some time remaining.

Mr. RANDOLPH. The Senator's argument is very persuasive. However, is it not a fact that educational costs are going up year by year?

And they have been rising year by year, irrespective of what the Congress does on tax legislation. This measure does not purport to solve all the problems of financing higher education. Last year the Congress enacted the Higher Education Facilities Act, the National Defense Education Act Extension and Amendments, the Vocational Education Act of 1963, and amendments to the Manpower Development and Training Act. The senior Senator from West Virginia supported all of these measures, and I shall support any measure to advance the educational opportunities of our youth, especially for those from the lower income groups. But the fact that the proposed amendment does not do all things for higher education is not, in my opinion, a valid argument for opposing it.

Mr. SMATHERS. The Senator does not want to help education any more than does the Senator from Oregon or the Senator from Florida. We all want to help. The question is how do we do it best? The amendment would cost $1,300 million. Is that the way to do it? What about the poor boy in West Virginia who has no father or mother but who wants to go to school ? Where would he get the money? He would not get it by reason of this amendment.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. SMATHERS. He would not get it by reason of the amendment. It does not offer him anything.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. SMATHERS. If the time comes out of the time controled by the Senator from Connecticut.

Mr. RIBICOFF. I am pleased to have such an effective ally as the Senator from Rhode Island. I yield 1 more minute to the distinguished Senator from Rhode Island.

Mr. PASTORE. I have 1 minute, 60 seconds. Has the Senator ever examined a scholarship application?

Mr. SMATHERS. Yes; I have.

Mr. PASTORE. Where it is necessary to swear away half of one's life in order to qualify for a scholarship on the basis of need?

Mr. SMATHERS. I have seen such an application. I have a brother who is supporting four children and——

Mr. PASTORE. Are we on my time?

Mr. SMATHERS. Yes. That does not mean that we ought to adopt such an amendment.

Mr. PASTORE. I say to the Senator from Florida that, insofar as the low-income groups are concerned, there is no problem.

For the low-income group—and properly so—there is every encouragement of scholarships and loans so that the capable and ambitious may develop their talents. There is no discredit to this. It is fitting that our Nation should provide every facility of scholarship.

Any man in the low-income group who wants to send his child to college will find that it will be made possible for that child to go to college, because somewhere or other the facilities exist and some arrangements will be made to that end.

Mr. SMATHERS. Now——

Mr. PASTORE. Now we are on my minute. Anyone who is in the low-income group—and the very wealthy parent has no problem at all. The problem lies in the great $10,000 to $15,000 a year class, in which a man wants the pride of saying, "I want my child to go to the college of our choice. I feel that his education will benefit not only him but his country. I want to pay for his tuition, but I need the consideration of my country in meeting this cost."

That is the kind of people we are worrying about.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. SMATHERS. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield a minute to the Senator from Florida.

Mr. SMATHERS. The statistics were placed in the RECORD for the edification of all of us. I would appreciate it if the Senator from Rhode Island would read them. They give the percentage of the pupils from families of certain income groups who go to school, and they list the number of students in the schools. Percentagewise, one-fifth come from the lowest income group.

Mr. PASTORE. That is correct.

Mr. SMATHERS. So most of the youngsters who go to college come from the middle income groups.

Mr. PASTORE. This amendment would not hurt them.

Mr. SMATHERS. It distributes the credit, as the Senator says.

Mr. PASTORE. It certainly does.

Mr. SMATHERS. The amendment would do nothing for the poor boy who wants to get an education.

Mr. LONG of Louisiana. Mr. President, let us see how this proposal would work. It is simple enough. What would happen if the amendment were adopted? We would reach into Uncle Sam's Treasury for $1,300 million a year. Every child——

Mr. RIBICOFF. Mr. President, will the Senator yield on my time?

Mr. LONG of Louisiana. I am speaking on my time.

Mr. RIBICOFF. Will the Senator yield on my time?

Mr. LONG of Louisiana. Let me make my statement, first; then I shall be glad to yield.

It is proposed to reach into Uncle Sam's Treasury for a tax credit, which is like drafting a check on the Treasury for $1,300 million a year. If one's child is in Princeton, he will get $325 from the Treasury. If he has a child in one of the expensive Eastern girls' schools, where the tuition is $1,500, he will get a credit of $325. If one is worried about the expense of such an education, he should not have sent his child to such a school, to begin with. Let him send his child to the State university, where the tuition is only half or one-fourth as much. Then he would receive a benefit of $100.

In any event, it is proposed to give families whose children are in college a share of $1.3 billion. What kind of sense does that make? What about the poor devil who could not put his child through college? The under $3,000 income class, he needs helps. What would he get? Look at page 1733. What does that class of family get? The ones who really need help, the kind of people who deserve help, who do not have meat on the table because they are trying to send a child through college, get plus 1 percent of $1.3 billion.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. The table appears on page 1733.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield first to the author of the amendment, on his time.

Mr. RIBICOFF. On my time. I am sure the distinguished Senator from Louisiana, the Senator in charge of the

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bill, has no intention of misleading the Senate. When he talks about $1.3 billion, is he talking about $1.3 billion this year or in 1970?

Mr. LONG of Louisiana. I am talking about $750 million this year, and $1.3

billion as soon as the program goes into full operation. That is the estimate.

Mr. RIBICOFF. It is $1.3 billion in 1970, not now.

Mr. LONG of Louisiana. That is not my estimate. So far as I know, that is the only responsible estimate. Who will get the credit? The families with adjusted gross incomes below $3,000 will get 1 percent.

Mr. RIBICOFF. Is the Senator speaking on his time?

Mr. LONG of Louisiana. I am speaking on my time. I yield myself 2 additional minutes.

Consider the families that do not need this assistance. Let us consider families having incomes of $10,000 to $20,000.

They do not need it. They get 51 percent of the tax reduction. Their incomes range from $10,000 to $20,000.

Mr. RIBICOFF. Mr. President, will the Senator yield for a correction of facts?

Mr. LONG of Louisiana. It is proposed to spend the taxpayers money to the tune of $1.3 billion a year, 51 percent of which goes to families who are already getting big tax reductions in the bill as it stands, families who already have children in college, children who will be well educated whether the families get a share of $1.3 billion or not, while no benefits are provided for that pitiful class that needs help. What about the poor West Virginia coal miners?

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. They cannot afford to send their children through college. What about families whose children are working their way through college, working half the night to stay in schools? What would the amendment do for them? It would not do a blessed thing. But it would take care of families who are already able to put their children through school.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I am sorry; I should make a correction. Twenty-eight percent of the tax reduction goes to families earning between $10,000 and $20,000; 51 percent of the reduction goes to families having incomes between $5,000 and $10,000. They are not the families that need the proposed assistance.

Mr. RIBICOFF. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. RIBICOFF. I am sure it is not the intention of the distinguished Senator from Louisiana——

Mr. SMATHERS. Mr. President, on whose time is the Senator from Connecticut speaking?

The PRESIDING OFFICER. The time of the Senator from Louisiana.

Mr. LONG of Louisiana. I yield to the Senator from Connecticut on his time.

Mr. RIBICOFF. On my time.

Mr. LONG of Louisiana. I will yield the Senator 1 minute of my time.

Mr. RIBICOFF. The amendment provides that 62 percent of the benefits would go to those with incomes between $3,000 and $10,000. That is where most of the benefits would go; 91 percent of the benefits would go to families having incomes under $20,000. It is very interesting to observe the deep concern of the distinguished Senator from Louisiana for the lower income groups. If there is any group in American society that will get nothing out of the bill, it is the lower income group, about whom the Senator is so worried.

If the Senator is worried about the low income group, he will have an opportunity to assist them by supporting an amendment to be offered by the distinguished Senator from Tennessee [Mr. GORE]. I shall observe with interest the concern of the Senator from Louisiana for the lower income groups as against the upper income groups. If there is one group in American society that is being protected by the bill, it is the wealthy oil interests of the State of Louisiana. There is a group that will receive benefits.

The bill contains numerous loopholes and truckholes. The bill takes care of the upper income levels but does the least for the middle income groups of America.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LONG of Louisiana. I hope that in due course the Senator will get around to the amendment to increase the tax on oil income. When he does, I shall be prepared to prove that the oil industry is one of the most heavily taxed industries in the United States. I shall bring forth the figures.

Mr. RIBICOFF. The distinguished Senator from Delaware [Mr. WILLIAMS] will offer that amendment.

Mr. LONG of Louisiana. I am speaking on my time. I yielded the Senator from Connecticut a minute of my time after he had used his. I wish he would let me use my time.

The Senator from Connecticut stated that the bulk of the credit under his

amendment would go to families having incomes between $3,000 and $10,000. But he did not say that the great bulk would go to those having incomes of $5,000 to $10,000, not to those having incomes under $3,000. Only 1 percent would go to families in the under $3,000 bracket, while 88 percent would go to families making more than $5,000, and practically all of them now have children in school.

Mr. President, I yield 3 minutes to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I must admit that I see no connection between the amendment intended to be offered by the distinguished Senator from Delaware [Mr. WILLIAMS] and his cosponsors and the amendment now under discussion. I hope we can stick to the facts, and not discuss possibilities. There are some facts which should be reiterated over and over.

The Ribicoff amendment, although limited to tuition, fees, and books, would cost from $725 to $750 million in the first year, and by 1970 would cost between $1,300 and $1,500 million. So if it is desired to have a very expensive education bill or amendment, rather than to help those who need help, Senators should vote for the Ribicoff amendment. The cost under the amendment would be some six times as great as the National Defense Education Act student loan program and three times the maximum cost of the original grant portions of the higher Higher Education Facilities Act of 1963; but it would distribute most of the money where it was least needed.

Millions of large families having low incomes, and who pay little or no taxes, would receive little or no benefits, while families having fairly substantial means, and who would send their children to college or universities in any event, would get the most relief. The Ribicoff amendment, for the families benefited, would in most cases more than double their tax cut under the bill, thereby giving such families a disproportionate share of the tax reduction.

To the extent that tuition increases would result from such a tax allowance, the problem of financing a college education would become more difficult, particularly for students from low-income families who might benefit the least from the tax allowance.

Any deduction or credit based on tuition, regardless of its form, would give more benefit to students in the higher priced institutions—and this discriminates against those students—including a large proportion of those students needing financial assistance—who attend public institutions where tuition is generally lower. It would also discriminate against those States with a strong tradition of providing higher education at low cost or no student tuition cost. The share of aid each institution would get would depend on its tuition level—the higher the tuition, the more benefit it would receive. It is doubtful that this distribution would give Federal assistance where it is needed most.

Mr. President, let me point out to the Senate that there is already before Congress proposed legislation, originally introduced in 1960 by the then Senator Lyndon B. Johnson, calling for a guaranteed loan program for needy college students. President Kennedy proposed a similar program in his educational message of last year. Instead of now tying up the tax bill with the additional and costly weight of the Ribicoff education amendment, Congress should separately consider the guaranteed loan program and other positive aids for higher education as a direct, nondiscriminatory route to the same end.

In conclusion, Mr. President, let me state that I have been assured by the distinguished senior Senator from Ore-

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gon [Mr. MORSE] that it is his intention to have his Subcommittee on Education hold hearings on the guaranteed loan program.

The ACTING PRESIDENT pro tempore. The time yielded to the Senator from Montana has expired.

Mr. PASTORE. Mr. President, will the Senator from Connecticut yield briefly to me?

Mr. RIBICOFF. I yield 2 minutes to the Senator from Rhode Island.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island is recognized for 2 minutes.

Mr. PASTORE. Mr. President, this amendment is not new; this subject has been debated on the floor of the Senate several years in succession.

I support the amendment, but I have no illusions as to its fate. Even if the Senate adopts the amendment, I fear it will be killed in conference.

Nevertheless, Mr. President, if we are to pass such an amendment, I say that it should be a good one. I favor aiding the poor; no one favors aiding them more than I do. However, although I do not know what the personal situation of any other Senator is, I point out that we have engaged in much debate about persons who have incomes of between $10,000 and $15,000 a year. Such persons pay out of their net incomes after taxes the college tuition of their sons

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and daughters. If their sons and daughters go to colleges of their family tradition, the annual tuition cost is probably between $2,500 and $3,500 a year.

So, Mr. President, suppose the head of a family has an income of $10,000 a year. If he does not want to take a pauper's oath, to secure for his son or daughter a free scholarship based on need—that father must—after he has paid his taxes pay the college his son and his daughter attend a total bill of approximately $6,000 a year; and he makes that payment from his income after taxes. How does he do it? Senators have argued, "Well, he is doing it, anyway." That, of course, is no answer. Mr. President, I will tell you how he is doing it. And I will tell you how it is done by many taxpayers who were not fortunate enough to attend college themselves and have not reached a high plateau of prosperity and do not have sufficient income to be able to pay such college tuition bills. In that case, what do they do? They mortgage their homes. They do the same thing that many other middle class, respectable families in the Nation which experience costly chronic illnesses do. What do they do?

The ACTING PRESIDENT pro tempore. The time yielded to the Senator from Rhode Island has expired.

Mr. PASTORE. Mr. President, may I have 2 additional minutes?

Mr. RIBICOFF. I yield 2 additional minutes, Mr. President, to the Senator from Rhode Island.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island is recognized for 2 more minutes.

Mr. PASTORE. In short, Mr. President, such persons mortgage themselves up to their ears, in order to be able to live in respectability. In that way they pay their bills, including heavy medical expenses and including the tuition charges when their sons and their daughters attend college. The same is true of all other families in the United States as good citizens they pay their bills—as good parents they mortgage their homes, in order to pay the college tuition for their sons and daughters.

It is argued that those families are doing that, anyway. Yes, Mr. President; they are—but at what a sacrifice.

It is a sacrifice that this amendment would soften. Parents deserve a little consideration, too.

Mr. President, the loopholes which already exist in the Internal Revenue law are so great that a Mack truck could be driven through them. However, we are doing little or nothing about putting an end to them. For instance, there is the oil depletion allowance of 27½ percent, but Congress is doing nothing about it.

Today we are debating the situation of the head of a family who we say has an income of $10,000 a year, that parent wishes to be able to send his children to college. What does the Senator from Louisiana say that person should do? He says the children of that family should be sent to a State university. But, Mr. President, suppose it is the wish and judgment of the parent and the son that the son should attend Princeton or Yale—or Notre Dame? Does he not have that right of choice?

Mr. President, I support this amendment.

The ACTING PRESIDENT pro tempore. The time yielded to the Senator from Rhode Island has expired.

Mr. MORSE. Mr. President, will the Senator from Louisiana yield briefly to me?

Mr. LONG of Louisiana. I yield 1 minute to the Senator from Oregon.

The ACTING PRESIDENT pro tempore. The Senator from Oregon is recognized for 1 minute.

Mr. MORSE. Mr. President, my answer to the argument submitted by the Senator from Rhode Island, who has asked what we should do about the situation he has discussed, is that Congress should enact a loan bill which would provide benefits which would be available to all American families; and then let them borrow the money needed in order to enable their children to attend college, and pay it back out of the increased earnings which our educational system makes available to them. That is what Congress should do—namely, enact a democratic bill, without having it provide for the sort of discrimination which favors the giving of aid to those who can take a tax-credit deduction.

This amendment calls for an out-and-out gift to those who have sufficient earnings to be able to pay the college tuition of their children from their income after taxes.

Mr. President, what we should have is a democratic loan bill which will make such funds available to those who attend college; and later they will be able to pay it back, under the terms of the bill.

Mr. FULBRIGHT. Mr. President, I should like to have approximately 30 seconds in which to speak.

Mr. RIBICOFF. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. The Senator from Connecticut has 3 minutes remaining. The Senator from Louisiana has 1 minute remaining.

Does the Senator from Connecticut desire to yield time at this point?

Mr. SCOTT. Mr. President, at this time will the Senator from Connecticut yield briefly to me?

Mr. RIBICOFF. I yield 1 minute to the Senator from Pennsylvania.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized for 1 minute.

Mr. SCOTT. Mr. President, I rise in support of the Ribicoff amendment to H.R. 8363, the tax reduction bill.

I am proud to say that I have introduced legislation similar in purpose to that embodied in the pending amendment in several Congresses dating back to my service in the House of Representatives. My most recent bill, for example, is S. 259, which I introduced on January 16, 1963, and which is pending in the Committee on Finance. Under my bill, a taxpayer would be permitted to deduct up to $600 from his taxes in a given taxable year for tuition and fees in providing a higher education for himself, his spouse, and his dependents.

My bill recognizes the heavy burden borne by parents who are sending their children through college or by college students who themselves are working and paying their way through school. Tax relief for education is deserved, it seems to me, by those who are trying to prepare themselves or their children to be of more useful service to our society. Not only would such tax relief benefit those seeking a college education, it would in turn benefit our society as a whole by enabling more young people to pay for their college education. It is, I believe, the best form of Federal aid to higher education, and it has the additional merit of providing this aid without accompanying it with the undesirable features of Federal control.

Although the Ribicoff amendment differs substantively from my proposal, it would accomplish the same objective. Under the Ribicoff proposal, a taxpayer paying for his own, his child's, or another individual's college education would receive a tax credit on expenses for tuition, fees, books, and supplies. Under the sliding scale outlined in the amendment, such annual educational expenses totaling $1,500 would result in a tax credit of $325—a substantial relief to the overburdened taxpayers concerned.

I am conscious of the fact that several objections have been voiced by opponents of the Ribicoff amendment. It is not necessary for me to answer these arguments here, for I feel that the able junior Senator from Connecticut [Mr. RIBICOFF] has already rebutted them satisfactorily, and I would point out that the amendment's author was for some time, not so long ago, Secretary of Health, Education, and Welfare. As such, he was in a position properly to appraise the requirements of the insti-

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tutions of higher education and the needs of the students attending them.

And so, Mr. President, I am happy not only to express my support of this amendment at this time, but to be one of its cosponsors as well. And I respectfully urge my colleagues in the Senate to adopt it.

Mr. RIBICOFF. Mr. President, I yield myself the remaining time under my control.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut is recognized for 2 minutes.

Mr. RIBICOFF. First, Mr. President, I wish to take this opportunity to thank the distinguished Senator from Louisiana [Mr. LONG], the Senator in charge of the bill, for his courtesies throughout the heated debate we have had. I also wish to take this opportunity to thank the cosponsors of my amendment, without whose aid this measure could not have been drawn, and without whose help we would not have advanced it as far as we have. These cosponsors are the following: The Senator from Maryland [Mr. BREWSTER], the Senator from West Virginia [Mr. BYRD], the Senator from Nevada [Mr. CANNON], the Senator from Connecticut [Mr. DODD], the Senator from Colorado [Mr. DOMINICK], the Senator from Alaska [Mr. GRUENING], the Senator from Minnesota [Mr. HUMPHREY], the Senator from New York [Mr. KEATING], the Senator from Missouri [Mr. LONG], the Senator from Utah [Mr. MOSS], the Senator from Vermont [Mr. PROUTY], the Senator from West Virginia [Mr. RANDOLPH], the Senator from Pennsylvania [Mr. SCOTT], the Senator from Maryland [Mr. BEALL], the Senator from Idaho [Mr. JORDAN], and the Senator from Oklahoma [Mr. EDMONDSON].

To put this issue in perspective, I close by simply pointing out the analogy between what we are trying to do in the field of higher education and what we now do in the field of health.

First. Millions of dollars have been voted by Congress to build hospitals. Millions of dollars were voted by Congress last year to build college classrooms and libraries.

Second. The Federal Government also contributes money to provide some help to low-income families who face high medical costs. The Federal Government

should contribute some money to a sound student aid program, including scholarships, to help low-income families who face high college costs.

Third. Finally, our tax laws now provide tax relief to those who pay the high costs of medical care. By the same taken I believe our tax laws should provide tax relief to those who pay for the high costs of a college education.

All of these programs are accepted in the field of health. All of these programs are just as needed in the field of higher education.

I believe the amendment should be adopted.

The ACTING PRESIDENT pro tempore. The time of the Senator from Connecticut [Mr. RIBICOFF] has expired. The Senator from Louisiana [Mr. LONG] has 1 minute remaining.

Mr. LONG of Louisiana. I yield that time to the Senator from Minnesota.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota is recognized for 1 minute.

Mr. McCARTHY. Mr. President, I oppose adoption of the amendment to H.R. 8363 which has been offered by the Senator from Connecticut [Mr. RIBICOFF].

I do so even though I have consistently supported aid to higher education and even though I am very sympathetic to proposals to meet the educational problem to which his amendment relates. I have, in fact, introduced similar legislation in the past. In 1959, in 1961, and again early in 1963 at the opening of the 88th Congress I introduced bills in the Senate which take the same general approach as provided in the pending amendment—that is, a tax credit for tuition for higher education. My bill, S. 800, would provide a 30-percent tax credit to individuals for tuition and fees up to a maximum of $450.

I introduced and supported the tax credit bill at previous sessions because it provided an appropriate means of moving toward two important objectives:

First, a measure of tax reduction, which has been long overdue; and

Second, some limited assistance in meeting the needs of higher education. The bill would provide benefits to students and their parents and somewhat enlarge the opportunity for more young people to go to college. Indirectly, it would benefit the colleges, at least to the extent of reducing the need for scholarships to qualified students of limited means.

In my judgment both of these were proper objectives. Considered separately and apart from other recent action of the Congress the Ribicoff amendment or the bill which I introduced or similar measures would be deserving of consideration at this time. However, there are now significant differences which have changed the situation, Congress has moved in both the area of tax reduction and of assistance to higher education in a substantial manner.

We are completing work on the largest tax reduction in history. The present bill, when it becomes fully effective in 1965, will reduce the tax liabilities of individuals by about 20 percent, or $9.2 billion. The reduction of taxes to corporations over the same period will amount to $2.4 billion. This means a total reduction of $11.6 billion scheduled over the 2-year period. Over half of the cut in individual taxes will go to those with adjusted gross incomes of $10,000 a year or less, the group who file nearly 85 percent of the tax returns. Many of these families will benefit from the general tax reduction as much as they would if the bill provided only tax credits for higher education expenses.

This is a major reduction, and it is questionable whether we ought to adopt an amendment which will add another $750 million reduction. Even if there were agreement that we could safely provide an additional $750 million cut—and the Treasury estimates are that the loss of revenue would increase annually to an amount of $1.3 billion in 1970, if the amendment is adopted—there would still be a question of whether this is the most effective place to make the additional cut, keeping in mind the purposes of this bill.

The second fact which we must take into account is that we have already approved a major measure to assist higher educational institutions in the 88th Congress.

The Higher Education Facilities Act enacted last December authorizes $230 million annually for matching grants for construction and improvement of undergraduate facilities, and it provides $120 million annually for loans for construction and rehabilitation. In addition it authorizes $25 million in 1964 and $60 million for 1965 and 1966 for construction grants for graduate schools. This means a total for grants and loans of $1.2 billion over a 3-year period.

The Higher Education Facilities Act does not meet all the problems, but it does substantially assist higher education institutions and reduce to this extent the need of the institutions to raise tuition or otherwise to secure resources for necessary facilities. In this respect it benefits both students and institutions. In addition, the Congress has extended and increased the authorization of the student loan program under the National Defense Education Act and raised the institutional ceiling in the student loan

program, and made other improvements and additions.

The Higher Education Facilities Act was considered carefully over a long period of time. Extensive hearings were held. The question of benefits to public and to private institutions was gone into in great detail and a compromise reached which was acceptable to the majority.

Formulas were devised to make allotments to the States for grants for construction which would assure an equitable amount to the institutions of each State. Limits to the amount to be loaned to institutions in any one State were provided.

Funds were designated to give proportionate assistance to undergraduate institutions, to community colleges and to graduate schools.

The types of facilities which could be built were specified and other types were excluded from eligibility.

The funds authorized were divided between those to be used for matching grants and those available for loans.

The Congress found it necessary to take all these steps for a higher education measure which provides $375 million for 1964 and $410 million annually for the next 2 years.

The Ribicoff amendment, on the basis of estimates supplied by the Treasury, will result in a revenue loss of $750 million in 1964 and increase to an estimated loss of $1.3 billion for the year 1970.

The pending amendment, which relates entirely to expenses for higher education, will thus result in a revenue loss of twice the amount so carefully worked out for the Higher Education Facilities Act of this year.

Yet, there have been no full hearings held by any committee on this amend-

[*P. 1757*]

ment. Neither the Committee on Finance nor the Committee on Labor and Public Welfare have given it adequate attention. There has been no comparable investigation of its effects on higher education, although estimates have been made that only 20 to 25 percent of the tax credits under the amendment would eventually be reflected in improved or extended education. There is disagreement about whether the amendment has built-in discriminatory features between private and public institutions as well as between institutions in different States and sections of the country where there are wide differences in the public contribution to higher education.

Questions have been raised as to whether the effect of the amendment would be to give preferential treatment to middle income families at the expense of lower income families who have the greater need.

Finally, there has been no thorough study of whether such an amendment would provide as much assistance to students and their parents as the same or a lesser amount made available in scholarship or insured loan programs.

For these reasons I believe the Ribicoff amendment should be rejected. I believe the debate on the amendment has been useful insofar as it has called attention to a continuing need for legislation to assist the higher educational effort and also insofar as it highlights the special problems of families to provide opportunities for higher education for their children. College education does place an extraordinary burden on parents during a limited time.

Because this is a most serious problem we should give it careful study and look for the formula which will both best assist parents and advance higher education. Study may show that a combination of tax credits and of insured loans will do the best job, or that other formulas will provide a more equitable and adequate program. This kind of study has not been made, and for this reason this is neither the time nor the bill for so important and far-reaching program as provided by the pending amendment. I urge that it not be adopted.

The ACTING PRESIDENT pro tempore. All time has now expired.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that I may proceed for 30 seconds. I understood that I had 30 seconds remaining of my time.

Mr. LONG of Louisiana. Mr. President, I yield 30 seconds to the Senator from Arkansas.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas is recognized for 30 seconds.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent to have printed in the RECORD a statement on this subject.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR FULBRIGHT

As a former educator and one who has a deep interest in all efforts to improve our educational system, I am concerned about the lack of discussion of some of the fundamental aspects of the Ribicoff amendment. On the surface the proposal appears quite meritorious and I know from reading my mail that many parents look forward to having the burden of putting a son or daughter through college eased by a cut in their tax bill. However, I think that we must

remember that we are in reality debating a basic question of public policy toward Federal support and encouragement of higher education.

The Congress last year enacted the Higher Education Act which established the policy that the Federal Government will help improve higher educational facilities to accommodate the increasing student loans. Aid to needy, qualified students through a loan program was accepted as sound public policy a number of years ago and was reaffirmed by Congress last year. In 1962, the Senate voted more direct student assistance by approving a scholarship program which, unfortunately, was rejected by the conference committee.

The point is that the Congress has thus far concentrated its efforts on the primary goals of aiding students and the educational system directly. This amendment represents a new and costly departure from that policy. What is proposed by this amendment boils down to a very substantial subsidy from the general public to parents of college students. I have always supported direct Federal aid as the most effective way to improve our educational system and to enable needy students to develop their full potential. In my opinion, tax benefits and other indirect relief devices should not be enacted until after the primary objectives have been attained. Much remains to be done before this is accomplished.

The scholarship program approved by the Senate in 1962—a very modest plan—has not been enacted. The administration's proposal for establishing an insurance program for private loans to students remains on the congressional agenda. Our student loan and fellowship programs could be made more effective. These and other proposals for direct aid to students should receive priority action over special tax benefits for parents.

There is no doubt that this proposal would help many middle-income families who are having a difficult time financing their children's college education. I sympathize with their situation. But at least they have managed to send their children to school, which is better than many poor families are able to do. Passage of this amendment will not make it easier for parents to send their children to college who cannot afford to do so now. As a matter of fact, it can be argued that the colleges will raise tuition if the tax credit is enacted, which will worsen the financial problems of many parents and working students. Perhaps the most telling criticism of the proposal is that it will not help students from low-income families—those who most need help. And once tax credits are available for parents there will be little hope of generating sufficient grassroots support to secure passage of a scholarship program to aid the most needy young people.

A look at income statistics should be fairly convincing proof that this amendment will be of little benefit to most families in low-income States, such as Arkansas. Per capita income in Arkansas in 1962 was $1,504 compared with the national average of $2,366 and the average in the State of Connecticut of $3,089—more than twice the Arkansas average. In 1959, the latest year for which Federal statistics were available, median family income in Arkansas was $3,184 compared with $6,887 for Connecticut. Few Arkansas families earning $3,184 and less need worry about paying Federal income tax. But most of these families would like to see their children go to college. They won't be helped by the amendment of the Senator from Connecticut. Over 70 percent of all Arkansas families in 1959 had incomes of less than $5,000. Only about one-fourth of the Connecticut families were in this range. Tax credits are of little benefit if you do not have enough income to have to pay taxes.

Unfortunately, this proposal has developed into a public versus private schools controversy, to some extent. The question should not be considered solely in that light, but the issue should not be overlooked entirely. In Arkansas, nearly 75 percent of the college students attend publicly supported schools. The national average is somewhere around 60 percent, I believe. According to the Office of Education, the median charge for tuition and fees in public colleges and universities last year was $170 compared with $690 in private institutions. On this basis, the credit will be $165 for those in public schools and $253 for those in private institutions. This clearly indicates which segment of our educational system will receive the greatest benefits from the proposed credit.

Adoption of this amendment will cost the general public or the Treasury, if you like, $750 million in the first year, and it is estimated that the cost will mount as much as $1.3 billion by 1970. In contrast, the authorization for the grant provisions of the higher education bill passed recently amount to $290 million a year. The total for the 3-year program is only $120 million more than the cost in lost revenue for 1 year of the college credit proposal. The cost of the scholarship program enacted by the Senate in 1962 totaled $148 million for a 5-year period. The loan guarantee program proposed by President Kennedy last year and supported by President Johnson is budgeted for a grand total of $500,000 reserves for the next fiscal year. When the tax credit proposal is judged alongside other educational proposals and existing programs, it does not appear to be much of a bargain for the taxpayer.

I am not opposed to tax relief for parents of college students. In fact, I have introduced educational tax deduction proposals in the past. I still believe there is a need for such relief, but we are faced with the question of priorities and tax relief for parents should come only after we have enacted programs that will give every qualified, needy youngster a chance to go to college. I favor investing an additional $750 million for education this year, preferably by transferring this amount from the space budget. But I am unwilling for Congress to chalk up $750 million as aid to education when it is really aid to parents. Genuine aid to education—and students—should come before special aid to parents, especially in view of the fact that they will share in the general tax relief under this bill.

I hope that the Senate will defeat the amendment.

I attach hereto a letter I have received from A. W. Ford, commissioner of edu-

cation of Arkansas, and a telegram from Dr. David Mullins, president of the University of Arkansas.

STATE OF ARKANSAS,
DEPARTMENT OF EDUCATION,
Little Rock, Ark., January 24, 1964.
Hon. J. W. FULBRIGHT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FULBRIGHT: This correspondence is for the purpose of expressing opposition to the Ribicoff tax credit amendment which was defeated by a 10-to-7 vote in the Senate Finance Committee. I understand that Senator RIBICOFF will bring this up for a vote on the floor.

[*P. 1758*]

This proposed amendment would damage the chances of going to college for students with slim financial resources because the institutions will raise tuitions. High cost private colleges and universities would benefit most; poor parents do not pay enough taxes to be helped substantially.

Sincerely,

A. W. FORD.

FAYETTEVILLE, ARK.,
December 10, 1963.
Senator J. W. FULBRIGHT,
Senate Building,
Washington, D.C.:

I understand the Senate Finance Committee may vote this week on amendment 329 to the tax bill. A careful analysis of this amendment convinces us that it is not in the best interests of higher education. It fails to provide substantial and essential support for higher education. It fails to provide meaningful assistance to families of students both in need of such assistance. Moreover the principle involved is unsound as a procedure for giving aid to higher education. We earnestly urge your opposition to this amendment.

DAVID W. MULLINS,
President, University of Arkansas.

Mr. FULBRIGHT. Mr. President, I merely wish to announce that the committee considered this question at great length.

I am opposed to the Ribicoff amendment. I believe it deserves serious consideration, but not in this bill, and I hope that the Senate will not agree to the amendment today.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the Senator from Minnesota [Mr. HUMPHREY] be allowed 1 minute.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I profoundly regret that under the present circumstances I will find it necessary to vote against the Ribicoff amendment. As many Senators know, I have sponsored similar legislation for many years and I have been deeply concerned with the plight of parents seeking to provide their children with the advantages of a college education. I still express this concern and will continue to seek Federal assistance in their behalf.

There have, however, been several significant developments which must be taken into account since the introduction of my tax credit bill (S. 1677) in June 1963. We have enacted an expanded program of National Defense Education Act loans. We have approved the largest construction program for higher education in history. We are, moreover, debating the largest tax cut in this Nation's history and this reduction will become law in the near future. The adoption of this amendment, however meritorious, under these circumstances would wreak havoc with the Federal budget. These factors must be faced realistically and honestly.

The Senator from Oregon [Mr. MORSE] has promised to hold full scale hearings on various proposals to provide scholarship and loan insurance for higher education. Earlier this year I introduced two bills (S. 389 and S. 390) to provide precisely such assistance for millions of college students and their parents. The Senator from Minnesota will spare no effort to advance this legislation and to initiate hearings before the Morse subcommittee on tax credit proposals as well. We must meet this challenge of expanding the financial resources of this country available for higher education. Let the RECORD be perfectly clear on this point.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Connecticut [Mr. RIBICOFF]. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. YOUNG of North Dakota (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from Illinois [Mr. DIRKSEN]. If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Nevada [Mr. CANNON], the Senator from Arizona [Mr. HAYDEN], the Senator from Arkansas [Mr. McCLELLAN], and the Senator from Oregon [Mrs. NEUBERGER] are absent on business.

I also anounce that the Senator from California [Mr. ENGLE] is absent because of illness. I further announce that, if

present and voting, the Senator from Oregon [Mrs. NEUBERGER] would vote "nay." On this vote, the Senator from Nevada [Mr. CANNON], is paired with the Senator from Arizona [Mr. HAYDEN]. If present and voting, the Senator from Nevada would vote "yea," and the Senator from Arizona would vote "nay."

Mr. KUCHEL. I announce that the Senator from Illinois [Mr. DIRKSEN] is necessarily absent and his pair has been previously announced.

The result was announced—yeas 45, nays 48, as follows:

[No. 15 Leg.]

YEAS—45

Allott	Goldwater	Morton
Beall	Gruening	Mundt
Bennett	Hart	Nelson
Boggs	Hickenlooper	Pastore
Brewster	Hill	Pearson
Carlson	Hruska	Pell
Case	Jackson	Prouty
Cooper	Jordan, Idaho	Proxmire
Cotton	Keating	Randolph
Curtis	Kuchel	Ribicoff
Dodd	Lausche	Scott
Dominick	Long, Mo.	Simpson
Eastland	Magnuson	Symington
Edmondson	McIntyre	Tower
Fong	Mechem	Williams, Del.

NAYS—48

Aiken	Holland	Morse
Anderson	Humphrey	Moss
Bartlett	Inouye	Muskie
Bayh	Javits	Robertson
Bible	Johnston	Russell
Burdick	Jordan, N.C.	Saltonstall
Byrd, Va.	Kennedy	Smathers
Byrd, W. Va.	Long, La.	Smith
Church	Mansfield	Sparkman
Clark	McCarthy	Stennis
Douglas	McGee	Talmadge
Ellender	McGovern	Thurmond
Ervin	McNamara	Walters
Fulbright	Metcalf	Williams, N.J.
Gore	Miller	Yarborough
Hartke	Monroney	Young, Ohio

NOT VOTING—7

Cannon	Hayden	Neuberger
Dirksen	McClellan	Young, N. Dak.
Engle		

So Mr. RIBICOFF's amendment was rejected.

Mr. LONG of Louisiana. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SMATHERS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROUTY. Mr. President, before calling up my amendment No. 401, I wish to point out that I shall be very brief. I hope to have a yea-and-nay vote on the amendment; so I think Senators would save a great deal of time by remaining in the Chamber, if it is convenient to do so.

Mr. President, I call up my amendment No. 401 and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment of the Senator from Vermont will be stated.

The Chief Clerk read as follows:

At the proper place in title II insert the following new section:

"SEC. . CERTAIN EXPENSES FOR COLLEGE EDUCATION.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual who during the taxable year is a student at an institution of higher education, there shall be allowed as a deduction amounts paid by him during the taxable year for—

"(1) tuition and fees required for his enrollment or matriculation at such institution, and

"(2) fees, books, supplies, and equipment required for courses of instruction in which he is enrolled at such institution.

"(b) LIMITATIONS AND SPECIAL RULES.—

"(1) AMOUNTS DEDUCTIBLE.—

"(A) IN GENERAL.—The deduction under subsection (a) for any taxable year shall not exceed—

"(i) $133 times the number of months during the taxable year during which the taxpayer is a student and is not the holder of a bachelor's degree, plus

"(ii) $166 times the number of months during the taxable year during which the taxpayer is a student and is the holder of a bachelor's degree.

For purposes of clauses (i) and (ii), a month during which the taxpayer is a student for less than 15 days shall be disregarded.

"(B) MAXIMUM AMOUNTS DEDUCTIBLE.—The deduction under subsection (a) for any taxable year shall not exceed—

"(i) $1,200, in the case of a student who is not the holder of a bachelor's degree at the close of the taxable year, or who has been the holder of a bachelor's degree for less than 3 months at the close of the taxable year, and

"(ii) $1,500, in the case of a student who has been the holder of a bachelor's degree for 3 months or more at the close of the taxable year.

"(2) MEALS AND LODGING.—No deduction shall be allowed under subsection (a) for any amount paid, directly or indirectly, for meals or lodging. In the event an amount paid for tuition or fees includes an amount for meals or lodging which is not separately stated, the portion of such amount paid which is attributable to meals or lodging shall be determined under regulations prescribed by the Secretary or his delegate.

"(3) CERTAIN NONCREDIT COURSES.—

"(A) IN GENERAL.—For purposes of subsection (a) the amounts paid for tuition and fees required for the taxpayer's enrollment or matriculation at an institution of higher

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education shall be reduced by the portion of such amounts which is attributable to any course which is not a course of instruction within the meaning of subsection (d)(1). The portion of such tuition and fees which is

attributable to any course shall be determined under regulations prescribed by the Secretary or his delegate.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any course which the taxpayer is required to take by the institution of higher education.

"(4) FEES, ETC.—The determination of what fees, books, supplies, and equipment are reqiured for any course of instruction shall be made under regulations prescribed by the Secretary or his delegate.

"(c) REDUCTION FOR CERTAIN SCHOLARSHIPS AND VETERANS' BENEFITS.—The amount otherwise allowable as a deduction under subsection (a) (after the application of subsection (b)) shall be reduced by any amounts received by the taxpayer during the taxable year as—

"(1) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) which under section 117 is not includible in gross income, and

"(2) education and training allowance under chapter 33 of title 38 of the United States Code or educational assistance allowance under chapter 35 of such title.

"(d) DEFINITIONS.—For purposes of this subsection—

"(1) COURSE OF INSTRUCTION.—The term 'course of instruction' means only a course for the successful completion of which credit is allowed toward a baccalaureate or higher degree by an institution of higher education authorized to confer such degree.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an educational institution (as defined in sec. 151(e)(4))—

"(A) which is accredited by a recognized national or regional accrediting agency or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis if transferred from an institution so accredited, and

"(B) (i) which is authorized to confer any baccalaureate or higher degree, or (ii) the curriculum of which consists of courses at least two-thirds of which are courses of instruction within the meaning of paragraph (1).

"(3) STUDENT.—The term 'student' means an individual who is regularly enrolled in one or more courses of instruction at an institution of higher education.

"(e) EXCEPTION.—Subsection (a) shall not apply to any amount paid which is allowable as a deduction under section 162 (relating to trade or business expenses)."

(b) The table of sections for such part VII is amended by striking out the last item therein and inserting the following:

"Sec. 217. Certain expenses for college education.
"Sec. 218. Cross references."

SEC. 2. The amendments made by this Act shall apply to taxable years beginning after December 31, 1963.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Vermont.

Mr. PROUTY. Mr. President, I ask for the yeas and nays.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. PROUTY. I yield.

Mr. LONG of Louisiana. I urge the Senator to withhold his request for the yeas and nays until Senators have had an opportunity to understand the amendment. I have not had an opportunity to study it and find out what it would do. If the Senator wishes to insist on his request at a later time, I shall have no objection to the yeas and nays on the amendment, but I should first like to know what the amendment embodies before undertaking to decide what to do with it. I would appreciate it if the Senator would withhold his request until we hear the merits of the amendment before the yeas and nays are ordered.

Mr. PROUTY. I believe the Senator from Louisiana has a general idea as to what the amendment would do. I now ask for the yeas and nays.

The yeas and nays were ordered.

Mr. PROUTY. Mr. President, yesterday I sent to the desk a proposal to grant tax relief to students. At that time I reasserted my hope that the Ribicoff tax credit proposal would be adopted. My amendment was to be called up only in the event the Senate rejected the amendment offered by the Senator from Connecticut [Mr. RIBICOFF]. That unhappy time has arrived, so I call up my amendment. It is cosponsored by the Senator from New York [Mr. KEATING], the Senator from Massachusetts [Mr. SALTONSTALL], the Senator from Pennsylvania [Mr. SCOTT], the Senator from Colorado [Mr. ALLOTT], the Senator from California [Mr. KUCHEL], and the Senator from Colorado [Mr. DOMINICK]. Through some error, the name of the senior Senator from Hawaii [Mr. FONG] was omitted; he is a cosponsor. I ask unanimous consent that his name be listed as a cosponsor of the amendment at its next printing.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PROUTY. Mr. President, I also ask unanimous consent that the name of the senior Senator from Maryland [Mr. BEALL] be listed as a cosponsor at the next printing.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PROUTY. And the name of the senior Senator from Nebraska [Mr. HRUSKA].

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PROUTY. And the name of the junior Senator from Texas [Mr. TOWER].

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. PROUTY. I yield.

Mr. RIBICOFF. I would be pleased to join as a cosponsor of the amendment of the Senator from Vermont.

Mr. PROUTY. I am delighted to have my friend from Connecticut join as a cosponsor.

Mr. President, I ask unanimous consent that the name of the junior Senator from Connecticut [Mr. RIBICOFF] be indicated as a cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PROUTY. If there are no more Senators who desire to be cosponsors, I shall proceed to explain the amendment.

At the outset, let me say that my proposal, which provides deductions from adjusted gross income for certain educational expenses, entails a revenue loss of only $55 million, as compared with the $750 million loss associated with the tax credit proposal.

The $55 million figure is somewhat overstated because it was based on current tax rates rather than those in the proposed tax bill. The actual revenue loss may be less than $55 million.

The revenue saving device is essentially this. The party to receive the tax benefit is the working student. Deductions are only available to those duly enrolled in an institution of higher education.

The deduction is calculated on the basis of $133 times the number of months in any tax year an undergraduate student is enrolled; for a graduate student the rate is $166 times the number of months he is enrolled. Each of these amounts is subject to a maximum annual limitation of $1,200 for an undergraduate and $1,500 for a graduate student.

In the case of a typical working student, single, and earning in the area of $5,000 a year, a tax savings of $250 might result.

The deduction is available for expenses incurred in paying tuition and buying books, equipment, and supplies. Such expenses must have been incurred for courses for credit in institutions accredited by a regional or national accrediting agency or if not accredited, in institutions whose credits will be accepted for transfer by three or more accredited schools.

Mr. SALTONSTALL. Mr. President, will the Senator yield for a question?

Mr. PROUTY. I yield.

Mr. SALTONSTALL. As I understand the Senator's amendment, in which I have joined as a cosponsor, it provides a tax deduction, for certain purposes and certain payments, to a boy or girl who is working his way through college.

Mr. PROUTY. That is correct.

Mr. SALTONSTALL. And it involves a maximum loss to the Treasury of $135 million.

Mr. PROUTY. About $55 million based on existing rates. Actually, the loss will be less if the proposed rates are adopted.

Mr. SALTONSTALL. In other words, if a boy or girl were working his or her way through college, unless he earned an amount which would make him subject to a tax in any event, he would not receive any benefit from this measure; but if he made enough to come within the tax bracket, then certain expenses he had would be deducted. Is that correct?

Mr. PROUTY. That is correct.

Mr. SALTONSTALL. I thank the Senator.

Mr. PROUTY. A recent National Science Foundation study reveals that "among the upper 30 percent of 17 year olds, the largest single reason for failure to enter college appears to be inadequate financing resources."

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The study went on to say that lack of money caused up to 50 percent of male dropouts and 33 percent of female dropouts.

My proposal does not put money in the hands of every needy person across this Nation. It does, however, mean that if a person scrimps and saves in order to go to college, he will not be penalized for that valiant effort.

What is to become of those millions of students who yearly are confronted with financial adversities? The tax bill, H.R. 8363, recognizes their plight. The focus of proposed rate revisions is to provide greatest relief for those in the first tax bracket.

The Finance Committee reports that over half of our taxpayers have taxable income of $2,000 or less. How is the girl or boy with that kind of income to pay the thousands of dollars a modern education costs?

In the next 20 years our national population will have jumped approximately 60 percent from its 1960 level; we will be a nation of 285 million people. By 1985, there will be 32 million college-age boys and girls as compared to the 16 million of 1960. Fall college enrollments in colleges and universities will jump from a 1962 level of 4 million-plus to 12.8

million. A recent study indicates that an overwhelming number of these new students will of necessity gravitate to the public institutions, forced there by the cost of a private education. If something is not done to ease the burden of a self-financed education what will become of that American ambition—education for all our youth?

Congress has recognized the ever-mounting problems a student faces. Appropriations for grants, fellowships, and research projects have been provided for by the National Science Foundation Act of 1950, the National Defense Education Act of 1958, the various National Institutes of Health Acts, and the Atomic Energy Commission Act. Recent legislation has provided loans to colleges and universities for housing facilities. In recent years, the Federal budget has contained expanded programs for scholarships and development of academic facilities. The march is on, but the programs are not meeting the student's basic needs.

Mr. President, we have our obligations to our young people. Much has been said in favor of the Ribicoff amendment. I want to incorporate those statements on behalf of my own amendment.

Senator RIBICOFF and I have the same objectives: to promote through a passive Federal program the best interests of our future generations.

A tax credit plan or a tax deduction plan aids the student by not taking from his pocket as taxes sums he needs for school. This is aid to education which invokes no bureaucracy. There are no administrators, no commissioners, no advisory committees, no staff, no publications, no office buildings. How rarely we get such an opportunity to enact a program so broad in scope without at the same time creating machinery to hang about its neck.

I am sorry the Ribicoff proposal did not succeed. It would have worked wonders. I ask my colleagues to consider my meager proposal and vote it up or down.

A vote in favor of the amendment is a vote for the working student. A vote against it is a vote which will come back to haunt this body. If this amendment does not succeed, we will have to ask ourselves on the next occasion when federally sponsored and administered scholarship and fellowship plans are proposed, whether such action might not have been avoided by a positive vote for the Prouty amendment.

Mr. JAVITS. Mr. President, will the Senator yield for a question?

Mr. PROUTY. I yield.

Mr. JAVITS. There are a few questions that interest me. In the first place, I approach the amendment with an open mind, though I voted "nay" on the Ribicoff amendment.

I wish to ask the Senator whether the phrase "the number of months" that the taxpayer is a student means the number of months he attends classes or the number of months he is enrolled as a student, which would be 12 months.

Mr. PROUTY. The amendment assumes a 9-month school year and the deductions are based on the time the student is actually in school and attending classes.

Mr. JAVITS. To emphasize a point which I believe to be a good point in the Senator's amendment, the Senator provides for a deduction from adjusted gross income. Therefore, if a student works and he has dividend income or interest income, the deduction would be a deduction against the totality of his income. Is that correct? That is the meaning of the phrase "gross income"; namely, from all sources.

Mr. PROUTY. Yes.

Mr. JAVITS. He does not qualify for a deduction unless he works. Is that correct?

Mr. PROUTY. Yes.

Mr. JAVITS. Does the Senator have any schedule worked out? Suppose the student is working as a waiter in a college dormitory. Let us take that as an example. Suppose he receives $20 or $25 a week. Let us assume further that this student also has a considerable income. He may be a very wealthy young man, with a trust income. Does not the Senator feel that such a student should safeguard that income and make the credit applicable only against the income actually earned while working as a waiter?

Mr. PROUTY. I have considered the question the Senator raises. The number of students with incomes in the brackets to which the Senator has referred would be so minimal as to be almost meaningless. We could set a definite limit, but it did not seem that important to me, because of the small number of students involved.

Mr. JAVITS. I can understand the Senator's point. However, would he object, if the amendment did succeed, if in conference an effort were made to fix a minimal amount of earnings that such a student should have in order to qualify? If we did not do that, this would present a very easy way for a student to get a $1,500 deduction, by getting a job for an hour or two a week in order, technically, to qualify under the amendment.

Mr. PROUTY. There would be a few in that category. However, I thought the number would be so small as to be hardly worth considering in connection

with the amendment. If the conferees decided to place a limitation on it, I would have no objection.

Mr. JAVITS. The Senator relies on the famous doctrine of de minimis. I am inclined to agree. However, I thought this point should be discussed.

Mr. PROUTY. I appreciate the Senator's comments.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. PROUTY. I yield.

Mr. DOMINICK. I am not quite sure that I understood the last colloquy. It is my understanding that this deals with any student who is a taxpayer, regardless of whether he is working.

Mr. PROUTY. The Senator is correct.

Mr. DOMINICK. If he had an income from other sources, which required him to pay a tax, he would get the exemption.

Mr. PROUTY. That is correct.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. PROUTY. I yield.

Mr. COOPER. When we think of tax credits or deductions for students, we are inclined to think of young students who have left high school or preparatory school and have entered college. I am thinking of another group of students, namely, teachers. Under the laws of most States, teachers must keep up their studies. They must take courses to receive credits, in order to enable them to meet certain qualifications as teachers. Many of them have great difficulty in that connection. They have families, and earn low salaries, and find it difficult to do additional college work. The Senator's amendment, of course, embraces them. Is that correct?

Mr. PROUTY. Yes.

Mr. COOPER. I knew that; but I thought it would be helpful to point it out.

Mr. PROUTY. The amendment includes those who are training to qualify as teachers. They would be included as long as they were actually in school and studying.

Mr. COOPER. Many school systems, especially in States with lesser income, are faced with the problem of teachers in elementary schools and high schools, who have temporary qualifications but who cannot fully qualify because they cannot attend institutions of higher learning. Does the Senator consider that his amendmcent would be an incentive to such teachers?

Mr. PROUTY. I am sure it would be.

Mr. COOPER. To help them qualify as teachers?

Mr. PROUTY. It would render a tremendous service to both the teachers and our educational system. I am completely in accord with the Senator's feeling.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. PROUTY. I yield.

Mr. TOWER. I believe too many people, in connection with assistance to education, think in terms of it being beneficial to students who attend private

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or church-sponsored institutions of higher education. There is also involved the matter of books and supplies and equipment that a student needs. That would be of benefit to students attending State schools. Is that not correct?

Mr. PROUTY. Yes.

Mr. TOWER. It would be a further advantage and incentive to students doing graduate work. Equipment costs and books are far more expensive for graduate students than they are for undergraduate students. We have a crying need for people to go into graduate studies. As a former professor, I thank the Senator from Vermont for offering his amendment. I have been a graduate student myself, and I know what a financial struggle it is to meet the needs. The Senator's amendment would provide an incentive to graduate students.

Mr. PROUTY. I agree with the Senator. Many graduate students are married and have families. They have real problems in furthering their education. I am very happy to have the comments of the Senator from Texas; he is familiar with the situation.

Mr. President, I have about concluded my remarks. Today's students are tomorrow's leaders. I believe they are waiting and watching to see if we have faith in their future.

I mentioned, yesterday, a poll on educational questions which I conducted in my own State. Perhaps it would be well to mention it again. Eighty-two percent of Vermonters who responded to an extensive questionnaire favored loans to needy students. Ninety-two percent of all the replies favored the amendment which I am offering at this time. Seventy-eight percent of all the replies favored a tax allowance for parents who are trying to finance the education of their children. That amendment was just rejected.

I believe my approach is reasonable and sound. It would be of inestimable value and benefits to many of our young people who are working hard to get an education.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. PROUTY. I am glad to yield to my senior colleague.

Mr. AIKEN. I commend my colleague for offering his amendment. I could not vote for the Ribicoff amendment, because I felt it led in the wrong direction. However, I believe that the amendment of the Senator from Vermont, puts the emphasis on assistance for education where it properly belongs, on the student himself. I feel that his amendment should be adopted. If it is adopted and remains in the bill after conference, it will be a great aid in helping those who are helping themselves to get an education.

Mr. PROUTY. I thank my senior colleague. As usual, what he says makes a great deal of sense.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. PROUTY. I am glad to yield to the Senator from Pennsylvania.

Mr. SCOTT. I am glad to be one of the cosponsors of the Senator's proposal. It seems to me most desirable, as the senior Senator from Vermont has observed a moment ago. It puts the emphasis on the working student, directly on the aspect of need, and encourages ambition and enterprise, virtues which are not quite as paramount in some Government programs as one would like.

Although the senior Senator from Vermont said he was opposed to the Ribicoff amendment, while I was in favor of the Ribicoff amendment, I believe it is interesting to note that although one is in favor and the other opposed to the previous amendment, both of us find it possible to support the distinguished Senator from Vermont in what he is trying to do.

The amount involved in the amendment bears no more than a minimal relationship to the enormous cost of the project of sending a man to the moon. It costs far less to provide working American students with some aid to enable them at least to keep the money they earn long enough to pass it on to the college or institution which they attend, because soon enough in the life of everyone will the man with the whiskers come around and seize from him as much of his earnings as the legislators have dared to impose.

At least, money that is hard earned, gathered in for the sole purpose of enabling one to better his own economic future, and thereby to pay Uncle Sam more if one can get his education than if he cannot, should not, it seems to me, be subject to the whiplash of the income tax, which in many cases would diminish one's earnings to a point where he might not be able to continue to study.

On the floor of this Chamber are Senators who would cry their very hearts out for every one of the 115 or 117 countries in the world. There are Senators who would pay the debts of Russia and any number of other countries at the United Nations. There are Senators who would support the sale or permit the transportation of food, gifts, and other goodies to our enemies. There are Senators who would do almost anything in the world except to help the people who need help the worst, the great masses of citizens whom everyone pretends to want to help through the various alleged wars on poverty. They comprise the untold number of people who are promised or told things which they will not receive, when they merely desire the ordinary typical New England remedy of helping people to help themselves to get an education, so that they can increase their earning capacity and their enjoyment in the course of their lives, by asking Uncle Sam to stay his ready and grasping fingers long enough to help the person to earn enough to give Uncle Sam more in the long run than he would get by taking it at the root before the plant had had an opportunity to reach fruition.

The proposal of the junior Senator from Vermont is so reasonable and simple, and so based on commonsense and founded on New England thrift, that it may not be adopted by this body. But if Senators will bring themselves back from sweet-scented Zanzibar, from their desire to hurl our money headlong at the moon for indefinite periods and for unknown and remote purposes, perhaps we can get back to the schoolhouse idea and find support for the very worthwhile amendment offered by the junior Senator from Vermont.

So my appeal is an appeal to reason. Because it is an appeal to reason, it may be rejected. Let us hope that even in the U.S. Senate, on some rare occasion, reason may prevail.

Mr. PROUTY. I am most grateful to the distinguished Senator from Pennsylvania for his forceful argument in support of the amendment.

As I said yesterday, it is estimated that a college-trained person will earn $150,000 more during his life than one who has not had that advantage. This would mean a long-term gain in Federal revenue of at least $30,000 for each college-trained person, a return on our investment of 2,300 percent. How sound an investment. I wish we could do much more; this is a step in the right direction. I sincerely hope that Senators will find it possible to support it.

Mr. LONG of Louisiana. Mr. President, I have had very little opportunity to study this proposal. So far as I re-

call, it was not presented to the committee. If it was offered before the committee, I hope the Senator from Vermont will correct me, because I do not recall that it was.

As I understand existing law, a parent may deduct $600 if he contributes as much as 50 percent to the support of his son or daughter who is attending college. In addition, under H.R. 8363, the young man or woman attending college may claim a combined $900 exemption and deduction against his own income. In other words, the student would receive a $600 personal exemption and, in addition, a $300 standard deduction as provided by the amendment.

Mr. ANDERSON. The Senator from Louisiana should make it clear that the $600 deduction is allowed under present law.

Mr. PROUTY. Certainly the child may receive a $600 exemption, but his parents will not unless they are contributing at least 50 percent of his living expenses. This proposal is primarily directed to children who are paying their educational expenses in full.

Mr. LONG of Louisiana. I do not quarrel with the Senator over the fact that if a parent is not supporting the child, the parent does not receive the deduction. But I believe that in most situations the young person who is attending college is being supported, at least to the extent of half his support, by his parents. So the parents get a deduction of $600, because they supply or provide as much as half the support of the child.

In addition, if the child were receiving income he would receive a $600 exemption.

H.R. 8363 provides a minimum standard deduction of $300, which would give the income-earning college student a combined $900 exemption and deduction.

When we add the exemption the parent gets to the exemption and deduction the student gets, the total allowance would be $1,500 attributed to that one individual.

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As I understand it the amendment would provide an additional deduction of up to $1,200 in the event the young undergraduate college student were earning income. If the young person were engaged in advanced studies or postgraduate work, the amendment would provide deduction of up to $1,500. In the latter case the young person and his parent would have the benefit of $3,000 of income without paying any taxes on it.

This amendment raises the same sort of questions which were raised in connection with the Ribicoff amendment, and also some additional ones. For instance, do we really want to have the equivalent of a $3,000 deduction allowed to a young person with income who attends college and his parent—inasmuch as a young man or young woman who is unable to attend college receives only a $900 deduction? In other words, do we really want to give a young person who is able to attend college three times the deduction to be received by one who is unable to go to college? That question in itself suggests that this amendment constitutes class legislation, and also raises various other problems which arise in connection with an aid-to-education bill. In other words, the cost of the amendment would be approximately $55 million. This proposal has not been studied, and it represents only one of a very large number of possible ways in which the Federal Government might be helpful to education—all of which should be considered by the appropriate committee, which then would have an opportunity to consider the entire field.

Earlier—in connection with the Ribicoff amendment—it was proposed that the Federal Government devote $1.3 billion for this purpose. The pending amendment involves a cost of approximately $55 million. If we wish to provide aid to education, what is the best way to do so?

Mr. President, I regret to say that the Senate Finance Committee is not the one which has special knowledge in this field; but there is a Senate committee which does have special knowledge in this field, and has done a large amount of work in it; and I wish it to have an opportunity to report a bill dealing with this subject. I refer to the Education Subcommittee, headed by the Senator from Oregon [Mr. MORSE], of the Committee on Labor and Public Welfare.

Mr. MORSE. Mr. President, will the Senator from Louisiana yield?

The PRESIDING OFFICER (Mr. McGOVERN in the chair). Does the Senator from Louisiana yield to the Senator from Oregon?

Mr. LONG of Louisiana. I yield.

Mr. MORSE. I wish to state that the Senator from Vermont [Mr. PROUTY] is one of the most valuable Members of the Subcommittee on Education, and I cannot pay too high a compliment to him for his most valuable work on the subcommittee. In fact, as he knows, at the last session I stated on the floor of the Senate that, in my judgment, the higher education bill would not have been brought out of conference except for the fine and very valuable work done by the

Senator from Vermont [Mr. PROUTY] and the Senator from New York [Mr. JAVITS]. Time and time again they made it possible to bring that measure out of conference. Because of the warmth of my feeling for the Senator from Vermont and my debt to him in connection with Federal aid-to-education legislation, I regret that I find myself in disagreement with him on this amendment to the tax bill.

I do not think this amendment is the way to handle this matter. The Senator from Vermont knows that time and time again in the committee I expressed my feeling about this matter.

Within the hour, I have given to the counsel of the Senate Committee on Labor and Public Welfare instructions to schedule, at the earliest possible date, hearings on the entire student loan program, so that we can study all of the various proposals for legislation for a student loan program that will be completely nondiscriminatory and will give every student—without regard to the financial means of his parents—an equal chance to take advantage of a college education. I believe we should make that approach first.

Furthermore, as Senators know, during the previous session I stated over and over again to the Senate, when it was considering education legislation, that I would pledge to the Senate that it would get a chance to vote on every section of President Kennedy's original omnibus bill. The Senate will have an opportunity to vote on it. We are moving as fast as we can in connection with all sections of that bill; and it includes proposals in regard to elementary school and secondary school education. But because of the great concern in regard to helping students attend college, this morning I scheduled the hearings on loan legislation ahead of the hearings on other sections of the omnibus bill; and I felt perfectly justified in doing so.

All I can do is plead with the Senate to continue to give us a chance to report an educational program bill. It should not be mixed up at all with the tax bill. However, the pending amendment would mix them, with the result that we would be bound to run into many instances of unfair discrimination based on means. Many, many students or potential students would be unable to obtain the advantages of the tax deductions we have in mind. We think that most of the objections to the Ribicoff amendment apply equally to the Prouty amendment.

So, Mr. President, I do not think this is the time to handle this matter by way of the Prouty amendment to the tax bill. Before this session of the Congress is over, we shall have time to decide what we want to do about education legislation. Who can say what the decision then will be? However, if we assume, hypothetically, that the Senate decides, after the committee hears the testimony of witnesses, and after the record of their testimony on Senators' desks, that it does not favor such proposed legislation, but that it prefers legislation of some other type, that will be the time for the decision to be made.

But, Mr. President, in my judgment, if that decision were made before the holding of the hearings and without a record of the testimony of the educators as to how best we can proceed to achieve the desired result, we would be prejudging the proposals for aid to education; and I do not believe that would be a wise thing to do.

Furthermore, as I stated last night, during my speech on the Ribicoff amendment, we realize that Congress can be taken "up to the line" only so many times in a certain period of time, on the question of passing proposed legislation in a particular field. If we persist in bringing forward one proposal of this sort after another—again and again—there will be a tendency to ask, "How many more times must we vote on an aid-to-education program? Let us wait until we see how we have already done works out."

Mr. President, we do have a great problem in connection with our desire to help students who wish to attend college. It is my view that those who are most in financial need should receive the most help.

I was surprised, this morning, to hear some Senators say that such students can go to college if they really want to. Mr. President, tens of thousands of them cannot go to college, because they do not have sufficient means. So it is a serious mistake to assume that the children of low-income families can go to college if they want to. It is a great mistake to assume that all who wish to attend college are able to do so; such an unwarranted assumption amounts to whistling in the dark while going by an educational graveyard. It is not true that all who wish to attend college can do so.

I can give my pledge to the Senate that before this session is over, it will get a chance to consider proposed legislation, reported from our committee, providing a uniform loan program with respect to education, so as to enable all students to borrow the necessary funds on a reasonable repayment basis, and then attend college, and subsequently

repay to the U.S. Treasury the loans they received.

Next, Mr. President, I wish to state that the Senator from Louisiana believes, as I do, that the figures he has cited are the correct ones. A few minutes ago, he and I worked over them with the assistance of the able counsel of the Senate committee. Already, parents who are providing aid to their children who are attending college are allowed a $600 deduction for that purpose; and if the student earns up to $900, he, too, can obtain a $600 exemption on his earnings, plus an additional exemption of $300. Of course, the total of those amounts will not cover the cost of his education; but it is worthwhile to point to the fact that his earnings of up to $900 will not in any way prevent the parent from obtaining the $600 deduction, if the parent is paying more than one-half of the cost of the keep of the student.

Last of all, let me say that when the committee obtains all the evidence, we should consider whether we should do

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something about the dependency allowance. Perhaps it should not be $600; perhaps it should be $900 or $1,000 or some other amount. But we should arrive at our determination of the correct amount on the basis of the making of a record which we do not have at this time.

The danger with the sort of approach proposed to be made by means of the pending amendment is that it has a plausible label, and it excites our sympathy, for all of us desire to give a helping hand. But, Mr. President, first, we should know whether the proposed method would be fair.

I believe there are so many weaknesses in the approach now proposed that I close my statement by pleading with the Senate to give me a chance to finish the subcommittee's hearings and to report to the Senate on education bill—as the Senator from Pennsylvania [Mr. CLARK] urged earlier today, in the course of his remarks; and then, if the Senate does not like that measure, it can decide whether it wishes to make a tax-bill approach.

Mr. LONG of Louisiana. The amendment leaves one big question unanswered, which to me is the very question to ask: Why not make a distinction between earned income and unearned income? The amendment would benefit the child of parents who left a trust fund in stocks and bonds so that money for the child could be offset against this special deduction which might amount to $2,100 or $2,400. The parent would be able to set that much money aside for the child in a trust, or by other arrangement.

The amendment does little to help the person who really needs help. Most college students do not pay much in taxes to the Federal Government and they do not have that much income, when one looks at the fact that their parents are entitled to a $600 exemption, and they are entitled to $900 which they apply against their earnings, a total of $1500 for parent and child before tax is paid. This is under present law alone.

This amendment would provide, I am informed by the Treasury Department, provide substantial advantage to those who are well provided for, those lucky students who have parents who can leave them a trust fund, or an estate with dividend income, or interest income from trusts, in order to finance their education.

It seems to me that instead of devoting Federal revenue to that type of purpose, we should once again consider the type of student who is a deserving student, the kind we wish to put through school, and proceed on that basis. That is the way in which I recommend that the approach should be made, that we start with the subcommittee headed by the distinguished Senator from Oregon [Mr. MORSE] and look into the various ideas. We should ascertain what would be the most efficient and the most fair way to use this money for the benefit of students.

Mr. PROUTY. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. PROUTY. If the Senator would prefer a limitation on earned income, I would have no objection to that. I believe we might well reach an agreement in conference, assuming that the amendment is approved.

Or we can continue to talk about what we are going to do. We have been talking for 10 or 12 years. We now have an opportunity to act. Most people will agree that this amendment would have some real advantage for our young people.

Mr. LONG of Louisiana. The distinguished Senator from Vermont is a member of the very subcommittee which has the responsibility to report to the Senate what we should do about this question. The Senator from Oregon [Mr. MORSE] announced only an hour ago that he has instructed his committee to undertake the necessary preparations for hearings to bring up an aid-to-education bill. The distinguished Senator from Vermont is on that committee, and I am confident between the two of them,

they will bring up something that will provide an appropriate answer to this problem.

But they come to us, a tax-writing committee, and suggest to us that we should solve all their education problems as a tax-writing committee. This leaves us in the position of having to resist things which we believe would not have the most desirable effect on the tax laws. I hope the Senator will bring a recommendation from the committee, of which he is a member, after hearings have been conducted, and tell us what they think would be the best way to meet this educational problem.

Mr. PROUTY. Mr. President, will the Senator from Louisiana yield further?

Mr. LONG of Louisiana. I yield.

Mr. PROUTY. I should like to emphasize what the distinguished Senator from Oregon said a few minutes ago. I do not mean to compliment myself, but we have worked closely on all education measures, and I believe we have seen eye to eye on many of them. If we have not, we have been able to reconcile our differences.

He has proposed a far-reaching student loan program instead of my amendment. I cannot assume that the other body will give great consideration to the loan program he proposes. To put my amendment aside on such an assumption would be an unreasonable failure to seize a great opportunity. My amendment is a start. We can always perfect it in conference. If the Subcommittee on Education determines that there is a better approach, we can always amend the tax laws and come forth with something new.

Mr. ANDERSON. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. ANDERSON. Does the Senator realize that the maximum a young married couple just having left college can claim is a $1,600 deduction? Is that not correct?

Mr. LONG of Louisiana. That is correct.

Mr. ANDERSON. Yet a young man who inherits a fortune from his family can have $2,400 of income and not pay a penny in tax.

Mr. LONG of Louisiana. I believe it is $3,000, taking into account the deduction his parents may receive.

Mr. ANDERSON. That is for a student doing postgraduate work.

Mr. LONG of Louisiana. Yes.

Mr. PROUTY. Mr. President, will the Senator from Louisiana yield further?

Mr. LONG of Louisiana. I yield.

Mr. PROUTY. If there are many in that category, and I am sure there are, we can always take care of the situation by imposing a limitation on earned income.

Mr. ANDERSON. That is the danger. Senators try to write such provisions in the Chamber. The Finance Committee should have an opportunity to consider the subject.

Mr. PROUTY. The bill has been before the Finance Committee for several months.

Mr. ANDERSON. I agree with everything the Senator from Oregon said about the Senator from Vermont [Mr. PROUTY]. I know he is a fine, conscientious, hardworking Senator. But I point out to him that when one of such amendments is offered, and the proponents say, "This is wrong, but the conferees can redefine it." In my opinion, it should be redefined in advance.

I do not believe the Finance Committee should be spending 1 minute discussing this sort of proposal, because it is wrong, it seems to me, to say to a young married couple that they can be allowed only a $1,600 deduction, but a young man living by himself at the university who happens to inherit some money from his parents can have a $2,400 income and not pay a penny in tax. That is the wrong way to approach this question.

A better approach to Federal aid to education is to consider all students in need, and not those in fine shape. Children of parents who contribute one-half the expenses can get $2,700 under this procedure, and those doing postgraduate work can get $3,000. It makes no sense to say a young married couple starting out in life that they can have $1,600 but someone going to school by himself, because his parents are able to help him along, can have $2,700 or $3,000 of income.

I hope this amendment will not be adopted.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. MORSE. I should like to ask the Senator from New Mexico a question. Earlier we discussed these figures. By the way, I pledge to the Senator from New Mexico that there will be early hearings. I wish the Senator from New York [Mr. JAVITS] to know this also, because I had a personal conversation with him, as I did with the Senator from New Mexico, and I have asked counsel for the Education Subcommittee to endeavor to arrange hearings before the subcommittee next week, to show how fast I intend to proceed with hearings on these bills.

The question I should like to ask my "teacher," the Senator from New Mex-

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ico, is with regard to the loophole which the Senator and I have been discussing which I believe is a very real loophole. A parent who had a business could put

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his student son or daughter on the payroll. He would then go on to college. The parent would get considerable benefit on his tax return because he would be taking into consideration counting the pay he would be giving the child, is not that true?

Mr. ANDERSON. That is true. Not only that, but the parent could give his child stocks which he had not planned to give him, because it would be an ideal way to give them to him tax free. Ordinary bonds are not tax free, but they can be given to his child. Inasmuch as the child would be allowed a $2,400 deduction, and the parent would be entitled to more, a substantial number of government bonds that are not tax-free could be given to the child, which would make them immediately tax free.

These are things that cause trouble. Someone will say, "Do not do this and do not do that; these things cause loopholes." This amendment would open the door, rather wide, and I would be happy to see the legislative committee take a look at this question because the legislative committee, I believe, would come forth with a wise decision.

Mr. MORSE. We intend to take evidence concerning such loopholes.

Mr. ANDERSON. We may have to refer the question back to the Finance Committee, but the able chairman, the Senator from Virginia [Mr. BYRD] would know that he had a recommendation from the proper authorized legislative committee. I hope this amendment will not be adopted. When we discuss depreciation allowances, it is said, "You did all this for one group." We must admit that we did create a special situation, in which a man can have millions of dollars of income and pay no tax whatever.

I believe it is a bad procedure. I am glad that the Senator in charge of the bill is opposed to the amendment.

Mr. LONG of Louisiana. Mr. President, I ask Senators to keep in mind that the committee has had no opportunity to study the amendment. It is true that the measure was introduced by the Senator as a separate bill. It was not offered as an amendment to the bill (H.R. 8363), which is before the Senate. No request was made that the proposal be considered in connection with the bill.

The Finance Committee does not have the necessary expertise, experience, or responsibility in that field. If Senators will look at their rule book, they will see stated the responsibility of the committee starting with revenue measures generally. If Senators will read down through the 13 responsibilities assigned to the Finance Committee, they will see that it is a big order, but there is no responsibility assigned to that committee relating to education.

I ask Senators then to refer in the rules book to the responsibilities assigned to the Committee on Labor and Public Welfare. The Senator from Vermont [Mr. PROUTY] is a member of that committee. He is on that committee with the Senator from Oregon [Mr. MORSE].

Both Senators are members of the Subcommitee on Education, which is headed by the Senator from Oregon. I ask Senators to examine the responsibilities assigned to that committee. The first item is "measures relating to education."

The measure before the Senate was not recommended by the executive department. The executive department has not had an opportunity to study and examine it. It was not recommended by those who have the responsibility for revenue measures at the administrative level. It was not recommended by the committee. It was not recommended by the chairman of the committee that would have the responsibility in relation to the subject.

Mr. President, we have talked about loopholes. Has it ever occurred to Senators that the proposal could be used as a means of employing trust income, dividend income, and various other types of income which ordinarily should be taxable? Did it ever occur to Senators that the proposal could develop into a large loophole, and that those who might receive a benefit from such a proposal would attempt to make the loophole bigger?

The question is often asked, "How did such a loophole come about?" Many times loopholes have come about as the result of Congress adopting a proposal without intending that certain uses should be made of the proposal; yet we wind up with a big tax loophole which costs a great deal of money.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. CLARK. I should like to indicate my strong support for the position taken by the Senator from Louisiana. As a member of the Subcommittee on Education, I support my chairman, the Senator from Oregon. I ask Senators to afford an opportunity to deal with the problem within the committee which has been given jurisdiction under the Senate

rules—the Subcommittee on Education of the Commitee on Labor and Public Welfare—and not legislate on an important question relating to education on a bill which comes from the Finance Committee and has had no real hearings in connection with its educational overtones.

Mr. LONG of Louisiana. I thank the Senator. He has indicated what I would like to know on the question of education. What does the committee which has been assigned the responsibility recommend? The committee of which the Senator from Pennsylvania is a member has been assigned that responsibility, and it has the responsibility to tell us what it suggests. What does the committee feel would be the best way to handle the problem?

How can a Senator who is arguing on taxes generally be an expert on the subject of education? Those questions should await the recommendations of those who have responsibility in that field.

Mr. McCARTHY. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield to the Senator from Minnesota.

Mr. McCARTHY. I commend the Senator from Louisiana for fighting against these amendments, many of which sound very good. Handling a tax bill on the floor of the Senate is a difficult task—much more difficult than it is for the Committee on Ways and Means of the House of Representatives to handle bills in that body, because in the House, bills come before that body under a closed rule. Problems are worked out in committee, and generally they are worked out very well.

But in the Senate, the Senator in charge of the bill and those who support him are expected to answer every charge that may come from any direction.

Mr. President, it would be fine if we could take care of every worthy cause through the Internal Revenue Code. I sometimes think that we should not expose Senators to the full potential of the Internal Revenue Code all at once in this way. The light is almost too bright for ordinary eyes. We ought to look at it through a shaded glass for awhile and then begin to work on it. We could tax away all the income earned in our country, if we followed the thesis of some Senators, and then give it back to worthy people and worthy causes. That is one way in which we could handle the tax problem.

What we primarily undertook to do with the tax bill was to significantly improve the economy of the United States. I believe that we have worked out a balanced program of relief for business. We made a great improvement in the rate scale as it applies to individuals. The income which would be made available under the bill would have a significant effect in stimulating the economy in the capital sector and would have a significant effect in encouraging consumer spending. We will have made approximately $9.5 billion available to individuals in America. The educational need is great, I believe that the people of the country are responsible enough to respond and to meet the educational needs of their children. If they cannot do so we must as we have done consider additional aid to education.

I must say, Mr. President, that I am a little disappointed in some of the college presidents and education officials in the country. This Congress has acted responsibly to aid higher education.

I suppose the Land-Grant Act of 1962 would be considered more comprehensive, although no one knew what it was to become. Of course, the GI bill was a great educational program. But in terms of education bills directed at particular needs, the program that was approved by this Congress was a significant one, and a right beginning on a great problem. College officials ought to allow that program to operate and gain some experience with it. They may come in and ask us for more money, as I think they will and should. The solution to this problem is not by way of special tax consideration and special tax reductions.

The Senator is correct in what he has said about the beginning of loopholes. When a first opening like this is made—and this has happened before—the next move is for someone to say, "There is an

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inequity in the program. Let us extend the inequity to other people."

Eventually we reach the point at which someone will say, "Let us make the inequity universal, and thus establish justice." That is not the way we should proceed.

The Senator from Louisiana is to be commended for his fight for the bill and his defense of its integrity.

Mr. JAVITS. Mr. President, I offer an amendment to the pending amendment, which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment of the Senator from New York to the amendment will be stated.

The LEGISLATIVE CLERK. On page 1, line 7, it is proposed to insert the following:

"From earned income as defined in para-

graph 911(b) of the Internal Revenue Code," after the word "deduction."

Mr. PROUTY. Mr. President, I ask unanimous consent that I may be permitted to accept the amendment to my amendment which has just been offered by the distinguished senior Senator from New York.

The PRESIDING OFFICER. Is there objection?

Mr. LONG of Louisiana. Mr. President, reserving the right to object, I would prefer that the amendment be debated before it is accepted by unanimous consent. Unanimous consent is required. I do not know whether we would wish to agree to the request or not.

I point out that that is the kind of problem that arises when the yeas and nays are ordered. The Senator insisted on his request for the yeas and nays. I should like to know what the revenue impact would be before I would be ready to agree to the unanimous-consent request.

Mr. JAVITS. Mr. President, I had hoped that the Senator would permit the amendment of the Senator from Vermont to be amended so that the question could be dealt with on its merits. I believe my qualifications to make that request are pretty good, since I voted "nay" on the Ribicoff amendment. My best conscience dictated my vote on that amendment.

My amendment to the Prouty amendment may not be technically perfect. I tried to frame it in the best language possible. But its intent is to make the deduction applicable only to earned income, so that if there were no earned income, no deduction would be available. If there were earned income, the deduction would obtain only to the extent of the earned income.

We all understand that if the amendment is agreed to and it should prevail in conference, the conferees will work it out in accordance with that intent. Perhaps the language is inartistic, though I tried to write the best language I could on the spur of the moment.

The intention is that it should be only a deduction applicable to earnings of students, and only to the extent of such earnings.

Mr. LONG of Louisiana. Let us assume a boy is working for his father. Daddy gives him a job. He has little work to do but gets good pay. Would that qualify as earned income?

Mr. JAVITS. I will not say "Yes" or "No." I would be perfectly happy, once the intent of the Senate was manifested, to leave those refinements within the fundamental proposal to the conferees. All I am trying to establish is the basic intent of the Senate.

Mr. LONG of Louisiana. If the Senator wants to offer an amendment, he should have more than a vague notion as to what he wants to do. If he wants to amend the proposal to limit it to earned income, it is fair to ask whether the intention also is to cover income received from a father, when a rich man puts his son on the payroll and the son does little or nothing for his pay. That is the type of loophole that I am sure the Senator would not want to provide.

Mr. JAVITS. For myself, let me say that if such a person paid a salary as earned income when it was not earned, it would come under the Internal Revenue Code, and he could go to jail for it——

Mr. LONG of Louisiana. No. We are talking about a situation in which a son does some work, but it is very clear on the face of the situation that he does not do the amount of work that he would have to do if he were working for someone else.

Mr. JAVITS. Then I think the authorities would know that it was unearned income.

Mr. WILLIAMS of Delaware. Mr. President, the law already provides that the Treasury Department can disallow payments made by parents to children which cannot be justified on the basis of comparable earnings paid other employees. A parent cannot, under the law, split his income with his children and get away with it, either with or without the amendment of the Senator from New York.

Mr. LONG of Louisiana. Mr. President, if the Senator will yield, I shall not object to the unanimous-consent request. I wanted to demonstrate the difficulty of legislating on the floor and also the problem involved when a Senator asks for the yeas and nays before Senators know what the amendment is. If it is desired to modify the amendment, it requires unanimous consent after the yeas and nays have been ordered.

Mr. JAVITS. I thank the Senator.

Mr. President, I ask unanimous consent that the Prouty amendment may be modified accordingly, with the consent of the Senator from Vermont.

The PRESIDING OFFICER (Mr. INOUYE in the chair). Without objection, the modification is agreed to.

Mr. JAVITS. Mr. President, it is necessary for me to explain why I voted against the Ribicoff amendment, in order to demonstrate my interest in this amendment.

I believe the basic purpose of the tax bill, its fundamental thrust—whether we

achieve it or not—is to retain the economy at a high enough level to do something about the problem of endemic employment and about the dangers of a recession if the economy is not sustained in a vigorous way.

Therefore, when we talked about adding to a $11.5 billion tax reduction an additional reduction which would involve immediately three-quarters of a billion dollars and more later, it seemed we were starting a process to destroy the basic purpose of the tax bill. For that reason alone I felt, in good conscience, that I had to vote against the Ribicoff amendment. With that amendment we would have both the tax cut bill, and the same people who were getting the cuts in that bill would have received in addition the credits against tax the Senator from Connecticut [Mr. RIBICOFF] contended they should receive. That would have defeated the purpose of trying to keep the bill within reasonable limits and at the same time do a broad-scale job of economic stimulation.

But that argument does not apply to peripheral matters that will not materially change the thrust of the bill because they do not involve great sums of money.

That is evident from the bill itself. What has the size of the medicine and drug expense deduction to do with the major economic thrust of a tax reduction bill designed more importantly to sustain the economy? Yet $10 million is the revenue loss because of a provision of that character in the bill.

What does the part of the bill having to do with a change in the exclusion from income of gain on the sale of a residence of a taxpayer over 65 have to do with the basic economic power of the bill in connection with unemployment, and so forth? The answer is "Nothing." Yet it involves a revenue loss of $10 million.

When we dig into the corporate phase of the bill, what has amending the existing investment credit to do directly with economic stimulation as a result of a tax cut? We are anxious to arrive at the maximum point of efficiency of American business, so we include it in the bill, and it involves a revenue loss of $170 million.

In short, we are not purists. We cannot be, considering the terms of the bill. But we are considering the bill in the best way we can, and I think we have done a good job of giving to the bill the most thrust on the economic side.

I think the members of the Finance Committee themselves would not want to plead omniscience, with respect to putting everything in the bill that could conveniently and appropriately go into the bill. Perhaps they will consider that the Senator from Vermont [Mr. PROUTY] has thought of one thing which is a small effort to help in a critical area, that of encouraging young people to work for a living and thereby earn their way through college.

Therefore, not departing from basic devotion to the fundamental purpose of the bill, I showed my good faith by casting a difficult vote of "nay," which was also difficult for many other Senators, on the Ribicoff amendment. With the present amendment I do not think we distort the fundamental purpose of the bill, because we have already accepted other provisions in the bill, which are

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not particularly necessary for the economic thrust of stimulating the economy, but which relate to tax injustices or some other matter which can be dealt with conveniently in the bill.

So I feel that as the revenue loss in the Prouty amendment now must be less than $50 million—his own figure—under this version of the amendment, I do not think it represents a material distortion of the purpose of the bill.

Second, I am delighted by the announcement of the Senator from Oregon, with whom I think I have loyally cooperated in the fundamental need of developing the proper kind of aid for higher and all levels of education, that there will be hearings on that subject, which is precisely the right thing to do. I do not think the Ribicoff amendment would have had the desired effect, which is the encouragement to people of modest means to earn their own way through college, which is a delightful American custom, a custom which I am proud to say I practiced in all the years I went to law school; and it was a good one.

Finally, one of the great arguments with respect to the Ribicoff amendment was its ambit. What would be reached? It appears that in 1960 total income tax receipts from individuals amounted to $39.5 billion. Although this figure is for a previous year, it gives us an order of magnitude. That amount was paid by 48 million taxpayers who filed taxable returns. In other words, an average of $800 was received from the individual taxpayer who filed a taxable return. Another 13 million people owed no taxes at all, although they filed returns. But 48 million taxpayers each paid an average of $800 in tax.

Under the Ribicoff amendment, that was a pretty big piece of additional revenue loss to add to a tax bill under which there will be a substantial reduction in revenues.

I do not believe the same argument can be directed against the Prouty

amendment. The point is that it goes to encourage something that is really socially useful. I do not see that whatever is done in connection with Federal aid to higher education, to which I am thoroughly devoted, would in any way conflict with this kind of encouragement. It comes within the same order of magnitude as some of the other things which are done in the bill, both in money and intent, as we are satisfied with the urgency of the need. I am inclined to feel that it represents a fair proposal, fair even in the opinion of those like myself who do not in any way wish to complicate, jeopardize, reduce, or distort the fundamental thrust of the bill. Therefore, I shall support the amendment.

Mr. President, there is one other thing that is very important to me, considering my own position in connection with this whole subject. While I go along with the administration, even casting the hard votes on capital gains—and we must remember that I come from New York, where capital gainers, so-called, are very important, in terms of the stock exchange and the security business—in order to sustain the position that the tax cut will do the things the administration thinks it can do for the economy, I have no illusions about it. I believe the tax cut would help, but I do not believe it would cure. I would be fooling myself and the people of the State of New York if I thought otherwise. The tax cut will be helpful. It should be voted. Its essential thrust will not be jeopardized by the amendment of the Senator from Vermont.

Mr. President, the tax cut will not cure endemic unemployment. It will not win the war on poverty. It will not insure us against a recession or a depression. It will help.

I deprecate the fact that the administration, every time we ask, "What are you going to do about unemployment? What are you going to do about poverty? What are you going to do about trying to lengthen out the present 35-month-old economic expansion?" says, "We are proposing a tax cut."

This seems to be the only thinking in the administration upon the American economy.

I know that the tax cut alone is inadequate. I know I must vote for it. It will help. It is the only thing, apparently, upon which the administration is willing to give us support. So, let us do it. It will not cure the defects in the economy with which we contend.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. MORSE. I could not sit here in silence, since these votes have started, and see the Senator from New York cast courageous vote after courageous vote as he did, on the capital gains issue and on the Ribicoff amendment, without congratulating him. I wish to associate myself with the observation he made on the effect the tax bill will have on the economy of the country as a whole and on the economic problems which are impinging upon the welfare of the American people.

I agree that it will help. It will not be of major help in solving these problems. I shall be standing shoulder to shoulder with the Senator in urging direct attacks on the unemployment problem, direct attacks on the problem of poverty, direct attacks on the great problem that confronts us with respect to the water problems in this country. I do not believe the American people realize what is happening to the water of this country. If they do not get busy and do something about it, our civilization will decline with our water table and with our polluted water supplies, as well as with the problem of the health of this Nation. All these problems will call for a direct, frontal attack, issue by issue. The tax bill will not solve them or help very much in solving the problem.

I wish to associate myself with the Senator from New York. Again I compliment him on the courage of his convictions.

I only regret I cannot join him on the Prouty amendment. I believe he is greatly mistaken. As a member of our subcommittee, I feel somewhat like a father who has a couple of wayward boys. Nevertheless, I am still hoping, before the final vote is had, that he will agree to give us time to hold hearings on this whole problem. If, after the hearings, we find that we should come back to the Prouty amendment, there will be ample time for us to do so. I believe he will find that this proposed procedure is not the best way in which to handle the problem. We can advance the cause of education much better in the way I have suggested.

Mr. JAVITS. I am grateful to my chairman of the subcommittee. I do not believe that this will bring about a parting of the ways between the father and his two children.

Mr. PROUTY. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. PROUTY. I also wish to congratulate the Senator from New York and to express to him my deep appreciation for the amendment which he has proposed to my amendment. It seems to me that it has eliminated most of the

objections which were registered earlier today. I am very grateful to him.

I ask unanimous consent that the senior Senator from West Virginia [Mr. RANDOLPH] be listed as a cosponsor of my amendment, at the next printing.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I wish to finish my remarks upon the bill and bear upon the colloquy with the distinguished Senator from Oregon [Mr. MORSE] on the subject of what the tax cut will or will not accomplish. I never like to leave a thought unfinished, if I can avoid doing so.

Some of the things that are needed in respect to the fundamental problems of our economy, quite apart from and in addition to a tax cut—I cannot hope to name all of them, but I can cite some—are: First, we are losing an estimated 40,000-plus jobs a week because of automation. That is, the jobs need to be changed, and people need to be retrained and moved or removed to other sections of the country. It may be necessary to await a point of training in the use of new machines and the servicing of them. The fact that workers will go into service businesses more than they do in production lines, as automation takes over, may have an effect. This may require a period of transition of 1, 2, 3, or perhaps as much as 5 years. The transition may have to be helped with financing by the Government. That would be a very direct and immediate way in which to deal with a large volume of unemployment.

The maximum number of personnel scheduled for retraining under the manpower retraining programs will be 135,000 in fiscal year 1964. That compares with estimates of up to 1 million persons a year who will need retraining. That is one thing that should be done.

Another thing that needs to be done is to stimulate exports. It is true that we now have an export surplus of about $5 billion; yet we are running a very serious imbalance in our international payments. Notwithstanding some shakeout of foreign financing in this country by the threatened interest equalization tax bill that is now pending in the other

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body, there is still an imbalance in the area of about $3 billion a year. Exports can deal with that. In addition, exports could do much more for the American economic system and employment. Other countries encourage exports of their products by providing special tax treatment for additional exports. We ought to do the same thing.

The investment of American capital abroad by American firms is also inhibited by the antitrust laws. Mr. President, I seem to be about the only one here who appears to be very much concerned about this; but I think it is a material inhibition of the operation of the private enterprise system, both in this country and abroad. As we encounter competition from the European Common Market—which has a very different concept from that of our antitrust laws—we shall find that that competition will hurt us very materially.

Mr. President, the fourth thing that must be done is the elementary step of introducing the private enterprise system into the foreign aid program. In view of our economic resources, we have not begun to do what should be done in connection with the development of the underdeveloped countries of the world. The reason for that situation is that we are trying to do that job solely—almost solely—through Government. There are vast opportunities in this area.

If I were summing up, Mr. President, I would now mention many other measures which I think need to be taken—including measures to give the workers profit sharing and stockownership in the United States businesses—a development which I believe will be the wave of the future, insofar as American workmen are concerned. Yet in practical terms, we have scarcely begun to do that.

Mr. President, the American people still — strangely, interestingly, and charmingly—lack a consciousness of the power of their production. The power of production, valued at $600 billion a year, is really beyond belief, especially when it is unleashed for purposes of development and construction both in the United States and in all other countries which wish to be free or to remain free.

We have not begun to learn how to use that power, in terms of credit, in terms of production and distribution, and in terms of making use of both men and machines now unused. Until we learn how to do that—and Congress should act to enable the United States to teach, to guide, and to facilitate it—we shall have a very rough time in attempting to deal with endemic unemployment, endemic poverty, and the other problems which give us great pause and concern when we wonder whether, with the pending tax cut bill, we shall be able to do that job.

I favor the proposed tax cut, Mr. President; but I do so without having any illusions about its value and also without having any illusions that we shall be able to keep it absolutely clear of any other tax change, because provisions of that sort are already included in it.

I hope very much that the Prouty amendment will be agreed to.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. MILLER. I should like to ask a question of either the Senator from New York or the Senator from Vermont. What concerns me about the amendment is that it does not seem to be harmonized with section 151(e) of the code. Senators will recall that a few years ago Congress provided for a special exemption in the case of a student who was earning enough money so that he ordinarily would have lost his dependents on a parent. If he is a student working his way, partly, or wholly, through college, for the purpose of supporting himself, or at least furnishing more than half of his own support, his father still gets a $600 exemption.

If the Senator's amendment should prevail, we would create an inequitable situation if we left the present code section to which I have referred on the books. We would create an inequity between a student who has a parent and a student who does not have a parent, or at least a parent who is not making enough in income to get the benefit of the $600 exemption.

I am wondering if it would not be practical and fair and equitable for the amendment of the Senator from Vermont to be modified by providing for the repeal of that portion of section 151(e) of the code which sets up this extra exemption for the parent.

Mr. JAVITS. I yield to the Senator from Vermont.

Mr. PROUTY. I should like to point out that we did not make any change in section 151(e) because the parent, in most cases, still will have to provide for the student's food and lodging. My amendment does not allow a student to deduct such sums.

Mr. MILLER. The Senator's amendment provides for a deduction of $1,200, in the case of an undergraduate, and the $1,200 is equivalent to two $600 exemptions. Without the Senator's amendment there is now a $1,200 exemption, total, for this situation. There is a $600 exemption for the parent and there is a $600 exemption for the student also.

Now the Senator's amendment comes along. It will add another $600 exemption to that total. So I shall cite an example. Let us assume that the Senator from Vermont has a son who is working, and that the son earns $1,800 during a year. The Senator from Vermont could claim a $600 exemption for the boy, even though the boy might have supported himself all the way through the year. Certainly if he provided more than half of the board, he could claim a $600 exemption for the boy on his income tax return. The boy himself as a taxpayer would have a $600 exemption. Under the Senator's amendment, he would have a $1,200 deduction. That would make a total of $2,400 in exemptions or deductions, however the Senator might wish to apply them.

I suggest to the Senator from Vermont that that would do inequity to another lad who did not have a parent or whose parent did not have enough income to receive any benefit from the $600 exemption.

So to put the two situations on an equal basis, it seems to me that what ought to be done is to couple with the amendment of the Senator from Vermont the repeal of section 151(e) of the code.

Mr. PROUTY. The present $600 is an exemption. What the amendment seeks to do is to provide a deduction. That is the difference between the two items.

Mr. MILLER. From a practical standpoint, it does not make any difference whether it is called a $600 exemption or a $600 deduction; the amount still would come off the income before determining the amount of taxable income. In the example I cited, the Senator's family entity would have a $2,400 reduction from taxable income—$600 for the parent and $1,800 for the son, under the Senator's amendment.

Mr. PROUTY. The $600 exemption taken by the parent is for the child's support as a dependent, regardless of whether he is a student.

Mr. MILLER. Whether is was called an exemption or not, it would still come off the income to arrive at the taxable income.

Consider the example of another boy; one who does not have a parent, but who earns $1,800. In that instance, there would be only an $1,800 reduction in income; there would not be the other $600. That situation would remain on the books unless it were repealed by a modification of the Senator's amendment.

Mr. PROUTY. Is the Senator from Iowa under the impression that the parent could take the proposed deduction?

Mr. MILLER. Under section 151(e), it is specifically provided that the taxpayer may claim a $600 exemption for a child who is a student.

Mr. PROUTY. Provided the parent pays more than 50 percent of the expenses.

Mr. MILLER. No; regardless of that.

Mr. PROUTY. I had not been told of a provision so holding; I am not familiar with any such proposition.

Mr. MILLER. I am glad the Senator

has raised that question, because I wish to make the point very clear. Congress changed the law. Prior to the time when section 151(e) was placed in the code, if a student furnished more than half his own support by working, the parent lost the exemption altogether. In order to encourage students to work, Congress said, in effect, "It is all right even if the student furnishes all his support or more than half of it. It will make no difference. The parent may claim the $600 exemption anyway."

I think Congress made that change in the code having the same motivation that the Senator from Vermont has with respect to his amendment; that is, to encourage students to help themselves in obtaining their education.

But I suggest that if we did not repeal section 151(e) concurrently with the adoption of the Senator's amendment, an inequitable situation would arise. An inequitable situation would exist as between students who were working and trying to earn their way through college, and whose parents were living and had

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income against which the $600 exemption under section 151(e) would be helpful, and students who did not have parents living.

Mr. PROUTY. Does the Senator believe that this deduction could be taken by a parent?

Mr. MILLER. Which deduction?

Mr. PROUTY. The $1,200 deduction.

Mr. MILLER. Not under the Senator's amendment.

Mr. PROUTY. It could be taken only by the student who files a tax return?

Mr. MILLER. That is correct; there is no argument about that.

Mr. PROUTY. The parent might well have to spend quite a substantial sum to send a child through college; most parents provide for the cost of room, board, and items of that nature.

Mr. MILLER. He might; but suppose one student did not have a parent, while another one did.

Mr. PROUTY. I do not think we can draft legislation which will be equitable to everyone under all circumstances. My amendment is an approach which will benefit the working students who are trying to obtain an education, and that is what I am interested in.

The Senator from Iowa is a tax lawyer, and a very able one. I cannot argue the intricacies of the code with him. But I believe the purpose of the amendment is plain. So far as I am concerned, it will help a great many thousands of boys and girls who are trying to obtain a college education. That is my chief interest.

Mr. MILLER. The Senator from Iowa is trying to be helpful to the Senator from Vermont, because the Senator from Iowa can support the amendment if it is modified so as to eliminate section 151(a). I recognize that tax legislation that will be equitable all the way along the line cannot be drafted; but we are in a position now to make the amendment of the Senator from Vermont equitable by coupling it with the repeal of section 151(e). I do not disagree with the motive of the Senator from Vermont at all. I am intrigued by his proposal. But I do not believe it harmonizes with the Internal Revenue Code as it now exists. All that would be required to harmonize it would be to repeal section 151(a). I do not think anybody would be hurt by doing so. I think it would prevent an inequitable situation from arising as between children whose parents will receive a $600 exemption if the section is not repealed and children who do not have parents. After all, the student is the one we are thinking of.

Mr. PROUTY. If my amendment is approved, a detail of that nature might be adjusted in conference, where experts are available to assist the conferees. I cannot at this time discuss this proposal in detail with the Senator because I am not sufficiently familar with the language of the code. I am not a tax lawyer. I do not find it possible to accept the Senator's proposal to modify the amendment.

I am ready to vote at any time. I think that everything that needs to be said has already been said.

Mr. MILLER. The Senator from Iowa is merely trying to be helpful. I do not wish to make this a technical, complicated matter, although I do not believe it is technical. The law was passed by the Congress of which the Senator from Vermont was a Member, and of which the Senator from New York [Mr. JAVITS] also was a Member.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the vote be taken on the Prouty amendment, as modified, be taken at 1:30 p.m., and that the time betwen 1:20 and 1:30 p.m. be equally divided between the sponsor of the amendment, the Senator from Vermont [Mr. PROUTY] and the Senator in charge of the bill.

Mr. JAVITS. Let me ask whether the Senator from Vermont agreed to that.

Mr. LONG of Louisiana. As a practical matter, I believe that all Senators who wish to speak on the amendment have done so.

The PRESIDING OFFICER. Is there

objection to the proposed unanimous-consent agreement?

Mr. JAVITS. Mr. President, reserving the right to object——

Mr. LONG of Louisiana. Mr. President, I withdraw the request.

SUBSTANTIAL IMPROVEMENTS IN PENDING TAX BILL ARE NEEDED

Mr. GRUENING. Mr. President, at last we are debating an epochal law, the Revenue Act of 1964. This legislation, which will affect the course of our history in ways yet to be revealed, is a measure for which our late, great President Kennedy and, now, his able and dynamic successor, President Johnson, have expressed great hopes of its efficacy in relieving the all too serious distress which we find in certain aspects of our domestic economy today. At a time when our unemployment rate remains stubbornly high—at more than 5 percent of our work force, and more than 4 million of our employable citizens cannot find work—it is clearly desirable that we act to bring relief to such economic malaise as besets us. Is this the proper approach?

I confess, at the outset, my own serious doubts that the pending legislation for the reduction of taxes, especially a reduction weighted on the side of decreases at the top levels of income, will prove as beneficial to our economy as its sponsors assert. It is my analysis, supported by the opinion of highly respected economists, that a better way of stimulating our economy and insuring jobs for those who need them is by direct participation of the Federal Government in providing jobs. I am fully aware of the theory that the release of funds otherwise taxed for the use of corporations and of individuals in the high income brackets will result in increased expansion of productivity and thus, increased employment. I doubt, however, whether we can expect private enterprise, which naturally is concerned with operating profitably for its private ownership to undertake a purely altruistic course of action directed solely to improvement of the Nations' economy. While it is undoubtedly true that this tax reduction will increase profits of private enterprise and in that respect. improve the economy, there is no provision in this bill or any other law that requires and will insure that benefits flowing to private business will be translated into general public benefit. Indeed, no one would suggest that the private sector of the economy be coerced into expenditure of its profits for purposes other than those it chooses.

As President Johnson has so clearly recognized in his statements on the necessity of Government action to obliterate the existence of poverty in the United States, it is only the Federal Government, moving with all its resource of funds, of manpower, and of action directed specifically in the public interest that can bring about significant improvements in the economy. Thus, it is with great interest we await further revelation of the administration's plans for the commendable war on poverty newly launched.

It is my hope that the President's program will include greatly increased sums for the accelerated public works program, and that there will be no stinting on imaginative and constructive projects for the development of our natural resources. These, indeed, are sound investments. Many of these programs only the Federal Government can finance, and, I believe, are of overwhelming importance in providing the steady employment which is of first importance in eradicating poverty.

Nearly a year ago, on March 19, 1963, I introduced a bill, S. 1121, to increase the amounts authorized for the accelerated public works program. It was found then, and remains the case, that there is no dearth of projects in towns and cities and counties across the Nation that are needed and which would provide jobs for people who need them. Many of these projects have been approved and await only the appropriation of funds. The original authorization of $900 million provided for this program was entirely inadequate and must be increased. I regret this has not been accomplished long before this time, and I shall continue to work for an increase in funds for this important purpose.

It is my fervent hope the choice of tax reduction as the means to improve our economy will prove to be a remedy that will work—though I doubt it. As it has come to be the judgment of those who have studied the matter over slow and painful weeks and months of deliberation that the reduction of taxes is the way to prosperity for our people, and as those promoting this approach will prevail, then we must enact the best tax reduction bill we possibly can.

In commenting on the bill now before us, I wish, first, to congratulate the Finance Committee for the herculean job it has done in studying, and bringing to the floor of the Senate a measure that has been heralded as of enormous importance to all. The hundreds of hours of consideration, of hearings, and of careful deliberation have engaged members of the committee in a difficult and complicated task requiring diligent and patient effort.

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I believe the bill that has emerged from the Senate committee maybe slightly better than it was at it came to us from the other body, although there is room for doubt even so to that. However, I am compelled to state that I wish it were a far better bill than it is, and that the opportunity might have been taken to recast our income tax structure to distribute more equitably the burden of taxation than will be accomplished by H.R. 8363.

Mr. LONG of Louisiana. I say to the Senator from Alaska that I believe if he will study the measure on the basis of the areas where some of these loopholes exist, he will find that there is no loophole in the bill. The administration made recommendations in all fields where the Treasury Department felt structural reform was necessary. In other words in areas where the Treasury Department felt someone was escaping his fair share of taxes, a great portion of those recommendations are contained in the bill.

For example, if someone wished to escape liability for taxes due, his tax lawyer might advise him to organize a personal holding company, thereby reducing income by having it go through the holding company and saving much of the taxes he might owe. The bill would tighten up on that loophole, although not as much as I should like to see it. Also under the bill we put a 6-percent penalty on the use of multiple surtax exemptions.

Senators have heard some criticism of charitable contributions. Charitable contributions are second only to capital gains in accounting for the chart which the Senator from Tennessee [Mr. GORE] placed at the back of the Chamber, indicating that persons with high amounts of income pay relatively low rates on the average against realized income. The deduction allowed for charitable contributions and the fact that only half of capital gains are taxed account in the main for that situation.

Senators will find that we have tightened the law on charitable contributions in substantial degree. Group term life insurance is another factor. The committee has moved to prevent its abuse in the future. So I believe the Senator will find, if he will look at the changes which are being made in the law, that there is a great amount of tightening up on various and sundry groups of taxpayers in the bill to make them pay more taxes where it can be properly contended that more taxes are owed.

Some people wish to tax the oil industry more. This bill taxes the oil industry more by about $40 million as reported by the House and Senate committees.

I should like to debate the advisability of pressing more taxes upon the oil industry, to show how much that industry is paying now—which some people do not realize. There is a great deal of tax reform in the bill. At the same time, it proposes to give tax reductions to those whose merit appears to be greatest.

Mr. GRUENING. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. GRUENING. The Senator from Louisiana has always been conspicuous, throughout his long and distinguished public service, as a devotee of the public interest. I am confident that his efforts in the long hearings of the Finance Committee on the pending tax bill have been directed to that purpose.

I am happy to have his view that there has been a substantial closing of loopholes. My criticisms, however, were directed to the fact that more might have been done, but I realize that we cannot all have our own way, that the Senate represents a body of 100 individualists, and that in the House of Representatives there are 435 more individualists. We must arrive at a consensus of opinion.

I am hopeful that by the time the bill emerges from the Senate with some of the amendments which have been already adopted, and some which may be, the bill will be further improved.

Mr. LONG of Louisiana. The area in which I believe action should be taken to tighten up the so-called loopholes, involves making those who are not paying their proportionate, fair share of taxes, pay more. Insofar as that problem exists, the bill taxes those people about $800 million extra, by reason of structural reform. Of course, in some respects that same group will enjoy some benefit from the general tax reduction; but in line with what the Senator has said on the subject, if he will look at the table in the back of the committee report, he will notice that certain people who have been paying a very low rate of income tax, although they have been making a large amount of money, will be paying more taxes—after the tax-cut bill passes—than they did before. The bill is so tailored that those who have so far succeeded in avoiding taxes, as a class, will actually be paying more taxes; while those who have been paying a fair share of their income without enjoying the benefits of various tax avoidance schemes will wind up with a fair and well justified tax return.

Mr. GRUENING. I hope that the tax bill will improve the economy as is pre-

dicted by the bill's sponsors. I hope that it will result in increasing employment. That is one of the questions which only the future can answer. I have serious doubts on the subject, because, for one thing, I feel that as a result of this substantial reduction in revenue we shall be asked to curtail the adoption of other measures, such as accelerated public works, which I deem essential to increasing employment. I hope that will not be the case. I hope that the $11 billion reduction in income to the Treasury as a result of this legislation will not result in the elimination of other measures which we can count on specifically to increase employment. That is a matter which we shall have to take up after the bill has been enacted.

I thank the Senator from Louisiana for his helpful contribution.

Mr. President, as I suggested in remarks to the Senate on December 18 of last year, it was and remains my view the tax law should be revised to allow greater relief to those in the middle income levels—wage earners in the $5,000 to the $20,000 a year brackets, at the expense of the very large reductions H.R. 8363 would provide in the higher income brackets. I believe it is not fair that individuals earning $500,000 and more in income will find their taxes reduced by more than 23 percent of present levels, while the individual earning $10,000 will have a reduction of little over 15 percent.

I had hoped the Finance Committee would accept the proposal of the distinguished Senator from Tennessee [Mr. GORE] and more in the direction of greater tax relief for middle and low income earners by an increase in personal exemptions. It is my hope this body will give greater consideration to this proposal which, admittedly, represents a sharply different approach to tax reduction than that adopted by the committee. The proposal for a greater proportionate tax cut for low- and middle-income groups was strongly endorsed by the distinguished economist, Mr. Leon Keyserling, in his testimony before the Finance Committee, and I would urge Members of the Senate to review Mr. Keyserling's testimony, as printed in the hearings on H.R. 8363, with a view to considering, even at this late date, a change in direction of tax reduction.

In reviewing the voluminous hearings and commentary on the tax reduction legislation now before us, it is with regret that we find an opportunity has been lost for a truly imaginative revision of our basic revenue and tax philosophy, which the legislation reflects.

About to be published is a significant book on the subject of tax policy in the United States entitled, "The Great Treasury Raid," written by Philip M. Stern, who is also the author of the Harper's magazine article entitled, "The Slow, Quiet Murder of Tax Reform," which I inserted in the CONGRESSIONAL RECORD on November 27, 1963. I commended Mr. Stern's vigorous efforts at reformation of the tax structure and urge Members of this body to give his publications serious attention. Other important commentary in recent months has appeared in such disparate publications as the New Republic and the Saturday Evening Post, calling our attention to indefensible shams and inequities in the existing Federal tax structure. When the average taxpayer sees that many who earn income amounting to hundreds of thousands and millions of dollars a year escape without paying a tax, while the ordinary wage earner must, and considers it his duty, to pay taxes as levied, it would not be surprising if one day the mass of our taxpaying public, 87½ percent of whom earn less than $10,000 a year, began to question the validity of the whole system and, by force of political persuasion, manage to bring about the tax reforms many of us believe are needed now.

It is not too much to expect that a continuation of the present situation in which many millionaires pay, proportionately, less tax than the head of a family earning $8,000 a year may some day lead to forcible change of the laws—perhaps under conditions of duress and

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in a less peaceful state of public opinion than we have now.

The spectacle of a revenue system deliberately constructed to afford special advantages and unjustifiable benefits for the very few taxpayers who are most blessed with financial rewards raises, I believe, not only economic and political questions as to its wisdom, but leads to consideration of its basic morality. Perhaps we should look closely to see whether our system of taxation, which there is still time to change, may not be a mirror giving an ugly reflection of a society dedicated to getting away with it and based on a philosophy of taking something for nothing. It is uncomfortable to dwell, further, on the concept that perhaps we are letting the heaviest burden of supporting the Government rest on those least able to afford it.

The bill now before us makes important changes in our revenue system. It does not, however, result in the basic changes in philosophy and economics

I believe should have been made. We are preserving a statutory rate structure that will change to lower percentages of income tax than now are in the law but will be as deceptive as the one it replaces as a realistic measure of the true magnitude of taxes levied.

It has long been clear that the statutory tax rate is meaningless, because the internal revenue code is so honeycombed with special rates, deductions, credits, allowances and other loopholes almost exclusively applicable to very high income earnings that the presumed rate of taxation reflects nothing but a starting point for determining the actual amount of tax an individual in the high income brackets will pay.

Lacking a bill with the basic reforms that should be made in our system of taxation, I believe it is our duty to make the one before us as equitable as possible. It can be improved, I am convinced, in a number of ways I wish to discuss.

First, an improvement, which has, indeed, been made by the Finance Committee, but which we must hold when the bill goes to conference is the rejection of the House passed reductions in capital gains tax rates. The principle of a preferential tax rate on income earned from the sale of property has been extended so far now to so many transactions having very little relationship to the original theory that here, alone, is an aspect of the tax law deserving careful reform. If we are not, at this time, to reform the basic system, then, at least, let us not compound the inequities here by decreasing the rate at which capital gains are taxed. I join with my other colleagues in urging that the Senate amendment be retained in H.R. 8363 throughout its legislative course.

The investment credit provision of the Revenue Act of 1962 was enacted for the purpose of stimulating business investment in new plant and equipment; hence stimulating the growth and prosperity of the economy. There were then and remain now, in view of our difficulty in reducing unemployment rates, serious doubts as to the efficacy of this provision in any way other than as yet another tax benefit which is proportionately more beneficial to large and prosperous enterprises than to small and less profitable endeavors. Now, whatever the merits of the investment credit provisions as they now stand we must not allow this provision of the law to be enlarged into an even more inequitable tax break for wealthy corporations than it is now.

I refer, of course, to the repeal by H.R. 8363, as it now stands, of the amendment to the 1962 act sponsored by the distinguished Senator from Louisiana [Mr. LONG], who is the Senator in charge of the bill. The Senator's amendment precluded corporations taking advantage of the investment credit provision from also including as a basis of property for purposes of depreciation or for gain or loss on sale the same portion of the property for which investment credit is allowed. This amendment to the 1962 legislation was eminently proper and in accord with logic and equity. I see no reason for now allowing the investment credit provision to be used to benefit the investor doubly. No doubt two windfalls are better than one to the taxpayer, but for those who have none there is no apparent justice in allowing the double advantage to another.

Further, I am wholly in agreement with my colleagues who have expressed their dismay at the unconscionable proposal now in the bill that would prohibit the regulatory agencies from passing on to consumers the benefits of the investment credits taken by industries subject to their jurisdiction. It is shocking to me that such a proposal could have gotten this far. I can think of no justification whatever for refusing to allow the consumer to gain the benefit that might accrue from lower rates attributable to investment credits to the public utilities, common carriers and other industries regulated in the consumer interest.

The distinguished senior Senator from Illinois [Mr. DOUGLAS], who is an eminent economist, has thoroughly documented the meaning of section 203(e) to the consumers of America. This iniquitous provision could, during this year, cost individuals of the United States more than $600 million. By 1972 the cumulative effects of the provision would result in a windfall to the beneficiaries, and a loss to the consumers of more than a billion dollars.

While the loss to the consuming public and the unfair gain to the purveyors of services on which we are dependent is enough reason to reject section 203(e) the inclusion in a tax bill of provisions affecting regulatory policy is indefensible. I have, in the past, made many suggestions as to changes in legislation and policy affecting the actions of regulatory agencies and I shall have more to say on the subject in the future. However, I believe whatever changes we think should be made in regulatory actions of the agencies having jurisdiction over telephones, electric power facilities, railroads, radio communications, airlines, shipping companies and other public services should be dealt with in legislation germane to the issue of regulation, and with reference to the particular facts

of individual regulatory cases—certainly not disposed of broadside in the tax bill.

While the House and the Senate Finance Committee have been more generous than need be in their treatment of industries benefited by the investment credit provisions of the present law, there has been a curious discrimination against another part of our industrial community which is as deserving, I believe, as any other of Federal aid.

It is the mining industry of the country of which I speak. As chairman of the Minerals, Materials and Fuels Subcommittee of the Senate Committee on Interior and Insular Affairs and as a Senator from a State in which gold mining was once a very important industry as indeed it was in a number of other States, employing many people now out of work, I am in a favorable position to observe and become dismayed by the lack of concern for the welfare of the miners by the executive agencies of the Government, particularly the Treasury and Interior Departments. The mining industry is an orphan of our commercial society. There seems to be no interest in placing this important industry in a more favorable position in the Federal offices having a role to play in promoting its welfare. Indeed, the opposite is the case.

Repeatedly, in the case of the gold miners, legislation has been introduced over the past years to revive the now moribund gold mining industry by aid from the Federal Government. Just as repeatedly it has been impossible to enact any legislation at all because it has been strenuously opposed by the Treasury Department on the mystic theory that any aid to gold miners will, somehow, create an international financial crisis. The result has been that the gold mining industry has practically disappeared from the United States while elsewhere, in other countries, where there is gold, it is cherished. Limited to a price of $35 per ounce set by Government fiat 30 years ago and virtually destroyed by an order of the War Production Board during the Second World War, our gold miners are unable to reopen mines closed during the war and cannot produce at a profit at those remaining open.

Frustration in attempts at aid to the mining industry by actions of the Treasury Department are not limited to measures designed to help gold miners. The Treasury Department seems to place no value on the importance of the entire mining industry and its clear needs.

This was demonstrated again in the course of deliberations on H.R. 8363. After the Revenue Act of 1964 had been passed by the House, I introduced an amendment to it—No. 204—designed to eliminate a peculiarly discriminatory provision now in the internal revenue law that operates to the disadvantage of the mining industry. There is, now, in the law, a limitation of $400,000 on the total amount that can be deducted by a mining enterprise for exploration expenditures, and further a limit on such deductions to a maximum amount of $100,000 annually. It is the position of the mining industry, with which I agree, that ex-

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ploration activities of miners are the same as research expenditures of other industries, which expenditures are fully deductible. There seems to me and to many others to be no justification whatever for limiting deductions on exploration of mining industries while similar expenditures of other business undertakings are fully deductible.

Unfortunately, my amendment No. 204 met the same fate as so many previous efforts to improve conditions for the miners by Federal legislation. My amendment to remove discriminatory tax treatment operating to the disadvantage of the mining industry was strenuously opposed by the same Treasury Department that is enthusiastically championing other provisions of this legislation designed to aid other industries. This opposition of the executive branch of the Government effectively killed the amendment; it was not approved by the Finance Committee and there is now no opportunity for the Senate to vote on it with the backing of committee approval.

It is my intention to introduce a revised version of amendment No. 204 in the near future in a form which will, I hope—being an optimist—be, at long last, acceptable to the Treasury Department and in consequence to the Finance Committee. It is my hope that the chairman of the Finance Committee, whose courteous cooperation I deeply appreciate, will, at an appropriate time, give a prompt hearing to the new amendment which I shall introduce to provide the mining industry with a measure of tax equity.

The minimum standard deduction provision of the present bill is one I believe to be a move in the right direction of tax relief for those at the very lowest income levels. Certainly, the policy that those at the very lowest level of sustenance in our affluent society should not have to bear burdens of taxation is right, and I believe should be followed. As I have stated, it is my own view that the most effective reform of the revenue laws would be an increase in personal ex-

emptions; thus spreading the benefits of tax reduction to midincome brackets to a greater degree than does H.R. 8363. However, as an alternative, I believe the minimum standard deduction should be increased, possibly by $400 for a taxpayer and by an additional $200 for each dependent. I am also in agreement with his proposal that any reduction in revenue caused by an increase in the minimum standard deduction may well be made up by a decrease in the unnecessarily generous cuts in corporate tax rates allowed by H.R. 8363. Again alluding to the testimony before the Finance Committee of the able economist, Mr. Leon Keyserling, there would appear to be ample justification for the proposition that additional cuts in corporate taxes will not necessarily lead to increased economic growth, but that a decrease of tax liability of the average taxpayer will provide a certain stimulus to the economy through increased and exercised purchasing power.

These are the major provisions of H.R. 8363 to which I believe we must give our most careful attention and vote in a manner that will give us as good a tax law as we can get at this time.

In a measure as complex and as far reaching as the Revenue Act of 1964, every provision demands careful study to determine where lie the best interests of the people of the United States. In addition to the aspects of the bill I have discussed, I believe the bill as passed should include other reforms, including a provision for taxation of capital gains on property transferred at death at a rate reflecting the basis of the property to the decedent; the inclusion in taxable income of the value of group life insurance premiums purchased by employers—certainly, and at a minimum, acceptance of the provision of the House that would make taxable premiums in excess of those on the insurance in excess of $30,000 instead of the $70,000 limitation so generously allowed by the Finance Committee; the repeal or, at least, the reform of stock option provisions to establish more equitable standards of taxation; and, finally, the repeal of excise taxes on certain low cost and necessary commodities such as toilet articles, pocketbooks, inexpensive jewelry, and cosmetics.

These are but a few of the specific provisions of the Revenue Act that should be changed, lacking a full fledged reversal of tax policy, which, as I have said, is thoroughly justified.

The bill reported by the Finance Committee has already been improved by amendments adopted on the floor. I believe we can make it a great deal better by further action on the floor of the Senate, and I urge that the Members of this body make every effort to achieve this goal.

The PRESIDING OFFICER. By unanimous consent the following 10 minutes will be divided equally between the Senator from Vermont and the Senator from Louisiana.

Mr. GRUENING. Mr. President, I ask unanimous consent that I may have 1 additional minute in order to make an insertion in the RECORD.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the Senator from Alaska may proceed for 1 minute, the time being charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRUENING. Mr. President, a pertinent editorial from the February issue of the Progressive gives its view that the pending tax bill, as proposed originally, "represented a reasonably balanced, if modest, effort to combine a reduction in taxes with tax reforms designed to remove some of the more glaring inequities in the present tax structure," but that it has been "so mauled and mutilated" that it has now become "a monstrosity." I commend this editorial, entitled, "Unfair Tax Bill," to the attention of my colleagues. It sounds a challenge and a warning which will have its echoes and repercussions in the months and years ahead. I ask unanimous consent that it be printed at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

UNFAIR TAX BILL

President Johnson has sought to hasten passage of the tax bill by urging prompt Senate acceptance of the House-approved measure, but we are not convinced that haste is nearly so important as a more careful look at what a monstrosity the tax measure has become.

When the Kennedy administration first presented its tax proposal a year ago, the measure represented a reasonably balanced, if modest, effort to combine a reduction in taxes with tax reforms designed to remove some of the more glaring inequities in the present tax structure. Even in its original form, it provided more relief for corporations and for upper-income individuals than for those of lower incomes, but it compensated for this weakness, in some degree, by including provisions designed to close, at least partially, some of the gaping loopholes now open to higher income taxpayers. The proposal was aptly described by Senator PAUL DOUGLAS as "in some respects ambitious, and in other respects timid. But it was an effort at tax reform."

Seven months later the House had so mauled and mutilated the measure that Leon Keyserling, who was President Tru-

man's chief economic adviser, told the Senate Finance Committee that if he had been assigned to write the worst possible tax bill, he would not have surpassed the efforts of the House. Practically every reform feature had been knocked out and many inequities made worse. The only reform of consequence that survived the slaughter in the House was the repeal of the 4 percent dividend tax credit. So glaring are the tax loopholes that in a recent year a score of millionaires were able to make such effective use of them that they paid no income tax at all.

With little reform left at which to back away, the Senate Finance Committee, under the chairmanship of Virginia Democrat, HARRY BYRD, proceeded to riddle the tax measure further by carving out even more loopholes for the benefit of those citizens with substantial incomes.

What is left of the bill for consideration on the floor of the Senate is tax reduction and little else. But it is a tax cut that is grossly unfair. The bill would provide a $2.5 billion plum for business, which has already enjoyed tax relief amounting to $5 billion annually since 1954. The cut is needed, it is argued, to encourage business and to enable industry to expand production. But Senator ALBERT GORE, Tennessee, Democrat, has ridiculed this argument by reminding the Senate that last year produced all-time records for corporate profits, dividends, cash on hand, savings, and investment capital. Furthermore, said the Senator, there is a surplus of productive capacity in existing industrial plants.

As for tax reductions for individuals, Senator ERNEST GRUENING, Alaska Democrat, pointed out that the cut in the $2,000 to $4,000 income bracket is 13.6 percent, but at the $200,000 income mark, the tax saving soars to 23 percent. The 12.5 percent of taxpayers with incomes of $10,000 or more would harvest 45 percent of the total tax cut. "It seems to me," said Senator GRUENING, "this is a mistaken way of improving our sick economy."

Leon Keyserling has estimated that so much of the tax cut will go to high-income individuals that perhaps $8 billion of the $11 billion reduction will go into savings and investment rather than into immediate consumption, thus measurably frustrating the basic purpose of the bill to stimulate the economy and reduce unemployment.

Senators GORE, GRUENING, DOUGLAS, and others who are gravely disturbed by the im-
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plications of the mutilated tax bill have one last chance in the Senate to fight to correct some of the worst features of the measure, and to restore some of its original reforms. And the Nation has one last chance to listen to their debate and become better informed before hastily approving a law the country may come to regret bitterly.

The PRESIDING OFFICER. By unanimous consent, the following 8 minutes are equally divided between the Senator from Vermont [Mr. PROUTY] and the Senator from Louisiana [Mr. LONG].

Mr. LONG of Louisiana. Mr. President, at this moment the junior Senator from Louisiana has nothing further to say about the amendment.

Mr. MILLER. Mr. President, will the Senator from Louisiana yield for a question?

Mr. LONG of Louisiana. I yield.

Mr. MILLER. The Senator from Iowa and the Senator from Vermont have had a colloquy during the absence of the Senator from Louisiana. The Senator from Iowa suggested that the amendment of the Senator from Vermont be modified to provide for the elimination of section 151(e) of the Internal Revenue Code insofar as the special provision respecting an exemption for a student is concerned. The Senator from Vermont would prefer not to modify his amendment, but he recognizes that the Senator from Iowa may have a point. The question I should like to ask the Senator from Louisiana is as follows:

If the amendment offered by the Senator from Vermont should be agreed to, would the conference committee have the discretion to consider a modification along the lines the Senator from Iowa suggested with respect to section 151(e) of the Internal Revenue Code, so that the two provisions would be harmonized?

Mr. LONG of Louisiana. The Parliamentarian is not present to advise me on the question. The answer would depend in some respects on the House rules and what the House would regard as being in conference between the Senate and the House. My impression is that it would be within the power of the conference to reduce the effect of the amendment but not to expand upon it. I do not believe that anything that is not a part of the amendment or the section of the code that might be affected one way or the other that is not in the amendment could be considered.

The Senator from Delaware [Mr. WILLIAMS] is present, and perhaps he could answer the question better than I am able to.

Mr. WILLIAMS of Delaware. Since the amendment would not be contained in the House bill, it would be in the conference by action of the Senate. The conferees could modify the amendment but could not expand it beyond the scope of the language contained in the amendment as adopted by the Senate.

Mr. MILLER. So it is the opinion of the Senator from Delaware that if the conference recognized the lack of harmony between the amendment proposed by the Senator from Vermont and the Internal Revenue Code in its present state, the conferees would be powerless to harmonize the two, and they would

either have to reconcile themselves to going along with the lack of harmony or reject the amendment offered by the Senator from Vermont.

Mr. WILLIAMS of Delaware. It would depend on the question of whether, in harmonizing the two, the scope of the amendment would be expanded. If it would, we could not take such action. In conference, we can negotiate only within the framework of the outside limits of the versions of the bill passed by the two bodies. In the present instance the House has passed no provision relating to the subject. If the Senate adopts the Prouty amendment the conferees would have to work within the outside range of the action of each body. Without knowing the substance or the nature of what the Senator has in mind, I could not answer the question further at the present moment.

Mr. LONG of Louisiana. I believe the Senator contends that the amendment as drafted would conflict with a section of the Internal Revenue Code.

Mr. MILLER. I would rather not say "conflict." I would rather say that they are not in harmony, because the provision of section 151(e) relating to students was placed in the act by Congress for the same purpose that lies behind the amendment of the Senator from Vermont. The Senator from Iowa contends that there would be a doubling up of exemptions if the amendment offered by the Senator from Vermont were agreed to. I believe the Senator from Louisiana expressed the same opinion, unless section 151(e) is taken out concurrently with the amendment offered by the Senator from Vermont. The Senator from Vermont would rather not modify his amendment, but he is most amenable to having the conference consider the problem of trying to harmonize the code so that if there is a lack of harmony, and the conferees should recognize it and still want to retain the amendment of the Senator from Vermont, they could do something about it.

The PRESIDING OFFICER. The 4 minutes allotted to the Senator from Vermont have expired.

Mr. LONG of Louisiana. Mr. President, as a practical question, this is one of the subjects that should be considered in the consideration of the amendment. If the Senate wishes that position to prevail, it ought to vote that position. I doubt very much that the Senate conferees could agree to such a position in view of the fact that the section of the code which provide a $600 deduction is already a part of the law. I doubt very much that a section which would provide an additional deduction could be repealed in conference if that section were not in conference with the amendment. I believe the amendment would have to be modified in order to take the problem to conference.

Mr. MILLER. I should like to ask one further question, since the ranking member of the committee and the acting chairman of the committee are present on the floor of the Senate.

Suppose the Prouty amendment were not amended as I would like to have it amended, and the Prouty amendment were agreed to. It would then go to conference. Suppose it were then accepted by the conference. The Senator recognizes that there is a lack of harmony. I wonder if Senators would look with favor upon an amendment to another House-passed tax bill later in the session which would harmonize the sections.

Mr. WILLIAMS of Delaware. I do not quite understand what the Senator is attempting to do. Does the existing code provide an exemption of $600?

Mr. MILLER. Section 151(e) of the existing code provides, in effect, that a parent will not lose the $600 exemption available to him should his son or daughter be a full-time student.

Mr. WILLIAMS of Delaware. The Prouty amendment would allow an exemption up to $1,500.

Mr. PROUTY. Fifteen hundred dollars for a graduate student; $1,200 for an undergraduate student.

Mr. WILLIAMS of Delaware. Then the conferees could reduce the $1,200 provided in the Prouty amendment to a basis at which it would not exceed the total $1,500 exemption. If they had to leave the two sections in the act, I am not at all sure that they could not reconcile them. It has been the position of the conference that if an amendment went to conference and it was utterly impossible to reconcile the sections affected, the amendment would have to be dropped no matter what the conferees thought of it.

Mr. LONG of Louisiana. The junior Senator from Louisiana is of the opinion that the conferees could find a way to reach the result that the Senator seeks, if that is what they wanted to do.

Mr. PROUTY. I believe that is what the Senator from Iowa desires.

Mr. MILLER. I thank the Senator from Louisiana and the Senator from Delaware.

Mr. LONG of Louisiana. The whole question should be studied further and brought before the Senate as a separate measure. I believe the question could be resolved by the conference in line with the result which the Senator from Iowa would like to see.

69-108 O—66—pt. 3——35

Mr. PROUTY. Mr. President, I yield back the remainder of my time.

Mr. LONG of Louisiana. Mr. President, I suggest that both sides yield back their remaining time. I suggest the absence of a quorum.

The PRESIDING OFFICER. All time has expired. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that further proceedings under the quorum call be terminated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The hour of 1:30 p.m. has arrived. By unanimous consent, the vote will be taken. The question is on agreeing to the amendment offered by the Senator from Vermont [Mr. PROUTY] as modified. The yeas and nays have been ordered, and the clerk will call the roll.

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The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Arkansas [Mr. McCLELLAN], the Senator from Arizona [Mr. HAYDEN], the Senator from Nevada [Mr. CANNON], and the Senator from Oregon [Mrs. NEUBERGER] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that, if present and voting, the Senator from California [Mr. ENGLE] and the Senator from Oregon [Mrs. NEUBERGER] would each vote "nay."

On this vote, the Senator from Arizona [Mr. HAYDEN] is paired with the Senator from Nevada [Mr. CANNON]. If present and voting, the Senator from Arizona would vote "nay," and the Senator from Nevada would vote "yea."

Mr. KUCHEL. I announce that the Senator from Illinois [Mr. DIRKSEN] is necessarily absent and, if present and voting, would vote "yea."

The result was announced—yeas 47, nays 47, as follows:

[No. 16 Leg.]

YEAS—47

Aiken	Dodd	Kuchel
Allott	Dominick	Lausche
Beall	Fong	Magnuson
Bennett	Goldwater	Mechem
Boggs	Hickenlooper	Miller
Brewster	Hruska	Morton
Carlson	Jackson	Moss
Case	Javits	Mundt
Cooper	Jordan, Idaho	Muskie
Cotton	Keating	Nelson
Curtis	Kennedy	Pastore
Pearson	Ribicoff	Smith
Pell	Russell	Tower
Prouty	Saltonstall	Williams, Del.
Proxmire	Scott	Young, N. Dak.
Randolph	Simpson	

NAYS—47

Anderson	Gruening	McNamara
Bartlett	Hart	Metcalf
Bayh	Hartke	Monroney
Bible	Hill	Morse
Burdick	Holland	Robertson
Byrd, Va.	Humphrey	Smathers
Byrd, W. Va.	Inouye	Sparkman
Church	Johnston	Stennis
Clark	Jordan, N.C.	Symington
Douglas	Long, Mo.	Talmadge
Eastland	Long, La.	Thurmond
Edmondson	Mansfield	Walters
Ellender	McCarthy	Williams, N.J.
Ervin	McGee	Yarborough
Fulbright	McGovern	Young, Ohio
Gore	McIntyre	

NOT VOTING—6

Cannon	Engle	McClellan
Dirksen	Hayden	Neuberger

So Mr. PROUTY's amendment, as modified, was rejected.

Mr. JAVITS. Mr. President——

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. KUCHEL. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. Who was recognized first by the Chair?

The PRESIDING OFFICER. The Senator from New York.

Mr. KUCHEL. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. KUCHEL. Mr. President, I move that the Senate reconsider the vote by which the last amendment was defeated. I ask for the yeas and nays on the motion.

Mr. MANSFIELD. I ask for the regular order.

Mr. HOLLAND. Mr. President——

Mr. MANSFIELD. I ask for the regular order.

Mr. HOLLAND. A point of order.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. HOLLAND. Is the Senator from California in position to make his motion?

Mr. LONG of Louisiana. How did the Senator from California vote?

Mr. KUCHEL. I make my motion. I voted in the affirmative.

Mr. LONG of Louisiana. The Senator is not in a position to make his motion.

Mr. KUCHEL. I renew my motion.

Mr. LONG of Louisiana. Mr. President——

The PRESIDING OFFICER. The Senator from California voted in the affirmative. The Parliamentarian informs the Chair that the Senator from California, therefore, is not in a position to make his motion.

Mr. MANSFIELD. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The Senator from New York has the floor.

[*P. 1774*]

REVENUE ACT OF 1964

The Senate resumed the consideration of the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes.

The PRESIDING OFFICER (Mr. INOUYE in the chair). The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

Mr. KUCHEL. Mr. President, I suggest the absence of a quorum; I shall help my Democratic brethren.

The PRESIDING OFFICER. The absence of a quorum has been suggested; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG of Louisiana. Mr. President, I move that the vote by which the Prouty amendment, as modified, was rejected be reconsidered.

Mr. SMATHERS. Mr. President, I move that the motion to reconsider be laid on the table.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. KUCHEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NELSON in the chair). Is there objection? Without objection, it is so ordered.

Mr. KUCHEL. Mr. President, on the question of agreeing to the motion of the Senator from Louisiana, I ask for the yeas and nays.

Mr. SMATHERS. Mr. President, my motion to lay that motion on the table is the pending question.

Mr. KUCHEL. Mr. President, I renew my request.

Mr. MANSFIELD. Mr. President, on this question, I ask for the yeas and nays.

Mr. SMATHERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Florida will state it.

Mr. SMATHERS. Is it not true that the pending question is on agreeing to my motion to lay on the table the motion of the Senator from Louisiana that the vote by which the Prouty amendment, as modified, was rejected be reconsidered?

Mr. MANSFIELD. Mr. President on this question, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. KUCHEL. Yes, Mr. President, there is.

Mr. LONG of Louisiana. For what?

The PRESIDING OFFICER. There is not a sufficient second.

Mr. KUCHEL. Mr. President, I renew my request; but, first, I rise to propound a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from California will state it.

Mr. KUCHEL. What is the pending question?

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider the vote by which the Prouty amendment, as modified, was rejected. On this question, the yeas and nays were requested; but there was not a sufficient second.

Mr. SMATHERS. No, Mr. President; after the motion to reconsider was made, I moved that the motion to reconsider be laid on the table.

Mr. ANDERSON. No, Mr. President; that did not happen.

Mr. SMATHERS. Yes, Mr. President; I did make that motion. Let Senators examine the RECORD, and they will be able to ascertain for themselves that I did make that motion.

Mr. KUCHEL. Mr. President, I renew my parliamentary inquiry.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana to reconsider the vote by which the Prouty amendment, as modified, was rejected. On this question, the yeas and nays have been requested. Is there a sufficient second?

Mr. KUCHEL. Mr. President, I join in the request for the yeas and nays.

The yeas and nays were ordered.

Mr. SMATHERS. Mr. President, I move that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion of

the Senator from Florida that the motion to reconsider the vote by which the Prouty amendment, as modified, was rejected be laid on the table.

Mr. LONG of Louisiana. Mr. President, on this question, I ask for the yeas and nays.

Mr. PASTORE. Mr. President, I join in asking for the yeas and nays on this question.

The yeas and nays were ordered.

Mr. KUCHEL. Mr. President, I rise to propound a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from California will state it.

Mr. KUCHEL. Am I correct in my assumption that the roll will now be called for the yeas and nays on the question of agreeing to the motion of the Senator from Florida [Mr. SMATHERS] to lay on the table the motion of the Senator from Louisiana [Mr. LONG] that the vote by which the Prouty amendment, as modified, was rejected be reconsidered?

The PRESIDING OFFICER. That is correct.

Mr. MANSFIELD. Mr. President, let us vote.

[*P. 1775*]

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider. On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The Chief Clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Nevada [Mr. CANNON], the Senator from Arizona [Mr. HAYDEN], the Senator from Arkansas [Mr. McCLELLAN], the Senator from Oregon [Mrs. NEUBERGER], the Senator from North Carolina [Mr. JORDAN], the Senator from Wyoming [Mr. McGEE], and the Senator from New Jersey [Mr. WILLIAMS] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that, if present and voting, the Senator from Arizona [Mr. HAYDEN], the Senator from California [Mr. ENGLE], the Senator from New Jersey [Mr. WILLIAMS], and the Senator from Oregon [Mrs. NEUBERGER] would each vote "yea."

On this vote, the Senator from Nevada [Mr. CANNON] is paired with the Senator from Wyoming [Mr. McGEE]. If present and voting, the Senator from Nevada would vote "nay," and the Senator from Wyoming would vote "yea."

Mr. KUCHEL. I announce that the Senator from Illinois [Mr. DIRKSEN] is necessarily absent and, if present and voting, would vote "nay."

The result was announced—yeas 46, nays 45, as follows:

[No. 17 Leg.]

YEAS—46

Anderson	Gruening	Metcalf
Bartlett	Hart	Monroney
Bayh	Hartke	Morse
Bible	Hill	Pastore
Burdick	Holland	Robertson
Byrd, Va.	Humphrey	Smathers
Byrd, W. Va.	Inouye	Sparkman
Church	Johnston	Stennis
Clark	Long, Mo.	Symington
Douglas	Long, La.	Talmadge
Eastland	Magnuson	Thurmond
Edmondson	Mansfield	Walters
Ellender	McCarthy	Yarborough
Ervin	McGovern	Young, Ohio
Fulbright	McIntyre	
Gore	McNamara	

NAYS—45

Aiken	Hickenlooper	Nelson
Allott	Hruska	Pearson
Beall	Jackson	Pell
Bennett	Javits	Prouty
Boggs	Jordan, Idaho	Proxmire
Brewster	Keating	Randolph
Carlson	Kennedy	Ribicoff
Case	Kuchel	Russell
Cooper	Lausche	Saltonstall
Cotton	Mechem	Scott
Curtis	Miller	Simpson
Dodd	Morton	Smith
Dominick	Moss	Tower
Fong	Mundt	Williams, Del.
Goldwater	Muskie	Young, N. Dak.

NOT VOTING—9

Cannon	Hayden	McGee
Dirksen	Jordan, N.C.	Neuberger
Engle	McClellan	Williams, N.J.

So the Senate agreed to the motion to lay on the table the motion to reconsider the vote by which the Prouty amendment, as modified, was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. GORE. Mr. President, I offer an amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment of the Senator from Tennessee will be stated.

The Chief Clerk read as follows:

On page 2, beginning with line 14, strike out all down to line 1 on page 8 and insert the following:

"TITLE I—INCREASE IN PERSONAL EXEMPTIONS; ADJUSTMENT OF CORPORATE INCOME TAX RATES; AND RELATED AMENDMENTS

"PART I—INDIVIDUALS

"SEC. 111. INCREASE IN AMOUNT OF PERSONAL EXEMPTIONS.

"(a) IN GENERAL.—Section 151 (relating to allowance of deductions for personal exemptions) is amended by striking out '$600' each place it appears therein and inserting in lieu thereof '$1,000'.

"(b) TECHNICAL AMENDMENTS.—Section 6012(a)(1) (relating to persons required to make returns of tax) and section 6013(b)(3)(A) (relating to assessment and collection in the case of certain returns of husband and wife) are each amended—

"(1) by striking out '$600' each place it appears therein and inserting in lieu thereof '$1,000'; and

"(2) by strikng out '$1,200' each place it appears therein and inserting in lieu thereof '$2,000'."

On page 11, begininng with line 11, strike out all through line 12 on page 12.

On page 12, line 13, strike out "114" and insert "113".

On page 12, strike out line 15 and insert

"SEC. 121. ADJUSTMENT OF CORPORATE NORMAL TAX AND SURTAX RATES."

On page 13, line 13, after "1964," insert "and".

On page 13, strike out lines 1 through 13 and insert the following:

"(2) 30 percent in the case of a taxable year beginning after December 31, 1963.

On page 24, beginning with line 8, strike out all down to line 4 on page 25.

On page 25, line 4, strike out "(c)" and insert "(b)".

On page 26, line 24, strike out "and".

On page 27, line 3, strike out the period and insert a comma.

On page 27, strike out lines 4 through 8, and insert the following:

"(C) the change in the tax imposed under section 3 shall be treated as a change in a rate of tax, and

"(D) the change in the amount of the deduction for exemptions under section 151 shall be treated as a change in a rate of tax."

On page 352, beginning with line 11, strike out all through page 362 and insert the following:

"In lieu of the tax imposed by section 1, there is hereby imposed for each taxable year beginning after December 31, 1963, on the taxable income of every individual whose adjusted gross income for such year is less than $5,000 and who has elected for such year to pay the tax imposed by this section, a tax as follows:

(Insert tables corresponding to the tables on pages 279, 280, 281, 282, and 283, but reflecting the amendment to section 111 of the bill increasing the amount of each exemption to $1,000 and eliminating the changes in the rates of tax on individuals.)

On page 362, beginning with line 12, strike out all through line 16 on page 290 and insert the following:

"(2) Except as otherwise provided in this subsection, in the case of a husband or wife filing a separate return, the tax imposed by section 3 shall be the lesser of the tax shown in table IV or table V of such section.

"(3) Table V of section 3 shall not apply in the case of a husband or wife filing a separate return if the tax of the other spouse is determined with regard to the 10-percent standard deduction; except that an individual described in section 141(d)(2) may elect (under regulations prescribed by the Secretary or his delegate) to pay the tax shown in table V of such section in lieu of the tax shown in table IV of such section. For purposes of this title, an election under the preceding sentence shall be treated as an election made under section 141(d)(2)."

On page 364, lines 22 and 23, strike out "neither table V in section 3(a) nor table V in section 3(b) shall apply" and insert "table V of section 3 shall not apply".

On page 365, in the matter following line 7, strike out "in section 3(a) and table V in section 3(b)" and insert "of section 3".

On page 366, beginning with line 7, strike out all through line 6 on page 379 and insert the following:

"(a) PERCENTAGE METHOD OF WITHHOLDING.—Paragraph (1) of section 3402(b) (relating to percentage method of withholding income tax at source) is amended by striking out the table therein and inserting in lieu thereof the following:

"Percentage method withholding table—Payroll period and amount of one withholding exemption

Payroll period	Amount
Weekly	$22.00
Biweekly	43.00
Semimonthly	47.00
Monthly	93.00
Quarterly	278.00
Semiannual	555.00
Annual	1,110.00
Daily or miscellaneous (per day such period)	3.00".

(b) WAGE BRACKET WITHHOLDING.—Paragraph (1) of section 3402(c) (relating to wage bracket withholding) is amended by striking out the tables therein and inserting in lieu thereof the following:

(Insert tables corresponding to the tables on pages 293, 294, 295, 296, and 297, but reflecting the amendment to 302(a) of the bill increasing the amount of each withholding exemption and eliminating the reduction of the rate of the withholding tax.)

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) of this section shall apply with respect to wages paid after December 31, 1963.

Mr. GORE. Mr. President, the amendment which I have offered would raise the personal exemption for each taxpayer and each of his dependents from the present rate of $600 to $1,000, as a substitute for the rate reductions contained in the bill—H.R. 8363—for individuals and corporations. It is not a substitute for the entire bill. Upon adoption of the amendment there would remain in the bill the changes made in normal and surtax rates for small business; second, the minimum standard deductions for taxpayers contained in the bill; and, third, the structural changes made in the Internal Revenue Code.

I know that Senators will immediately have in mind the revenue effect of the amendment. I ask unanimous consent that an estimate by the Treasury Department contained in a letter from Assistant Secretary Surrey be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

TREASURY DEPARTMENT,
ASSISTANT SECRETARY,
Washington, D.C., December 6, 1963.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to a request for a report from this Department

[*P. 1776*]

on amendment No. 208 to H.R. 8363. Amendment No. 208 would substitute for the individual and corporate tax rate reductions provided in H.R. 9363 an increase in the deduction for each personal exemption from $600 to $1,000.

The individual income tax is the most important single source of Federal revenue. The revenue productivity of the tax depends to a large extent on the level of personal exemptions. The income tax is now paid by most income recipients in the United States who now claim about 187 million personal exemptions. An increase in the amount of personal exemption is extremely costly; it would reduce substantially the individual income tax base and the revenues therefrom. The $400 increase in amount of the personal exemption provided in amendment No. 208 would result in annual revenue losses of $11.7 billion at current rates. (In fact, a $100 increase would cost $3 billion annually.)

The $11.7 billion revenue loss that would be occasioned by this feature of amendment No. 208 is comparable to the $11.66 billion revenue loss that would arise from the individual and corporate rate reductions provided in H.R. 8363. Amendment No. 208 would not change the present 52-percent corporate tax rate on income over $25,000, but like H.R. 8363, would reduce the rate on the first $25,000 from 30 percent to 22 percent. This would add $440 million to the $11.7 billion revenue cost of amendment No. 208, for a total of $12.14 billion. The result would be a tax reduction almost half a billion dollars greater than that provided for by H.R. 8363.

H.R. 8363 embodies a balanced tax reduction program for both individuals and corporations that would not only increase purchasing power but would also stimulate incentives to work and invest. It would provide tax reduction at all income levels with the largest proportionate reduction going to low-income groups. The bill not only includes substantial rate reduction for lower income groups but also a minimum standard deduction of $300 for each taxpayer, plus $100 for the spouse and for each additional exemption. The minimum standard deduction would cost $320 million annually and would concentrate the tax savings among the lower income taxpayers. Amendment No. 208 would retain the minimum standard deductions along with the proposed increase in personal exemptions to $1,000. This would increase very substantially the amount of income that could be received by individuals without tax. For example, a married couple with two children would not be subject to income tax until income exceeded $4,600 as compared with the present $2,666.

Amendment No. 208 would not reduce individual tax rates, which are currently at a level almost universally agreed to be too high. Existence of individual rates ranging up to 91 percent adversely affects the marginal incentive for earning and investing and leads to repeated pleas for special relief tailored to particular circumstances. Moreover, amendment No. 208 would provide inadequate tax reduction for medium and large corporations. The reduction of the 52-percent corporate rate provided in H.R. 8363 is essential if the bill is to achieve its objective of stimulating the economy, reducing unemployment, and increasing economic growth.

In summary, amendment No. 208 would reduce revenues by an additional half billion dollars but is unbalanced and inadequate since it does not provide for overall corporate tax reduction or for reduction in individual rates.

In view of these considerations, the Treasury Department opposes adoption of amendment No. 208.

The Bureau of the Budget has advised the Treasury Department that there is no objection from the standpoint of the administration's program to the presentation of this report.

Sincerely yours,

STANLEY S. SURREY,
Assistant Secretary.

Mr. GORE. The pending bill embodies a loss of revenue to the Treasury of $11,700 million. If the amendment which I have proposed were adopted, the revenue loss of the bill as amended would, in accordance with the estimate of the Treasury, be $12,200 million.

To put it another way, if the personal exemption for each taxpayer and each dependent were raised from the present legal exemption of $600 to $1,000 as a substitute for the rate reductions contained in the bill for both individuals and corporations, the loss in revenue would be $500 million greater.

I am not one of those who believe that we ought to reduce governmental revenue by such enormous proportions. However, I suggest that if such a reduction in governmental revenue is to be enacted, the choice is easy for me to make as between the very large, and, I believe, inequitable reductions in the higher brackets of personal income, and also the reductions for the large corporations which are now enjoying the highest profits in the history of the country on the one hand, and an increase in the personal exemption on the other.

Those who would resist the amendment on the grounds that it would result in loss of revenue to the Treasury should bear in mind that the advocates of the pending bill list that as its greatest virtue. The bill would lose revenue to the Treasury in the amount of $11.7 billion. It is said that the result would be that the budget would be balanced in the near, but as yet indefinite, future.

I suggest that, if this theory be true,

it is of questionable advisability to lose only $11.7 billion. Why stop there? Why not make it $22 billion, and balance the budget more quickly? Indeed, we might make a substantial payment on the public debt.

Obviously, I do not endorse this theory, because it has been tried unsuccessfully. Some of the proponents of the bill speak of the theory as if it were new. It is not new at all. It is as old as Andrew Mellon. Almost everything the present Secretary of the Treasury, Mr. Dillon, says in support of this bill can be found in Mr. Mellon's book in the 1920's. It was tried with drastic adverse results. Surely, it stimulated the stock market. The balloon grew bigger and bigger. But it burst in the crash of 1929.

It has also been tried within the past decade. In 1954, for the same reasons now advocated for the passage of this bill, some persons endorsed passage of the 1954 tax cut bill. The 1954 bill brought about a tax reduction of approximately the same percentage of gross national product as would be accomplished by the pending bill under present circumstances.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. GORE. Let me finish this point. Then I shall yield.

But since then we have enacted additional tax reductions, for example, investment credit and accelerated depreciation. These two taken together amount to a tax reduction of $5 billion, annually, principally for the investing segment of our economy.

I yield to the distinguished senior Senator from Ohio [Mr. LAUSCHE]. Then I shall undertake to examine the economic results of those reductions.

Mr. LAUSCHE. Mr. President, attempting to fortify the argument made by the Senator from Tennessee, that tax reductions do not necessarily produce stimulated business, I wish to read a tabulation relating to times when tax cuts were made in past, beginning in 1919, through 1954, showing the results. I read from U.S. News & World Report, the issue of July 30, 1962:

February 1919. Substantial cut—for individuals and business. By April, business began to climb out of recession.

November 1921. Major cut—affecting individuals and business. Business upturn had begun in August 1921, went on 2 years.

June 1924. Big cut for individuals. Recovery from mild recession began in following August.

We now come to February 1926:

Major cut for individuals. Minor recession started in November 1926.

In other words, 6 months later, the recession began.

May 1928—

And that year ought to cause everybody to tremble a little—

Minor relief—personal and business income. Business, rising, continued to rise.

But in December 1929:

Major relief for individuals. Recession deepened into great depression of 1929–33.

November 1945. Major postwar cut—personal and business incomes. Same month marked start of pickup that followed short postwar recession.

April 1948. Sizable relief for individuals. Moderate recession started in December 1948.

There was a major tax cut in 1954, sponsored by President Eisenhower. But in 1958 it was claimed we ran into a terrific depression.

The point I make with these figures is that it does not necessarily follow that when taxes are cut it is assurance that business will be stimulated.

The major cut of 1929 produced the worst depression we ever had. It probably did not produce it, but the depression followed, and was of a violence unequaled in the history of our country.

I thank the Senator for allowing me to place these figures in the RECORD.

I ask unanimous consent that the tabulation from which I have been reading be printed in the RECORD.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

[U.S. News & World Report, July 30, 1962]

TEN TAX CUTS OF THE PAST—AND THEN WHAT HAPPENED

February 1919: Substantial cut—for individuals and business. By April, business began to climb out of recession.

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November 1921: Major cut—affecting individuals and business. Business upturn had begun in August 1921, went on 2 years.

June 1924: Big cut for individuals. Recovery from mild recession began in following August.

February 1926: Major cut for individuals. Minor recession started in November 1926.

May 1928: Minor relief—personal and business income. Business, rising, continued to rise.

December 1929: Major relief for individuals. Recession deepened into great depression of 1929–33.

November 1945: Major postwar cut—personal and business incomes. Same month marked start of pickup that followed short postwar recession.

April 1948: Sizable relief for individuals. Moderate recession started in December 1948.

March 1954.[1]

August 1954:[1] Substantial relief—personal and business taxes, also excises. Recovery from recession started in September 1954.

Mr. GORE. I appreciate the contribution of the able senior Senator from Ohio.

Mr. President, this bill had its genesis a year and a half or so ago, with a prediction by Dr. Heller and others that there would be a recession in 1964. Senators will recall that this bill was called, in so many words, insurance against recession in 1964.

All of us have made miscalculations. I certainly cannot claim any record of infallibility in that regard. But this bill was based upon a miscalculation. We are now in the second month of 1964, and all the economic indices with which I am familiar show that activity is at a record high, except that there is much unemployment. Employment is at an alltime high. Profits are at an alltime high. Production is at an alltime high. Distribution of dividends is at an alltime high. Retained earnings in corporations are at an alltime high. Cash reserves in corporations, banks, and insurance companies are at an alltime high. So are personal income and personal savings.

We are at the peak of any prosperity this Nation has ever known, and yet, paradoxically, we are today considering a bill to insure against a recession in 1964.

Is there no way that we can stop, look, and listen, and read the clear signs? Has our democratic process become so ponderous, so inflexible, that we are unable to stop when we see that we have a bill that is based upon a miscalculation.

Surely, the U.S. Senate is not incapable of examining the economic facts as they are in 1964, instead of passing a bill based upon a miscalculation of a year or more ago as to what the conditions would be in 1964.

Mr. LAUSCHE. Mr. President, will the Senator yield for a question?

Mr. GORE. I yield.

Mr. LAUSCHE. Is it not a fact that the original proposal for the tax cut was predicated upon the assumption that the tax cut would stimulate business to the point that unused productive capacity would become useful and that people would be put to work; and that subsequently a change in thought occurred, and a new reason was assigned? The new reason was that we must stop a recession. Therefore, there were two reasons assigned. At this time I do not know which of the reasons is the one that the present proposal is predicated upon. If it was intended to stop a recession that was on top of us in December of 1963, how is it that that recession has not come, while the accurate recitation which the Senator from Tennessee has made about business conditions is being reached today?

Mr. GORE. I believe the answer to that question can perhaps be supplied by a return to one of the facts to which the distinguished Senator himself has referred. In 1954 we passed a very large tax reduction bill, largely for corporations and for those who own large amounts of corporate stock. There was a temporary pickup in 1955 and 1956. A pickup of what? A pickup in plant improvement, a pickup in productive capacity, a pickup in investment. But in 1957 and 1958 there was a recession, and a rather serious one. Why? Because there was not sufficient demand to meet the increased productivity of plant and facility.

We ought to examine the whole fabric of our economy to see where stimulation is needed, if any is needed.

Is this bill the way to insure us against a recession in 1964, or to stimulate the economy? I have undertaken to answer the first part of the question. Obviously we do not need to pass a bill now to stop a recession when we are at the peak of prosperity. If we must pass a bill to provide a stimulation to our economy, then the question ariess, Where is the stimulation needed and in what part of our economy? Is it general or is it specific? Is there need for more productive capacity, or is it for consumer demand?

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. LAUSCHE. The Senator from Tennessee has raised a very interesting point dealing with the 1954 tax cut of more than $7½ billion. There was a slight rise in 1955 and 1956, but in 1958 there was a great recession.

Mr. GORE. It began in 1957.

Mr. LAUSCHE. Yes. Now I should like to read the testimony of Secretary Dillon. He contends that it will take 4 years for the tax cut to have a stimulating impact. If he was correct in that judgment, then in 1958 and 1957, instead of having a recession, we should have had the full impact of the benefits to be produced by the tax cut of 1954.

Mr. GORE. In other words, if that is a valid fiscal theory, then by now we should have had a balanced budget.

Mr. LAUSCHE. As a result of the 1954 cut; yes. This is what Secretary

[1] Also, Korean war rates on personal income and the wartime excess-profits tax expired automatically Jan. 1, 1954.

Dillon said in answer to the question of the Senator from Virginia [Mr. BYRD]. Secretary Dillon had said that there would be a $9 billion deficit in 1965. Then he tried to make the statement that we would pass out of that deficit in 1966. The Senator from Virginia asked him this question:

If you have a deficit of $9 billion in 1965, you certainly will have a deficit in 1966, will you not?

Secretary Dillon answered:

I would expect so. We have said that with stringent expenditure control, and allowing for the growth of the economy, the earliest possible date we foresaw for a balanced budget for this tax bill was 1967, and that it might be 1968.

Secretary Dillon said it will take 4 years to produce prosperity and balance the budget.

In 1954, at the end of 4 years, after a $7 billion tax cut, we did not have prosperity and a balanced budget in 1958. We had a $12½ billion deficit. So, at the end of 4 years, let us say in 1968, if we are still in a deficit, are we going to make another tax cut? Where do we head then?

Mr. GORE. I am not one of those who, like the distinguished and able senior Senator from Virginia, the chairman of the Senate Finance Committee, believe that we must have a balanced budget every year. The distinguished and able Senator from Virginia has urged a balanced budget every year. There have been times and conditions under which I though it was inadvisable to have a balanced budget. But I am certainly not one of those who think that there can never be a time or any circumstances under which it would be advisable to have a balanced budget.

We are asked deliberately to adopt a fiscal policy for a planned deficit for a period of years. It is proposed that at a time of prosperity we borrow money to provide tax cuts. I say that is not sound fiscal policy.

However, that is by no means the only reason why I oppose the bill.

I wish to return now to the question which the distinguished Senator from Ohio raised. He spoke of the tax cut in 1954, the temporary stimulation, and the recession that followed. What has happened in the last decade? We have experienced improvement of plant and facility. Some questions have been raised as to the validity of the argument that that is the way to increase jobs. Automation is a controversial term. Some people believe it to be an abomination to mankind. Other people think it is a mark of progress. So far as I am concerned, I would not stop automation. However, I resist the argument that this is the way to increase employment. In part because of the investment credit, rapid depreciation, and the tax cut off 1954 there has been a very rapid improvement in plant facility and a very rapid increase in productivity per man. What is the result? Our factories are producing vastly greater amounts of goods and products, including many new products. But how many people are employed in our factories? Almost 1 million more people were employed in our factories 7 years ago than are employed today. Yet where are the shortages? All one needs is the money or the credit, and he can buy everything from a button to a bulldozer.

Are there any shortages? I have asked repeatedly in the hearings before the Committee on Finance for the citation

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of one product that is in short supply. None has been supplied.

I apologize to the distinguished Senator from Nebraska. I fear that I was carried away by my answer to the senior Senator from Ohio and neglected to yield to the Senator from Nebraska.

Mr. CURTIS. I thank the distinguished Senator from Tennessee. I assure him that I was interested in his discussion.

I share the concern of the distinguished Senator from Tennessee about the advisability of reducing taxes by borrowing money. It is my expectation to oppose the passage of the bill, as I opposed its favorable reporting by the Committee on Finance.

I also share the view of the Senator from Tennessee that people in the lower income brackets are in need of tax relief. With today's purchasing power, people living on modest amounts do not have much to spend.

There is one thing about the amendment offered by the distinguished Senator from Tennessee that troubles me. It is the proposal to raise the personal exemption to $1,000. True, that would reduce taxes for everyone, but it would remove from the tax rolls about 8 million returns. I represent, in part, a State of very fine and humble people. Many of them, I daresay, if the Government could reduce spending, would like to have their taxes reduced. Individuals in the lower income brackets should have a more favorable reduction than anybody else. But I have not had taxpayers come to me and say, "Take me off the tax rolls." I think a more generous reduction should be made in the lower income brackets; but if that is to be done exclusively by a sizable raise in the per-

sonal exemption, some persons would be entirely removed from the tax rolls.

My point is this: In this time of great stress, in this time when we are facing a Communist threat around the world, and a financial burden to defend the Republic, to care for our veterans, and to pay taxes for the national defense, there is more equity in saying to most people, "You should pay something, even though you are entitled to a generous reduction," than to say to 8 million, "You need pay no more taxes." Especially in times like these, citizens want to pay something. That is what disturbs me about the Senator's amendment.

Mr. GORE. I thank the distinguished Senator from Nebraska. In response to his point of view, any answer to almost any question raised about a 300-page-plus bill must be complicated. I should like to begin by acknowledging to the Senate, quite frankly, that even if my amendment were adopted, I would still vote against passage of the bill. Let me explain that statement.

I have said earlier that I thought there were times when economic conditions under which it was inadvisable to have a balanced budget. I am not one of those who thinks that the sole and only purpose of taxation is to meet governmental expenditures. I believe a fiscal policy can be used, and should be used, for the implementation of economic and social policies. When we are experiencing recessionary conditions, one of our most effective weapons is fiscal policy. If it is desired to describe it by an ugly word, call it deficit financing; call it spending.

But I do not think we are now in the kind of circumstances when a general, massive deficit financing program is justified. There are problems in our society, such as structural unemployment, which need specific treatment. There is the problem of vocational training of teenagers who are coming into the labor market without skills. But the bill does not provide for them. This is scattergun treatment, and such treatment is not called for.

The bill is tailored for economic recessionary conditions which do not prevail. The rationale on which the bill was based has vanished into thin air. That is why I say that even though my amendment were adopted, I would not then vote for passage of the bill, a bill which would make such a gigantic reduction in governmental revenue at this time.

Suppose, as a result of the hoped for stimulation, there were a repeat performance of the 1954–57 period. Suppose we used this great weapon of fiscal policy, and then find, 18 months from now, that consumer demand is not sufficient to utilize plant and facilities which are already in existence, and which would be augmented by the bill. What weapon would then be used? Would we cut taxes again, in order to balance the budget at some other time in the even more indefinite future?

I say that this is unsound fiscal policy. A tax cut is a powerful weapon, but it is being used at the wrong time and in the wrong way.

The distinguished Senator from Nebraska [Mr. CURTIS] cites the need for tax relief for persons in low-income brackets; but he says they are not asking to be removed from the tax rolls. I ask every Senator to examine his mail and see if he can determine any demand for the passage of the bill. Where does the demand come from? It comes from those who would be the principal beneficiaries or the inequitable reductions in taxes that would be made by the bill.

Mr. ERVIN. Mr. President, will the Senator from Tennessee yield for a question?

Mr. GORE. I yield.

Mr. ERVIN. Did not Lord Keynes, the English economist, teach that government can justify spending more than it receives in income in time of depression in order to relieve the economic conditions, but that in times of prosperity the government should collect in revenues more than it expends? Was not that the theory he advanced?

Mr. GORE. I believe it can fairly be said that that is basic Keynesian theory.

Mr. ERVIN. Is the Senator from Tennessee aware of the fact that many theoretical economists have now amended that theory, to this effect: that in times of depression the Government should spend more than its revenues, in order to relieve economic conditions; and that in times of prosperity the Government should also spend more than it receives, in order to forestall any future possibility of a depression?

Mr. GORE. I prefer to have economists who take that position spell it out themselves.

I think the Senator from North Carolina has reasonably stated their contention; but I point out that yesterday I placed in the RECORD an article—from the New York Times—in which it was stated that many of the leading economists are now having sober second thoughts about what they had recommended and about what they had stated in regard to the effects of this bill. Now they are wondering whether it is advisable for Congress to proceed to enact this bill, because it is feared that one of the effects of this massive deficit financ-

ing at a time when we are at the peak of prosperity might be overstimulation which would be followed by a recessionary condition which might be severe.

Mr. ERVIN. Mr. President, will the Senator from Tennessee yield further to me?

Mr. GORE. I yield.

Mr. ERVIN. A moment ago the Senator from Tennessee referred to the fact that about 1953 Congress enacted a tax cut bill. As I recall, it took effect on January 1, 1954. Did not the same siren voices that we now hear sing the same siren song to Congress at that time—namely, that if Congress would make that tax reduction, it would stimulate the economy, so that there could be a period of prosperity and a balancing of the budget?

Mr. GORE. That is correct. In that connection, I might point out that four steps were taken in cutting taxes in 1954. First, the bill, H.R. 8300, cut $1,500 million from the taxes of individuals and corporations. Second, the excess profits tax was repealed—and that action amounted to a further cut of $1,600 million. Third, there was a 10-percent across-the-board reduction in individual taxes, which amounted to $3 billion. Fourth, the excise taxes were reduced by $1 billion. Total tax reduction in 1954 was more than $7 billion. As I have already said, that reduction amounted to approximately the same percentage of the then gross national product as does the pending $11,700 million bill.

The Senator from Ohio has cited the results: stimulation of certains portions of the economy in 1955 and 1956. But let us consider what followed.

During the course of what followed, it was my lot to lead the fight on this floor in endeavoring to obtain an acceleration of the highway program and in endeavoring to obtain a public works program. I did that because I found that in my State and in other States, thousands of persons were in breadlines because they were unemployed. A serious recession existed. Not only did I lead the fight for public works bills at that time, but President Eisenhower signed those bills into law.

I do not predict that a recession would soon follow the enactment of the pending bill; but I say that those who predicted a recession in 1964 certainly made a mis-

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calculation; and I question the wisdom of having Congress proceed to enact the pending bill as insurance against a recession in 1964, when, instead of a recession, we have the very opposite.

I also question the assertion that enactment of the pending bill would result in a general stimulation of the economy, inasmuch as the problems confronted by our society are not general, but are specific. In a moment, I shall discuss that point further; but at this time I am glad to yield further to the distinguished Senator from North Carolina, if he so desires.

Mr. ERVIN. Yes, Mr. President. I wish to ask the Senator from Tennessee whether it was predicted—as a basis for the cutting of taxes in 1954—that that action would be a prelude to congressional action in balancing the budget.

Mr. GORE. Yes.

Mr. ERVIN. However, instead of action by Congress in the intervening years to balance the budget, will not the Federal Government by the end of the next fiscal year have operated in the red to the extent of $46.4 billion additional, since the time when that tax cut was made?

Mr. GORE. That is correct. The distinguished senior Senator from Virginia [Mr. BYRD] referred to this point in the course of the first speech made during the debate on the pending bill. Instead of having the predicted effect, that tax cut has had the very opposite effect.

Mr. ERVIN. And has not the Secretary of the Treasury joined the ranks of the financial prophets, and predicted that even with the enactment of the pending bill, we could not look for any possibility of a balanced budget before the fiscal year 1967?

Mr. GORE. That is correct.

Mr. ERVIN. Mr. President, will the Senator from Tennessee yield further?

Mr. GORE. I yield.

Mr. ERVIN. Will the Senator from Tennessee engage in a surmise on the following point: If the Federal Government is not willing to limit its expenditures to its income, at a time when Federal officials brag that the Nation has the highest gross national product in history, can the Senator from Tennessee predict when the Federal Government will place such a limitation on its conduct?

Mr. GORE. I shall answer that question by asking a question which has previously been asked on the floor of the Senate—as follows: Unless the United States can have a balanced budget when its prosperity is at an alltime high, when can it have a balanced budget? Does that question answer the question the Senator from North Carolina has asked?

Mr. ERVIN. Yes; and I thank the Senator from Tennessee for yielding and for his very informative and illuminating answers to my questions.

Mr. GORE. I thank the Senator from North Carolina.

Mr. PROXMIRE. Mr. President, at this point will the Senator from Tennessee yield briefly to me?

Mr. GORE. I yield.

Mr. PROXMIRE. I wish to state that the Senator from Tennessee is absolutely correct when he says that if we cannot have a balanced budget in a period of unparalleled prosperity, we can never have a balanced budget.

I also point out that we are now enjoying a period of unparalleled prosperity in peacetime. Certainly in time of war, all the Nation's resources must be working full time on the war effort, and at such a time we cannot expect to have a balanced budget, but at that time must make the very heaviest expenditures of all.

Therefore, if we are ever to have a chance to come close to balancing the budget, we should do it in the coming year. Does the Senator from Tennessee believe that is true?

Mr. GORE. Yes, I do.

Mr. LAUSCHE. Mr. President, at this point will the Senator from Tennessee yield to me?

Mr. GORE. I yield.

Mr. LAUSCHE. I wish briefly to supplement the statement the Senator from Wisconsin has made. Our debt will rise to $330 billion before this year is over. We are in the height of prosperity, even though we recognize that a considerable number of persons are out of work. Three million of the people of the United States are holding two jobs; and in 11 million families, both the husband and the wife are at work. Deposits almost unparalleled in size have been placed in the savings banks and the building and loan companies and in investments in bonds, and almost unparalleled purchasing power is prevalent throughout the country.

If, during a period of prosperity; we do not put ourselves in shape economically to develop a reserve on which to draw in the event of war, where will we be? What will we have to draw upon if our debt is $330 billion and inordinate demands are made upon us? There will be no reserve. There will be no fat. It will be a tragic day when we begin to sell savings bonds to face the problem that will then confront the country.

I should like to ask the Senator from Tennessee a question: What is the Senator's recollection of the words that were spoken by Dr. Heller and Secretary Dillon as to the absolute need of immediate passage of the bill in 1963 so as to avoid a financial debacle?

I know what the answer is. I have read the testimony. Every word cries out, "Pass it quickly. We cannot wait."

Mr. GORE. I do not recall any instance in history when a President of the United States or the chief executive of any State had great difficulty persuading its legislative branch to reduce taxes. Indeed, most Governors and most Presidents have great difficulty persuading their legislative branches to raise enough revenue to make ends meet.

We have a paradoxical situation in which the Chief Executive of the United States—both President Johnson and the late and beloved President Kennedy—has been going over the heads of Congress for months, telling the American people that what they really need is for that pesky Congress to reduce taxes.

Obviously, those of us who serve in the legislative branch, and who must seek the approval of our constituents, could not enjoy a greater political luxury than voting to cut taxes.

Why has Congress been reluctant? Why has the Senate Finance Committee been reluctant? It is because, in my humble judgment, very few Senators have been sincerely convinced that this is a sound thing to do.

Mr. LAUSCHE. Mr. President, will the Senator from Tennessee yield?

The PRESIDING OFFICER (Mr. WALTERS in the chair). Does the Senator from Tennessee yield to the Senator from Ohio?

Mr. GORE. I am glad to yield.

Mr. LAUSCHE. I have not heard this point raised before, but it is a paradoxical situation that with the normal trend of legislators to reduce taxes, there has been difficulty on the part of those in charge, and those recommending reduction, to convince Congress that it is sound. The ordinary political impulse would be, "Let us cut taxes, and then go back home and tell the people we have made the cuts, and thus emerge triumphant from the next election."

But, the Congress does not want to do that. And why not? Because there are many who believe that if these expectations go wrong, and the product is not such as has been promised, there may be calamitous repercussions throughout the country.

Mr. GORE. Lest the extent of my remarks upon the fiscal policy involved tend to obscure my views as to the inadvisability of the bill, let me say, before yielding further, that even if such tax reduction as is now proposed is deemed advisable, we have the wrong kind of bill. It does not provide stimulation to the economy where stimulation is needed. It gives most relief to those who need it least and provides no solution whatsoever for the most pressing problems of our people.

What are some of those problems?

Do we face the problem of higher corporate profits? I do not believe so. I believe the greatest and most pressing needs of our people can be found in the inadequacy of education, in the need to complete our highway program, in the need for more hospitals, for housing for people of low income, for the elimination of unemployment, for public facilities, for purification of our streams, for vocational education for youngsters who are coming into the labor market by the millions without any skills.

All these things cost money. So, instead of providing a solution for the pressing problems of our people, the bill would seriously impair the capacity of the Government to provide a solution by reducing the percentage of gross national product that would go into governmental revenue.

Mr. SMATHERS. Mr. President, will the Senator from Tennessee yield?

Mr. GORE. The Senator from New Mexico [Mr. ANDERSON] has been on his feet for some time. and I should like to yield to him first. if I may.

Mr. SMATHERS. Most certainly.

Mr. ANDERSON. I thank the Senator from Tennessee. The Senator from Tennessee has mentioned the question of

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reluctance on the part of Congress as expressed in committee, to pass the bill. The Senator knows that the vote in the Finance Committee was 12 to 5 to report the bill. The Senator would not regard that as reluctance, would he?

Mr. GORE. I would not regard the vote as an expression of reluctance, but I would so regard the expressions of many of my colleagues in the executive sessions as questioning the wisdom and advisability of the policy.

Mr. ANDERSON. The Senator has an amendment pending. Would that increase the tax deficit, or would it decrease it?

Mr. GORE. It would increase the deficit.

Mr. LAUSCHE. Mr. President, will the Senator from Tennessee yield at that point?

Mr. SMATHERS. If the Senator from Tennessee will yield to me, I should like to state that the Senator has been most cooperative and helpful. I wonder if we might enter into some agreement as to when the Senate could vote on this particular amendment, inasmuch as the Senator has another amendment to offer later.

Mr. GORE. I am in flight right now, and I do not wish to come down to earth quite so quickly.

Mr. SMATHERS. I understand.

Mr. LAUSCHE. Mr. President, will the Senator yield to me at this point?

Mr. GORE. I yield.

Mr. LAUSCHE. Earlier in the discussion, the Senator from Tennessee made the statement that if a cut of $11.7 billion would help to put everyone to work, stop the outflow of gold, insure the usability of the maximum capacity of manufacturing concerns, and balance the budget, we probably could achieve all these things still more quickly by increasing the deficit. I concur in that view.

If the more we spend and the less we tax the better off we are, we might as well accept that principle now and place no limitation upon how far we will go in reducing the taxes.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. GORE. I am glad to yield.

Mr. PROXMIRE. The Senator from Tennessee yields at an appropriate and propitious time. The Senator from Ohio and the Senator from Tennessee are taking part in what I believe to be an important colloquy on the bill, because the impact of the bill is not confined to what will happen next year and the year after; the impact of the bill may primarily flow from the abandonment of principle which is involved. For the very first time in a period of prosperity, Congress is deliberately reducing revenues so that we shall not have a balanced budget, on the economic theory that the Government has a responsibility and a duty to the economy to run a deficit as long as we have 4 percent or more unemployment.

Once that theory is accepted, it seems to me that we have a principle well established, namely, that Congress should consistently plan not to raise sufficient revenue to balance the budget in the future—in 9 years out of 10 or more.

I call to the attention of the Senator from Tennessee the fact that we have had unemployment exceeding 4 percent almost every year during the last 50 years of peacetime, with the exception of 3 or 4 years. In wartime we have had less than 4 percent unemployment but of course the huge Federal spending in those years immensely increased our deficits and unbalanced the budget. That means that we are in this tax cut bill adopting the deliberate, calculated policy and principle that we should have an unbalanced budget pretty much indefinitely. I submit that the Senator from Tennessee is correct in his statement that if the bill would solve our problem of unemployment, the argument for it would be very strong, indeed. But as the Senator from Tennessee has shown so well, the bill does not go to

the root cause of unemployment at the present time. The proposal is not the best or most efficient way to solve the kind of unemployment which now exists. The bill would not put any unskilled person to work if he did not have the skills which are needed.

The proposal would not put any unemployed person who is out work because he belongs to a minority to work. The bill would not help others who cannot qualify for employment. Certainly of all the groups in America that are sure to be left out of the tax cut—at least the direct consequences of it—the unemployed are No. 1. They do not have a paycheck.

Mr. GORE. Mr. President, I concur in the statement of the distinguished Senator from Wisconsin. The bill is proposed as a solution for problems which we do not have, but it is no solution for the problems which we do have. Our people have many pressing problems. The problem is not profits, bigger dividends or a higher stock market, which is full of air now in anticipation of greater dividends as a result of the proposed tax cut. Do we need to stimulate the stock market more?

I shall now leave at rest, if I may, the advisability of passing an $11 billion tax cut as insurance against recession in 1964. I shall proceed now to discuss the second theory on which it has been advocated, which was referred to earlier by the senior Senator from Ohio, and that is that we need to pass the bill to provide stimulation for our economy.

I ask, Where do we need stimulation? Do we need to stimulate the production of automobiles? We do if there is a demand for more automobiles. But is anyone suggesting that there is a shortage of capacity to produce automobiles? Do we need to stimulate greater productive capacity in the manufacturing industry? I would say yes, if we can stimulate the demand for the product of our industry.

The fact is that about 15 percent of our plant capacity is now idle. Our problem is not lack of productive capacity; it is lack of demand to utilize the productive capacity that we have. Therefore I ask again, What kind of stimulation do we need? Do we need the kind of stimulation that will bring more overtime work for the highly skilled workers who are already in great demand?

The President of the United States has suggested to the Congress that we pass a bill which would grant to the executive branch of the Government the power to impose double time for overtime. Do we need a stimulation of demand for that scarce commodity, which is the technically skilled labor force?

I believe that we need to stimulate demand if we need to stimulate anything. But there again the problem is specific. I am not sure that Mr. Henry Ford needs the stimulation of consumer demand. I am not sure that the vast benefits that would be given under the bill to people in the high brackets is the kind of consumer stimulation which would provide either social justice or economic well-being. If we need stimulation of our economy in a general way—which I question—the kind of general stimulation that we need is in consumer demand.

How do we stimulate consumer demand? By giving employment to those who are unemployed. If we attempt to do so by the tax route, we should provide tax reduction to the people who spend everything they can get for food, clothing, shelter, transportation, and education for their children.

I come now to the pending amendment.

Mr. PROXMIRE. Mr. President, before the Senator does so, will he yield?

Mr. GORE. I yield.

Mr. PROXMIRE. What the Senator has said is true. His argument, as I understand it, is that we have plenty of capacity to produce what is needed by the American people. I should like to call to the Senator's attention some statistics with which he is probably familiar. The internal sources of funds for American corporations have become so great that it is no longer necessary—and has not been for the last 3 or 4 years—for American corporations to borrow money in the open market or to sell securities in order to finance virtually all their needs.

I point out to the Senator that as a result, in part, of the accelerated depreciation regulation which the Treasury decided upon a year ago and the 1962-passed investment credit, which added another $1 billion tax cut for corporations, and because our depreciation policy has been adequate, we had a situation in 1963, according to the just released annual Economic Report of the President in which the total investment in plant and equipment was $33.5 billion.

Mr. LAUSCHE. Mr. President, I should like to ask the Senator what he is reading from.

Mr. PROXMIRE. I am referring to page 285 of the President's Economic Report. The internal sources of funds were $37.6 billion. In other words, corporations had far more than enough—$4 billion more from their own internal

sources—to provide all they needed to construct all of the plant and equipment which they needed in 1963 without borrowing a single dollar and without selling a single share of stock in the market. [*P. 1781*]

Mr. GORE. Or without a single tax cut.

Mr. PROXMIRE. That is correct. The Senator's point is that the argument that we need a corporate tax cut in order that corporations may have more money to build plants flies in the face of the statistics from the Council of Economic Advisers, which has provided this information.

With the Senator's permission—and I will do it only with his permission—I should like to place in the RECORD at this points a table from page 285 of the President's Economic Report.

Mr. GORE. Mr. President, I ask unanimous consent that it be included at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE C–66.—*Sources and uses of corporate funds, 1952–63* [1]

[Billions of dollars]

Source or use of funds	1952	1953	1954	1955	1956	1957	1958	1959	1960	1961	1962	1963 [2]
Total uses	27.3	28.2	24.0	45.1	39.5	37.9	31.5	46.8	39.3	42.3	48.1	51.1
Plant and equipment outlays	22.4	23.9	22.4	24.2	29.9	32.7	26.4	27.7	30.8	29.6	32.0	33.5
Inventories (book value)	1.3	1.8	−1.6	6.7	7.6	2.1	−2.4	6.6	2.5	1.8	3.8	4.0
Customer net receivables [3]	3.1	.7	2.4	6.4	3.3	2.1	2.9	5.6	4.2	3.5	5.8	5.2
Cash and U.S. Government securities	.1	1.8	(4)	5.0	−4.3	−.3	2.7	2.9	−1.7	2.5	1.2	1.8
Other assets	.4	(4)	.8	2.8	3.0	1.3	1.9	4.1	3.5	4.9	5.3	6.6
Total sources	28.1	30.0	22.4	44.8	42.4	40.1	35.7	51.9	41.7	43.6	52.3	54.4
Internal sources	17.8	19.7	19.8	26.6	27.8	28.0	26.0	31.1	29.1	29.6	34.9	37.6
Retained profits and depletion allowances	7.4	7.9	6.3	10.9	10.5	8.9	5.7	9.5	6.2	5.6	7.0	8.2
Depreciation and amortization allowances	10.4	11.8	13.5	15.7	17.3	19.1	20.3	21.6	22.9	24.0	27.8	29.4
External sources	10.3	10.3	2.6	18.2	14.6	12.1	9.7	20.8	12.6	13.9	17.4	16.8
Federal income tax liability	−3.1	.6	−3.1	3.8	−1.7	−2.2	−2.5	2.1	−1.6	.6	.9	1.5
Other liabilities	2.4	2.2	.4	2.1	3.0	2.1	1.7	3.7	3.2	1.8	3.2	2.6
Bank loans and mortgage loans	3.1	.4	−.6	5.4	5.4	1.7	1.0	7.1	3.0	2.0	6.1	6.4
Net new issues	7.9	7.1	5.9	6.9	7.9	10.5	9.5	7.8	8.0	9.6	7.1	6.3
Discrepancy (uses less sources)	−.8	−1.8	1.6	.3	−2.9	−2.2	−4.2	−5.0	−2.4	−1.3	−4.1	−3.3

[1] Excludes banks and insurance companies.
[2] Preliminary estimates.
[3] Receivables are net of payables, which are therefore not shown separately.
[4] Less than $50 million.

Source: Department of Commerce based on Securities and Exchange Commission and other financial data.

Mr. GORE. What the Senator has illustrated is that there is one other thing that is not in short supply, and that is investment capital. Indeed, the Secretary of the Treasury, in a speech to a bankers association a few months ago, said that our times are characterized by excess savings. Those were his exact words.

Mr. ANDERSON. Mr. President, will the Senator yield?

Mr. GORE. In a moment.

There is no shortage of investment capital. To use a colloquial phrase, it is running out of our ears. Cash reserves are the highest in history—not only those of manufacturing corporations but of financial institutions. Personal savings are at an alltime high, as the Senator stated and illustrated from the President's Economic Report.

So, once again, we have a bill that is proposed as a solution for problems that do not exist, and it is the wrong kind of solution for the problems that do press upon our people.

Now I yield to the Senator from New Mexico.

Mr. ANDERSON. I was not concerned with what the Senator from Tennessee was saying as I was with what the Senator from Wisconsin was saying. It seems to me the Senator from Wisconsin was suggesting that there is no need for special financing on the part of corporations. I wish he would check into the corporations that have been in the market, and are now in the market, to borrow money. Perhaps they do not know what they need, but there they are just the same.

Mr. PROXMIRE. Mr. President, will the Senator from Tennessee yield?

Mr. GORE. I yield.

Mr. PROXMIRE. First, I call attention to the fact that the Senator from New Mexico has in his hand a copy of the Wall Street Journal.

Mr. ANDERSON. Yes.

Mr. PROXMIRE. If he will look at the Dow-Jones index, with which I am sure he is familiar, he will find that stock prices are at very nearly an all-time high; that the corporations of America have never been in a better position to raise money on the market than they are today. There has never been a better time to raise money on the equity market. The market is valuing common stock at twice the level of 1929.

Mr. ANDERSON. If the Senator is following the Dow-Jones average, he will recall that some of us made that mistake as far back as 1929. I hope we are not going to make it again. It is not necessarily an index of how well off we are.

Mr. PROXMIRE. The Dow-Jones average is overweighted in favor of the blue chips. Nevertheless, it is a rough, but general, indication of the availability of investment funds.

Mr. GORE. Mr. President, I should like to cite to the distinguished Senator from New Mexico the record of the past 12-month period, 1963. For an expansion of plant and facility of approximately $35 billion, corporations went on the open market to sell only about $1 billion in common stock. Surely, the tendency toward internal financing has been galloping. The corporations collecting funds from two sources, from profits and from tax reduction. They are not only financing their expansion internally, but are succeeding in distributing dividends at an alltime high.

Several years ago, the rule of thumb, for want of a better term, has been that corporations would distribute in dividends 50 percent of their after-tax income. They are now distributing 66 percent of after-tax income in dividends—much of which has come from the tax reductions of the last 10 years—which are annually now at a rate of $5 billion a year.

So I believe the point made by the Senator from Wisconsin is not only valid, but is amply proved by the facts.

I raised the question a few moments ago as to what kind of stimulation our economy needs. Mr. Henry Ford came before the Senate Finance Committee and testified. He was chairman of a committee organized for the purpose of lobbying for a tax reduction bill. He came before our committee and urged us to pass a bill, and pass it quickly, in order to give the mass of our people an increase in take-home pay.

I was delighted when he used that term, because I had been trying to bring the Treasury up to that trough for quite a while, but they did not want to drink at that trough. The Secretary of the Treasury and his assistants ran from measuring this bill in terms of take-home pay as if it had been a dog with hydrophobia. But Mr. Henry Ford came right up and drank at that trough. He urged the committee to pass the tax bill to give the American people an increase in take-home pay.

I thanked him, and I asked him—and I am paraphrasing the colloquy; it will be found in exact terms in the hearings—if he knew about what percentage increase in take-home pay would be provided for the average industrial worker. He said, no, he had not figured that out. I remarked that, as a Senator undertaking to represent all the people, I had figured it out.

Mr. LAUSCHE. Mr. President, will the Senator yield so I may inquire with whom the Senator was discussing this matter?

Mr. GORE. Mr. Henry Ford, who, a few weeks ago, opened another plant in Portugal, where several hundreds of people will be employed, and whose company, before it opened that plant, already employed abroad many thousands. Yet he came and asked us to pass the bill to increase the take-home pay of the people who still have jobs.

I related to him that the increase for the average worker in our country would be 5 or 6 percent, or about $3 a week. He

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did not comment upon that statement particularly. Then I asked if he knew what the increase in take-home pay, the after-tax income, would be for a corporation executive with a salary and bonus of $200,000 to $300,000 a year. I did not say that that was about his landmark, but I knew I was looking at him. He said, no, he had not figured that out. I told him I had. The increase in take-home pay for a corporation executive in this bracket of taxable income would be about $1,000 a week.

I asked him if he thought that was fair. I asked him if a Senator who represented all the people would be acting fairly, in undertaking to stimulate the economy where it needed stimulation, if he voted for a bill to increase the take-home pay of the president of a corporation by $1,000 a week or more, and that of the average worker in a plant by $3 a week or less. He said, yes, he thought that was fair, if one had worked up in his company.

I did not say anything, but I leaned

back in my chair and wondered how long it had taken him to work up.

Mr. MILLER. Mr. President, will the Senator yield for a question?

Mr. GORE. Not just now. I will yield later. In case Senators wish to examine this question from the standpoint of social justice, from the standpoint of the increase in take-home pay—and I may say that I am complimented that so many of my colleagues do me the honor of their attention—I ask them to turn to page 190 of the committee report. There they will see a table, prepared at my request, with the approval of the Committee on Finance, by the technical staff of the Joint Committee on Internal Revenue Taxation, headed by a very able and distinguished gentleman, Mr. Colin F. Stam.

If Senators will look at column 8 they will see the percentages of increase in take-home pay. Column 1 is taxable income. "Taxable income," let me explain, is income subject to taxation after personal exemptions and deductions have been taken off. This is a term that is recognized by tax lawyers and officials of the Treasury. I am talking about taxable income. That is the kind of income on which the ordinary citizen pays his taxes at the stated rates. In the high brackets, more is said about capital gains and alternative rates. I am talking now about the kind of income on which people calculate their taxes and to which they apply the ordinary income rates in the law.

Mind you, Mr. President, the people who get it in the neck, so to speak, by our tax law are the people on salaries and wages and fees, or who receive other normal income. I am talking now about taxable income against which ordinary rates are applied. I wish to nail that down.

In column 1 is taxable income. Let us look at the taxable income of $4,000. That is not very far from the average. It may be a little above the average. This is after the exemptions and authorized deductions.

A man with a taxable income of $4,000 a year, as is shown in column 8, receives an increase in his take-home pay of 5.6 percent. Now let us look at the taxpayer who has a taxable income of $8,000. He receives less than a 5-percent increase in his take-home pay, or 4.7 percent. We are approaching now the man in rather comfortable circumstances, one who has a $12,000 taxable income. He receives an increase in his take-home pay of 5 percent. Let us come to $20,000. That is 6.1 percent. Let us come to $40,000. That is 9.3 percent.

I will not tax the patience of Senators too much. Let us consider the man with a taxable income of $100,000 a year. We find that he has an increase in his take-home pay of 18.2 percent. Then let us go to the $200,000-a-year man. Now we are getting up where we really need to stimulate consumer demand. These people need that third or fourth automobile. We need to stimulate these people by this bill. That is why they want relief so badly. That is why Mr. Ford organized his committee. That is why the Secretary of the Treasury asked him to organize a political pressure committee. Of course they want it. They can already taste it.

However, does the Senate want to vote it? That is what I am asking Senators.

A person with a taxable income of $200,000 a year gets an increase in his after-tax income of 36.2 percent.

Let us come now to a person with a $600,000 income a year. This will really stimulate the economy. This man can build another yacht in Europe. That is what he may be doing. His increase in take-home pay will be 100 percent. That is exactly double.

Do Senators wish to go home and say to the average worker who toils, and who has a tax bite on his salary check every week, that his take-home pay has been increased by 5 percent and that the corporation executive's take-home pay has been increased by 100 percent?

As I said yesterday, what we have is an increase in the take-home pay of small percentages on small amounts, and an increase in take-home pay of large percentages on large amounts. This is the direct reverse of social justice. This is in inverse ratio to the needs of our people and the traditions of the Democratic Party.

How did we come to this point? I will not go further with this table, but there is a higher increase than 100 percent in after tax income. What kind of bill do we have?

To answer the table which was prepared by the technical staff of the Joint Committee on Internal Revenue Taxation, the Treasury Department prepared another table. It undertook to show that there was no one who had a 100-percent increase in take-home pay. Secretary Dillon said the highest actual increase he had come upon was an 84-percent increase in take-home pay. I would not argue with him as to the social justice measured by an 84-percent or a 100-percent increase in take-home pay. I thought both were out of all proportion to what we were doing for the average American. When the Treasury got around to explaining that not many people would have this kind of increase in

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take-home pay, what was the explanation?

It was said that people in the higher income brackets do not pay a very high rate of taxes. I ask the Senator from Illinois if that is not a fair interpretation of the answer.

Mr. DOUGLAS. That is correct.

Mr. GORE. Let the RECORD show that the Senator from Illinois nodded affirmatively and said, "That is correct."

I have just cited the statistics prepared by the staff of the joint committee, my staff, and me. Now I wish to cite the Treasury's table. I ask Senators to turn to page 181 of the committee report. On this page are two tables. If Senators will do me the honor of following my statement, the first table was prepared by the Treasury Department; the second table was prepared merely by using the statistics of table 1.

Senators will notice that the basis used here is not "taxable income" but "adjusted gross income." What does "adjusted gross income" include? Perhaps I should answer the question by saying, first, what income is excluded from "adjusted gross income." Tax exempt interest income is not included; that is, income from municipal bonds; taxpayers do not even have to include that income. Depletion allowances are not included in "adjusted gross income." Intangible drilling costs are not included. Business expenses are not included. One-half of capital gains and one-half of profits, which by law are treated as capital gains, are not included. I believe that is not all of the income that is not included in "adjusted gross income," but these are the principal items that are excluded from "adjusted gross income."

But after excluding all of these, and then having an adjusted gross income of $1 million a year, the tax payment, under the bill as it has come to the Senate, would be, for the typical taxpayer, less than 16 percent. That is what we have been asked to vote for.

The present law is almost that bad. Under the present law, instead of 15.9 percent, the effective rate would be 17.4 percent. I am trying to make two points: First, the present tax law is grossly unfair. It is a sieve of loopholes, of which only people having vast financial resources can take full advantage. They take full advantage of it. They take advantage of it so fully that the Treasury tells us of a taxpayer having an income of $28 million in 1 year on which he did not pay 1 single cent in taxes. Why? Because the law did not require him to pay.

Second, instead of improving that situation, which is highly inequitable and unfair, the pending bill would make it worse. The political immorality of the bill, according to my view, is that instead of proceeding to enact tax reform that would require all taxpayers to pay in accordance with their ability to pay, and that would promote social justice and economic fairness, we proceed, or I fear we are proceeding, to pass a bill that will make our tax laws more inequitable and give greater benefits to those who are already getting by with the payment of only a small percentage

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of their income, even though that income is very great. That is what the Senate is asked to vote for.

I took the table on page 181 and the second table, which is a calculation from statistics contained in table 1, and asked the Library of Congress to make a chart of effective tax rates. What are effective tax rates? Effective tax rates are the rates that taxpayers pay on their realized income.

I have used another term which I had not used before in this discourse—"realized income." What is included in "realized income"? This is income after tax exemptions, after depletion allowances, after intangible drilling costs, after business expenses. Really, the essential difference between adjusted gross income and realized income is that adjusted gross income includes only one-half of the profits made from capital transactions. Realized income includes capital gains as well as other income.

With that explanation, let us look at the chart and see how steeply graduated the effective tax rates are in the lower brackets. I should say for the benefit of Senators who may not be able to read the figures at the distance from the chart at which they sit that the amounts increase on the horizontal line. Effective tax rates are shown on the perpendicular columns at both the left and right of the chart.

The effective rate of taxation rises almost perpendicularly in the lower brackets, and is graduated steeply to the high point of $100,000 a year of realized income.

What is the effective rate of the "typical" taxpayer in that bracket? Mr. President, before I answer that question, I wish to state that the word "typical" was chosen by the Treasury Department, which undertook to show—as I have already stated—that not many persons would have a large increase in take-home pay because the "typical" taxpayer in the high brackets simply did not pay normal tax rates on the income he realized. So the word "typical" was selected by the Treasury Department.

Later, in executive session, in considering the question of what the word "typical" means, I believe it was stated that it related to the average taxpayer—I believe that was the statement—within a given income bracket.

Mr. President, the American people have entertained the view that we have a steeply graduated, progressive income tax system. We do have, according to the law as it was first written; but since that time, the law has been so riddled with loopholes as to make a mockery of the progressive income tax system.

Yet when the pending bill—for which the Senate is asked to vote—was referred to the committee, it was found that under the provisions of the bill as it then stood, the highest payment by the "typical" taxpayer—one in the $100,000 realized income bracket—would be, following enactment of the bill, not 70 percent, the highest rate stated in the bill, not 50 percent, not even 30 percent, but only 26.2 percent.

The amazing thing is that from there on, as the income rises, the effective tax rates go down, until—as Senators will find when they examine the second table on page 181—a realized income of $1,500,000 would be subject to a tax of less than 16 percent—actually, it would be 15.9 percent—on that income.

I appreciate the attention of the senior Senator from South Carolina [Mr. JOHNSTON]. I dare say that most of the people of his State—as I believe would be the case with the people of the State I have the honor in part to represent—would think that a person with an income of $1,500,000 a year would be paying these confiscatory taxes. But according to the Treasury Department, the "typical" taxpayer in that income bracket pays only 15.9 percent.

Mr. LONG of Louisiana. Mr. President, will the Senator from Tennessee yield?

Mr. GORE. I yield.

Mr. LONG of Louisiana. If that taxpayer gave all of his annual income to charity, he would not owe any tax, would he? The chart is based on the assumption that the typical taxpayer would be paying approximately 17 percent. However, if he gave all his income to charity, he would not have to pay an income tax.

Mr. GORE. Or if he gave all of it to a family foundation, which might or might not be a charity, he would not pay any income tax, either; and that is but one of the loopholes in the law.

Mr. LONG of Louisiana. But let us assume that he gave all of it to a church.

Mr. GORE. But we are not now discussing only income. He would not have to give any of his income to charity; he could give a painting—at an appreciated value—or an estate with an old house that no one wanted to heat any more, but with a high estimated market value. The Treasury Department officials told us, in executive session, that such items with an appreciated value receive, when given to so-called charities, an average tax valuation 45 times greater than their cost. Yet, even though the painting cost $1,000, on the average the taxpayer would receive credit for a charitable donation valued at $45,000.

Mr. LONG of Louisiana. Mr. President, will the Senator from Tennessee yield further?

Mr. GORE. Yes, but first I wish to complete my statement.

So, Mr. President, when I am asked whether the taxpayer would have to give all of his income, in order to avoid an income tax that year, the answer is that he would not have to give his income; he merely would have to give to charity an article which had an estimated market value equal to his income, and then he would be scot free of taxes.

Mr. President, I yield now to the Senator from Louisiana.

Mr. LONG of Louisiana. I thank the Senator from Tennessee.

Mr. President, I believe the Senator from Tennessee knows that inosfar as he is able to cite cases in which the charitable contribution deduction is being abused, he can expect some support from me.

Mr. GORE. I know that, and I appreciate that fact; and I compliment and honor the Senator from Louisiana because of it.

Mr. LONG of Louisiana. On the other hand, it seems to me that we should be fair to what I believe to be the majority of those who make such gifts to charity. Perhaps the overwhelming majority of them are not trying to use their charitable contributions as schemes by which to defraud the Government of taxes. I think I know of some persons who fall in the one category, and of some who fall in the other.

My impression is that the great majority of those who make charitable contributions are really sincere, at least in their own hearts, in believing that they are trying to benefit society and their fellow men by making those contributions to charity. I was given examples of a number of contributions or gifts to charity—cases in which the present value of the gift would be as much as 1,000 times the amount paid for the article when it was originally acquired. For the most part, in those cases the present value of the gift was 1,000 times what it had been at the time of acquisition. Perhaps

stocks and bonds were involved in some of those cases; at any rate, the item had been held by the family for a long period of time.

From a consideration of the effective tax rate in effect, one can gain the impression that such a person did not pay a substantial income tax. However, the reason why, he did not pay a tax was that he gave away an article valued at an amount equal to a huge percentage of his income in a single year.

I ask the Senator from Tennessee if he is outraged over the type of situation in which a taxpayer does not make an improper assessment of value—where the donated item is assessed correctly but has greatly increased in value, as in a case in which stocks were given which had greatly appreciated in value over 30 or 40 years.

Mr. GORE. If a taxpayer receives a tax deduction on a capital asset, I believe he should pay taxes on the appreciation of that asset; else we will leave the door wide open to the abuses to which the able Senator has pointed.

It is true that some people may be properly motivated in so doing, but we do not enact laws to curb the good but to curb or regulate the bad. There are widespread abuses, and this chart illustrates the abuses. The point I make is that the bill would not corrct them. It would make them worse. I am offering a substitute.

Mr. LONG of Louisiana. Mr. President, will the Senator from Tennessee yield further?

The PRESIDING OFFICER (Mr. Ribicoff in the chair). Does the Senator from Tennessee yield to the Senator from Louisiana?

Mr. GORE. I yield.

Mr. LONG of Louisiana. Will the Senator from Tennessee inform me as to where the bill makes it worse?

Mr. GORE. I have just pointed out that under the bill as passed by the House, the Secretary of the Treasury states that the "typical" taxpayer with an income of $1,500,000 a year would pay

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15.9 percent in taxes. Under present law, the same table, shows on page 191, that it is 17.4 percent.

The situation is made worse by reducing the effective tax rate of a person affluent or fortunate enough to have an income of $1,500,000, from an effective rate of 17.4 percent to 15.9 percent. I say that is considerably worse.

Mr. LONG of Louisiana. Was not the table to which the Senator referred prepared prior to the time the Senate committee acted to strike out the capital gains treatment provided by the House?

Mr. GORE. It was, and I was about to point that out next. I appreciate the Senator's calling it to my attention. That would make the bill a little less bad. I applauded the action of the committee in that regard. I was one Senator who insisted that there be a separate roll call vote on that amendment. I supported it, as did the Senate by more than a 2 to 1 majority. I am proud of that action, but that is by no means the only provision in the bill by which the inequitable situation is made worse. If it finally stands up in conference, this would bring the effective rate, according to the technical advice I have received, somewhere between 16 and 17 percent—still worse than the present law.

Mind you, there are many individuals involved, from the high point of 26 percent to the lower point of 15.9 percent. But the overall situation for the "typical" taxpayers is that as income goes up beyond $100,000, the effective rate goes down, under present law. It is made worse by the pending bill.

Mr. LONG of Louisiana. Mr. President——

Mr. GORE. If I may continue for a moment, what I am trying to do is offer the Senate a choice between a bill which makes this highly inequitable situation worse, which gives the most tax relief to those who need it least, which provides stimulation where it is not needed, on the one hand, and an increase in personal exemption on the other. I would give the most tax relief to those who, in my opinion, need it the most; namely, the parents of the largest numbers of children.

Now I am glad to yield to the Senator from Louisiana.

Mr. LONG of Louisiana. May I suggest to the Senator from Tennessee that at least in one respect, according to my judgment, the Senator's chart is substantially in error. The way the chart works out it treats the charitable contributions that individuals have made as though they were income which they had enjoyed, and which should be taxed. I have some doubt that the Senator from Tennessee really wishes to tax that at all.

In the second instance, if the Senator will look at the table which I had printed in the Record a few days ago on page 1675, he will see that I placed it in the Record in support of my argument that the capital gains provision of the House should be stricken. The Senator from Tennessee supported that view. The table shows that individuals having an income of $2 million against an adjusted gross income could be divided into two categories: those who had a high percentage of capital gains, and those who had a low percentage of capital gains.

Those who had a low percentage of capital gains were found to be paying about 46 percent of their income in taxes.

Mr. GORE. Is that the adjusted gross or realized income?

Mr. LONG of Louisiana. The table will speak for itself, but I believe it is realized gross. Those who had a high percentage of their income in capital gains were paying an effective rate of about 21 percent. Those who had a low percentage of their income in capital gains were paying about 46 percent of their income in taxes.

The House bill would have treated both groups similarly, so that their tax reduction as a percent of present law tax would be relatively close. But that is not how the Senate bill does it. The Senate bill would give those people paying about 46 percent of income in taxes approximately the same tax reduction they would have had in the House bill, but the Senate bill would actually increase the taxes on those people paying a lower rate of approximately 21 percent of their income in taxes. That being the case, it would seem to me that if we look at the people really getting away with the kind of thing the Senator from Tennessee is against, those people would pay more taxes after enactment of the bill. They will not enjoy the benefit of this tax reduction.

It will be those people paying a high percentage of their income in taxes, or those in the lower-income brackets, who will enjoy the substantial tax benefits that are provided for in the bill.

It seems fair to me. One of the things we tried to do was to tighten up on the tax advantages that we felt favored the privileged few, and to provide tax relief in those areas where it was most justified.

I hope the Senator studied the table I had printed in the RECORD, because it illustrates that point.

Mr. GORE. I did.

The table to which I referred, and from which the chart was made, was supplied by the Treasury Department. The Treasury Department supplied the tables to which the Senator referred. It supplied them to him. The distinguished junior Senator from Florida [Mr. SMATHERS] received certain tables. They were based on somewhat different hypotheses. Likewise, the senior Senator from Illinois had supplied to him other tables. They all pretty well prove the same thing.

The distinguished majority leader, the Senator from Montana [Mr. MANSFIELD], is on his feet. I see his handsome presence. He is looking, not hungrily, but rather longingly, at the senior Senator from Tennessee. I can tell from the twinkle in his eye that he is hoping that I am in good humor and that a vote may be reached pretty soon. I yield to him.

Mr. MANSFIELD. Mr. President, will the distinguished Senator from Tennessee, who I must admit is a mindreader, consider the possibility of a time limitation on the pending amendment or on other amendments which he may offer?

Mr. GORE. To be perfectly candid with the Senator, I realize that I do not have sufficient support to have adopted my amendment, which would raise the personal exemption to $1,000.

I shall ask for a voice vote on that amendment. Then, if it is defeated, and if it is agreeable, I shall offer an amendment which would provide an increase in the exemption to $800. I would then ask for a yea-and-nay vote on the amendment and, so far as I am concerned, I would then agree to a vote after I had 10 minutes to speak following a quorum call.

Mr. MANSFIELD. Would one-half hour, 15 minutes to a side, on the next amendment be sufficient?

Mr. GORE. That would me satisfactory to me.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. CURTIS. Will there be a yea-and-nay vote on each amendment?

Mr. GORE. There would be a choice vote on the amendment now before the Senate and a yea-and-nay vote on the amendment I shall offer next.

Mr. CURTIS. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee [Mr. GORE].

The amendment was rejected.

Mr. GORE. Mr. President, I offer an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment of the Senator from Tennessee will be stated.

The LEGISLATIVE CLERK. On page 2, beginning with line 14, it is proposed to strike out all down to line 1 on page 8 and insert the following:

TITLE I—INCREASE IN PERSONAL EXEMPTIONS; ADJUSTMENT OF CORPORATE INCOME TAX RATES; AND RELATED AMENDMENTS

Part I—Individuals

SEC. 111. INCREASE IN AMOUNT OF PERSONAL EXEMPTIONS

(a) IN GENERAL.—Section 151 (relating to allowance of deductions for personal exemptions) is amended by striking out "$600" each place it appears therein and inserting in lieu thereof "$800".

(b) TECHNICAL AMENDMENTS.—Section 6012(a)(1) (relating to persons required to make returns of tax) and section 6013(b)

(3)(A) (relating to assessment and collection in the case of certain returns of husband and wife) are each amended—

(1) by striking out "$600" each place it appears therein and inserting in lieu thereof "$800"; and

(2) by striking out "$1,200" each place it appears therein and inserting in lieu thereof "$1,600".

On page 11, beginning with line 11, strike out all through line 12 on page 12.

On page 12, line 13, strike out "114" and insert "113".

On page 12, strike out line 15 and insert

SEC. 121. ADJUSTMENT OF CORPORATE NORMAL TAX AND SURTAX RATES

On page 13, line 13, after "1964," "and".

On page 13, strike out lines 1 through 18 and insert the following:

(2) 30 percent in the case of a taxable year beginning after December 31, 1963.

On page 24, beginnnig with line 8, strike out all down to line 4 on page 25.

On page 25, line 4, strike out "(c)" and insert "(b)".

On page 26, line 24, strike out "and".

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On page 27, line 3, strike out the period and insert a comma.

On page 27, strike out lines 4 through 8, and insert the following:

(C) the change in the tax imposed under section 3 shall be treated as a change in a rate of tax, and

(D) the change in the amount of the deduction for exemptions under section 151 shall be treated as a change in a rate of tax.

On page 352, beginning with line 11, strike out all through page 362 and insert the following:

In lieu of the tax imposed by section 1, there is hereby imposed for each taxable year beginning after December 31, 1963, on the taxable income of every individual whose adjusted gross income for such year is less than $5,000 and who has elected for such year to pay the tax imposed by this section, a tax as follows:

(Insert tables corresponding to the tables on pages 279, 280, 281, 282, and 283, but reflecting the amendment to section 111 of the bill increasing the amount of each exemption to $1,000 and eliminating the changes in the rates of tax on individuals.)

On page 362, beginning with line 12, strike out all through line 14 on page 364 and insert the following:

(2) Except as otherwise provided in this subsection, in the case of a husband or wife filing a separate return, the tax imposed by section 3 shall be the lesser of the tax shown in table IV or table V of such section.

(3) Table V of section 3 shall not apply in the case of a husband or wife filing a separate return if the tax of the other spouse is determined with regard to the 10-percent standard deduction; except that an individual described in section 141(d)(2) may elect (under regulations prescribed by the Secretary or his delegate) to pay the tax shown in table V of such section in lieu of the tax shown in table IV of such section. For purposes of this title, an election under the preceding sentence shall be treated as an election made under section 141(d)(2).

On page 364, lines 22 and 23, strike out "neither table V in section 3(a) nor table V in section 3(b) shall apply" and insert "table V of section 3 shall not apply".

On page 365, in the matter following line 7, strike out "in section 3(a) and table V in section 3(b)" and insert "of section 3".

On page 366, beginning with line 7, strike out all through line 6 on page 379 and insert the following:

(a) PERCENTAGE METHOD OF WITHHOLDING.—Paragraph (1) of section 3402(b) (relating to percentage method of withholding income tax at source) is amended by striking out the table therein and inserting in lieu thereof the following:

Percentage method withholding table

Payroll period	Amount of one withholding exemption
Weekly	$22.00
Biweekly	43.00
Semimonthly	47.00
Monthly	93.00
Quarterly	278.00
Semiannual	555.00
Annual	1,110.00
Daily or miscellaneous (per day of such period)	3.00

(b) WAGE BRACKET WITHHOLDING.—Paragraph (1) of section 3402(c) (relating to wage bracket withholding) is amended by striking out the tables therein and inserting in lieu thereof the following:

(Insert tables corresponding to the tables on pages 293, 294, 295, 296, and 297, but reflecting the amendment to 302(a) of the bill increasing the amount of each withholding exemption and eliminating the reduction of the rate of the withholding tax.)

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) of this section shall apply with respect to wages paid after December 31, 1963.

Mr. MANSFIELD. Mr. President, will the Senator yield without losing his right to the floor?

Mr. GORE. I shall yield, but first I should like to ask for the yeas and nays on my amendment.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CURTIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that 30 minutes be allocated to the pending amendment, 15 minutes to be under the control of the Senator from Tennessee and 15 minutes to be under the control of the Senator from Louisiana [Mr. LONG].

The PRESIDING OFFICER. Is there objection?

Mr. KUCHEL. Mr. President, reserving the right to object—and I shall not object—I wonder, for the information of the Senate, if some time later consideration might be given to a unanimous-consent agreement with respect to any amendments other Senators might wish to offer to the bill.

Mr. GORE. That arrangement would be agreeable to me.

Mr. KUCHEL. I thank my able friend. I thank the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORE. Mr. President——

Mr. MILLER. Mr. President, will the Senator from Tennessee yield for a question? As he knows, I have been trying to obtain the floor.

Mr. GORE. I yield. I apologize to the Senator. I have been speaking and yielding. I should have yielded to him before now.

Mr. MILLER. That is quite all right. The Senator from Tennessee has made a very fine presentation of some of the defects in the revenue impact and the tax impact of the pending bill. The Senator from Iowa is inclined strongly to agree with much of what has been said by the Senator from Tennessee.

However, that does not necessarily lead us to the solution which the Senator from Tennessee has stated. I am sure that all of us would like to have an increase in our personal exemption.

I note that under the pending bill a taxpayer in the $150,000 to $200,000 taxable income bracket would have $200 skimmed off the top for tax purposes as a result of the increase of his personal exemption from $600 to $800. He would be in the 90-percent bracket, and that would give him a tax savings of $180.

Then we drop down to the $50,000 to $60,000 bracket. Those in that bracket would have a tax saving of $150, because the top amount that would be skimmed off by the amendment of the Senator would be in the 75-percent bracket.

In the $25,000 bracket 56 percent would be the tax rate, and applying that to the top $200 skimmed off, the savings would be $112.

In the $10,000 bracket the top amount, the $200 skimmed off, would be subject to a 38-percent rate, resulting in a tax saving of $76.

We get to the bottom bracket, about which the Senator from Tennessee has been expressing such great concern, and we find that the tax bracket is only 20 percent, and the tax saving would be only $40.

So it seems to me that under the pending amendment there would be for those in the low income bracket area a small percentage of saving on the increase of $200 per exemption, and in the high brackets there would be a big saving on the same amount of money. So it seems to me the Senator is advocating a regressive amendment.

If the Senator from Iowa misinterprets the impact of this amendment, he would like to be so advised. It seems to me the Senator from Tennessee has criticized this bill legitimately for its tax impact, but he has offered an amendment which proposes to do about the same thing, perhaps not in the same degree. It would give the top bracket taxpayer the greatest saving, because the tax that would be saved under the amendment would be off the top amount, say, 90 percent or 70 percent or 60 percent, and the people in the low bracket would get the amount skimmed off only at the 20-percent level.

Mr. GORE. I get the Senator's point. He has made a valid point. However, I think he has overstated it.

Let us suppose a taxpayer is in the 50-percent bracket and he receives a $200 increase in his personal exemption. This would mean he would have a $100 tax reduction. If a person were in the 20-percent bracket, it would mean he would have a $40 tax saving.

I suggest to the Senator that in this case we are talking about the difference between $40 and $100, whereas the bill deals with the difference between $3 and $1,000 a week or more.

I know it is very difficult to achieve an exact formula for social justice in taxation. Perhaps the only perfect way to do it would be to reduce everybody's taxes by the same amount of dollars, but that would be of little benefit to some persons and would remove vast numbers entirely from the tax rolls on the other hand, and I do not think it would be acceptable.

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It seems to me, under the principles of the tax law which we have, about the most democratic way to provide tax relief is to increase the exemption for a taxpayer and his dependents.

It is very true, as the Senator has said, and as I have just acknowledged, that the taxpayer in a higher bracket will get a larger benefit; but we are talking here in terms of relatively small amounts of dollars per taxpayer.

Mr. MILLER. Mr. President, will the Senator yield for a question?

Mr. GORE. I yield.

Mr. MILLER. The Senator is absolutely correct, that the degree of disparity and equity under his amendment is much less than that which exists under the bill; but the Senator has put his finger on the very point I think his amendment should cover—and I am sorry he passed it over—when he said that perhaps the best way of doing equity would be to give everyone the same kind of tax cut. There is only one way to do it, and that is to have a tax credit, rather than have a $600 or $800 exemption subject to fluctuating rates.

If the Senator wants to have equity across the board, and say that everybody shall have the same kind of deduction, he might offer this amendment by changing it to a credit approach, and I think it would be much more equitable.

Mr. GORE. The suggestion of the distinguished Senator has much merit. I hope he will later offer it.

It is true that an increase in the personal exemption would be of more dollar benefit to taxpayers in the high brackets than to those in the lower brackets. I would not, however, violate reason, logic, and equity on that account.

We have set up a tax system which is so riddled with loopholes of favoritism and special gimmicks to take care of certain interests that we have lost sight of the logic of the personal income tax.

Although I have never regarded the income tax as a "soak the rich" system of taxation, I have always regarded it—and I think it was always so intended—as a system of taxation which should be applied against income above the decent subsistence level.

The income tax should not become a weapon against the poor, as in the case with the excise and sales taxes.

The income tax system has a certain logic to it—if we can bore beneath the debris of gimmicks.

We start with gross income, from which we deduct legitimate business expenses; that is, the expense the taxpayer underwent to earn his income. This gives us adjusted gross income.

At this point we decide what is a decent subsistence level of income so that we do not tax poverty. So, we set up a personal exemption which will keep the taxpayer and his family free from income tax on their daily bread.

Beyond that point we allow certain deductions which, hopefully, will encourage or permit certain socially worthwhile activities to be carried on by individual taxpayers. We allow a deduction for reasonable contributions to charity, for personal interest, for State and local taxes, and so on. In my view, we have gone overboard on deductions, and these deductions, coupled with capital gains gimmicks, and such items as depletion and intangible drilling costs which cause income to disappear from the books even before it is entered as adjusted gross income, account for most of the erosion in our tax base.

Even so, and with all its imperfections, there is still this basic logic to our individual income tax system.

Having arrived at taxable income, then, we must decide on a fair rate scale to be applied against this taxable income to produce the amount of revenues we need from this source.

In a sense, then, the personal exemption and the rate scale are two independent, separate, and distinct items.

We should then consider, if we cannot afford to make changes in both at this time, which one has priority.

Is it more important, particularly in view of the recently launched war on poverty, to raise the personal exemption to a point where we do not impose a tax on poverty, or should first priority go to the reduction of rates which will enable the rich—who have already reduced their taxable income to a low level by virtue of the gimmicks available to them—further to escape meaningful and necessary taxation?

The question is just that simple.

We are told that it is necessary for the country to deny itself some $11 billion or $12 billion of revenues—a view I still stubbornly resist. But let us say we will deny the Government this needed revenue. Shall we do this by raising the personal exemption so as to avoid taxing poverty, or shall we do it by lowering the rates against taxable—one could almost say excess, that is, excess above subsistence level—income?

The rich already pay a low effective tax rate. The poor, exen in their poverty, pay a high tax rate in other forms—sales and excises, particularly.

Mr. President, will the Chair advise me as to the time situation?

The PRESIDING OFFICER. The Senator has used 7 minutes of his time.

Mr. GORE. I yield myself 3 minutes.

The amendment which I have now proposed, and on which the roll will be called, would raise the personal exemption from the present legal figure of $600 for each taxpayer and each of his dependents to $800.

I should like to have the attention of the distinguished chairman of the committee, who has just entered the Chamber.

The PRESIDING OFFICER. The attention of the Senator from Virginia [Mr. BYRD] has been requested by the Senator from Tennessee.

Mr. GORE. The pending amendment would raise the personal exemption from $600 to $800 as a substitute for the changes in tax rates for corporations and individuals, but would leave the structural changes in the bill intact, would leave the minimum standard deduction in the bill intact, and would leave intact the surtax and normal tax change for the benefit of small businesses.

As to the revenue effect, if the amendment is adopted there will be a revenue loss by adoption of the bill of about $7 billion. This means that the revenue loss would be some $5 billion less by the adoption of my amendment than the bill as presently written would entail.

Is $600 an adequate amount for a personal exemption? What is the theory of a personal exemption? It is that a taxpayer or a family unit will have a subsistence level of income before the Federal Government starts levying a tax on that income. The present law allows a $600 exemption for a child. I ask any father in this Chamber if that is adequate.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GORE. I yield myself 1 additional minute.

Moreover, it is not only inadequate now. Measured by what it was previously, it is revealed to be even less adequate.

In 1940 a man and his wife had a personal exemption of $2,000. Now the cost of living is more than twice as much as it was in 1940, and the exemption is down to $1,200.

My amendment would not restore it to $2,000, but would raise it to $1,600.

By this amendment we could have a revenue reduction of only approximately $7 billion a year, and balance the budget next year.

Mr. HARTKE. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Who yields time to the Senator from Indiana?

Mr. GORE. I yield 1 minute to the Senator from Indiana.

Mr. HARTKE. Mr. President, although I am an ardent supporter of the present tax bill, I think, in fairness, I should say I am in sympathy with the approach advocated by the Senator from Tennessee. I introduced such a measure in 1961, proposing practically the same thing the Senator from Tennessee now proposes, the original amount going to $1,000.

I want the Senator to know that I am wholeheartedly with him in his viewpoint, although I have agreed to take the other route. I am not too sure at the moment how I shall vote.

Mr. GORE. Mr. President, I hope the Senator will soon reach his conclusion.

Mr. GRUENING. Mr. President, will the Senator yield?

Mr. GORE. I yield a minute to the Senator from Alaska.

Mr. GRUENING. I wholeheartedly support the amendment of the Senator from Tennessee. I was in favor of the Hartke amendment when it was offered. I believe this is a sound method of giving a tax reduction to the people who need it instead of giving a tax reduction to the people at the top. The figures of the Senator from Tennessee graphically show that the pending bill is a bill to make the rich richer, and not a bill to help the economy in the sector where help is needed. The amendment the Senator from Tennessee proposes would go far to rectify that situation.

Mr. LONG of Louisiana. I yield 5 minutes to the Senator from Florida.

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Mr. SMATHERS. I wish to take up where the Senator from Alaska ended. He says it is a bill to make the rich richer and does not help the consumer. I would like to point out that the bill actually calls for a tax reduction of $11.6 billion. Of that amount, approximately $9 billion will go to individuals.

The amendment offered by the Senator from Tennessee would cost about $7 billion.

Contrary to what the Senator from Alaska has said, the amendment would not help the people in the low income groups—77.4 percent of the benefit would go to people with incomes of over $5,000. Those are the Treasury figures and those are the staff figures. Contrary to what the Senator from Alaska says, the Gore amendment would not help those it seeks to help or those it is said it would help. It would drop 4 million taxpayers from the tax rolls.

If we are to proceed in this particular area of trying to assist the low-income

group, we should do it by using the so-called minimum standard of deduction, which gives a $200 deduction plus a $100 additional deduction for each dependent. However, there is a $1,000 limit at the top. That provision will cost $320 million, but 84 percent of that benefit will go to persons who earn $5,000 or less.

The Senator from Tennessee still continues that provision in the present proposal, but I repeat that 77.4 percent of the benefit of his amendment would go to relieve taxpayers who have an income of $5,000 or more.

The proposal of the able Senator from Tennessee does not represent what in our opinion is a balanced approach to tax reduction. We have had chronic deficits. We have had deficits for 24 years of the last 36. We have more than 5.5 percent of our labor force unemployed. It seems that no matter what we try to do, and no matter how high profits get, or no matter how large the amount of savings in the banks—and one reason for the large savings is that there is not much incentive to take that money out of the bank and invest it—we still continue to have deficits.

We believe our approach is the better approach to provide an incentive by decreasing taxes on individuals as well as decreasing taxes on a certain part of the business community.

We believe ours is a much sounder approach. Whereas the Gore amendment leaves the heavy tax rates as they are in the present law, from 20 percent up to 91 percent, we would reduce them in our proposal from a 14-percent low to a 70-percent high.

Our is a better approach to the whole program of trying to bring about tax relief and at the same time stimulating the economy. Although the Senator's proposal is presented in a very attractive fashion, in truth and in fact it does not help those it is supposed to help as much as is purported—77.4 percent of the benefit goes to those with incomes of $5,000 or more.

We are looking for a balanced bill. It has been said that a tax reduction bill does not stimulate the economy. The fact is that it does. After we reduced taxes in 1954, we found that within 2 years we had a balanced budget. That was one of only 2 years in which we had one in the previous administration. The reason we think this bill is even better is that it reaches into every segment of the economy. Not only does it reach the low income man, who has a percentage reduction of some 38 percent, but it also reaches up to help the man who is paying high taxes.

I cannot dispute the able Senator's presentation of the effective tax rate in the very top brackets. There are some loopholes. However, some of them have been closed. The Senator from Tennessee started his presentation with a $50,000 income. The great bulk of the taxes are paid by people with less income.

I conclude by saying that what we need is a balanced bill. The bill has been approved by the AFL–CIO, at one end of the spectrum. It has been approved by the chamber of commerce, on the other end of the spectrum. While it is not what everyone wants, it seems to be the most efficacious bill that we can get. I sincerely hope that the Senate will reject the Gore amendment.

Mr. LONG of Louisiana. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator has 9 minutes remaining.

Mr. LONG of Louisiana. Mr. President, the Senator from Tennessee proceeds on the assumption that the pending bill is unfair to the workingman. The arguments that he has made about the take-home pay and that sort of thing are the traditional arguments of the AFL–CIO. I am happy to say that the AFL–CIO is satisfied with the provisions of the bill—and I have particularly in mind the minimum standard deduction. These rate reductions will help the workingman. The AFL–CIO, looking at the bill in terms of what it means in increased take-home pay, says it is a good bill.

The bill is supported by those who speak for labor, by those who speak for banks, and those who speak for commerce. Persons in the lower bracket would receive a tax reduction of about 38 percent.

There is something to the argument that if we make it profitable for a businessman to build a plant and invest his capital, it will actually result in someone getting a job and making some money.

As the Senator from Michigan has pointed out, the bill has the support of those who represent people in the low income brackets. It has the support of those who represent middle income people. It has the support of those who represent small business. It has the support of those who represent large business. It has the support of those who speak for investors and bankers.

It seems to me that when we are able to produce a bill that satisfies all these groups, there is no reason to accept an amendment which would strike out the incentive provisions that will create new jobs and help commerce, and benefit the businessman and the workingman.

If it is desired to pass a bill merely to benefit those in the lower income

brackets, amendments can be offered that will accomplish that purpose better than the pending amendment. Amendments could be offered—I could draft some myself—to provide that a person would not get any new benefit if he made more than $10,000. But if such an amendment were adopted, a large number of taxpayers who are paying taxes at high rates today, because they have large incomes, would then be unfairly and unjustly treated.

The bill is the product of 10 years of study by the Treasury and by other experts on this subject. It is the result of consultation with labor and management and others representing every segment of economic life in this great Nation.

I urge the Senate to maintain the balance in the bill, rather than to say that we will try to benefit a certain class, leave out corporations, leave out this group, or that group, and end with a substantial segment of the American economy feeling, quite justly so, that they have been unfairly treated, and with large numbers asking to have the bill recommitted.

I reserve the remainder of my time.

Mr. GORE. Mr. President, I hope I may be pardoned for being a bit amused at the arguments we have just heard. On the one hand, my amendment, it is alleged, would do too much for those in the low-income brackets; yet, on the other hand, it is said that it would not do much. That is a strange sort of paradoxical argument. I suggest to Senators that they ask any mother or father if $600 is an adequate amount, if it is commensurate with the cost of rearing and educating a child. I do not believe that even $800 is, and I have some reason to know—I have children.

What I have offered as a substitute for the grossly unfair rate reductions in the bill is an increase in the personal exemption from $600 to only $800. That would result in a loss of revenue $5 billion less than the proposal for which I offered it as a substitute.

Do we want to add more to the public debt by passing a bill to make a bad tax law worse? Or do we want to add less to the public debt and do more justice to the people who need tax reduction the most—the parents of the largest numbers of children?

Senators may be able, by obfuscation, to confuse the issue; but no parent will be confused by this issue, because the amendment would lift an utterly inadequate personal exemption of $600 to a more nearly adequate, though still inadequate, amount of $800.

The PRESIDING OFFICER. The time of the Senator from Tennessee has expired. The Senator from Louisiana has 4 minutes remaining.

Mr. LONG of Louisiana. Mr. President, I yield 3 minutes to the distinguished Senator from New Mexico.

Mr. ANDERSON. Mr. President, many of us believe the amendment is an extremely bad one. If the exemption were made $800, it would cost $7 billion. I do not know of any easy way that that amount could be restored to the bill. Certainly we do not want to reduce the

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bill $7 billion more than it has already been reduced. Where would we find $7 billion if it were removed by this amendment?

The amendment would remove 4 million persons from the tax rolls by exemptions. I do not think that is a good idea. According to information which I have obtained, 77.4 percent of the reduction would be received by those having incomes or more than $5,000.

It has been said that the minimum standard deduction is focused on persons having incomes below $5,000, and that 90 percent goes to those having incomes below $5,000. Under the amendment, 77 percent would go to persons having incomes above $5,000. So the difference between the two proposals can easily be seen.

I am very happy that the Senator from Louisiana has said that the proposal of the Senator from Tennessee presents some difficult problems. It would not be at all easy to restore the bill to its original condition if the amendment were adopted. I am hopeful that the amendment will be defeated.

I merely move that the amendment of the Senator from Tennessee be tabled. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Mexico to table the amendment of the Senator from Tennessee.

Mr. LONG of Louisiana. Mr. President, on this question, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. On this motion, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. KUCHEL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from California will state it.

Mr. KUCHEL. Is the vote that is about to be taken a vote on the motion to table the amendment of the Senator from Tennessee?

The PRESIDING OFFICER. That is correct.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. RIBICOFF in the chair). The Senator from Montana will state it.

Mr. MANSFIELD. Is it in order at this time for the Senate to vacate the motion to lay on the table the last amendment of the Senator from Tennessee, so that the Senate may have an opportunity to face squarely the question of agreeing to his amendment?

The PRESIDING OFFICER. No; because the yea-and-nay vote on the question of agreeing to the motion to lay on the table is in progress; and, under the rule, nothing is allowed to interrupt a yea-and-nay vote once it has been begun; it must be completed.

Mr. HUMPHREY. I announce that the Senator from Nevada [Mr. CANNON], the Senator from Arizona [Mr. HAYDEN], the Senator from Arkansas [Mr. McCLELLAN], and the Senator from Oregon [Mrs. NEUBERGER] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

Mr. KUCHEL. I announce that the Senator from Illinois [Mr. DIRKSEN] is necessarily absent and, if present and voting, would vote "yea."

The result was announced—yeas 61, nays 33, as follows:

[No. 18 Leg.]

YEAS—61

Allott	Hickenlooper	Monroney
Anderson	Hill	Morton
Bartlett	Holland	Mundt
Bayh	Hruska	Pastore
Bennett	Humphrey	Pearson
Bible	Inouye	Pell
Boggs	Jackson	Robertson
Brewster	Javits	Saltonstall
Byrd, Va.	Johnston	Scott
Carlson	Jordan, N.C.	Simpson
Case	Jordan, Idaho	Smathers
Clark	Keating	Sparkman
Cooper	Kennedy	Stennis
Curtis	Kuchel	Symington
Dodd	Long, Mo.	Thurmond
Dominick	Long, La.	Tower
Eastland	Magnuson	Walters
Ellender	McCarthy	Williams, N.J.
Ervin	McIntyre	Williams, Del.
Fong	Mechem	
Fulbright	Miller	

NAYS—33

Aiken	Hart	Nelson
Beall	Hartke	Prouty
Burdick	Lausche	Proxmire
Byrd, W. Va.	Mansfield	Randolph
Church	McGee	Ribicoff
Cotton	McGovern	Russell
Douglas	McNamara	Smith
Edmondson	Metcalf	Talmadge
Goldwater	Morse	Yarborough
Gore	Moss	Young, N. Dak.
Gruening	Muskie	Young, Ohio

NOT VOTING—6

Cannon	Engle	McClellan
Dirksen	Hayden	Neuberger

So the motion to lay Mr. GORE's amendment on the table was agreed to.

Mr. MANSFIELD. Mr. President, I am about to make an unusual request because of unusual circumstances. The Senator from Tennessee [Mr. GORE] agreed to have a vote on his amendment in 10 minutes. After debate got underway, we finally settled, at my suggestion, on a 30-minute limitation, with 15 minutes to each side.

In order to clear the air and to keep any faith which may have been inadvertently broken, I ask unanimous consent—and I hope the Senate will bear with me at this time—to vacate the vote which was taken on the question of tabling, and to have a yea-and-nay vote on the question directly.

Mr. KUCHEL. Mr. President, will the Senator from Montana yield?

Mr. PASTORE. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PASTORE. No Member of this body has more respect and affection for the Senator from Tennessee than I. If I could find it in my heart and conscience to go along with this request, I certainly would do so. I believe that the motion to table is in perfect parliamentary procedure, and if the Senator from Montana had not done so, I would have made the motion myself.

I believe this amendment is untimely. I do not believe it belongs in the bill. The Senator from Tennessee has stated that even if the amendment did carry, he would vote against the bill.

Under those circumstances, I do not believe any Senator will feel that he should be called upon at this time to vote on the merits, but would vote to table. I believe that this is an unreasonable request at this time, and I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOUGLAS. Mr. President——

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. LONG of Louisiana. Mr. President, will the Senator from Illinois yield?

Mr. DOUGLAS. I yield briefly to the Senator from Louisiana.

Mr. LONG of Louisiana. Mr. President, the Senate usually saves time by trying to accommodate itself to the wishes of 100 Senators. Unanimous-consent requests are often difficult to obtain, and a single Senator, feeling that he has not been treated properly in the Senate, has a perfect right to object to

a unanimous-consent request and often impedes the progress of the Senate.

The problem involved is something that happened in my presence. The Senator from Tennessee said that he would like to have a vote on his amendment, and there was agreement that the Senate would vote on the amendment at a certain time.

I would doubt that any majority leader of the Senate would be wise in agreeing to a vote on an amendment and foreclosing himself the right to make a motion to table after all debate had been heard. It seems to me this is a very useful motion that any majority leader would wish to reserve to himself.

Perhaps there was a misunderstanding on this question. However, the Senator from Tennessee can certainly offer an amendment in a slightly different fashion if he wishes to do so, and have a yea-and-nay vote on it in any case. It is for that reason that I hoped there could be a unanimous-consent agreement to have a direct vote on the amendment. Of course, the Senator from Tennessee can have a vote on his amendment by offering it with a change of a single comma or a semicolon, any time he wishes to do so hereafter.

Mr. ANDERSON. Does the Senator from Louisiana wish to change some of the rules? I have in mind some rules that I would like to change. Does the Senator wish to change the cloture rule in the same way?

Mr. LONG of Louisiana. The only point I had in mind was the suggestion that we might agree by unanimous consent to have a vote directly on the amendment.

Mr. ANDERSON. But we did not.

Mr. LONG of Louisiana. As they say in Kentucky, that is what makes a horse race, a difference of opinion. Some Senators thought that, and others did not.

Mr. MORTON. Mr. President, the Senator from Kentucky wishes to speak on another subject.

Mr. LONG of Louisiana. I have no objection to a direct vote on the amendment, but I believe the majority leader probably should have the right to make a motion to table after all debate had been concluded, if he felt that is what he should do.

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REVENUE ACT OF 1964

The Senate resumed the consideration of the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes.

Mr. KUCHEL. Mr. President, will the Senator yield 1 minute and a half to me?

Mr. DOUGLAS. I yield a minute and a quarter to the Senator from California.

Mr. KUCHEL. Mr. President, while Senators are present in the Chamber, I should like to make an observation to the distinguished majority leader. It is my understanding that the distinguished senior Senator from Illinois desires to discuss a proposed amendment to the tax bill, at not too great length, and that he contemplates asking no vote on the amendment until tomorrow. It is further my understanding that the distinguished junior Senator from Kentucky desires to offer an amendment which would provide a 4-percent dividend exclusion, an amendment which the minority leader had offered in committee, and he would ask that a time limitation tonight be placed on the amendment so that the Senate, in a little over an hour, could have a yea-and-nay vote on the amendment.

I should like to inquire of the majority leader whether, if what I have said transpires, he contemplates any additional labor this evening?

Mr. MANSFIELD. Mr. President, will the Senator yield me 1 minute?

Mr. DOUGLAS. Certainly.

Mr. MANSFIELD. That sounds very good to me, too. In addition to this amendment, I hope there will be others, and that the Senate will be in business until 10 o'clock tonight to get the tax bill on its way toward bringing its consideration to conclusion, one way or the other. So the more amendments, the better.

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Several Senators addressed the Chair.

Mr. DOUGLAS. Mr. President, I do not want to yield any more, because I have been, I think, quite generous with my time, and I would like to discuss the tax bill, rather briefly. Then Senators can discuss this fascinating subject later.

INCREASE OF $100 IN MINIMUM STANDARD DEDUCTION

Mr. President, I am about to offer an amendment which would accomplish some of the things the Senator from Tennessee was trying to accomplish, but would remove some of the objections to his amendment.

Very briefly, my amendment provides for an increase of $100 in the minimum standard deduction for each taxpayer and dependent, as compared to the present bill.

REDUCE CORPORATE CUT

Second, nine-tenths of the cost of the amendment would be paid for by reducing the cut in the corporation tax.

At present, the corporation tax is scheduled to go from 52 percent to 50 percent, and then to 48 percent next year. My amendment would reduce it to 51 percent this year, and 50 percent next year. So, roughly, the amendment is neutral so far as revenue is concerned. There would be a loss of about $90 million.

BENEFIT TO LOW-INCOME GROUPS

The amendment would increase the tax reduction for individuals and particularly for those in the lower income groups. At present, the minimum standard deduction is $300 for a taxpayer and $100 for each dependent. This means there is a minimum standard deduction of $600 for a family of four. This, added to the $600 per capita exemption, means, roughly, that a family of four has the first $3,000 of income exempted from taxation.

Under my amendment, the minimum standard deduction would be increased to $400 for the taxpayer and $200 for each dependent, so that a family of four would have a minimum standard deduction of $1,000, which, when added to the exemption of $2,400, would provide that the first $3,400 would be exempt from taxation for a family of this size.

Instead of costing $6,700 million, as the amendment of the Senator from Tennessee would cost—and for which, incidentally, I voted—it would cost $960 million.

But one of the great advantages of the arrangement is that it would increase the amount given to the lower income groups.

BENEFITS TO THOSE WITH $10,000 OR LESS

All but $35 million of the $960 million, or a total of $925 million, would go to taxpayers with incomes below $10,000 a year; $385 million would go to those with incomes below $5,000 a year; $540 million would go to those earning between $5,000 and $10,000 a year.

This amendment would favor relatively low income taxpayers and families.

Under my amendment the minimum standard deduction is continued up to and including the sixth child, so that a family with six children would get a minimum standard deduction of $1,800, instead of the present $1,000 in the bill.

I ask unanimous consent that a table giving the distribution effect of my amendment be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection the table will be printed at this point in the RECORD.

The table is as follows:

Adjusted gross income class	Revenue loss (millions)		
	Under minimum standard deduction in H.R. 8363	Under proposal	Increased loss due to proposal
0 to $3,000	$170	$320	$150
$3,000 to $5,000	100	335	235
$5,000 to $10,000	50	590	540
$10,000 to $20,000	0	30	30
$20,000 to $50,000	0	5	5
$50,000 and over	0	(1)	(1)
Total	320	1,280	960

1 Less than $2,500,000.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. AIKEN. How would the Senator's proposal compare with a flat deduction of $700?

Mr. DOUGLAS. Does the Senator mean an increase in the exemption?

Mr. AIKEN. Yes.

Mr. DOUGLAS. Each $100 increase in the exemption costs roughly $3⅓ billion. So this proposal would cost about 30 percent of that.

Mr. AIKEN. What is wrong with a $100 exemption increase?

Mr. DOUGLAS. I would vote for it. I voted for the $200 exemption increase, of from $600 to $800, but a motion was made by the Senator from New Mexico to table, and it carried. I am now proposing this amendment to increase the minimum standard deduction rather than to raise the amount of the exemption. If another amendment is offered to increase the minimum from $600 to $700, I shall vote for it. At present, I am offering my amendment, which would cut taxes approximately $1 billion for the low income groups, but would offset that loss of revenue by diminishing the cut in the corporate taxes.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. HUMPHREY. Would there be any loss of revenue under the aggregate provisions of the amendment?

Mr. DOUGLAS. Ninety million dollars. We would lose $960 million through the increase in the minimum standard deduction. We would gain $870 million through the diminished cut in the corporation tax. So there would be a loss of $90 million, but that is a relatively minor amount in a tax bill that would reduce revenues by more than $11 billion.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. PROXMIRE. Is it not true that the Senator will offer another amendment, the oil depletion amendment which would recoup $400 million?

Mr. DOUGLAS. Yes.

Mr. PROXMIRE. Also, I intend to offer another amendment which would increase revenues between $245 million and $725 million a year, which I understand the Senator will support.

Mr. DOUGLAS. That is correct.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. AIKEN. Is it not true that the $600 exemption, when it was adopted some years ago, would buy far more than a $700 exemption would today?

Mr. DOUGLAS. Yes.

Mr. AIKEN. How would the purchasing power of the $600 exemption when it went into effect some 15 years ago compare with the purchasing power today? What would be its equivalent in purchasing power today?

Mr. DOUGLAS. I think there has been an increase of about 25 percent in the cost of living during the past 15 years.

There was an increase from 92 to 107 in the consumer price index in the last 12 years, which is an increase of approximately 17 percent; but there was an increase in the period prior to 1952.

Mr. AIKEN. But the tax bill as it is now written would put a further squeeze on the lower income people, would it not?

Mr. DOUGLAS. I would not say it would put on a further squeeze.

Mr. AIKEN. As far as exemptions are concerned.

Mr. DOUGLAS. As far as the past is concerned, every increase in the cost of living diminishes the real value of the $600 exemption.

One of the great advantages of an increase in the minimum standard deduction which I am proposing, as compared with an increase in the exemption, is that a larger proportion goes to the lower income groups.

Mr. AIKEN. Yes.

Mr. DOUGLAS. There is already a 10-percent standard deduction, but with an upper limit of $1,000.

Mr. AIKEN. Does the Senator from Illinois believe that it is possible to dump $11 billion into the purchasing power of the country without increasing prices at all?

Mr. DOUGLAS. I am not discussing the general theory of the bill. I am discussing the question of the transfer of some of the cuts from the upper income groups to the lower income groups. Those with incomes of over $50,000 a year own approximately a third of the stock of the country, and get about a third of the distributed profits. Those with incomes of over $25,000 get over half the dividends. Under my amendment we are cutting down on the amounts that would go to the higher groups, and giving that to the groups that have less than $10,000 and less than $5,000.

Mr. AIKEN. Would not the increase in the cost of living, due to the $11 billion being dumped into the purchasing power of the Nation, be greater than the tax benefits which are given to a family, say, earning less than $3,000 a year?

Mr. DOUGLAS. I am not discussing the merits of the bill as a whole. My amendment would not affect that situation one way or the other.

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Mr. AIKEN. That is important.

Mr. DOUGLAS. I think it is, and I welcome a discussion of the bill later. In the meantime I will discuss my particular amendment. My amendment does not change the overall effect of the tax bill. What it does do is to take approximately $900 million from those in the income groups above $10,000 and $25,000 and $50,000.

Mr. AIKEN. Who would they be?

Mr. DOUGLAS. Only 1 family out of 10 has an income of over $10,000, roughly. About 2 percent of the families have income over $20,000. Two-tenths of 1 percent or 1 in 500 have incomes of over $50,000. What my amendment would do would be to diminish the tax benefits given under the bill to the upper income groups and increase the tax tax benefits given to the lower income groups.

Mr. AIKEN. What percentage goes to those of $50,000?

Mr. DOUGLAS. Of the corporate protfis, they get about 50 percent of the corporate profits.

Mr. AIKEN. I thank the Senator from Illinois. The whole thing is very clear now.

Mr. DOUGLAS. I thank the Senator.

Mr. President, I think that this is the best possible way, now that the Gore amendment has been defeated, of insuring a larger proportion of the tax cut going to the ordinary people of the country.

There are numerous arguments for the amendment. Time and again Members of the Senate have expressed the view that a larger proportion of the tax cut should go to relatively low income individuals or to those of modest incomes. The amendment would give a larger share of the cut to those below $10,000.

In fact, 95 percent of the cuts in my amendment would go to those with incomes below $10,000 a year.

MORE OF CUT WOULD BE SPENT

It would also have the effect of giving a greater stimulus to the economy than in the present bill, because those with relatively low incomes and those with large families tend to spend a much higher proportion of their income than those with high incomes. Therefore, we can expect that a greater proportion of the tax cut will be spent for the necessities of life and, hence, have a greater stimulative effect on the economy than the cuts in the present bill.

CORPORATIONS HAVE HAD LARGE CUTS

A third argument for the nature of this cut is that corporations and their stockholders since 1954 have already had tax cuts equivalent in amounts to $5 billion a year. In 1954 the provisions for rapid depreciation and fast tax writeoffs went into the code. In that same year the dividend credit was passed. Together, these amounted to about $2½ billion on an annual basis which went to corporations or to the holders of corporate stocks.

In 1962 we passed the investment tax credit. This was worth slightly more than $1 billion a year to corporations. To be more precise, it was $1,200 million. In addition, in 1962 the Treasury revised Bulletin F, which meant an additional $1.3 billion per year to the corporations. Thus, corporations and their stockholders have had a tax cut of almost $5 billion a year since 1954, while the ordinary taxpayers have had no Federal income tax cut whatsoever.

Thus, there is great merit in increasing the amount to go to low income individuals in the bill and decreasing the amount which goes to corporations. This is precisely what my amendment would do.

STATE AND LOCAL TAX INCREASES REGRESSIVE

There is a further argument in favor of the amendment; namely, that the amount of State and local taxes have risen by very large amounts over recent years. These taxes are regressive and fall much more heavily proportionately on low income groups than on high income groups.

For example, from 1954 to 1962, State and local property taxes rose from $9.9 to $19 billion a year. State and local sales taxes and gross receipts taxes rose from $7.3 billion to $13½ billion. Between 1954 and 1962 the total amount of State and local revenues doubled from $29 billion to $58 billion. All of this occurred in a period when individuals have had no tax relief from the Federal income taxes, and while corporations have had the equivalent of a $5 billion decrease in corporation taxes.

BIG CUTS TO HIGH INCOME GROUPS

Let us see who have benefited from the $5 billion of Federal corporate tax cuts since 1954.

An indication of who received the bulk of the Federal tax cut since 1954 is shown by the distribution of dividend income. Those with incomes of over $20,000 a year—which are less than 2 percent of all taxpayers—received 54 percent of all dividends. Those with incomes over $50,000 a year—who number only two-tenths of 1 percent of all taxpayers—nonetheless received 31 percent of all dividends.

CORPORATE FUNDS NOT INVESTED

I may say, also, that insofar as the corporations have retained their earnings and not distributed them in dividends, which is about 40 percent of the profits after taxes, they have not reinvested this full amount. In fact, the investments of corporations are appreciably less than the retained earnings, plus depreciation, plus money raised externally.

In the period of 4 or 5 years approximately $25 billion in liquid funds have been accumulated and not invested in plant. There is no shortage of money on the part of the corporations of the country. They have funds running out of their ears. They do not invest these funds because, due to the prices charged, there is insufficient demand.

The bill before the Senate would do something in this direction, but it would not do as much as it would under my amendment.

Mr. President, I send the amendment to the desk and ask that it be printed, and also printed in the RECORD. And I ask unanimous consent that it may be the first order of business tomorrow morning.

The PRESIDING OFFICER. Without objection the amendment will be received and printed and will lie on the table; and, without objection, the amendment will be printed in the RECORD, and will be the first order of business tomorrow morning.

The amendment (No. 411) is as follows:

On page 8, line 8, insert "10-percent" immediately after "The".

On page 8, line 10, insert "10-percent" immediately before "standard".

On page 8, line 11, insert after the period the following new sentence: "The minimum standard deduction shall not exceed $1,800, except that in the case of a separate return by a married individual the minimum

standard deduction shall not exceed $900."

On page 9, line 3, strike out "$100" and insert "$200".

On page 13, line 14, strike out "28 percent" and insert "29 percent".

On page 13, line 17, strike out "26 percent" and insert "28 percent".

On pages 353 through 362, revise the tables contained therein so as to reflect the changes made by this amendment with respect to the minimum standard deduction.

AMENDMENT NO. 412

Mr. PROXMIRE. Mr. President, I send to the desk an amendment to lift the single greatest excise discouragement to employment—the so-called cabaret tax.

When this tax was reduced from 20 percent to 10 percent in 1960, employment rose by 35 percent, and incomes rose by 33 percent for musicians alone.

This tax is also one of the most discriminatory excises. Public clubs pay the tax but private clubs do not. Places which have musicians pay the tax but places with jukeboxes do not. If customers pay their checks before entertainment begins, there is no tax but payment during the entertainment means a tax.

The tax is extremely difficult for the courts, the Internal Revenue Service, and taxpayers to interpret. Substantial administrative costs will be eliminated by my amendment.

On the solid basis of the experience when these taxes were reduced from 20 percent to 10 percent, no revenue loss will occur from this amendment. The encouragement that will be provided to customers, to employees and to smaller establishments generally will more than offset any direct tax loss.

Estimates by the Treasury that this amendment would reduce revenues completely ignore the proven stimulus this particular tax elimination can give.

This is one of the taxes that were introduced in the wartime period to discourage consumption and to discourage this kind of activity. We all know that the war is over. We all want to encourage consumption and encourage employment. Therefore, it seems to me it is long past due for this amendment to be considered.

Mr. President, I submit the amendment and ask that it lie on the table.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

Mr. MORTON. Mr. President, on behalf of the junior Senator from Illinois [Mr. DIRKSEN], the minority leader, I send to the desk an amendment and ask for its immediate consideration. I ask

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unanimous consent that the reading of the amendment be dispensed with; it can be easily explained.

The PRESIDING OFFICER. Without objection, the reading of the amendment will be dispensed with; and without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 28, beginning with line 2, strike out all through line 2 on page 32 and in lieu thereof insert the following:

"SEC. 201. DIVIDENDS RECEIVED BY INDIVIDUALS.

"(a) LIMITATION OF CREDIT TO $300.—Section 34(b) (relating to limitation on amount of credit for dividends received by individuals) is amended—

"(1) by striking out 'the lesser' and inserting in lieu thereof 'the lowest';

"(2) by striking out 'or' at the end of paragraph (1);

"(3) by striking out the period at the end of paragraph (2) and inserting in lieu thereof '; or'; and

"(4) by adding after paragraph (2) the following new paragraph:

" '(3) $300 ($150, in the case of a married individual filing a separate return).'

"(b) DOUBLING OF AMOUNT OF PARTIAL EXCLUSION FROM GROSS INCOME OF DIVIDENDS RECEIVED BY INDIVIDUALS—Section 116(a) (relating to partial exclusion from gross income of dividends received by individuals) is amended by striking out '$50' each place it appears and inserting in lieu thereof '$100'.

"(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to taxable years beginning after December 31, 1963."

Mr. MORTON. Mr. President, how many Senators are required to second a request for the yeas and nays?

The PRESIDING OFFICER. Nineteen.

Mr. MORTON. Mr. President, before proceeding further, I ask for the yeas and nays on the amendment I have offered.

The yeas and nays were ordered.

Mr. MORTON. Mr. President, with the understanding that I will not lose my right to the floor, I yield to the junior Senator from Florida.

REVENUE ACT OF 1964

The Senate resumed the consideration of the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on the pending amendment there be a limitation of debate of 1 hour, the time to be equally divided, 30 minutes to be controlled by the distinguished Senator from Kentucky [Mr. MORTON] and 30 minutes to be controlled by the distinguished Sen-

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ator from Minnesota [Mr. McCARTHY].

The PRESIDING OFFICER. Does the proposal include all amendments thereto?

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORTON. Mr. President, one of the more vexing problems confronting the Senate is the treatment of tax dividends received by investors. I should like to develop this point, but before doing so I yield to the distinguished Senator from California.

THE FORGOTTEN ONES

Mr. KUCHEL. Mr. President, the Senate is now debating the Internal Revenue Act of 1964, a landmark piece of legislation generally described as providing an across-the-board tax cut for

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all American taxpayers. Today I would like to talk about a sizable group of taxpayers who will not receive a significant tax cut under this bill.

These people who have been left out of the tax cut are retired persons and widows with dependent children living principally on dividend income of less than $6,000 a year. Since dividends from private business corporations often are these taxpayers' main source of income, they are the group that is hit hardest by the elimination of the 4-percent tax credit on corporate dividends. For most of them, the tax saving which they will receive as a result of the reduced tax rates in the tax cut bill will largely be taken away by the accompanying repeal of the 4-percent dividend credit.

Some actual examples will illustrate this. Take for instance a widow who is 61 years old and living on $5,000 in dividend income from common stocks inherited from her husband. Under the present law, which includes the dividend credit, her income tax bill is $659. Under the tax cut that will go into effect in 1965, however, her tax bill will be $658, a saving of only $1. This occurs despite the fact that the new tax bill increases the dividend exclusion from $50 to $100 and lowers the overall tax rate.

This case comes into clearer perspective when we realize that a wage earner paid $5,000, the same amount as the widow received in dividends, will get a tax cut amounting to $147 under the new law. Clearly there is something wrong when a tax cut bill provides a $147 cut for a healthy young workingman but provides no cut at all for an elderly widow living on exactly the same amount of dividend income.

There are many other examples of unfairness to elderly people living exclusively on small amounts of dividend income. The tax for a retired couple—both over 65 and living on dividend income of $6,000 a year—will be reduced only $48 under the new bill. A working couple living on $6,000 in wages, however, will receive a whopping cut of over $150. To look at it another way, the elderly couple living on dividend income will receive a cut of only 10 percent whereas the wage earning couple will receive a cut of 25 percent—almost 2½ times as great.

There will be a double hardship under the so-called tax cut bill for elderly persons who receive a retirement income credit as well as the dividend income credit. Under the proposed law, these people will not only lose their 4-percent dividend credit but will also have their retirement income credit reduced from 20 percent this year to only 15 percent in 1965. Take the case of a single taxpayer aged 65 whose gross income is $3,500—all from dividends—and who is entitled to the maximum retirement income tax credit. His tax liability this year, with the dividend credit and the full retirement credit, is $5. His tax liability in 1965, however, would be $51—an increase of $46.

After studying cases similar to this, it is my opinion that every American taxpayer living principally on dividend income of less than $6,000 a year should study the tax cut bill very carefully. They may find that, for them at least, unless at a minimum the 4-percent dividend credit is maintained this is really a tax stabilization bill or even a tax increase bill. It seems strange that at a time when many Members of Congress profess to be very concerned about the financial problems of the elderly, the Senate Committee on Finance has reported out a tax cut bill which is so grossly unfair to elderly persons living on small amounts of dividend income.

I support the amendment offered by the distinguished Senator from Kentucky. I do so because I believe it is in the public interest. I oppose the theory of double taxation of the same dollar of profit. I have opposed the repeal of the 4-percent dividend credit each time that this has been attempted in the Senate. It would seem to me, Mr. President, that this is a minimum amount of relief from double taxation. The credit should be continued.

Mr. President, I ask unanimous consent to have printed in the RECORD as a part of my remarks the mathematical computations on which the examples I

have cited, and several other examples, are based.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

Widowed taxpayer, age 61 [1]

	Present law	1965
Gross income (all from dividends)	$5,000	$5,000
Less dividend exclusion from gross income	50	100
Adjusted gross income	4,950	4,900
Less personal exemption	600	600
Total	4,350	4,300
Less deductions (minimum standard deduction applies in 1965)	495	490
Taxable income	3,855	3,810
Tentative tax	813	658
Less dividend credit (4 percent of taxable income)	154	0
Total	659	658
Difference (net tax reduction)	----------	−1
Percentage reduction	----------	0
Difference between 1963 tax and 1965 tax for equivalent wage earner	----------	−$147
Percentage reduction for wage earner	----------	18

[1] This table illustrates what would happen to a widow, age 61, living on $5,000 in dividend income from common stocks inherited from her husband. Her net tax reduction would be only $1, whereas a wage earner in the same bracket would receive a reduction of $147, or 18 percent.

Single taxpayer, age 65 [1]

	Present law	1965
Gross income (all from dividends)	$3,500	$3,500
Less dividend exclusion from gross income	50	100
Adjusted gross income	3,450	3,400
Less personal exemption	1,200	1,200
Total	2,250	2,200
Less deductions (minimum standard deduction applies in 1965)	345	400
Taxable income	1,905	1,800
Tentative tax	386	280
Less dividend credit (4 percent of taxable income)	−76	0
Total	310	280
Less retirement income credit	305	229
Tax liability	5	51
Difference (net tax increase)	----------	+46

[1] This table illustrates what would happen to a single taxpayer, age 65, living on dividend income of $3,500, who is entitled to the maximum retirement income tax credit (which is reduced under H.R. 8363 along with the elimination of the 4-percent dividends received credit). Instead of being reduced under the so-called tax cut bill, this man's taxes would be increased by $46.

Married couple, both over 65 [1]

	Present law	1965
Gross income (all from dividends)	$6,000	$6,000
Less dividend exclusion from gross income	−100	200
Adjusted gross income	5,900	5,800
Less personal exemption	2,400	2,400
Total	3,500	3,400
Less deductions (minimum standard deduction applies in 1965)	590	600
Taxable income	2,910	2,800
Tentative tax	582	418
Less dividend credit (4 percent of taxable income)	116	0
Total	466	418
Difference (net tax reduction)	----------	−48
Percentage reduction	----------	10.3
Difference between 1963 tax and 1965 tax for equivalent wage earner	----------	−$150
Percentage reduction for wage earner	----------	25

[1] This table illustrates what would happen to a married couple, both over 65, living on dividend income of $6,000 a year. Their net tax reduction would be $48, or 10.3 percent, whereas a wage-earning couple in the same bracket would receive a reduction of $150, or 25 percent.

Married couple, both under 65 [1]

	Present law	1965
Gross income (all from dividends)	$5,000	$5,000
Less dividend exclusion from gross income	100	200
Adjusted gross income	4,900	4,800
Less personal exemption	1,200	1,200
Total	3,700	3,600
Less deductions (minimum standard deduction applies in 1965)	490	480
Taxable income	3,210	3,110
Tentative tax	647	474
Less dividend credit (4 percent of taxable income)	−$128	0
Total	519	$474
Difference (net tax reduction)	----------	−45
Percentage reduction	----------	8.7
Difference between 1963 tax and 1965 tax for equivalent wage earner	----------	−$159
Percentage reduction for wage earner	----------	24.1

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[1] This table illustrates what would happen to a married couple, both under 65, retired for reasons of health or disability and living on dividend income of $5,000 a year. Their net tax reduction would be $45, or 8.7 percent, whereas a wage-earning couple in the same bracket would receive a reduction of $159, or 24.1 percent.

Single taxpayer, age 63 [1]

	Present law	1965
Gross income (all from dividends)	$3,000	$3,000
Less dividend exclusion from gross income	50	100
Adjusted gross income	2,950	2,900
Less personal exemption	600	600
Total	2,350	2,300
Less deductions (minimum standard deduction applies in 1965)	295	300
Taxable income	2,055	2,000
Tax from tax table	415	312
Less dividend credit (4 percent of taxable income)	82	0
Total	333	312
Difference (net tax reduction)		−21
Percentage reduction		6.3
Difference between 1963 tax and 1965 tax for equivalent wage earner		−$94
Percentage reduction for wage earner		22

[1] This table illustrates what would happen to a 63-year-old man, retired due to illness or disability, living on dividend income of $3,000 a year. His net tax reduction would be only $21, or 6.3 percent, whereas a wage earner in the same bracket would receive a reduction of $94, or 22 percent.

Mr. KUCHEL. Mr. President, I thank my able friend, the Senator from Kentucky, for yielding to me.

Mr. MORTON. Mr. President, the investments which have been made by the more than 17 million American investors have financed the creation of the world's mightiest industrial economy, and have permitted the United States to lead the world in both output and efficiency.

One of the most important factors affecting the future expansion and modernization of our industrial machine is the manner in which the dividends received by those investors are taxed. If we are to maintain our supremacy abroad and create more jobs at home, we must provide for both expansion and modernization.

The late President Kennedy commenced his tax message of January 24, 1963, by stating:

> The most urgent task facing our Nation at home today is to end the tragic waste of unemployment and unused resources—to step up the growth and vigor of our national economy—to increase job and investment opportunities—to improve our productivity—and thereby to strengthen our Nation's ability to meet its worldwide commitments for the defense and growth of freedom. The revision of our Federal tax system on an equitable basis is crucial to the achievement of these goals.

Mr. President, in dealing with the provision of the House version of the bill which would reduce the 4-percent dividend credit received by individuals to a 2-percent credit for dividends received in the calendar year 1964, I wish to say that the amendment I have submitted on behalf of myself and the Senator from Illinois [Mr. DIRKSEN] would not continue the provision of present law as it now stands, but would continue the provision of present law, plus a limit of $300.

Under existing law, one can take a direct tax credit, without limitation, of 4 percent of the dividends he has received. Under the amendment which I have proposed in behalf of myself and the Senator from Illinois [Mr. DIRKSEN], one can take a tax credit of 4 percent of the dividends he has received, but with a $300 limitation. Under this amendment, one who received dividends in the total amount of $7,500 a year could take a total dividend tax credit of only $300; he would not receive a tax credit on his dividends which were in excess of $300.

Mr. President, this issue has been debated again and again; and at this late hour I see no use in laboring the point which is stressed in connection with this provision of existing law; namely, double taxation. Both the Senate and the American people as a whole understand this problem. Under existing law, before a U.S. investor receives a return from a corporation in which he has invested, $52 of each $100 earned by the corporation has, in most instances, been paid in taxes, before any dividends at all are paid. A part of the remaining $48 is paid to the investors, in the form of dividends; and the balance can be used by the corporation for its corporate purposes. Indeed, Mr. President, in addition, 91 cents may be taken out of each dollar of dividends paid.

Mr. President, we speak of regressive taxes. Perhaps the dividend credit cannot be properly classified in that way, either one way or the other; but certainly it can be said that if we are to move forward in building additional job opportunities for individuals, who thus will be employed by U.S. corporations, and if we are to enable the corporations to invest the $200,000 or $250,000 of capital which must be invested in order to give one, two, or three more men work, this amendment is the way to proceed.

Mr. President, I ask unanimous consent that the remarks the Senator from Illinois [Mr. DIRKSEN] had prepared for delivery on this subject be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR DIRKSEN

One of the more vexing problems confronting the Senate is the tax treatment of dividends received by investors. The investment

that has been made by these more than 17 million investors has financed the creation of the world's mightiest industrial economy. It has permitted us to lead the world in output and efficiency. One of the most important factors affecting the future expansion and modernization of this industrial machine is the manner in which we will tax the dividends received by the investors; and we must have both expansion and modernization if we are to maintain our supremacy abroad and create jobs at home.

President Kennedy in his tax message on January 24, 1963, began by saying:

"The most urgent task facing our Nation at home today is to end the tragic waste of unemployment and unused resources—to step up the growth and vigor of our national economy—to increase job and investment opportunities—to improve our productivity—and thereby to strengthen our Nation's ability to meet its worldwide commitments for the defense and growth of freedom. The revision of our Federal tax system on an equitable basis is crucial to the achievement of these goals."

He recognized the necessity for industrial expansion and modernization, pointing out in his message that:

"Investment and productivity improvement will be spurred by more intensive use of our present productive potential; and the added incentives to risk taking will speed the modernization of American industry."

Inherent throughout the message was the necessity of providing greater incentive for investment. For without investment there will be no expansion, there will be no modernization, without investment we would not have the national economy we have today, and, without incentive there will certainly be no investment.

Before an investor receives a return from a corporation in which he has invested, $52 of each $100 earned by the corporation has been paid in taxes in most instances. A part of the remaining $48 is paid to the investor in the form of dividends, the balance being used by the corporation for corporate purposes. Are we now, by changing the tax treatment of dividends, to force the investor, after the corporation has in effect withheld at the 52-percent rate, to be subjected to double taxation? We will do so by requiring a full inclusion of the dividends he receives as taxable income except for the small amount of exclusion permitted. Will this provide the incentive to invest which is so essential to the well-being, not to mention the expansion, of our national economy?

There are four ways in which to approach the problems. They were outlined by Dan Throop Smith, professor of finance, Harvard University, before the Ways and Means Committee in 1959. They are:

1. Elimination of the corporate tax;
2. Elimination of any tax on dividends;
3. Some adjustment in the corporate tax for dividends distributed, in recognition of the individual tax to be paid on them; or
4. Some adjustment in the individual tax for dividends received, in recognition of the corporate tax previously paid.

The first alternative above noted has never been acceptable because among other things retained earnings would never be taxed. The second alternative has also been unacceptable particularly since individual rates go above corporate rates. If dividends were deductible by the corporation, then the corporate tax would become a tax on retained earnings, and retained earnings are the most important source of equity capital for industry in this country. This type of relief for dividends paid would become a penalty on retained earnings.

Our approach has been to give recognition to the fact that the income has already been taxed to the corporation and to provide some partial relief for individuals on their dividend income.

When the individual income tax was adopted in 1913, dividends were exempted from the normal 1 percent because they had already been taxed by the corporation at a rate of 1 percent. But this changed in World War I when the corporate rate moved well above the normal individual rate and it has remained so since then. Avoid-

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ance of full double taxation was maintained until 1936 by exemption of dividends from the individual normal tax but then this relief completely disappeared and complete double taxation of dividends became effective in 1936 in principle and fact. They were taxed at the full corporate rate and again at the individual rate.

In 1954 we recognized the need for incentive to invest and partial relief from double taxation was provided through the $50 exclusion and 4-percent dividend credit.

As Dr. Smith pointed out, "Though it apparently is not self-evident, a credit of a given number of percentage points against the tax is exactly the same thing as the exemption of dividends from that same number of percentage points of the individual income tax." And, as he indicated, in order to emphasize the modest amount of relief that this affords, it might be advisable to provide that dividends being paid from income that has already been taxed at 52 percent should be taxed at 4 percentage points less than other income in the hands of individuals.

The $50 exclusion was designed to provide full relief for those with small amounts of dividend income and can be considered as granting exemption to the low-income group from the entire 20-percent first bracket tax, recognizing the 52-percent corporate tax previously imposed on corporate income.

But on dividend income above $50, increased to $100 in the bill, the relief is only 4 percent or one-fifth of the 20-percent bracket. The proportionate relief becomes smaller as the effective tax rate increases. The 4-percent credit amounts to one-tenth of the tax for a stockholder in the 40-percent bracket and less than 4½ percent of the tax for a stockholder in the top 91-percent bracket.

Are we not to deny this amount of relief to those taxpayers who must provide the investment so urgently needed to create jobs, to expand our productive capacity? Are we to set the brake on the very forces we intend to put into motion? The major purpose of this measure is to create jobs, expand

production, expand industry; investment must be provided in order to achieve this end. A proposal to eliminate the credit on dividends flies in the face of this very purpose. It would, if adopted, defeat the very objectives we strive for.

Many regarded the full double taxation of dividend income in 1936 as symptomatic of a primitive attitude toward private enterprize. The repeal of the 4-percent credit would symbolize to many a revivial of this punitive attitude toward the sort of risk capital and equity funds for business, which is of such vital importance for continued economic expansion.

Mr. President, the 4-percent credit must be preserved if we are to attract investment capital. The incentive to invest must be encouraged. Perhaps with the modest reduction in individual and corporate rates provided in H.R. 8363, together with a retention of the 4-percent credit, sufficient incentive will be provided if the objectives we have set for our economy are to be realized. If it is not provided and H.R. 8363 adopted, there might be a temporary spurt in consumption, but expansion and modernization will not come about nor will jobs be created. Approximately $25,000 must be invested in order to create one new job. Simple arithmetic shows that $50 billion of new capital will be required to create two million new jobs a year: the very minimum required to provide jobs for the new workers entering the labor force and those displaced by automation. Logic tells us that $50 billion a year will not be invested unless sufficient incentive is provided. Elimination of the 4-percent credit will remove that incentive.

Mr. President, I offer an amendment to H.R. 8363 which will retain the 4-percent credit if it is adopted, but with one modification from present law. My amendment would impose a limit of $300 on the amount of credit which an individual would realize by use of the 4-percent credit on dividends. This limit would be met at $7,600 of dividend income, $100 exclusion leaves $7,500 and 4 percent of $7,500 would produce a credit of $300, the maximum allowable under this amendment. I submit that if we are to realize our objectives of an expanded economy and the creation of more jobs, then this provision represents the minimum of incentive that must be provided to stimulate the investment that will be required to reach our goals.

Mr. MORTON. Mr. President, for the moment, I reserve the remainder of the time available to me.

Mr. McCARTHY. Mr. President——

The PRESIDING OFFICER (Mr. INOUYE in the chair). How much time does the Senator from Minnesota yield himself?

Mr. McCARTHY. Five minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

Mr. McCARTHY. Mr. President, the proposed repeal of the dividend credit provision of existing law has been considered twice since 1959 by the Senate. On those occasions, the Senate acted to repeal the dividend credit.

This question was later taken up as more or less of a separate issue; that happened in 1962, I believe. At that time the Senate again acted to repeal the dividend credit provision of existing law.

The arguments now made on this subject were, I believe, considered by the House Ways and Means Committee and by the House itself, and certainly by the Senate Finance Committee, in connection with its consideration of this matter.

Really the only justification for allowance of the dividend credit was that it was a device to reduce the amount of taxes paid by those in the high income brackets.

I submit that the only substantial argument in support of the inclusion of the dividend credit provision when first it was adopted was that some investors were perhaps paying 90 percent of their incomes in taxes. However, the pending bill will reduce the top bracket from the 90-percent rate to a rate of 70 percent, and will correspondingly increase the rates to be applied to those in the higher brackets which are short of the top bracket.

It also was argued that it was necessary to provide an incentive for taxpayers to make investments; but since 1954, when this provision was first included in the law, we have taken action to provide for guideline depreciation, and that action resulted in reducing business taxes by $1,500 million annually; and we have provided for the investment credit, which resulted in a reduction of $1,500 million in business taxes; and in the pending bill we shall reduce corporate taxes by $2,200 million, and at the same time it is proposed that individual income taxes be reduced by approximately $9.5 billion.

This provision of the pending bill would remove a very special provision of law which has very limited application, and which benefits very few taxpayers, insofar as any substantial benefits are concerned.

However, it is argued that the existing dividend credit constitutes a great incentive for investment in American business enterprises. But, Mr. President, when we set the $200 million involved in the amendment the Senator from Kentucky [Mr. MORTON] is proposing against the $2.2 billion of proposed reductions of corporate taxes, plus whatever percentage of the $9.5 billion reduction of individual income taxes could be expected to flow back, in addition, into investments in American busi-

nesses—in other words, into the U.S. private enterprise system—I suggest that the pending amendment should not be adopted. It is true that it involves approximately $200 million; but it would perpetuate in the code an inequity which should never have been put into it in 1954.

As the pending bill now stands, it will increase from $50 to $100 the dividend exemption. That will mean many of the 17 million investors to whom reference has been made—I refer to those who have only small investments in corporations—would be in a better position under the provisions of the pending bill than they would be under the provisions of the pending amendment, if we thereby continued the $50 deduction allowed by existing law, and then, under the amendment, increased the dividend credit deduction to a maximum of $300.

Mr. President, I reserve the remainder of the time under my control.

Mr. MORTON. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 2 minutes.

Mr. MORTON. First of all, Mr. President, if it was an inequity to write the dividend credit provision into existing law, why does the pending bill provide for an increase of the dividend credit from $50 to $100, as an exclusion from the income on which the income tax is to be paid? Therefore, Mr. President, it is clear that this provision of existing law is not an inequity.

The amendment I have offered in behalf of the minority leader [Mr. DIRKSEN] and myself will not decrease at all the $100 limit provided in the pending bill. In short, Mr. President, if it is wrong to include in the law any provision for a credit for dividends, a provision to exclude either $50 or $100 is wrong.

Mr. McCARTHY. I think it probably would be wrong even to allow the $100 exclusion provided by the bill as it now stands.

Mr. MORTON. Then why does not the Senator from Minnesota submit an amendment to eliminate that part of the pending bill?

Mr. McCARTHY. However, I point out that this provision of the pending bill is not as wrong as the amendment the Senator from Kentucky is proposing would be.

Mr. MORTON. Mr. President, the amendment I have submitted on behalf of the Senator from Illinois applies to

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dividend income up to a total of $7,500. I believe it is a fact that those who receive as dividends part of the $48 remaining after the corporations pay, as corporation taxes, $52 on each $100 of their earnings, are actually subject to double taxation when they are required to pay a tax on the dividends they receive. Certainly that system results in piling one tax on top of another..

Therefore, Mr. President, I believe the pending amendment is equitable.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. McCARTHY. Mr. President, I have no further request for time.

Mr. MORTON. Mr. President, I yield 5 minutes to the Senator from Kansas [Mr. CARLSON].

The PRESIDING OFFICER (Mr. MANSFIELD in the chair). The Senator from Kansas is recognized for 5 minutes.

Mr. CARLSON. Mr. President, we discussed the 4-percent dividend exclusion. I believe it is important to remember that we need to encourage and not discourage people to put their dollars to work in equity investments in our domestic enterprise, thereby creating more jobs, boosting our productivity, and greatly strengthening the competitive power of American industry in world markets.

There is general agreement that the demands for funds for new capital formation will be very great over the next decade. For the 10-year period from 1960 to 1970, $500 billion of funds must be forthcoming to take care of the new construction which is necessary.

To finance this huge construction program, the cash needed can come from only three sources:

First. Cash generation from the day-to-day operations of business through depreciation reserves and retained earnings.

Second. Debt financing.

Third. Equity financing.

Debt and equity securities—the latter, preferred and common stocks—must be sold in the free market. New capital formation must be developed, in order that these securities can be marketed at reasonable rates. Equity financing is especially important as it forms the base upon which the credit of the enterprise is established and thus is necessary so that debt securities can be marketed at reasonable cost.

The record of equity security financing for all corporations during the 5-year period ended in 1962 shows an average of $2.4 billion per year. It is evident that a construction program of $500 billion will require a large increase in equity

security sales and presents industry with a great task.

The need to provide incentive for venture-type investments was clearly recognized at the time the 1954 Tax Act was passed by Congress as the key to modernization of our productive capacity. At that time, it was proposed that $50 of dividends received by individuals would be excluded in 1954 and $100 thereafter, with a 5-percent tax credit for 1954 and then 10 percent in subsequent years. Later passage of the bill lowered these amounts to the present $50 exclusion and 4-percent tax credit. Yet, in spite of the claim that this has not met the objective of stimulating investment in equities, the record shows that even with the slightly beneficial changes then adopted the number of people owning stock has risen 162 percent from 6.5 million in 1952 to the present total of over 17 million. So, given encouragement to invest in job-creating economic growth equity measures, effective results have ensued from the judicious congressional forethought exercised in the passage of the 1954 legislation. It may be, therefore, reasonably expected that the greater this form of tax adjustment, the greater will be the numbers of people willing to provide capital funds for the growth of the economy.

It seems to me that the Treasury could well afford to commit $221.7 million for additional tax relief, especially with much of this directed to the low- and median-income taxpayers who are investors, of the total of $11.1 billion reduction in taxes effective under H.R. 8363. Tax exemption of dividends is a powerful inducement to individuals for investment in equity securities. It would be most constructive, when making income-tax revisions, to give some added advantage to low- and median-income taxpayers who are also investors.

What results were obtained by the dividend taxation relief granted by Congress in the 1954 act?

The 1960 records of the U.S. Treasury Department show a reduction resulting:

From the $50 exclusion of	$91,333,000
From the 4-percent tax credit of	301,672,000
Total	393,005,000

Mr. President, I ask unanimous consent to have printed in the RECORD a table confirming these figures.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

How do the income groups receiving the benefits of these two relief measures compare? Analysis shows the following picture:

Adjusted gross income classes	Amount of tax loss to the Treasury Department by reason of—			
	$50 dividend exclusión		4 percent tax credit	
	Amount	Percent	Amount	Percent
Below $5,000	$12,200,000	13.4	$16,664,000	5.5
$5,000 to $10,000	25,030,000	27.4	38,083,000	12.6
$10,000 to $20,000	28,729,000	31.5	61,778,000	20.5
$20,000 to $50,000	19,173,000	21.0	81,393,000	27.0
Over $50,000	6,201,000	6.7	103,754,000	34.4
Total	91,333,000	100.0	301,672,000	100.0

Mr. CARLSON. Mr. President, these figures show, by income groups, the relief that the recipients of the two tax benefits received. Note that 40.8 percent of the total benefits from the $50 dividend exclusion were realized by those whose returns showed adjusted gross income of less than $10,000, compared with 18.1 percent from the 4-percent-tax credit. But, also to be noted is that these lower income groups benefit dollarwise substantially more from the 4-percent credit than from the $50 exclusion.

This suggests that while an increase in the dividend exclusion would be of great help to the taxpayers in the lower income brackets, they also have a very real interest in the retention of the 4-percent credit.

While substantial increases have taken place in the number of taxpaying stockholders, there is a vast number of people who remain as potential investors.

Chart I shows the number of people who do not report dividends, broken down by adjusted gross income classes. There were 78,847,301 people who filed taxable income returns in 1960; 69½ million did not report dividends. Of this group, there were 63,575,382 who had taxable incomes of less than $10,000. These do not now own stock.

Evidently, the big field for potential investors in equities is the over 63 million people with taxable income of less than $10,000 who do not now own stock.

If a better tax incentive were provided, a substantial number of these noninvestors would be stimulated to use some of their savings to buy equity securities in a cross section of industry. There is no doubt tax exemption of dividends is a powerful influence for equity investment by the small investor.

I sincerely hope that the amendment will receive the approval of the Senate.

Mr. CURTIS. Mr. President, will the Senator from Kentucky yield me 3 minutes at this time?

Mr. MORTON. Mr. President, I yield myself 2 minutes and shall then be glad to yield to the Senator from Nebraska.

The PRESIDING OFFICER (Mr. INOUYE in the chair). The Senator from Kentucky is recognized for 2 minutes.

Mr. MORTON. With regard to the tax reduction bill, for those who have a taxable income of $3,500, the tax relief amounts to 3.86 percent. For those who have taxable incomes of $4,000, the tax relief amounts to 3.75 per cent. At $6,000 it is 3.84 percent. It reaches 4 percent at $7,000.

I should like to point out that at the lower level, a person having a taxable income of $500, the reduction is 6 percent. But there is a bracket between $3,500 and $6,500 of taxable income where the reduction under the bill is less than 4 percent.

I point out that there will be thousands of retired people, widows, and others, now living on dividends who will be denied the 4-percent credit and will receive only a tax reduction of less than 4 percent.

Therefore, under the bill, unless this amendment is passed, these people will actually be paying higher taxes than they are paying today.

The purpose of the amendment is to protect not the rich but the group in the area from $3,500 to $6,500 of taxable income who today are getting the dividend tax credit, but who will have less money after taxes, if we pass this bill, than they have now.

As I read the President's message, and as I understand the purpose of the bill, it is to reduce taxes—which it will not do.

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Now I am glad to yield to the Senator from Nebraska for such time as he may desire.

Mr. CURTIS. I shall support the pending amendment but I do so because it has some relationship to double taxation and dividends which to my mind means taxing the same income twice and is not conducive to a health economy and the creation of jobs.

Mr. McCARTHY. Mr. President, for the sake of the RECORD, I think we ought to note the effect of the provisions of the bill which the Finance Committee has had before it with regard to taxes to be paid by people with dividend income. Those effects are described in the report, but I should like to summarize them briefly.

Repeal of the dividend credit would have the following effect on the taxpayers who receive dividend income. Let us consider the case of the small investor whose income from dividends does not exceed $50 or $100, if married. He is already completely excluded from income tax.

Second, consider the 2 million medium investors who would have their taxes reduced by the changes, because the increase in the dividend exclusion would more than offset the loss of dividend credit. That would include not only investors whose dividends would be completely excluded under the bill, but many others with more than $100 or $200 in dividends.

I ask unanimous consent to have printed at this point in the RECORD tables marked 1 and 2, which state examples of the manner in which the changes in the law would apply.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 1.—*Taxpayers deriving more tax savings from additional dividend exclusion than their loss of tax savings from repeal of the dividend credit—single persons*

[Assumes House bill rates]

Taxable income [1]	Tax savings from additional $50 dividend exclusion will exceed the loss of tax savings from repeal of dividend credit if—	
	Dividend income is less than—	Stockholdings are valued at less than [2]—
Under $500	$225.00	$7,031
$500 to $1,000	237.50	7,422
$1,000 to $1,500	250.00	7,812
$1,500 to $2,000	262.50	8,203
$2,000 to $4,000	287.50	8,984
$4,000 to $6,000	325.00	10,156
$6,000 to $8,000	362.50	11,328
$8,000 to $10,000	400.00	12,500
$10,000 to $12,000	450.00	14,063
$12,000 to $14,000	500.00	15,625
$14,000 to $16,000	537.50	16,797
$16,000 to $18,000	575.00	17,969
$18,000 to $20,000	612.50	19,141
$20,000 to $22,000	650.00	20,313
$22,000 to $26,000	675.00	21,094
$26,000 to $32,000	712.50	22,266
$32,000 to $38,000	737.50	23,047
$38,000 to $44,000	775.00	24,219
$44,000 to $50,000	800.00	25,000
$50,000 to $60,000	825.00	25,781
$60,000 to $70,000	850.00	26,563
$70,000 to $80,000	875.00	27,344
$80,000 to $90,000	900.00	28,125
$90,000 to $100,000	912.50	28,516
$100,000 to $150,000	925.00	28,906
$150,000 to $200,000	925.00	28,906
$200,000 and over	925.00	28,906

[1] Taxable income excludes personal exemptions and deductions. Subtract exemptions and deductions from adjusted gross income to determine taxable income.

[2] Assumes a 3.2 percent return on investment.

Source: Office of the Secretary of the Treasury, Office of Tax Analysis, Jan. 30, 1964.

TABLE 2.—*Taxpayers deriving more tax savings from additional dividend exclusion than their loss of tax savings from repeal of the dividend credit—married persons*

[Assumes House bill rates]

Taxable income [1]	Tax savings from additional $100 dividend exclusion will exceed the loss of tax savings from repeal of dividend credit if—	
	Dividend income is less than—	Stockholdings are valued at less than [2]—
Under $1,000	$450	$14,063
$1,000 to $2,000	475	14,844
$2,000 to $3,000	500	15,624
$3,000 to $4,000	525	16,406
$4,000 to $8,000	575	17,968
$8,000 to $12,000	650	20,312
$12,000 to $16,000	725	22,656
$16,000 to $20,000	800	25,000
$20,000 to $24,000	900	28,125
$24,000 to $28,000	1,000	31,250
$28,000 to $32,000	1,075	33,594
$32,000 to $36,000	1,150	35,938
$36,000 to $40,000	1,225	38,281
$40,000 to $44,000	1,300	40,625
$44,000 to $52,000	1,350	42,188
$52,000 to $64,000	1,425	44,531
$64,000 to $76,000	1,475	46,094
$76,000 to $88,000	1,550	48,438
$88,000 to $100,000	1,600	50,000
$100,000 to $120,000	1,650	51,563
$120,000 to $140,000	1,700	53,125
$140,000 to $160,000	1,750	54,688
$160,000 to $180,000	1,800	56,250
$180,000 to $200,000	1,825	57,031
$200,000 to $300,000	1,850	57,813
$300,000 to $400,000	1,850	57,813
$400,000 and over	1,850	57,813

[1] Taxable income excludes personal exemptions and deductions. Subtract exemptions and deductions from adjusted gross income to determine taxable income.
[2] Assumes a 3.2 percent return on investment.

Source: Office of the Secretary of the Treasury, Office of Tax Analysis, Jan. 30, 1964.

Mr. McCARTHY. Third, there are the large investors, numbering 2.5 million. They would find that the loss of dividend credit is not fully offset by the increase in the dividend exclusion. However, the disadvantage to those large investors occasioned by the dividend provision of the tax bill would be more than offset by the individual rate reductions. So there is no investor who really would not be well served by the tax reductions which are proposed in the bill which the Finance Committee has sent to the floor of the Senate.

Mr. MORTON. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. MORTON. Let us consider a widow who has $3,950 of taxable income.

Mr. McCARTHY. The Senator has stated one example. She would pay 50 cents more than she is paying now. Moreover, she must be receiving the retirement income credit and the only income she may have in excess of deductions and exemptions is dividend income. The narrow problem which exists arises because there is a double allowance for retirement income and dividend income under present law.

Mr. MORTON. The bill is a tax reduction bill.

Mr. McCARTHY. The Senator is correct. I believe that we can take care of all the widows that would be affected in that manner by separate proposed legislation. The Senator has presented one unusual example involving a combination of tax law relating to dividend income and retirement income. This would, at the worst point, result in an increase of only 50 cents in taxes. But that case should not require the Senate to move to back up and lose $200 million in revenue and in special tax consideration for people who are best able to pay income taxes and who are benefiting in terms of the individual benefits more than anyone else as a result of the proposals contained in the tax bill.

I would suggest that in the case stated by the Senator, if we consider the consequences of a reduction in corporate rates which would result in greater dividends, depending on the particular portfolio, even the single case presented would be better off through bigger dividends and more income after tax, even through required to pay the additional 50 cents.

Mr. MORTON. Mr. President, I yield myself 3 minutes. I do not wish to take the time of the Senate. I thought the purpose of the bill was to encourage corporations to plow back more money into investment and give more people work, and not necessarily pay out the savings and dividends.

Mr. McCARTHY. We did not specify that. The investment credit measure had that purpose in mind. But so far as the reduction in corporate rates was concerned, the judgment of the Senator from Minnesota was that the corporate directors and officers should be left free to use the benefits that would result from that provision as those directors and officers thought best. If that would involve the payment of dividends, dividend payment would be in order.

Mr. MORTON. The Senator has referred to the 1.7 million people who would be affected by the $100 credit and another 2 million that would have the benefit of the same reduction. Another 2½ million would be at some disadvantage. But there are 17 million investors in corporations. It is clear to me that for all those who fall in the income class of between $3,500 and $6,000, based on what groceries cost today, that is not a great deal of money. If we fail to adopt

the amendment, they would actually pay more taxes than they are now required to pay. To me that seems unconscionable. If the bill is a tax reduction bill, I believe that group should also have their share of the reduction.

Mr. McCARTHY. I would be glad to give them their share. But I do not think we should give to so many a greater share than we are now giving in order to take care of those one or two cases.

Mr. MORTON. Seventeen million is not one or two cases.

It could be. I do not know how many would be involved. I presume most investors fall in the class of those who receive between $5,000 and $6,000 in dividend income.

Mr. CARLSON. Mr. President, will the Senator yield at that point?

Mr. MORTON. I yield.

[*P. 1799*]

Mr. CARLSON. The people with large and substantial resources would not benefit greatly from that particular proposal. They are people who, if they wish to do so, could put their funds into tax exempt securities. It is the smaller investor that would receive some benefit, not the financially able people. It seems to me that the group of older citizens in our country and many of the less able could and would benefit. They are doing so at the present time. Some with great financial resources are turning to tax exempt securities, and I regret to see it.

Mr. MORTON. I thank the Senator. It should be pointed out also that we must have in this country 2 million new jobs each year. It is estimated that it will cost $25,000 per job. As a result, $50 billion a year will somehow be required from the private sector of the economy. We would look to those who can invest and take the risk and then, unless the amendment is agreed to, we would compel them to be subject to double taxation all the way through.

The amendment is not a rich man's amendment. We put a limit of $300 on it. A taxpayer could only take off $300. The taxpayer who has an income of $100,000 from dividends would only get $300 off his tax. But the person who is receiving only $5,000, $6,000, or $7,000 from dividends, and that is all he receives—and they live on it—then indeed I think he is entitled to that $300, because otherwise that person would pay more tax after the bill becomes law than he pays today.

The President of the United States has been speaking about poverty. He has stated that those in the $5,000 class are near poverty. Under the bill the person in the $5,000 class would have his tax increased 0.14 of 1 percent.

Has the Senator any more requests for time?

Mr. McCARTHY. I have no more requests for time. The Senator is using a highly unusual table, which shows a person who has a particular size of income, has income only from dividends and is receiving the retirement income credit. It is hard to find people in that situation.

Mr. MORTON. Mr. President, I yield 2 minutes to the Senator from Maryland [Mr. BEALL].

The PRESIDING OFFICER (Mr. WALTERS in the chair). The Senator from Maryland is recognized for 2 minutes.

Mr. BEALL. Mr. President, I was disappointed that the Senate Finance Committee saw fit, in reporting the new tax bill of 1964, to alter the existing provision relating to dividend credit. This provision was enacted to encourage investment and to give relief from double taxation on income from shares in corporations.

The bill as reported would reduce the 4-percent dividend credit to 2 percent in 1964 and repeal the credit in toto in subsequent years. The Finance Committee report justifies its action by virtue of the proposed 4 percent reduction in corporate tax rates from 52 to 48 percent. The fact is that double taxation would continue to exist and would not be eliminated by any part of the revised bill. The committee agrees that there was justification for enacting the dividend credit in 1954. There is equal justification for it today.

In addition to encouraging investment, the 4-percent dividend credit has been beneficial to our retired citizens who rely on dividend income for their support. These are people whose incomes are fixed and have not kept pace with the rising costs of living. The existing provision, which I would like to see retained, is challenged on the basis that it helps only the rich. It has been shown that many thousands of stockholders in corporations are people of moderate means and small incomes, dependent upon their dividend checks for their livelihood. I am deeply concerned with the great number of small investors who would be hurt should we permit the committee change in this respect to prevail.

I shall vote to delete this committee amendment because of the injury which the committee amendment would place on our elderly citizens who are small investors and because of the unfairness of double taxation on corporate earnings.

The PRESIDING OFFICER. The time of the Senator from Maryland has expired.

Mr. MORTON. I yield 1 more minute to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 1 additional minute.

Mr. BEALL. Mr. President, it is not only the small investors but the elderly citizens about whom I am concerned. It is people of moderate circumstances who invest in corporations, who invest in stocks, who try to do it on their own, without any help from the Federal Government or from anybody else.

We hear stories about big investors and big corporations. They are all supposed to be rich capitalists. Actually, in the Bell Telephone System there are over 2 million shareholders. There are a million shareholders in General Motors. There are over 1 million shareholders in Standard Oil of New Jersey. Do Senators think for 1 minute that they come from the rich? No. I have seen the analysis. I am sorry I do not have it with me. When those figures are broken down, they show many little people, like the average person who started a long time ago to put his savings in corporations. These people have been the backbone of our country. Their investments have made us the world's greatest nation. After all, the corporations have been taxed. Why should we tax those people if they have had the foresight to think ahead about what they are going to do? I think we should help them.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BEALL. I thank the Senator from Kentucky for yielding to me.

Mr. MORTON. Mr. President, I yield myself 2 minutes.

I refer to page 30 of the committee print which is the staff description of H.R. 8363, the Revenue Act of 1963, as passed by the U.S. House of Representatives.

I do not think there is any question about the competence of this staff. The committee looks to it for more reliable estimates than the Treasury can come up with. I quote from page 30 of that committee print:

Some retired taxpayers (whose income is primarily from dividends) will pay more under the bill than under existing law. This may be illustrated by taking the case of a single taxpayer 65 years of age whose entire gross income (all from dividends) is $3,500 and who is entitled to the maximum retirement income tax credit. It is assumed his deductions amount to 10 percent of his adjusted gross income under present law. The computation of tax under existing law and under H.R. 8363 in 1965 and thereafter is as follows:

I ask unanimous consent that the table appearing on page 30 of the committee print of the staff description be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Single taxpayer, age 65	Present law	H.R. 8363 (1965 rates)
Gross income (all from dividends)	$3,500.00	$3,500.00
Less: Dividend exclusion from gross income	50.00	100.00
Adjusted gross income	3,450.00	3,400.00
Less: Personal exemption	1,200.00	1,200.00
Total	2,250.00	2,200.00
Less: Deductions (minimum standard deduction under H.R. 8363)	345.00	400.00
Taxable income	1,905.00	1,800.00
Tentative tax (before credits)	386.00	280.00
Less: Dividends credit (4 percent of taxable income)	76.20	0
Total	309.80	280.00
Less: Retirement income credit	304.80	228.60
Tax liability	5.00	51.40

Mr. MORTON. The table shows that today the man or woman, single, 65 years of age, with an income of $3,500, pays $5 in income taxes under the present law. Under the bill without the Dirksen amendment, he would have to pay $51.40.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MORTON. I yield myself 1 additional minute.

The present bill provides a tax increase, not a decrease—not of 3, 4, or 5 percent, but a tax increase of tenfold, of 1,000 percent. So a 1,000-percent tax increase is being put on the 65-year-old person who is receiving an income of $3,500 a year, and this is supposed to be a tax cut bill.

For that reason, I feel the Senate will adopt the amendment.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. MORTON. I yield.

Mr. HOLLAND. My own files show thousands of communications from people in the State which I represent in part—Florida. Many of them, who have to rely upon modest incomes from stock dividends, would pay more under this bill than they now pay.

I think the amendment is a proper one, and I shall certainly support it.

Mr. MORTON. I thank the Senator.

The PRESIDING OFFICER. The time of the Senator has expired.

[*P. 1800*]

Mr. MORTON. I yield myself 1 additional minute.

I am sure the Senator's State has many thousands, as do other States which are blessed with such a climate that people go there to spend their remaining years, and who live on a fixed income, for the most part, as a result of the great American free enterprise system, which we all want to support and see maintained.

Mr. McCARTHY. Mr. President, I have no further requests for time. I think the case has been well made. Apparently the Senator argues to give $200 million in special tax benefits to those who for the most part are among the wealthiest people in the country in order to prevent a hypothetical person from getting a 50-cent tax increase—and I do not know of a single person who would be affected to the extent of the 50-cent increase in taxes that the Senator is talking about. It is a theoretical person who did not appear at our hearings or who was not reported upon by the staff. It is possible that such a person would pay an increase of 50 cents. The price we would have to pay to take care of him would be $200 million in the way of a tax loss.

The record shows that the top 10 to 15 percent of the taxpayers of the country receive 80 or 90 percent of all the dividends paid.

I will rest my case on that.

Mr. MORTON. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. MORTON. The tax would go from $5 to $51. How many people with an income of $3,500 who are living in St. Petersburg, Fla., are going to spend money to come to Washington and testify before a senatorial committee?

Mr. McCARTHY. How many people in St. Petersburg, Fla., have an income of $3,500 all of which is dividend income?

Mr. MORTON. Plenty.

Mr. McCARTHY. I do not think so.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. PASTORE. If a person received $3,500 exclusively from stock dividends, how much would the stock be worth?

Mr. McCARTHY. He would have stock worth nearly $90,000 assuming a 4-percent rate of return.

Mr. PASTORE. Then, the people we are talking about are worth $90,000?

Mr. McCARTHY. Yes; the example which has been given is theoretically possible, but in fact impossible to find.

Mr. PASTORE. Anyone who accumulated $90,000 would not be living exclusively on income from dividends, would he?

Mr. McCARTHY. There may be a few cases, but they would be rare. The $300 credit limit would apply to dividends of $7,500, which would mean an investment base of $180,000.

Mr. PASTORE. Has the committee determined what the average taxpayer in the United States, who has an income of $10,000 to $15,000 a year, or even less than $10,000 a year, would hold in stock? A great many Americans invest in stock. What is the holding of the average taxpayer?

Mr. McCARTHY. The figures are available, but we do not have them here. In general, about 90 percent of the dividend income goes to 10 to 15 percent of the income earners of the country. Then there is a scattering on down to include the lowest income group at the bottom.

Mr. PASTORE. Let us take an individual who over the years has bought stock and has accumulated about $20,000 worth of stock. About how much difference would the committee amendment make as against the amendment proposed by the Senator from Kentucky?

Mr. McCARTHY. What the committee proposes would recapture about $300 million. We would lose about $200 million if we accepted the $300 million dividend credit which is proposed by the Senator from Kentucky.

Mr. PASTORE. What I am trying to find out is not the gross amount that is involved. I have received a considerable amount of mail on this subject, and I am a little disturbed about it. A great many American wage earners buy stock. Let us assume that a person has acquired about $15,000 or $20,000 in stocks over the years. I do not know what the figure is, but computing it at about 6 percent——

Mr. McCARTHY. Four percent.

Mr. PASTORE. Four percent. That would amount to about $800, as I figure it, in dividends. How would he be affected by this discussion today? What is the difference between the committee proposal and the amendment offered by the Senator from Kentucky?

Mr. McCARTHY. Under existing law, the first $50 would be excluded from income, and it would be $100 for a married couple. That would leave him with $700. He would have a 4-percent tax credit, which would give him $28. Assuming the benefit of the $100 exclusion is at about a 25-percent rate, the exclusion would be worth about $25 in tax savings, a tax savings of $53 altogether.

Under the bill we would give him $200, which would mean he would save $50. Therefore in the case that the Senator cites, in terms of taxes paid, and without taking into consideration the other tax cuts, the taxpayer under the dividend provision of the bill would be breaking

even. That is so because we increase the exclusion from $50 to $100 in the bill, even though we repeal the 4-percent dividend credit which benefits, in most cases, the people in the high-income brackets.

So far as the little investors are concerned, they are better off under what we are proposing than under existing law.

Mr. PASTORE. So far as the exclusion is concerned, that is more beneficial with the smaller percentage of 2 as against the 4, if a man owns about $20,000 of stock. Is that correct?

Mr. McCARTHY. The example the Senator cites would break even. If the dividend income were lower, say, on $10,000 worth of stock, the man would be better off under the terms of the bill than under existing law.

Mr. PASTORE. Has it ever been determined how many people in the United States over 65 years of age live exclusively on income from dividends?

Mr. McCARTHY. I do not have those figures available.

Mr. CARLSON. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. CARLSON. I have before me a statement from the Treasury which shows the number of taxpayers 65 years of age and over. Their adjusted gross income in 1960 was $24,273,073,000. The dividends received by them after exclusions amounted to $4,328,514,000, or 17.8 percent of their income.

This is for the 5,214,000 returns with at least one taxpayer 65 years and over.

I have before me a distribution of the dividends from a table submitted by the Bureau of Internal Revenue, for the year 1960. The number of taxpayers having dividend receipts in 1960 was 6,385,299. That was in 1960. It is estimated that now it is 17 million.

The number of taxpayers who were excluded in 1961 by the $50 deduction was 1,452,349. That leaves 4,932,950, after exclusion, with some dividend income represented in the taxpayers' adjusted gross income—7.3 percent of those people had an income of $5,000 or more—9.9 percent had an income of $2,000 but under $5,000; 11.2 percent had an income of $1,000 but under $2,000; 13.8 percent had an income of $500, but under $1,000; 10.6 percent had incomes of $300 but under $500; 7.9 percent had incomes of $200 but under $300; 13 percent had incomes of $100 but under $200. That is income from dividends; 26.3 percent had incomes of under $100.

Mr. McCARTHY. Those who received under $100 are in good shape under the bill. They are in much better shape under our bill than under existing law.

If I may have the attention of the Senator from Rhode Island, we have a figure which gives the Treasury estimate as to the recapture of taxes on dividends under the bill. We would recapture about $300 million. Of that, $10 million would come from people who are in the adjusted gross income class of $3,000 to $5,000; $30 million from those who have $5,000 to $10,000; $50 million from those who are in the $10,000 to $20,000 class; $85 million from those who are in the $20,000 to $50,000 class; $125 million will come from those whose adjusted gross income is $50,000 and more.

Mr. PASTORE. Mr. President, when the Senator speaks of adjusted gross income, is he speaking about income solely from dividends?

Mr. McCARTHY. No. This is in the general income class.

Mr. MORTON. That is without reference to the $300 limit.

Mr. McCARTHY. Yes. That would move it down somewhat.

Mr. MORTON. Somewhat? It would move it out of the area entirely.

Mr. McCARTHY. I am talking about $300.

Mr. MORTON. I suggest, before we fall out about this, that we vote.

Mr. HRUSKA. Will the Senator yield?

Mr. MORTON. I yield to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, the dividend credit provision in our tax laws

[*P. 1801*]

was enacted in 1954 to provide stockholders with some small measure of relief because of the double taxation of dividends. The decision reached at that time was based on correcting an inequity which had existed for more than 20 years.

It is my considered opinion that elimination of this credit provision would be a step backward, and I am unalterably opposed to its elimination.

The provision here sought to be eliminated has been of great benefit to our country, its economy and to the investor.

Risk capital must be made available for new plants, new enterprises and for a wide variety of purposes. Through increased investment our Nation expands. Its gross national product increases and in short—we grow.

The investor looks to his dividend as his return on his investment and he is primarily concerned about the means by which his income is taxed. The incentive to invest is based on the tax break he receives. Since 1954 increasing

public participation has been achieved in stock offerings. The public—investors, large and small, are willing to make available new equity investment funds.

Many individuals will suffer if this provision is eliminated from our tax laws. Those on fixed incomes from dividends and those persons who are retired. They should not have to bear a hardship. Indeed, it would be a harsh penalty on them, should we eliminate the dividend credit provision found in our tax law.

The Dirksen-Morton amendment should be adopted.

The PRESIDING OFFICER. Do Senators in control of the time yield back the remainder of their time?

Mr. MORTON. I yield back the remainder of my time.

Mr. McCARTHY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment offered by the Senator from Kentucky for himself and on behalf of the Senator from Illinois [Mr. DIRKSEN]. On this amendment, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. On this vote I have a pair with the distinguished minority leader [Mr. DIRKSEN]. If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. HUMPHREY. I announce that the Senator from Indiana [Mr. BAYH], the Senator from Nevada [Mr. CANNON], the Senator from Arkansas [Mr. McCLELLAN], the Senator from Oregon [Mrs. NEUBERGER], and the Senator from Georgia [Mr. RUSSELL] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

On this vote, the Senator from Nevada [Mr. CANNON] is paired with the Senator from Georgia [Mr. RUSSELL].

If present and voting, the Senator from Nevada would vote "yea," and the Senator from Georgia would vote "nay."

I further announce that, if present and voting, the Senator from Indiana [Mr. BAYH], the Senator from California [Mr. ENGLE], and the Senator from Oregon [Mrs. NEUBERGER] would each vote "yea."

Mr. KUCHEL. I announce that the Senator from Illinois [Mr. DIRKSEN] is necessarily absent and his pair has been previously announced.

The Senator from North Dakota [Mr. YOUNG] is detained on official business.

The result was announced—yeas 44, nays 47, as follows:

[No. 19 Leg.]

YEAS—44

Aiken	Fong	Morton
Allott	Goldwater	Mundt
Beall	Hickenlooper	Pearson
Bennett	Holland	Prouty
Boggs	Hruska	Ribicoff
Byrd, Va.	Jackson	Robertson
Carlson	Javits	Saltonstall
Case	Jordan, N.C.	Scott
Cooper	Jordan, Idaho	Simpson
Cotton	Keating	Smith
Curtis	Kuchel	Thurmond
Dodd	Lausche	Tower
Dominick	Long, Mo.	Walters
Eastland	Mechem	Williams, Del.
Ervin	Miller	

NAYS—47

Anderson	Hayden	Moss
Bartlett	Hill	Muskie
Bible	Humphrey	Nelson
Brewster	Inouye	Pastore
Burdick	Johnston	Pell
Byrd, W. Va.	Kennedy	Proxmire
Church	Long, La.	Randolph
Clark	Magnuson	Smathers
Douglas	McCarthy	Sparkman
Edmondson	McGee	Stennis
Ellender	McGovern	Symington
Fulbright	McIntyre	Talmadge
Gore	McNamara	Williams, N.J.
Gruening	Metcalf	Yarborough
Hart	Monroney	Young, Ohio
Hartke	Morse	

NOT VOTING—9

Bayh	Engle	Neuberger
Cannon	Mansfield	Russell
Dirksen	McClellan	Young, N. Dak.

So the amendment offered by Mr. MORTON for himself and Mr. DIRKSEN was rejected.

Mr. LONG of Louisiana. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. McCARTHY. Mr. President, I move that the motion to reconsider be laid on the table.

Mr. MORTON. Mr. President, first, I wish to know the result of the vote; I should like to be informed of that before the vote is taken on the question of agreeing to the motion to lay on the table the motion to reconsider.

The PRESIDING OFFICER. The amendment was rejected by a vote of 44 yeas to 47 nays.

The question now is on agreeing to the motion to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

THE RIBICOFF AMENDMENT

Mr. McGEE. Mr. President, I rise to speak not only as a Senator, but also as an educator. It might be expected that I would support the Ribicoff amendment, which seems to propose to give a tax "break" to parents with children in college. With that principle, I could not agree more fully. But I hasten to sug-

gest that it is more fancy than fact, in this instance.

We have under consideration a bill which has the basic purpose of cutting taxes. Let us not lose sight of that point. This is not a higher education bill. This is not a student tuition bill. This is a tax-cut measure. Therefore, it is a serious mistake to attempt to slip in any kind of higher education proposal under whatever guise. In fact, the proposal, in my judgment, would have the effect of destroying the major impact of the tax-cut proposal. By reducing the amount of money going into the Treasury of the United States by hundreds of millions of dollars, at the same time that we seek to cut taxes, would seem to be self-defeating. The point of the one would automatically dull the point of the other.

Let us be forthright about our efforts to help American parents who are paying high tuition costs for their children in our universities, by passing specific legislation to achieve that end. Personally, I oppose the efforts of those who would use our deep emotional and personal desires to strengthen our higher educational program as a cloak for defeating the purposes of a tax-cut measure.

A second reason for opposing the Ribicoff amendment lies in its approach to the problem of high tuition cost. It would provide the major assistance at the top among the highest income groups, perhaps in the hopes that this kind of subsidy to those who are best able to pay tuition would eventually trickle down to those least able to meet those same costs. What the proposed amendment would do is supply the most aid to families whose children are attending Smith, Vassar, Harvard, Yale, or Princeton. In effect, it is a disguised subsidy for the Ivy League schools. If we want to be forthright about this, I would propose legislation aimed at tuition assistance for the lower income families; for the parents least able to send their children to college. Let us build this kind of help from the bottom of the economic scale up, rather than having it trickle from the top of the tuition ladder downward.

A third reason for opposing the Ribicoff amendment is that it discriminates against the land-grant colleges and universities such as the University of Wyoming. By favoring the rich, private institutions, it would detract from the competitive strengths of our State universities. Representing as I do a State with a strong land-grant institution; namely, the University of Wyoming, I could not possibly support a bill that would be "loaded" against the State university.

Mr. President, I would like to mention in these remarks a telegram which I have received from the president of the institution where I was a professor of history for many years, Dr. G. D. Humphrey. In his wire to me he says:

> Urge that you oppose tuition tax credit proposal. Bill is highly discriminatory against public institutions and low-income students and families. Believe it would be detrimental to University of Wyoming.

I say to my colleague, let us get on with the business at hand which is that of legislating a constructive tax cut for the purpose of stimulating the national economy. Then, let us turn to the problem of financing the costs of higher education as a separate item of legislation. [*P. 1802*]

The importance to parents and students of cost relief for higher education should not be diminished by burying it in the pending bill. This urgent need deserves separate but speedy consideration on its own merits.

TAX REDUCTION FOR ELECTRICAL CONSUMERS

Mr. METCALF. Mr. President—

> For as far ahead as almost anyone would dare to look, the investor-owned electric utility industry should maintain its preeminence as the most consistently growing business in the United States.
>
> Other industries have grown faster in shorter periods of time but over a period of 60 years none can match the remarkable record of the electric utilities. This historical growth rate has been almost 6 percent a year, one year after another. Even more impressive is the fact that since 1950 there has been acceleration of this pace to a point where some utilities match or surpass the records of pace setters in other industries.

Mr. President, those introductory paragraphs which I just read are not my words, nor those of other opponents of section 203(e) of the bill under discussion.

Those paragraphs came verbatim from a brochure published last year by Merrill Lynch, Pierce, Fenner & Smith, Inc. This report concludes by asking and answering a question:

> What's your investment objective? Relative safety? Income? Growth? If so there are a large number of electric companies to choose from.

Does anyone seriously believe that this preeminent, pace-setting, "growth" industry needs another subsidy, that the Congress should prohibit electrical consumers from sharing in tax reduction.

Let me quote further from the Merrill Lynch report:

> Net income (for electric utilities) has advanced from 14.5 cents out of every revenue dollar in 1952 to 18.1 cents in 1962, a gain of almost 25 percent. Recently, particularly beginning in 1962, there have been some

moderate forms of tax relief in the form of new guidelines and the investment tax credit.

And then, the report adds:

> Such relief has not redounded completely to the benefit of the stockholder.

Another way of phrasing that last point would be to say that most of the relief did benefit the stockholder. And now it is proposed that Congress write legislation which would virtually assure that only stockholders, and not ratepayers, would benefit from yet more tax favoritism for an industry already fabulously wealthy.

One of those rare companies which does believe in passing on tax savings to consumers is American Electric Power. During the past decade, according to the Merrill Lynch report, this company's revenues have increased 80 percent, which is "fairly typical of the industry in general."

I submit, Mr. President, that the regulators should be left free to consider the matter of flow through, that we heed the counsel of Chairman Swidler, of the Federal Power Commission.

Mr. President, the August 1963 issue of Fortune carried a summary of the assets, operating revenues, invested capital and net income as percent of invested capital of the 50 largest utilities.

They have had, Fortune says and the figures show, a "good year." Some of the smaller companies not listed, including the company upon which most of my constituents are dependent, have done even better. The Montana Power Co. extracts the most exorbitant profit of any of the major electric utilities.

This Fortune list may be helpful to Members, to determine how utilities—telephone, gas, and electric—in their area are getting along, and I ask unanimous consent to insert the tabulation at this point in the RECORD.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

The 50 largest utilities (ranked by assets)

Rank 1962	Rank 1961	Company	Assets [1]	Operating revenues [2] Amount	1962	1961	Net income Amount	1962	1961	Invested capital [3] Amount	1962	1961	Net income as percent of invested capital [4] Percent	1962	1961
			Thousands	*Thousands*			*Thousands*			*Thousands*					
1	1	American Telephone & Telegraph (New York)[5]	$26,716,536	$8,980,208	1	1	$1,366,797	1	1	$15,921,445	1	1	8.6	42	37
2	2	Consolidated Edison (New York)	2,830,615	725,153	3	2	90,636	3	4	1,234,352	2	3	7.3	46	46
3	3	Pacific Gas & Electric (San Francisco)	2,809,136	729,425	2	3	110,692	2	2	1,225,980	3	2	9.0	33	36
4	4	Tennessee Gas Transmission (Houston)	2,131,392	630,905	4	4	56,243	8	5	638,200	7	6	8.8	38	13
5	5	Commonwealth Edison (Chicago)	1,837,345	520,156	7	7	88,470	4	3	762,165	4	4	11.6	3	6
6	6	American Electric Power (New York)	1,654,766	376,070	12	12	63,888	6	7	720,014	5	5	[6] 8.9	36	41
7	8	Southern Co. (Atlanta)	1,577,951	360,389	13	14	52,335	9	11	609,164	9	8	[6] 8.6	41	43
8	9	Public Service Electric & Gas (Newark)	1,551,610	456,141	8	8	65,563	5	6	628,563	8	7	10.4	13	28
9	10	Southern California Edison (Los Angeles)	1,536,651	358,796	14	13	60,658	7	8	640,713	6	9	9.5	29	26
10	7	El Paso Natural Gas (El Paso)	1,528,729	527,826	6	6	32,376	22	12	377,358	20	15	8.6	43	16
11	11	Columbia Gas System (New York)	1,393,333	557,629	5	5	49,220	10	9	501,212	10	10	9.8	25	23
12	14	Consumers Power (Jackson, Mich.)	1,139,401	331,230	17	17	45,097	13	15	474,933	13	13	9.5	28	33
13	12	Niagara Mohawk Power (Syracuse, N.Y.)	1,129,099	336,733	16	16	41,174	15	17	478,461	12	12	8.6	40	45
14	15	Philadelphia Electric (Philadelphia)	1,123,327	298,763	19	18	47,581	11	10	482,190	11	11	9.9	22	19
15	16	General Public Utilities (New York)	1,077,565	227,231	26	23	39,098	16	16	393,060	18	14	[6] 9.9	20	39
16	15	Detroit Edison (Detroit)	1,028,691	301,386	18	19	42,911	14	14	425,183	14	16	10.1	15	22
17	17	Texas Eastern Transmission (Houston)	998,049	343,890	15	15	29,106	27	31	324,130	24	22	9.0	35	42
18	18	American Natural Gas (New York)	939,135	296,869	20	20	32,656	21	21	289,293	30	30	11.3	5	5
19	19	Texas Utilities (Dallas)	899,219	241,147	23	24	46,224	12	13	423,418	15	17	[6] 10.9	8	11
20	21	Consolidated Natural Gas (New York)	876,745	397,590	11	11	28,422	30	30	410,649	16	19	6.9	47	48

Footnotes on following page.

The 50 largest utilities (ranked by assets) —Continued

Rank 1962	Rank 1961	Company	Assets [1]	Operating revenues [2] Amount	Operating revenues 1962	Operating revenues 1961	Net income Amount	Net income 1962	Net income 1961	Invested capital [3] Amount	Invested capital 1962	Invested capital 1961	Net income as percent of invested capital [4] Percent	Net income as percent 1962	Net income as percent 1961
21	20	Middle South Utilities (New York)	859,248	240,677	24	22	28,007	31	32	337,303	21	21	[6] 8.3	44	44
22	22	United Gas (Shreveport)	822,648	403,520	10	10	29,225	26	24	293,864	28	28	9.9	21	21
23	24	Pacific Lighting (San Francisco)	795,923	440,633	9	9	31,807	23	29	410,433	17	18	[6] 7.7	45	49
24	23	American & Foreign Power (New York)	792,598	116,753	45	44	9,747	50	50	297,641	26	25	[6] 3.3	50	50
25	25	Central & South West (Wilmington)	781,955	200,796	31	32	35,709	18	19	326,576	23	23	[6] 10.9	7	20
26	26	Peoples Gas Light & Coke (Chicago)	769,361	289,618	21	21	31,120	24	28	307,814	25	26	[6] 10.1	14	30
27	27	Virginia Electric & Power (Richmond)	765,784	186,082	35	34	38,358	17	18	381,197	19	20	10.1	19	15
28	29	Transcontinental Gas Pipe Line (Houston)	737,281	213,327	27	29	23,132	41	41	281,382	43	43	10.6	11	10
29	28	Ohio Edison (Akron)	726,970	176,906	36	35	34,977	19	20	334,936	22	24	[6] 10.4	12	17
30	30	Union Electric (St. Louis)	717,921	173,922	37	37	29,053	28	23	271,220	35	32	[6] 10.7	10	8
31	31	New England Electric System (Boston)	703,479	201,763	30	27	18,948	47	48	280,686	33	33	[6] 6.8	48	47
32	33	Duke Power (Charlotte)	667,277	191,515	34	33	29,997	25	27	297,301	27	27	10.1	17	27
33	32	Northern States Power (Minneapolis)	655,075	206,689	29	26	28,509	29	26	282,497	32	29	10.1	16	18
34	35	Allegheny Power System (New York)	640,873	172,152	38	36	23,797	39	37	256,197	37	36	[6] 9.3	30	32
35	36	Florida Power & Light (Miami)	630,899	200,673	32	31	33,065	20	22	289,655	29	31	11.4	4	7
36	37	Pacific Power & Light (Portland, Oreg.)	614,976	100,158	50	49	20,842	42	45	213,880	46	45	9.7	26	24
37	34	Northern Natural Gas (Omaha)	613,774	230,339	25	25	26,277	33	38	242,704	39	38	10.8	9	25
38	41	Panhandle Eastern Pipe Line (New York)	596,036	209,574	28	28	25,686	35	25	158,644	50	50	[6] 16.2	1	1
39	39	Long Island Lighting (Mineola, N.Y.)	592,101	171,421	39	39	25,184	36	39	278,817	34	35	9.0	32	34
40	38	Pennsylvania Power & Light (Allentown)	573,224	154,066	41	41	25,984	34	33	257,818	36	34	10.1	18	12
41	40	Baltimore Gas & Electric (Baltimore)	562,910	194,911	33	30	23,500	40	35	239,144	40	39	9.8	24	14
42	(7)	Western Union Telegraph (New York)	527,753	277,464	22	------	10,607	49	------	285,511	31	------	3.7	49	------
43	42	Cleveland Electric Illuminating (Cleveland)	502,481	146,516	42	42	24,670	37	36	256,118	38	37	9.6	27	29
44	43	Wisconsin Electric Power (Milwaukee)	498,285	160,899	40	40	19,848	43	44	227,782	41	40	[6] 8.7	39	40
45	44	Public Service of Indiana (Plainfield)	491,927	107,434	47	47	19,756	44	46	218,662	42	41	9.0	31	38
46	45	Potomac Electric Power (Washington, D.C.)	485,348	101,505	49	48	19,187	45	47	217,072	44	44	8.8	37	31
47	47	Houston Lighting & Power	483,730	141,649	43	45	27,397	32	40	197,153	48	47	13.9	2	2
48	49	Public Service of Colorado (Denver)	471,200	132,750	44	43	18,683	48	43	206,981	47	49	9.0	34	9
49	48	Gulf States Utilities (Beaumont, Tex.)	466,756	103,206	48	50	18,951	46	49	191,329	49	46	9.9	23	35
50	46	Duquesne Light (Pittsburgh)	459,204	111,435	46	46	24,193	38	34	215,133	45	42	11.2	6	4
		Total	73,786,292	22,755,390	------	------	3,145,363	------	------	34,952,933	------	------	------	------	------

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[1] Total assets employed in business net of depreciation, Dec. 31, 1962. Consolidated subsidiaries included.

[2] Gross receipts from operations during calendar year 1962, including nonutility revenues from manufacturing, transportation, etc.

[3] Capital stock, surplus, and retained earnings (i.e., net worth) as of Dec. 31, 1962.

[4] Figured on the invested capital as of Dec. 31, 1962.

[5] Excludes manufacturing subsidiaries.

[6] Preferred stock of subsidiaries, held by the public, is included in invested capital, but dividends on these stocks have been deducted before arriving at net profit; as a result, the ratio of profit to invested capital for these holding companies is understated in relation to other companies on the list.

[7] Not on last year's list.

NOTE.—After a below-par performance by the 1961 group, the 50 largest U.S. utility systems in 1962 had a good year. Their combined operating revenues were 7 percent higher than the 1961 group, and their combined profits were 7.7 percent higher. For the second straight year, Panhandle Eastern Pipe Line had the highest return on invested capital, 16.2 percent. The median return on invested capital was 9.8 percent, up from 9.5 percent in 1961.

Mr. METCALF. Mr. President, early last month I brought to the attention of the Senate the organized effort of private power companies to manipulate public opinion in behalf of "investor-owned utilities" through the medium of an artificially stimulated letter-writing campaign labeled "Project Action."

Last week I placed in the CONGRESSIONAL RECORD for the further information of the Senate additional documentation of the propaganda published by these IOU's in the form of a Project Action newsletter. Volume 1, No. 1 of this newsletter included the following statement:

> When Government promises subsidy from crib to crypt, it is easy for the public to forget the undergirding free enterprise concepts of our American heritage.

It is apparently equally easy for the IOU's to forget.

Section 203(e) of H.R. 8363, the tax revision bill now before the Senate, would give private power companies a potential $1 billion in cold cash over the next 10 years—a gift from the Government of the United States taken out of the pockets of consumers.

I have seen no statement from the IOU's—who are ever active in attacking Federal multiple-purpose water projects and the REA program—indicating that they have decided to decline this gratuity, which represents one more in a series of subsidies and special tax benefits accorded privately owned electric systems over the last decade. The most recent figures available show that private power companies have accumulated $1.5 billion in "deferred income taxes"—phantom taxes which the companies collected from their customers but did not pay to the Federal Government—as a result of accelerated amortization and liberalized depreciation.

Mr. President, I ask unanimous consent to insert at this point in my remarks a list of private power companies who are currently beneficiaries of these federally certified interest-free contributions.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

AMOUNTS COLLECTED BY POWER COMPANIES FROM CONSUMERS FOR TAXES BUT NOT PAID AS TAXES

Privately owned electric utilities, classes A and B—Accumulated deferred taxes on income as of Dec. 31, 1962

Company	Attributable to accelerated amortization (sec. 168 of 1954 Internal Revenue Code)	Attributable to liberalized depreciation (sec. 167 of 1954 Internal Revenue Code)	Total
Alabama Power Co	$18,401,907	$15,529,000	$33,930,907
Alpena Power Co		198,040	198,040
Appalachian Power Co	38,478,324	6,873,656	45,351,980
Arizona Public Service Co	3,912,827		3,912,827
Arkansas Power & Light Co	12,681,693	7,485,563	20,167,256
Atlantic City Electric Co	2,631,327	1,637,446	4,268,773
Bangor Hydro-Electric Co		98,017	98,017
Black Hills Power & Light Co		792,351	792,351
Boston Edison Co	5,169,734	9,914,792	15,084,526
Boston Gas Co		1,208,444	1,208,444
Brockton Edison Co		605,145	605,145
California Electric Power Co	3,987,500	751,400	4,738,900
California-Pacific Utilities Co		445,800	445,800
Cambridge Electric Light Co		682,004	682,004
Cape & Vineyard Electric Co		600,298	600,298
Carolina Power & Light Co	14,889,674	1,324,237	16,213,911
Central Hudson Gas & Electric Corp	1,775,307	1,263,541	3,038,848
Central Illinois Electric & Gas Co	1,508,595	2,313,222	3,821,817
Central Illinois Light Co	1,567,600	5,129,800	6,697,400
Central Illinois Public Service Co	639,000	6,570,300	7,209,300
Central Kansas Power Co. (The)	523,984	192,176	716,160
Central Louisiana Electric Co., Inc	4,448,303	2,732,515	7,180,818
Central Maine Power Co	10,547,200		10,547,200
Central Power & Light Co	7,548,100	8,961,600	16,509,700
Central Vermont Public Service Corp	478,269		478,269
Cincinnati Gas & Electric Co. (The)	17,134,159	8,821,591	25,955,750
Citizens' Utilities Co	173,480	491,883	665,363
Cleveland Electric Illuminating Co. (The)	28,133,000		28,133,000
Columbus & Southern Ohio Electric Co	7,025,500	7,597,100	14,622,600
Commonwealth Edison Co	11,875,000	58,685,000	70,560,000
Commonwealth Edison Co. of Indiana, Inc	715,000	3,275,000	3,990,000
Community Public Service Co		1,413,573	1,413,573
Connecticut Light & Power Co. (The)	5,920,408		5,920,408
Consolidated Edison Co. of New York, Inc	20,017,974		20,017,974
Consumers Power Co	18,720,033	30,757,931	49,477,964
Dallas Power & Light Co	7,971,393		7,971,393
Delaware Power & Light Co	8,092,540	4,338,652	12,431,192
Detroit Edison Co. & Subsidiaries (The)	24.706,684	34,006,278	58,712,962
Gulf States Utilities	$6,157,210	$13,026,823	$19,184,033
Hartford Electric Light Co. (The)	7,009,627		7,009,627
Hawaiian Electric Co., Ltd (The)		3,835,574	3,835,574
Hilo Electric Light Co., Ltd		632,026	632,026
Holyoke Power & Electric Co		16,808	16,808
Holyoke Water Power Co		1,058,111	1,058,111
Home Light & Power Co		196,826	196,826
Houston Lighting & Power Co	12,147,252		12,147,252
Idaho Power Co	3,886,500	6,041,500	9,928,000
Illinois Power Co	7,393,000	11,022,304	18,415,304
Indiana & Michigan Electric Co	31,145,036	7,539,355	38,684,391
Indianapolis Power & Light Co	6,721,300	5,013,700	11,735,000
Iowa Electric Light & Power Co	2,515,100	4,618,000	7,133,100
Iowa-Illinois Gas & Electric Co	591,560	3,954,271	4,545,831
Iowa Power & Light Co	5,877,964	4,154,279	10,032,243
Iowa Public Service Co	1,513,942	2,916,478	4,430,420
Iowa Southern Utilities Co	1,076,600	1,474,200	2,550,800
Kansas City Power & Light Co	9,836,931	6,544,608	16,381,539
Kansas Power & Light Co. (The)	2,681,193	5,409,447	8,090,640
Kentucky Power Co	364,542	958,251	1,322,793
Kentucky Utilities Co	2,131,703	5,366,300	7,498,003
Kingsport Utilities, Inc	9,498	134,685	144,183
Lockhart Power Co		78,200	78,200
Long Island Lighting Co	11,226,020		11,226,020
Louisiana Power & Light Co	10,502,584	7,339,709	17,842,293
Maine Public Service Co	318,568	481,842	800,410
Marietta Electric Co. (The)	17,300	226,450	243,750
Maui Electric Co., Ltd		229,768	229,768
Michigan Gas & Electric Co	34,700	712,600	747,300
Minnesota Power & Light Co	7,204,300		7,204,300
Mississippi Power Co	3,881,353	2,891,235	6,772,588
Mississippi Power & Light Co	7,012,349	4,222,705	11,235,054
Missouri Edison Co		55,000	55,000
Missouri Power & Light Co		170,000	170,000
Missouri Public Service Co	1,256,387		1,256,387
Monongahela Power Co	5,560,700	3,706,600	9,267,300
Montana-Dakota Utilities Co	1,224,277	1,805,669	3,029,946
Montana Power Co. (The)	2,662,545	2,653,346	5,315,891
Montaup Electric Co		1,053,259	1,053,259
Mount Carmel Public Utility Co		146,592	146,592
Nantahala Power & Light Co	2,270,894		2,270,894
Nevada Power Co	2,043,670	1,528,856	3,572,526
New Bedford Gas & Edison Light Co		856,244	856,244

Duquesne Light Co	7,775,769	2,819,860	10,595,629
Eastern Shore Public Service Co. of Maryland (The)	243,589	1,027,003	1,270,592
Eastern Shore Public Service Co of Virginia		164,698	164,698
Edison Sault Electric Co		311,604	311,604
El Paso Electric Co	2,660,541	2,459,106	5,119,647
Empire District Electric Co. (The)	1,083,897	1,178,807	2,262,704
Fall River Electric Light Co		310,268	310,268
Fitchburg Gas & Electric Co		270,233	270,233
Florida Power Corp	10,141,055	10,374,879	20,515,934
Florida Power & Light Co	18,323,616		18,323,616
Florida Public Utilities Co		293,059	293,059
Georgia Power Co	21,397,475	16,743,739	38,141,214
Golf Power Co	4,181,651	3,297,545	7,479,196
New England Power Co	10,803,000		10,803,000
New Orleans Public Service, Inc		4,971,000	4,971,000
New York State Electric & Gas Corp	8,449,718		8,449,718
Niagara Mohawk Power Corp	18,700,000		18,700,000
Northern Indiana Public Service Co	153,139	11,482,615	11,635,754
Northern States Power Co. (Minnesota)	7,893,700		7,893,700
Northern Virginia Power Co	84,600	177,900	262,500
Northwestern Public Service Co		894,800	894,800
Ohio Edison Co	23,271,149	12,870,300	36,141,449
Ohio Power Co	54,071,944	6,888,970	60,960,914
Oklahoma Gas & Electric Co	11,210,000	1,924,000	13,134,000
Old Dominion Power Co		193,100	193,100
Orange & Rockland Utilities, Inc	3,589,671		3,589,671
Pacific Gas & Electric Co	71,356,428		71,356,428

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Pacific Power & Light Co	$42,253,175		$42,253,175
Pennsylvania Electric Co	8,984,167		8,984,167
Pennsylvania Power Co	3,769,650		3,769,650
Pennsylvania Power & Light Co	15,744,503		15,744,503
Philadelphia Electric Co	19,616,799		19,616,799
Plymouth County Electric Co		$274,978	274,978
Portland General Electric Co	12,074,776	785,104	12,859,880
Potomac Edison Co. (The)	4,174,200	542,400	4,716,600
Potomac Light & Power Co	640,200	214,200	854,400
Public Service Co. of Colorado	10,473,487	5,654,343	16,127,830
Public Service Co. of Indiana, Inc	17,998,000	12,976,000	30,974,000
Public Service Co. of New Hampshire	4,772,161		4,772,161
Public Service Co. of New Mexico	2,918,199	970,396	3,888,595
Public Service Co. of Oklahoma	15,820,000	6,433,000	22,253,000
Public Service Electric & Gas Co	17,684,871	22,441,627	40,126,498
San Diego Gas & Electric Co		1,773,137	1,773,137
Savannah Electric & Power Co		2,236,545	2,236,545
Sierra Pacific Power Co		1,550,505	1,550,505
South Carolina Electric & Gas Co	11,624,800	4,971,000	16,595,800
South Carolina Generating Co	3,852,400	534,100	4,386,500
South Penn Power Co	52,800		52,800
Southern California Edison Co	39,882,237	21,422,720	61,304,957
Southern Electric Generating Co		4,677,923	4,677,923
Southern Indiana Gas & Electric Co	2,241,870	2,707,640	4,949,510
Southwestern Electric Power Co	4,118,900	6,053,400	10,172,300
Southwestern Public Service Co	$12,501,370	$2,279,813	$14,781,183
Tampa Electric Co		7,250,000	7,250,000
Tapoco, Inc	178,986		178,986
Texas Electric Service Co	11,645,126		11,645,126
Texas Power & Light Co	14,982,350		14,982,350
Toledo Edison Co. (The)	7,542,000	3,945,000	11,487,000
Tucson Gas, Electric Light & Power Co. (The)		3,257,727	3,257,727
Union Electric Co	17,745,000	2,781,000	20,526,000
Union Light, Heat & Power Co. (The)	446,567		446,567
United Illuminating Co. (The)	1,683,000		1,683,000
Upper Peninsula Power Co	28,368	941,494	969,862
Utah Power & Light Co	751,000		751,000
Virginia Electric & Power Co	36,214,807		36,214,807
Washington Water Power Co. (The)	10,840,897		10,840,897
West Penn Power Co	12,164,000		12,164,000
West Texas Utilities Co	2,693,700	3,107,800	5,801,500
Western Light & Telephone Co., Inc	2,652,800	247,500	2,900,300
Western Massachusetts Electric Co	1,280,300	2,587,900	3,868,200
Western Power & Gas Co		1,460,425	1,460,425
Wheeling Electric Co	793,128	127,286	920,414
Yankee Atomic Electric Co		1,063,100	1,063,100
Total	1,084,180,656	540,689,525	1.624,870,181

Mr. METCALF. Mr. President, now electric utilities are in line for a new dispensation. Section 203(e) of H.R. 8363 would prohibit the Federal Power Commission from requiring private power companies to "flow through" to income the 3-percent investment tax credit they received under 1962 tax legislation.

Section 203(e) is but the latest bonanza for these companies through tampering with the tax laws. That portion of section 203(e) dealing with public utilities forbids all Federal regulatory agencies—including the Federal Power Commission—from reducing the income tax allowance of private power companies in fixing rates by more than a share of the investment tax credit prorated over the average useful life of the property—unless the utility involved consents.

What is the effect of this proviso?

First. It means a possible $1 billion windfall profit to private power companies over the next decade, if applied nationally—with more to come in future years.

On the basis of recent investment, the Federal Power Commission estimates that the tax credit is presently worth about $86 million a year in tax savings to private power companies. However, burgeoning demands for electricity mean larger annual future investment in plant and equipment, and for each $100 spent, the utilities can subtract $3 from their tax bill. A conservative approximation indicates that investment will compound at the rate of 6 percent per year. The result: Tax cuts totaling $1 billion for private power companies over a 10-year period—which could be just the beginning of this lucrative take from the Treasury.

Second. It means a $2 billion contribution by consumers by 1975—just as a starter.

Since private power companies collect about $2 in rates to net a $1 rate of return due to the doubling effect of the income tax, consumers will pony up twice the amount retained by the companies if the benefit of the investment tax credit are not flowed through to utility customers.

Under section 203(e), private power companies can keep two sets of books—one for rate purposes and one for tax purposes. Thus they can simultaneously take advantage of the investment tax credit and cut their tax bill while charging consumers at a level which presumes only a small fraction of the actual tax cut.

Third. It means turning over Federal rate regulating functions regarding the investment tax credit to the people who are supposed to be regulated—and opens the door for a whole era of "regulation in reverse."

This is nothing but a proposal for licensed larcency of the consumers' pocketbook. It is similar to suggesting that advertisers be allowed to determine whether or not the Federal Trade Commission can issue sanctions against deceptive practices. It is like permitting railroads to determine when and where the regulations of the Interstate Commerce Commission should apply. If this approach were standard among Federal regulatory agencies, we would give manufacturers the right to veto determinations of the Food and Drug Administration.

Should Congress impose this restriction on the Federal Power Commission, State public utility commissions will face heavy pressure to follow suit in their handling of the investment tax credit—to the further detriment of the consumer and the regulatory process. The concept of rates based on actual costs would receive a crippling blow.

Private power companies represent legal monopolies, sheltered against risk and guaranteed a reasonable rate of return which assures access to needed capital. Despite this fact, they have succeeded over the last decade in obtaining Federal financial favors at the expense of the Nation's taxpayers and ratepayers which must cause Bluebeard to wiggle enviously in his grave. I see no reason to perpetuate this special treatment in H.R. 8363.

If the private power companies think they have a case, let them come before the appropriate legislative committees and ask for amendment of statutes defining the duties of the Federal regulatory agencies instead of tucking their special pleading into the tax bill where it does not belong.

I hope that when this matter comes to a vote in the Senate that section 203(e) will be eliminated from H.R. 8363.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. MORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MORSE. Mr. President, I ask unanimous consent that the order for the quorum call may be rescinded, so that I may ask unanimous consent to place certain material in the RECORD, and then if the Senate so desires another quorum call can be suggested.

The PRESIDING OFFICER (Mr. Mc-

INTYRE in the chair). Without objection, it is so ordered.

TAX REDUCTION RESULTING FROM INVESTMENT CREDIT

Mr. MORSE. Mr. President, section 203(e) of the tax bill favors the private utilities. This demonstrates once again that their greed is only surpassed by their shortsightedness. It is a brazen attempt to circumvent the regulatory process, to erode a part of the responsibility of the regulatory agencies to determine a fair rate of return, and to enable the utilities to pocket the tax reductions which they are enjoying as a result of the tax credit, without any interference from regulators.

I do not understand why the administration is not speaking out on this issue. Papers are full of reports of Presidential Advisory groups on consumer problems,

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the appointment of executive branch staff to advance consumer interests, and messages to Congress calling for new consumer legislation.

Section 203(e) is a matter of considerable importance to consumers. If it is approved, gas and electric utility customers may be robbed of $1 billion annually that could go to purchase other goods and services.

Despite the adverse effect that this proposal would have on consumers, the administration has not spoken out in vigorous fashion. In fact, if we listen to the Treasury Department, the administration does not even have a position on this matter. During hearing in the Senate Finance Committee, Secretary of the Treasury Douglas Dillon was asked:

> Do you support section 203(e)?

He answered:

> This was not a Treasury recommendation and, in fact, it is not a matter of basic concern to the Treasury as to how regulatory agencies handle their own job.

Joseph Swidler, Chairman of the Federal Power Commission, spoke out against this outrageous rape of the consumer, but no word came from the White House to back him up.

Mr. President, regardless of what the administration does or does not do, I think we should knock out section 203 (e) and refuse to reinstate it in conference.

If the loudest spokesmen for the utilities are to be believed, the tax credit is not a tax reduction at all. At least, this was the position taken during Senate hearings by Walter Bouldin, president of the Edison Electric Institute.

Happily, there are a few leaders in the utility industry who can look beyond tomorrow's dividends and recognize the fact that good utility service at low rates is good business for stockholders as well as for consumers.

One of these is Donald C. Cook, president of the American Electric Power Co., Inc., reportedly a close personal friend of President Lyndon B. Johnson. Mr. Cook has called upon Congress and the utilities to recognize the tax credit for what it is, a tax reduction, and to make use of the reduction to reduce electric rates to consumers.

Mr. Cook addressed a gathering of State regulatory commissioners last June 21, urging them to take a realistic view of the tax credit.

It is refreshing indeed to read Mr. Cook's declaration in that speech, that at his company:

> We believe that an efficient and economical operation resulting in the lowest possible rates and in a superior service, not only is our duty to our customers, but is the best way of conserving and enhancing the investment of our shareholders.

With this public-spirited approach to the utility business, it is not surprising that Mr. Cook favors passing along the benefits of the investment tax credit to consumers in the form of lower rates.

A year ago, American Electric Power directed its five operating subsidiaries to apply for rate reductions on the basis of congressional approval of the 3-percent credit. The company declared in a telegram to officials of its subsidiaries:

> The reduced rates have been made possible by the reduced Federal income taxes. These lower rates will serve to increase our sales of electric power, lead to construction of additional facilities to meet increased demand for power and thus stimulate business expansion in areas served by AEP system and the entire country.

Mr. Cook demonstrated his progressive approach to utility operation throughout consideration of the tax bill. In his speech to the commissioners, he traced the history of the investment tax credit from the earliest consideration of the issue by the Treasury, showing that throughout consideration of the bill, his company adhered to the position that the tax credit was, in fact, a tax reduction, and that the opportunity to pass the tax reduction on to consumers "would in itself be an incentive for utilities, and in addition, such rate reductions would increase the sales of electric energy and require the construction of additional facilities, thus accomplishing in the fullest measure the objectives of the legislation."

In taking what I regard as a public-spirited position on the tax credit, Mr. Cook raised objections to the finagling of certain public accountants on this issue,

and accused them of trying to obfuscate a basically simple issue.

> The problem of accounting for the tax reduction resulting from the investment credit is one of great simplicity—

He said—

> but more than a few people are working very hard to have it appear complex.

In conclusion, after a step-by-step summary of events leading up to controversy over regulatory treatment of the tax credit—events in which he was a personal participant—Mr. Cook declared:

> These facts seem to me to demonstrate beyond peradventure of a doubt that the Treasury and the Congress clearly intended the tax credit to be a tax reduction, that it is, in fact, a tax reduction; that only as a tax reduction can it accomplish the stated purposes of the legislation.

Mr. President, I ask unanimous consent to have printed in the RECORD an address by Donald C. Cook, president, American Electric Power Co., Inc., before the Great Lakes Conference of Railroad and Utilities Commissioners.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

PANEL DISCUSSION: THE GREAT LAKES CONFERENCE OF RAILROAD AND UTILITIES COMMISSIONERS

(By Donald C. Cook, president, American Electric Power Co., Inc., the Greenbrier, White Sulphur Springs, W. Va., Friday, June 21, 1963)

The problem of accounting for the tax reduction resulting from the investment credit is one of great simplicity. But more than a few people are working very hard to have it appear complex. Thus, from the time the tax reduction was first proposed, certain companies and certain public accounting firms, including Arthur Andersen & Co., of which Mr. Spacek is managing partner (but, I should point out, not including Haskins & Sells, of which Mr. Powell is senior partner), have sought to obscure the fact that we were dealing with a tax reduction. Instead, they have sought to characterize the tax reduction as some sort of a Government subsidy or a tax postponement. On that basis they have tried to find ways to avoid a reduction in reported operating expenses.

In addition, considerable efforts have been made by some, including Arthur Andersen & Co. particularly, to try to establish in the public utility field the proposition that the lawful requirements of public service commissions and other regulatory bodies with which they disagree may not be reflected in published financial statements but must, instead, either remain hidden in the commission archives or be branded as improper and misleading.

The fact is that Mr. Spacek does not have a very high opinion of either the ability or devotion to duty of commissioners and commissions. He does not think they have the ability or the desire to protect the public interest, and he would remedy this deficiency by setting up Arthur Andersen & Co. and the AICPA as the supervisor of the commissions to ensure that they do their duty. I will have more to say about this later and then will quote some of Mr. Spacek's published language on this point.

I have said that the problem of accounting for the tax reduction resulting from the tax credit is one of utmost simplicity. I will now outline why this is so.

The control of accounting by commissions is recognized as fundamental to the proper regulation of public service corporations. This is true above all else in connection with the regulation of rates.

Public service corporations carry on a business affected with the public interest. For the right to carry on such business they must submit themselves to comprehensive regulation by both State and Federal agencies. The most important aspect of the regulatory scheme is that rates and charges for service must be fixed by the commissions at a point permitting the utility to earn a fair return, after allowance for all operating expenses, on the fair value of the property devoted to the public use.

It was inevitable that many accounting questions would arise both as to what constitutes the rate base and as to what constitutes allowable operating expenses for rate purposes.

In order to enable the regulatory process to be carried out in an orderly way, to minimize controversy, and to insure fair and equitable treatment for consumers and owners alike, the uniform system of accounts was born. The right to a regulatory body to promulgate accounting requirements in the form of a uniform sysem of accounts and the duty of a public utility to follow it have long since been judicially established. Of course all of this is elemenatry to this group, but it needs to be emphasized because of its fundamental importance.

Uniform accounting records are not an end in themselves. They are merely a means to other ends, the most important of which is to assist commissions in the exercises of their ratemaking functions. Since the prime purpose of a uniform system of accounts is to produce definitive data to be used for rate regulation, it is normal to expect that decisions on accouting questions made by regulatory bodies, even though not made in rate proceedings, will foreshadow the treatment later to be accorded for rate purposes. Here, then, is the real reason why accounting controversies flare so quickly, continue so interminably, and die so painfully. This is why we so often hear, as we have heard today from Mr. Spacek, the voice of accounting speaking the words of ratemaking.

There are three principal interests to be served by the regulatory process—the interest of consumers, the interest of investors, and the general public interest. In theory at least, and much more often in practice than is generally supposed, regulatory bodies do a good and faithful job in balancing and accommodating these interests. It is to be ex-

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pected, however, that the regulatory bodies, either through their staffs or through their

commissioners, will place primary emphasis on the interests of consumers. It is also to be expected that representatives of the owners will fill the equally proper role of attempting to protect the interests of investors. I am happy to say that in my experience most commissions, regardless of their point of primary emphasis, have been thoroughly alive to their obligation to be fair to investors, and most utility companies have been equally alive to their obligations to consumers. In the American Electric Power system we believe that the best way to serve our stockholders is to do the best possible job for our customers. We believe that an efficient and economical operation resulting in the lowest possible rates and in a superior service not only is our duty to our customers but is the best way of conserving and enhancing the investment of our shareholders.

As I have stated, it is inevitable that what a regulatory body requires as a matter of accounting will have an important—indeed, almost inevitable—impact on the rates charged consumers and on the return to investors.

Since this is so, the most meaningful financial statements for investors to have as the basis for determining the financial condition and results of operations of a regulated utility are those reflecting the lawful accounting requirements of the regulatory body having primary rate jurisdiction which, in turn, are translated into the lawful ratemaking requirements of such body. Thus, if a commission having the major rate jurisdiction requires an item to be classified in a uniform system of accounts as an operating expense, the most meaningful financial statements are those that reflect the item as an operating expense. Similarly, if a particular item is held not to be an operating expense and is not permitted to be classified as such, the most meaningful financial statements are those that do not reflect that item as an expense. To do otherwise would arbitrarily lead to the preparation and dissemination of financial statements not reflecting the economic realities of the enterprise.

An investor needs to know what the facts are, and in the public utility field the lawful requirements of the regulatory bodies having primary rate jurisdiction establish the facts, Arthur Andersen & Co. and Mr. Spacek to the contrary notwithstanding.

There are among public accountants some who feel they are answerable to no one but themselves and, being excessively confident of their own wisdom and virtue, think that they should have the final say on these important matters. Mr. Spacek, for example, says in effect that if in his opinion the commissions do not make their accounting decisions on the basis of what he believes to constitute generally accepted accounting principles, he has the power to overrule them, to try to force another treatment or, if unsuccessful in doing so, to brand financial statements prepared on the basis of the lawful requirements of the commissions as unsound and misleading.

And who, may I ask, has set up my good friend Mr. Spacek as chief justice of the supreme court of accounting? The answer is that he is self-appointed. And where can an appeal be taken from one of his decisions? Nowhere, absolutely nowhere.

As I said earlier, Mr. Spacek does not have much confidence in commissions and commissioners. He thinks they are not, for the most part, very able, and beyond that he feels that they really have no proper conception of the public interest. This is not merely my opinion—this is what he publicly states.

In a recent article in Investment Dealers' Digest entitled "Significance of Controversy Over Accounting for Tax, Depreciation Benefits," in criticizing the accounting requirements of certain commissions, Mr. Spacek states that "* * * It will be recalled that many of the accounting abuses that led to a lack of public confidence in the 1920's and 1930's were ordered by regulatory commissions," and he clearly and categorically states that the present commission requirements—the requirements in the year 1963 with which he disagrees—are abuses. This is strong language. In this same spirit of high regard for regulatory bodies and referring to present requirements, he continues: "We thus see utility commissions enforcing a substandard brand of accounting as they did prior to the 1930's."

And what is the basis of this charge against utility commissioners? It is merely that in doing their job as they see it they have refused to classify as an operating expense an amount equal to a tax reduction—a tax that has not been assessed, is not owing, and never will be owed.

And against whom does he level this charge? He levels it against the New York, California, Vermont, Connecticut, Kentucky, Ohio, Wisconsin, Virginia, West Virginia, and Tennessee commissions among the State commissions, and against the Interstate Commerce Commission and the Securities and Exchange Commission among the Federal commissions. This is quite a list of distinguished bodies to be maligned, and I cannot help but recall the words of Cassius in "Julius Caesar":

"Upon what meat doth this our Caesar feed that he is grown so great?" Shakespeare, "Julius Caesar," act 1, scene 2, line 148.

Now perhaps you understand more fully why it is that I would prefer to have power and authority in the hands of commissions, which are necessarily subject to judicial restraints, rather than in those of self-appointed accounting czars answerable to no one.

And what is the basis for this sweeping judgment that following the lawful requirements of regulatory bodies and accounting for the facts as they are, for recognizing a tax reduction for what it is, for not charging customers for taxes that do not have to be paid, is bad accounting and does not produce accurate financial statements? The answer can only be found in the amorphous phrase "matching costs and revenues," the most overworked accounting cliche of modern times, that remarkable accounting Mother Hubbard that covers everything and reveals nothing.

What is this concept of matching costs and revenues? It merely means that against the revenues received in a particular period there should be charged all the costs associated with the production of those revenunes. But

I ask in all sincerity, isn't it rather foolish to speak of an income tax reduction as representing a cost? And if no cost is involved, how can the "matching costs and revenues" doctrine be used to support a charge to operating expense when no expense has been incurred? Further, whatever abstruse accounting theory might be spun to justify departing from the facts, once a regulatory body having primary rate jurisdiction has made a determination of the character of an accounting item and that determination has become final as a matter of law, the character of the item has become fixed and the most meaningful financial statements that can be prepared and disseminated are those reflecting that determination. There is no better example of this than the regulatory requirement that plant and property must be stated at original cost regardless of its actual cost. I do not say this is the way it should be; I merely say this is the way it is.

Mr. Spacek makes much of the requirement of consistency, stating that "it is in the best interests of the U.S. economy and utility customers that all investors be provided with financial reports that are * * * consistent from company to company."

It seems rather late in the day to have to observe that the law of public utility regulation varies from State to State and from the several States to the Federal Government. The applicable law in each jurisdiction determines the facts, and it is the obligation of accountants to reflect the facts, not to distort or change them.

In view of Mr. Spacek's preoccupation with consistency. I thought it would be of interest to see whether he was practicing what he was preaching. I was particularly interested in whether he was grinding a special ax in the utility field, where accounting and ratemaking are so intimately tied together, or whether he was consistently following his same theories in other fields where accounting had no effect on the price at which products were sold. I knew, of course, that Arthur Andersen & Co. certified to the financial statements of a large number of oil and gas companies, presenting analogous accounting problems, so I selected this group for study. I would like to report the results to you.

Company A. engaged in the oil and gas business and whose accounts are certified by Arthur Andersen & Co., presented an income statement for the year 1962 showing a net income of $6,038,000 before income taxes. The income statement indicted that no Federal income taxes whatsoever were payable by the company; so, net income after Federal income taxes was identical with that before Federal income taxes. I think you will agree that this is a rather startling income statement and that it requires an explanation. That explanation is found in a footnote in which it is stated:

"Intangible development costs and dry hole costs applicable to producing properties are capitalized for financial accounting purposes but deducted for income tax purposes as incurred. * * *" It was also stated that Federal income taxes of approximately $2,300,000 were eliminated in 1962 by reason of the deduction for tax purposes of certain items capitalized on the company's books and utilization of operating-loss carryforwards resulting from such deductions taken in prior years.

How does Mr. Spacek square this result with his avowed requirement of matching costs and revenues? How can he assert on the one hand that reflecting a tax reduction arising from the investment credit as a decrease in operating expenses should be branded as improper and misleading while, on the other hand, certifying that financial statements in which expenses actually incurred and deducted for tax purposes are set up in the balance sheet as an asset, have been prepared on the basis of good accounting practice—on the basis of matching costs and revenues?

Company B, whose financial statements are also certified to by Arthur Andersen & Co., showed net income before taxes of $30,102,000 and Federal income taxes of only $610,000, or 2 percent of taxable income. Here again the explanation is given that "the company follows the policy of capitalizing items that are deductible for Federal income tax purposes in the year in which the expenditures are made."

Company C, also having its financial statements certified to by Arthur Andersen & Co., presents an income account showing net income before Federal income taxes of $27,775,000 and Federal income taxes of only $3,925,000, or 14.1 percent. How come? The explanation is again that the company deducted various items for tax purposes but capitalized them on the books for financial reporting purposes.

Company D, also having its accounts certified to by Arthur Andersen & Co., presents an income statement showing net income before Federal income taxes of $546 million

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and Federal income taxes of only $10 million, or less than 2 percent. Once again the explanation is that various costs have been capitalized for financial reporting purposes, whereas they have been deducted in the same period for Federal income tax purposes.

It will be remembered that when the accounting principles board voted to approve a bulletin expressing the view that the tax reduction resulting from the investment credit should be normalized, eight of the largest public accounting firms in the United States split on the question four to four. The public accounting firms voting for the bulletin were Arthur Andersen & Co., Lybrand, Ross Bros. & Montgomery, Arthur Young & Co., and Touche, Ross, Bailey & Smart. The companies dissenting from the bulletin were Haskins & Sells, Price Waterhouse & Co., Peat, Marwick, Mitchell & Co., and Ernst & Ernst.

Since all of the firms supporting the bulletin relied upon the concept of matching costs and revenues, I thought it would be useful to determine how consistent they have been in the application of what now seems to be this rather flexible principle.

I have found that, just as in the case of Arthur Andersen & Co., which I have just described, Lybrand, Ross Bros. & Montgomery, Arthur Young & Co., and Touche, Ross, Bailey & Smart have all certified to financial statements of companies in which many

items were capitalized for financial reporting purposes whereas such items were deducted for tax purposes, with the result that disproportionately small amounts of Federal income taxes were paid for the year under review.

I suggest, therefore, that the record conclusively shows that in treating an identical problem, one theory of accounting is being applied by these firms to regulated public utility companies, where the choice of the method of accounting has an impact on rate regulation, and another theory of accounting is being followed in connection with nonutilities where the pricing of the product is not affected by the method of accounting followed.

I have used a substantial portion of my time to develop only one phase of this matter, but it is the vitally important phase, and an understanding of it is essential to gaining any real insight into the problem before us. In the time remaining I propose merely to list what seems to me to be the rather self-evident reasons for the view that the tax reduction resulting from the tax credit should be reported in the accounts of public utilities for what it is—a tax reduction:

1. The tax credit bill as originally prepared by the Treasury Department excluded public utilities other than natural gas pipelines from tax relief.

2. The stated purpose of the bill was to reduce the taxes of those who made a contribution to the economic growth of the country by building qualified productive facilities.

3. Utilities were excluded from relief because two young economists in the Treasury Department had advised Secretary Dillon and Assistant Secretary Surrey that (a) the tax credit would not stimulate construction by utilities because they would have to build facilities regardless of any tax reduction, and (b) the benefits would have to be passed on to consumers in the form of lower rates and the tax reduction would therefore not operate as an incentive.

4. Representatives of American Electric Power Co., including myself, had discussions with Secretary Dillon and other Treasury officials, including the two economists who had incorrectly advised the Secretary, in which we demonstrated that (a) the tax credit would do more to encourage construction in the utility industry than in any other industry (because it would make many marginal projects economically feasible), and (b) the opportunity to pass the tax reductions on to customers in the form of rate reductions would in itself be an incentive for utilities and, in addition, such rate reductions would increase the sales of electric energy and require the construction of additional facilities, thus accomplishing in the fullest measure the objectives of the legislation.

5. While the bill was under consideration in the Treasury, officials of the American Telephone & Telegraph Co. sought to induce Assistant Secretary Surrey to urge the House Committee on Ways and Means to make it clear that the accounting for it should be such as to provide only a moderate effect on corporate earnings and not an immediate and substantial effect. This is the Arthur Andersen & Co. view.

6. In response to this effort Mr. Surrey advised the telephone company that the investment credit would in fact constitute a reduction in tax liabilities for the year in which the qualifying investment was made and that the inclusion of utilities for tax relief would have added disadvantages if it entailed prescribing accounting procedures which tended to dampen its stimulus. This is the American Electric Power Co. view.

7. Thereafter Mr. Alexander Stott, comptroller of the telephone company, appeared before the Senate Finance Committee and testified against the bill although the telephone company, and therefore its customers, would clearly be the largest beneficiary under the terms of the bill if it were applicable to utility companies and it became law.

8. Mr. Spacek also testified before the committee and urged his accounting views on the committee.

9. The Senate committee, and thereafter the Senate itself, disregarded the position of both the telephone company and Mr. Spacek, included utilities as eligible for the tax reduction, made it clear that the tax credit was a tax reduction, and refused to prescribe the accounting procedures to be followed to reflect it.

10. I presented a 30-minute prepared statement before the Senate Finance Committee during its hearings on the bill, but upon the completion of the statement I continued on the witness stand for over 2 hours, exploring with the Senators the ramifications of the bill. In response to a question, I stated the view that, under all then existing systems of accounts which would be applicable, the tax credit would be reflected as a reduction in current income taxes.

11. During the Senate Finance Committee hearings it became clear that one of the Senators was confused about the basic character of the tax credit bill, not recognizing clearly that the proposal was for a tax reduction to be measured by the amount of eligible construction done and thinking, since depreciable property was being used in the process as a yardstick, that unless the tax base of the yardstick property was reduced by the amount of the tax credit, depreciation equal to 106 percent of the cost of the property could be deducted for tax purposes.

12. To meet this Senator's interpretation the Senate committee amended the bill as it came from the House to reduce the tax basis of the property by the amount of the tax credit but refused to prescribe the Arthur Andersen and telephone company method of accounting for it.

13. The whole legislative history of the statute makes entirely clear that a tax reduction in each successive fiscal period was intended by the Treasury and by Congress. There has been a good deal of emphasis on the intention of Congress—and the quotation of isolated segments from the legislative reports—to support the normalization concept. But to one familiar with the origin and legislative history of the tax credit legislation, the one clear purpose intended by both the administration and the Congress

was to provide an immediate stimulus to the economy; and it is equally clear that the normalization concept, which is nothing more or less than an effort to dilute the current effect of the tax credit, is completely inconsistent with that congressional purpose.

14. Following passage of the legislation, Mr. Spacek immediately began a campaign within the American Institute of Certified Public Accountants to cause the accounting principles board to issue a bulletin prescribing the method of accounting urged by Arthur Andersen & Co. and the telephone company which had been rejected both by the Treasury and by the Congress.

15. The board, by only a one-vote margin over the required two-thirds vote, proposed to issue such a bulletin and, contrary to its long-established practice, intended to do so without circulating an exposure draft for comment.

16. Only after the Federal Power Commission and others protested the proposed dark-of-the-moon action was a draft bulletin circulated to interested persons.

17. The only members of the board who had any substantial public utility accounting practice and experience were representatives of six of the eight large public accounting firms to which I earlier referred. These six do the bulk of the public accounting work for utilities in the United States.

18. These six firms split three to three on the nature of the bulletin to be issued, with Arthur Andersen, Lybrand, Ross Bros. & Montgomery, and Arthur Young & Co. voting for it.

19. Lybrand, Ross Bros. & Montgomery are the public accountants for the telephone company, and Arthur Young & Co. are the public accountants for the Western Electric Co., the manufacturing subsidiary of the telephone company.

20. Since the bulletin of the accounting principles board was issued, the Securities and Exchange Commission has repudiated it as controlling the accounting applicable to public utility companies.

21. This is the first time in the 29 years of the SEC's existence that it has repudiated an accounting bulletin issued under the aegis of the American Institute of Certified Public Accountants.

22. Some of these same accounting firms who voted for the repudiated bulletin recently sought to induce the Internal Revenue Service of the Treasury to hold that the tax credit should not be regarded as a tax reduction in determining earnings and profits for dividend purposes. They failed in the attempt and the Internal Revenue Service held, instead, that the tax credit gave rise to a tax reduction in the fiscal year in which it was obtained.

With all the stress which these accounting firms have placed on congressional intention as supporting their views, it is, I think, of great significance that the Government agency most intimately involved with the legislation, its history and the congressional intention in adopting the legislation, reached precisely the opposite conclusion to that urged by these accounting firms.

These facts seem to me to demonstrate beyond peradventure of a doubt that the Treasury and the Congress clearly intended the tax credit to be a tax reduction, that it is in fact a tax reduction, that only as a tax reduction can it accomplish the stated purposes of the legislation, that the accounting proposed by Mr. Spacek and Arthur Andersen & Co. has been consistently rejected by the Treasury and the Congress, and that its application to public utilities results in overstating expenses and understating income to the obvious detriment of the interests of investors, consumers, and the gen-

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eral public interest—the very interests public service commissions are sworn to protect.

Mr. MORSE. Mr. President, I understand that the Senator from Wisconsin [Mr. PROXMIRE] has an amendment whereby he seeks to eliminate what I consider to be the undue and unjust enrichment that this section seeks to hand out to private utilities in this country to the detriment of consumers. I do not believe I use mild language—particularly for me—when I say that the best that can be said for it is that it is economic rape, and that is bad enough. Mr. President, we ought to eliminate it. I wish the Senator from Wisconsin [Mr. PROXMIRE] to know that I shall wholeheartedly support him when he offers his amendment, which I understand will be some time tomorrow.

I yield to my friend the Senator from Alaska [Mr. GRUENING].

Mr. GRUENING. Mr. President, I call to the attention of the Senate an editorial published in this morning's New York Times entitled "Gift to Utilities," which begins with the following statement:

> There are many questionable provisions in the tax reduction bill now being considered in the Senate, but none is more unconscionable than the gifts proposed for the utility industry.

I ask unanimous consent that the text of the editorial be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

GIFT TO THE UTILITIES

There are many questionable provisions in the tax reduction bill now being considered in the Senate, but none is more unconscionable than the gift proposed for the utility industry.

The gift is in the form of an amendment forbidding the Federal Power Commission and other regulatory agencies from exercising any control over the investment credit provided for public utilities. The regulatory agencies are supposed to set rates that insure a fair return on utility investments. The proposed amendment means that the FPC could not take the tax credit into account in setting rates. As a result, electric and gas companies would receive a windfall

estimated at $300 million, which would not be passed along to consumers.

The size of this windfall alone should give pause. Yet big as it is, it is not the most disturbing element in the proposed amendment. By limiting the power of the FPC in setting rates, Congress will increase the cost of utility services to consumers. And it will encourage the utility lobby, and pressure groups representing other regulated industries, to press for new restrictions on the rate-setting function of the regulatory agencies.

Even so, there could be a case for the amendment if it were to spur corporate spending and cut costs to consumers, which were the original objectives of the investment credit. But utilities will not have any extra inducement to spend and consumers will not be benefited. This is not the kind of gift that the Congress should be bestowing.

Mr. MILLER. Mr. President, the Time's editorial presents serious distortions of fact. First, it implies that the amendment applies equally to all regulated industries and utility companies. The fact is the law provides a 3-percent credit for utilities subject to a minimum of competition and 7 percent to transportation companies which are subject to competition from nonregulated industries. In the case of those companies receiving a 3-percent credit, the amendment provides that the benefits may flow to the company's earnings over the life of the plant resulting from the investment. It may, therefore, flow proportionately over the life of the plant to customer as determined by the regulatory body. Thus, the regulatory agencies do have control over the treatment of the investment credit. The amendment is intended to prevent regulatory bodies from thwarting the intent of Congress. This intent was expressed in the conference committee report as follows:

It is the understanding of the conferees on the part of both the House and the Senate that the purpose of the credit for investment in certain depreciable property, in the case of both regulated and nonregulated industries, is to encourage modernization and expansion of the Nation's productive facilities and to improve its economic potential by reducing the net cost of acquiring new equipment, thereby increasing the earnings of the new facilities over their productive lives.

The editorial states that one of the objectives of the investment credit was to cut costs to consumers. An examination of the legislative history beginning with President Kennedy's original proposal reveals that the entire purpose was to stimulate construction, increase productivity and increase the profitability of the American economy. There is no word of a direct purpose to lower costs to consumers. It is, of course, obvious that such an improvement in plant modernization as sought through the investment credit would redound to the benefit of the consumer.

If the regulatory bodies were permitted to carry out their announced intention and to take the investment credit from the company immediately and flow it through in the form of reduced rates, not only would the intent of Congress be frustrated but the incentive factor would be completely eliminated.

I ask unanimous consent that an article published in this morning's issue of the New York Times, which sets forth quite accurately the background of the problem, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UTILITY TAX CREDIT IN QUIET BATTLE

A private, almost silent, war is going on between the Finance Committee of the U.S. Senate and the Federal Power Commission. It revolves about the FPC's interpretation of how gas pipelines and electric utilities should use investment tax credits.

The FPC reiterated yesterday its opposition to retention by the utilities of savings from certain tax benefits given them by Congress.

The agency's latest decision was that interstate natural gas and electric power companies must pass on to their customers any money saved under depreciation laws enacted over the last 9 years. The decision involved the Alabama-Tennessee Natural Gas Co. of Florence, Ala.

The Kennedy administration included in the 1962 Internal Revenue Act a tax credit for investments in certain depreciable property. The amount of credit varies, but for electric utilities it amounts to 3 percent of the cost of certain additions to plant and equipment after December 31, 1961. For natural gas companies, it ranges from 3 to 7 percent.

The utilities have argued that the original intent of these credits was to stimulate plant expansion, but the FPC has voted that "any benefits from the investment credit should 'flow through' immediately to the consumers."

The utility spokesmen also asserted that they could not have extra funds with which to build plants and at the same time give them away. They urged that Government agencies get together with Congress and come up with a consistent course of action.

Mr. MANSFIELD. Mr. President, I should like to make an inquiry of the Chair. It is my understanding that unanimous consent has been granted to the Senator from Illinois [Mr. DOUGLAS] to have his amendment made the pending business tomorrow when the Senate convenes.

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. In the interest of getting on with the tax bill, would it be possible to have the Dirksen amendment on the abolition of the retail sales tax, which will be presented by the distinguished Senator from Kentucky [Mr. MORTON], follow consideration of the Douglas amendment under a unanimous-consent agreement?

The PRESIDING OFFICER. Under unanimous consent that could be done.

Mr. MANSFIELD. Would it be possible to have consideration of that amendment followed by the amendment to be offered by the Senator from Wisconsin [Mr. PROXMIRE] under a unanimous-consent agreement?

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. Would it be possible at this time to ask unanimous consent that there be 1 hour on the Douglas amendment, to be equally divided between the Senator from Illinois [Mr. DOUGLAS] and the Senator from Louisiana [Mr. LONG]?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG of Louisiana. Mr. President, with regard to the Douglas amendment, I should like to request that the unanimous-consent request be amended to the extent that germane amendments to that amendment would be in order, with the time limited 15 minutes to each side, to be controlled by the Senator offering the amendment and the Senator from Illinois.

The PRESIDING OFFICER. Is there objection to the amendment to the unanimous-consent agreement? The Chair hears none, and it is so ordered.

The unanimous-consent agreement, subsequently reduced to writing, is as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That on Wednesday, February 5, 1964, upon the convening of the Senate, it proceed to the consideration of the amendment (No. 411) relating to standard deduc-

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tions, intended to be proposed by Mr. DOUGLAS to H.R. 8363, the Revenue Act of 1964; that the debate on said amendment be limited to 1 hour, to be equally divided and controlled by Mr. DOUGLAS and Mr. LONG of Louisiana for the proponents and the opponents, respectively; that any amendment proposed thereto must be germane to such amendment, and that debate upon any such amendment shall be limited to 30 minutes, to be equally divided and controlled by the mover of such amendment and Mr. DOUGLAS.

Ordered further, That following the disposition of the Douglas amendment, amendments intended to be proposed, respectively, by Mr. DIRKSEN, Mr. PROXMIRE, and Mr. HICKENLOOPER, be taken up for consideration.

Mr. HICKENLOOPER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HICKENLOOPER. What is the unanimous-consent agreement? Three or four have been proposed as being potentially possible, but I did not know that a request for unanimous consent had been made. I do not wish to be frozen out.

Mr. MANSFIELD. First, the Senator from Illinois received unanimous consent eariler today to have his amendment considered the first thing tomorrow.

Mr. HICKENLOOPER. I understand that.

Mr. MANSFIELD. There will be 1 hour on that amendment, 30 minutes to each side, and 15 minutes to each side on any amendment thereto.

Mr. HICKENLOOPER. Was a unanimous-consent request made in respect to that amendment?

Mr. MANSFIELD. Yes; and granted.

Mr. HICKENLOOPER. I have no objection.

Mr. MANSFIELD. After that would come the Dirksen amendment, which would abolish the retail excise tax. After that would come the amendment to be proposed by the Senator from Wisconsin [Mr. PROXMIRE].

Mr. HICKENLOOPER. Reserving the right to object—and I have no intention of objecting to the request—I have an amendment which I expect to offer on behalf of the Senator from Illinois [Mr. DIRKSEN] and myself having to do with writing instruments. It is at the desk and will be printed. I do not wish to be foreclosed on the amendment in any way, shape or form. I have no objection to the order of priorities which the majority leader has stated.

Mr. MANSFIELD. I wish to say to the Republican policy leader that no Senator will be foreclosed from offering an amendment. The effort is made to get a little continuity, which I thought the Republicans had agreed to, in the meantime.

Mr. HICKENLOOPER. Following the pattern of the inquiry of the distinguished leader, would it be in order to ask that the amendment to which I have referred be put in the line of progression?

Mr. MANSFIELD. There is nothing to stop it.

Mr. HICKENLOOPER. May I ask that there be added to the Senator's list of developing programs the amendment relating to writing instruments to which I have referred so that it will follow the three or four amendments to which he has already referred?

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Dirksen-Hickenlooper amendment be considered sometime tomorrow.

Mr. HICKENLOOPER. Mr. President, reserving the right to object, that is not what I asked. I asked if the amendment could follow the succession of amendments which the majority leader has outlined.

Mr. MANSFIELD. If the Senator wishes to make such a unanimous-consent request, it is satisfactory with me.

Mr. HICKENLOOPER. I hoped that, out of the charity of the Senator's heart, he would include the amendment in his request.

Mr. KEATING. Mr. President, reserving the right to object, I have an amendment——

Mr. MANSFIELD. I give up. It is my understanding that amendments will be offered tonight by the distinguished Senator from Kansas [Mr. CARLSON], the distinguished Senator from Indiana [Mr. HARTKE] and the distinguished Senator from Minnesota [Mr. MCCARTHY]——

Mr. McCARTHY. No; I will merely defend against one.

Mr. MANSFIELD. There will be at least two additional amendments. I suggest that we get away from unanimous-consent requests and return to consideration of the bill. I shall feel a great deal better.

Mr. HARTKE. Mr. President, I offer an amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment of the Senator from Indiana will be stated.

The LEGISLATIVE CLERK. At the proper place in title II of the bill it is proposed to insert the following new section:

SEC. , ADDITIONAL EXEMPTION FOR DEPENDENT WHO IS BLIND.

(a) ALLOWANCE OF ADDITIONAL EXEMPTION.—Section 151 (relating to allowance of deductions for personal exemptions) is amended by adding at the end thereof the following new subsection:

"(f) ADDITIONAL EXEMPTION FOR BLINDNESS OF DEPENDENT.—An additional exemption of $600 for each individual who is blind and with respect to whom the taxpayer is entitled to an exemption under subsection (e) for the taxpayer's taxable year. For purposes of this subsection, the determination of whether a dependent is blind shall be made at the close of the taxpayer's taxable year; except that if the dependent dies during such taxable year such determination shall be made as of the time of his death."

(b) TECHNICAL AMENDMENTS.—

(1) Section 151(d)(3) (relating to definition of blindness) is amended by striking out "For purposes of this subsection" and inserting in lieu thereof "For purposes of this subsection and subsection (f)".

(2) Section 213(c) (relating to maximum limitations on deduction for medical, dental, etc., expenses) is amended by striking out "subsection (c) or (d)" and inserting in lieu thereof "subsection (c), (d), or (f)".

(3) Section 3402(f)(1) (relating to withholding exemptions for income tax collected at source on wages) is amended—

(A) by striking out "and" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(F) an additional exemption for each individual with respect to whom, on the basis of facts existing at the beginning of such day, there may reasonably be expected to be allowable an exemption under section 151(f) for the taxable year under subtitle A in respect of which amounts deducted and withheld under this chapter in the calendar year in which such day falls are allowed as a credit."

(c) EFFECTIVE DATES.—The amendments made by this section (other than by subsection (b)(3) shall apply to taxable years beginning after December 31, 1963. The amendments made by subsection (b)(3) shall apply with respect to wages paid after December 31, 1963.

Mr. HARTKE. Mr. President, what the amendment would do can be very simply explained. The amendment would provide that a blind taxpayer would be granted one additional exemption of $600. In other words, in addition to the usual exemption of $600, he would be granted a $1,200 exemption.

The number of people who are really blind in the United States of America today does not comprise an exceptionally large number.

In my own State of Indiana, for example, there are 800 who are qualified at this time to take advantage of such an amendment. I think, of all of the handicapped people in the world, those with the loss of sight are probably suffering one of the most severe handicaps. The blind people do not expect handouts. What they want is an opportunity to make their own way. But frequently, they find roadblocks in their way. The social security laws restrict the amount of money they can earn. The special assistance they receive from certain organizations frequently requires them to pauperize themselves. In some cases they are supporting families. In some cases they are supporting families the members of whom have sight. Sometimes that is helpful; other times it is not.

The blind people have come before Congress and have said, time and time again, that if we give them an opportunity to make their own way, to be self-supporting, to be upstanding citizens, that is all they want. In line with that

request, they have tried to go into businesses to which they are particularly suited.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. HARTKE. I am glad to yield to the distinguished coauthor of the amendment.

Mr. RANDOLPH. The Senator from Indiana, in his humane yet practical manner, has correctly stated the philosophy of most of the blind population of the United States. He has indicated that the blind desire, in so far as possible, to help themselves. An apt illustration can be cited. In 1937 a law was enacted which gave the blind certain valid preference in operating vending stands in Federal buildings throughout the United States, including post offices.

The legislation was later broadened to give advantage to the cooperative effort, through State agencies, which would encourage the blind in State, county, and

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community locations which were conducive to business, to serve the public.

Mr. President, there are today more than 2,400 blind persons in the United States who are operating these small business units, vending stands in Federal buildings and other locations throughout the Nation, including national forests and parks.

During the last year these diligent people did a gross business of approximately $45 million and earned for themselves approximately $5.5 million. They are self-supporting. This is so in contrast to relief and charity. They are responsible citizens contributing to our economy.

So I emphasize what the Senator from Indiana [Mr. HARTKE] so well said—that the blind desire the opportunity to help themselves. The illustration I have given is proof positive of this fact. The amendment which is offered, which I am delighted to cosponsor, is a further attempt to encourage the blind of our country to help themselves. I believe it to be a worthy and reasonable approach, and it is my hope that Senators will approve the proposal.

Mr. HARTKE. I thank the distinguished Senator. Also attention should be called to the fact and credit should be given to our colleague the Senator from West Virginia [Mr. RANDOLPH] for being the author of the legislation which made it possible for the blind people to conduct vending stands in public buildings. His efforts over a constructive career in both the House and Senate are well known by the blind.

Most of the members of the Finance Committee who heard the presentation made by Mr. John Nagle, with his use of braille, as he presented his case before the committee, could not help but be impressed with the sincerity of these people. Yet in many cases we drive them into a helpless situation. On the one hand we ask them to degrade themselves by looking to their parents. On the other hand we ask them to degrade themselves by being taken care of by their children. They do not want to be taken care of by their parents or their children. They want to go by themselves and live a normal life.

Those people, under the best of circumstances, will have a difficult opportunity to find a higher place in life. Some of them will. There are exceptional cases. Some of them become lawyers. We have in Indiana Mr. Albert Hahn, who is the administrator of one of the largest hospitals in our State. But these are exceptional cases.

Those individuals would like to have this one opportunity to say to the rest of the world, "We do not want handouts. We do not want sympathy. All we want is an opportunity to take care of ourselves in the world."

Mr. ANDERSON. Mr. President, will the Senator yield?

Mr. HARTKE. I yield.

Mr. ANDERSON. Did the Senator present this amendment to the Finance Committee?

Mr. HARTKE. I did not present it. I presented it to the Finance Committee last time, and took such a terrific beating on it that I thought I would take it directly to the floor of the Senate. I thought they would treat me more kindly.

Mr. ANDERSON. I appreciate that statement. We appreciate the interest the Senator from Indiana has had in this subject, but I suggest to him that the creation of a new class of dependents is a dangerous thing. One might suggest that people past 65 years of age should receive a special class of dependency.

I hope the Senator will not press the amendment, which should have been presented to the committee. I apologize to him for the committee's not accepting it, but I point out that creating a separate class like this would jeopardize the whole bill. We have tried hard to keep the bill from being unduly amended.

I hope the Senator will not press his amendment. I recognize there may be justification for it. There probably is justification for it. If it had been presented to the Finance Committee this time, it might have been again rejected, but that does not mean it is bad. The Senator knows that many good amendments fail because the Senate is pressed for time and because of circumstances.

We want to get out of committee a bill that is reasonably balanced. That is the situation at this time.

The Senator has been a fine member of the committee and a fine advocate of this measure, with the Senator from West Virginia [Mr. RANDOLPH]. I hope they will not press this amendment too vigorously, because many of us would take a position on it which we might not take if it were presented in the regular way before the committee.

I cannot compel the Senator to do it; I can only plead with him not to press too hard for it.

Mr. HARTKE. I understand the situation, but at this time my conscience would not permit me not to do so. We presented this amendment in committee in 1962. I have no feeling of animosity toward any individual Senator who did not support it. I felt at this time that it was useless to go through it again. Rather than embarrass the committee and have the committee make a vigorous fight against it because it had been rejected in committee, and therefore should not be approved on the floor of the Senate, I thought I would take my chances with the fine Members of the Senate who are concerned with the welfare of making blind people self-supporting, and not dependent.

Mr. ANDERSON. With his fine fellowship, would the Senator agree to having a voice vote on the amendment?

Mr. HARTKE. Usually I take orders from the Senator from New Mexico, whom I respect and love. I hope he has not been offended because I have not done so this time. I shall not insist on a yea and nay vote on the amendment. I hope the voices in favor of the amendment will be heard loudly. I hope that Senators who have expressed sympathy with it will not make their voices heard too loudly against it.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Indiana for himself and other Senators. [Putting the question.]

Mr. MANSFIELD. Mr. President, I ask for a division.

On a division, the amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. CARLSON. Mr. President, I offer the amendment which I send to the desk (No. 406) and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. At the proper place in the bill it is proposed to insert the following:

That section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by redesignating subsection (d) as (e) and by inserting after subsection (c) the following new subsection:

"(d) PREMIUMS FOR FLOOD INSURANCE.—The ordinary and necessary expenses referred to in subsection (a) include amounts paid or accrued for premiums for insurance against losses arising from floods."

SEC. 2. The amendment made by this Act shall apply to taxable years beginning after December 31, 1953, and ending after August 16, 1954.

Mr. CARLSON. Mr. President, I modify the amendment by adding in line 5 after "premiums for flood insurance" the words "notwithstanding the last sentence of section 832(6)(4)."

Mr. President, this amendment would clarify the deductibility of premiums paid for policies of flood insurance, including such premiums paid by subscribers to a reciprocal interinsurance exchange. On July 24, 1956, and again in 1957, the Internal Revenue Service ruled that such premiums were deductible, but it reversed its position in 1960 and began disallowing premiums which had been paid under the only State licensed and regulated plan for flood insurance in existence. In an action by a policyholder to recover income taxes paid as a result of this disallowance, the Circuit Court of Appeals for the Eighth Circuit held in *United States* v. *Weber Paper Company*, 320 F. 2d 199, that the Commissioner was in error and that the deduction should have been allowed. The Solicitor General has announced that certiorari will not be requested.

In the Revenue Act of 1952 this plan was specifically recognized and sections 831 and 832 of the Internal Revenue Code amended by that act made repeated references to subscribers to mutual flood insurance companies. The conference committee even inserted a sentence to provide that subscribers to mutual flood insurance companies should be treated the same as policyholders in factory mutual companies writing fire insurance. This purpose is stated in the conference committee report C.B. 1962–63, page 1155. This provision was designed to encourage this type of insurance, not to defeat it.

Instead of permitting the deduction of such premiums, however, the Treasury Department has now promulgated a proposed regulation, section 1.832–6, which, in effect, allows a deduction to the policyholder only if his premium is absorbed in losses or expenses during the year of payment. Inasmuch as flood losses are already fully deductible in the year they

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occur it is obvious that this regulation would render this type of flood insurance

an economic waste and impractical. When it is considered that flood disasters in any area exposed to flood risks may occur only once or twice in a generation, it is obvious that to prohibit deduction of the premiums unless a loss occurs within the year is, in effect, to deny the deduction altogether except in the year the catastrophe occurs. Insurance departments of the various States require the maintenance of reserves equal to the face amount of the policies because of the catastrophic character of flood losses. In mutual or reciprocal insurance these reserves can be created only out of premiums, and if a tax deduction for the premiums is denied in a newly organized flood insurance mutual or reciprocal company, the mutual insurance company or reciprocal exchange is effectively prevented from establishing the necessary reserves or giving any insurance protection against these catastrophes. No other plan of flood insurance, either publicly or privately sponsored, is presently available.

For these reasons, the amendment which I propose makes it clear that as to all years covered by the Internal Revenue Code of 1954, insurance premiums of this character incurred in a trade or business are deductible as ordinary and necessary expenses. Any attempt to misuse such a deduction is prevented by two safeguards: One, the amendment makes it clear that if any portion of the premium is subsequently refunded, it is to be included in the policyholder's taxable income in the year in which it is refunded; and, the other, the deduction is limited to a maximum in any year of 10 percent of the value of the property exposed to flood hazard. With these safeguards, I believe that not only will there be no tax loss to the Government through this provision, but, by preventing the financial destruction of small businesses in catastrophic floods, where, in many instances there is no profit or gain to charge the casualty deduction against, the general economy—and the revenue—will be benefited since businesses which might otherwise have been wiped out will be able to contribute their share of income taxes. Congress, as well as Presidential messages to Congress have repeatedly emphasized the necessity of making flood insurance available to the citizens of the United States. The inclusion of this amendment in the pending bill will be a long and sound step in that direction.

I sincerely hope, in view of the difficulties that we have had in our section of the country in establishing flood insurance, which is badly needed not only in our area but in other areas of the country also, that the amendment will be approved.

Mr. ANDERSON. Mr. President, will the Senator yield?

Mr. CARLSON. I am happy to yield.

Mr. ANDERSON. I only say to the Senator from Kansas that this comes as no surprise to me, because the Senator presented his amendment to the members of the Finance Committee. We discussed it twice. We had a very interesting and animated discussion of it in committee, and we had two votes on it.

The interesting point is that the Senator from Kansas has a real case. He made it very effectively before the committee. The difficulty is that this is not truly insurance in this particular instance. What is put up by these people for flood protection is an advance from which the cost of the catastrophe is to be paid. There was considerable difficulty with this question, because people ordinarily cannot get a deduction for deposits they have made, but only for contributions which they have paid out for the cost of insurance.

The Senator from Kansas is quite right in saying that this is similar to mutual and reciprocal insurance. The Senator from New Mexico, as the Senator from Kansas knows, has been identified with the mutual insurance companies for more than a quarter of a century. Therefore, I appreciate the problems we face. The difficulty is that when we start to permit deductions to be made for reserves for flood insurance, which is really not insurance, but merely a protective fund, we run into all sorts of problems.

I believe the Treasury Department should handle this situation administratively, and should have handled it in that fashion long ago. The Senator has been trying hard to have this question settled by the Internal Revenue Service. I do not know exactly all the difficulties connected with a settlement of it, but as I said to the Senator from Kansas in the committee, I believe it should have been settled long ago by the Internal Revenue Service. They should have set up guidelines under which this type of mutual insurance could properly have been put in the category of mutual insurance, and deductions allowed.

I only wish to express to the Senator from Kansas my belief that he would be somewhat premature in asking for the adoption of his amendment, because I do not believe the Treasury would rule that these are premiums. I believe the Treasury Department would say, "We have to ignore this case, because these are nothing but mutual protection funds." I pledge to the Senator from Kansas that

I would be happy to associate myself with him in continuing his efforts to get this on a basis on which it can be properly handled.

The people involved do have a flood hazard. As we know, there was a very serious flood in Kansas City several years ago, which caused millions of dollars of damage. These people should have been able to do something about it, and they should be able to protect themselves against a recurrence of such a disaster.

I am sympathetic with the problem. I say also, and say it with real sincerity, that the Senator made a very fine case in the committee. At one point most of us in the committee felt that we ought to vote for the amendment. However, it was then pointed out that these are not insurance premiums, but deposits, and that to adopt the amendment would jeopardize the whole cause of reciprocal and mutual companies, and their taxation.

If the Senator from Kansas will not press his amendment at this time, I believe there is a possibility that the Internal Revenue Service will look with some interest on the proposal he has made. I have no power to make him do it, and if he presses his amendment, we shall have to vote on it. He has done a good job, and I wish the Internal Revenue Service would do as well.

Mr. CARLSON. I appreciate very much the remarks of the distinguished Senator from New Mexico. In the first place, this matter was discussed in the committee. I would be less than frank if I did not state that the distinguished Senator from New Mexico has had many years of experience in the insurance field. With regard to these deductions, there have been one or two court cases in which the court held that they were deductible. It seems to me that on the basis of court decisions and the statement of the Senator from New Mexico, the Internal Revenue Service would make a ruling which would assist us.

Mr. ANDERSON. I agree with the Senator. I do not contradict him at all.

The Internal Revenue Service should find some way of working out the problem. As I said to him in committee, and as I say to him now on the floor of the Senate, there is a great deal of justice in his contention. I hope that the problem may be handled administratively.

Mr. CARLSON. In view of the fine statement of the Senator from New Mexico, and with his assurance that he will help me get some assistance from the Internal Revenue Service, I shall not press the amendment. After wrestling with this problem for 4 or 5 years, I hope that the Internal Revenue Service will rule that the company involved can at least carry out some contracts and some policies that they have made with citizens in the Middle West.

On that basis, Mr. President, I withdraw the amendment.

Mr. ANDERSON. I thank the Senator. I again say to him that I shall be happy to work with him, because I believe his cause is just.

Mr. CARLSON. I thank the Senator.

The PRESIDING OFFICER. The Senator withdraws his amendment.

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REVENUE ACT OF 1964

The Senate resumed the consideration of the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Montana will state it.

Mr. MANSFIELD. Is it correct to assume that on the basis of the Senate's taking a recess tonight, the time limitation on the Douglas standard deduction amendment will begin immediately upon the convening of the Senate tomorrow morning?

The PRESIDING OFFICER. The Senator is correct.

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REVENUE ACT OF 1964

The ACTING PRESIDENT pro tempore. The Chair lays before the Senate the unfinished business, H.R. 8363.

The Senate resumed the consideration of the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes.

The ACTING PRESIDENT pro tempore. Under the unanimous-consent agreement of yesterday, the Senate will now proceed to the consideration of amendments numbered 411, relating to standard deductions, to be proposed to the pending bill by the Senator from Illinois [Mr. DOUGLAS], upon which there is a limitation of debate and control of time.

Without objection, the amendments will be considered en bloc.

REVENUE ACT OF 1964

The Senate resumed the consideration of the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes.

Mr. DOUGLAS. Mr. President, I agreed to the unanimous-consent agreement, but with the understanding that there be a quorum call some time in advance of the taking of the vote, and that the quorum call be a live quorum call, so that we may have an opportunity to explain the amendments to the Senate as a whole.

There is nothing more discouraging than to explain an amendment to an empty Chamber, and subsequently have Senators enter the Chamber and vote without having heard the explanation. So I wonder whether the majority leader will be so gracious—for I intend to speak for about 15 minutes, in presenting my preliminary explanation—as to then have a quorum call, perhaps 15 minutes in advance of the taking of the vote on my amendments. If that is done, I shall appreciate it very much.

Mr. MANSFIELD. That will be agreeable.

Mr. HRUSKA. I have no objection.

The ACTING PRESIDENT pro tempore. Without objection, the unanimous-consent agreement will be modified accordingly.

Mr. MANSFIELD. Mr. President, I ask that the attachés on both sides notify all Senators that in approximately half an hour there will be a live quorum call, and request Senators to make their plans accordingly.

Mr. President, I believe the Senate is now proceeding under controlled time.

The ACTING PRESIDENT pro tempore. That is correct.

Mr. DOUGLAS. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator from Illinois will state it.

Mr. DOUGLAS. Is there to be a morning hour?

The ACTING PRESIDENT pro tempore. No.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there now be a brief quorum call, before the time limitation under the unanimous-consent agreement goes into effect.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered; and the clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INOUYE in the chair). Without objection, it is so ordered.

Mr. DOUGLAS. Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 15 minutes.

INCREASE MINIMUM STANDARD DEDUCTION

Mr. DOUGLAS. Mr. President, the pending amendment was described by me last night, and Senators will find the description on pages 1790 to 1792 of the CONGRESSIONAL RECORD.

Very briefly, the amendment would increase the minimum standard deduction by $100 for each taxpayer and person in a taxpayer's family, and would pay for that by reducing the cut in the corporation tax, so that for the first year, instead of being 50 percent, it would be 51 percent; and in the second year, and thereafter, 50 percent, instead of 48 percent.

LOW INCOME FAMILY OF FOUR

Let me illustrate briefly how this would work: The minimum standard deduction can be used by the lower income groups as a substitute for the 10-percent standard deduction. At present under existing law, a family of four with income of $3,000 a year, will receive a $600 exemption for each person, or a total of $2,400. Then the family can take the 10 percent standard deduction upon the total taxable income—which means, in effect, that the first $2,700 will be exempt from taxation. Thereafter, the family will pay at a 20-percent rate, although it now costs a family of four approximately $3,500 to live on a standard of living, a subsistence-plus standard, which in itself is extremely low.

The pending bill attempts to improve this situation by introducing—instead of the 10 percent standard deduction—a provision for a $300 minimum standard deduction for the taxpayer, and $100 for each dependent, up to a total of six children. This means that a family of four with a $3,000 income would receive minimum standard deductions of $600, and therefore, would have the first $3,000 instead of $2,700 of its income exempt from taxation, but would pay the tax on any amount over $3,000.

An income of $3,000 is sufficient only for a bare poverty level of existence. I suggest that, at a very minimum, a family of four needs $3,500, and some persons think such a family of four needs $4,000. This is shown abundantly by the various budgetary studies which have been made.

Nevertheless, under the pending bill, although it is an improvement on the present practice, families with incomes as low as $3,500 would still pay appreciable amounts in taxation.

FOUR HUNDRED DOLLARS PER TAXPAYER PLUS $200 PER DEPENDENT

My amendment would provide that a minimum standard deduction of $400 for the head of the family plus $200 for each dependent would mean that there would

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be a $1,000 addition to the $2,400 exemption and taxation would not begin on income below $3,400. Such low income families would therefore receive a minimum reduction of somewhere between $60 to $80 in taxes owed.

COST VIRTUALLY RECOUPED

This would cost approximately $960 million, but we would virtually pay for it by reducing the rate of reduction in the corporate tax. This would bring in to the Treasury approximately $870 million more, so that the net loss would not be more than $90 million. This is a small sum in a total tax cut of nearly $12 billion. Therefore, I believe I can properly claim that the amendment is virtually neutral so far as the total tax cut is concerned. What it does do is to shift the distribution of the cut from the upper income groups more nearly in favor of the lower income groups.

Mr. MANSFIELD. Mr. President, will the Senator from Illinois yield that I may ask unanimous consent to suggest the absence of a quorum, with the understanding that the time necessary for the call of the roll not be charged to the Senator from Illinois?

Mr. DOUGLAS. I yield, with that understanding.

The PRESIDING OFFICER. Is there objection to the request by the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call may be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOUGLAS. Mr. President, so far as the benefits of the corporation tax reduction are concerned, we should realize that those with incomes of $50,000 a year, who form only one-tenth of 1 percent or two-tenths of 1 percent of the population, receive approximately one-third of the dividends and therefore get the benefits, immediate or ultimate, of the cut in the corporation tax. Those with incomes of $20,000 a year who form only about 2 percent of taxpayers receive approximately 60 percent of the dividends and get the benefit of the cut. On the other hand, those with incomes under $5,000 a year receive only 7 percent of the benefits from dividends.

BENEFITS TO LOW INCOME GROUPS

Under the amendments which I am offering, 95 percent of the benefits would go to those with incomes below $10,000 a year, and approximately 40 percent would go to those with incomes below $5,000 a year; so the measure would provide a shift in benefits from those with incomes of $20,000 to $50,000 a year to those with incomes under $10,000 a year.

I believe this is highly desirable, because the present tax system is really loaded against the lower income groups. We delude ourselves if we believe that the rates of progression on the upper Federal income taxes are actually paid by many taxpayers.

The Senator from Tennessee [Mr. GORE] and I, in preceding days, have hammered this point home: That those with incomes of over a million dollars a year actually pay less than 20 percent of their income in taxes, because of the loopholes.

LOOPHOLES BENEFIT UPPER INCOME GROUPS

The Federal system is shot through with loopholes which in the main benefit those in the upper income groups. In addition, we should remember that State and local general property and excise taxes amount to approximately $33 billion a year, and that there are $13 billion more in Federal excise taxes; so the excise and general property taxes, State, Federal, and to some degree now local, comprise almost as large a total amount as Federal income-tax receipts.

PROPERTY, SALES AND EXCISE TAXES REGRESSIVE

The excise, sales and general property taxes are highly regressive. Certainly this is true of sales taxes. It is also true of general property taxes. We have produced testimony indicating that the percentage valuation attached to workmen's homes is much higher than that attached to estates of the wealthy or to the industrial properties of corporations.

Therefore, a large degree of progression is needed in the Federal system to offset the regressive nature of sales taxes, and the systems of State and local taxation. In practice, the degree of progression does not really exist to anywhere near the extent claimed. I believe, if we examine the entire system of taxation after we get over the exemption limits, we shall probably find it to

be somewhat regressive. Therefore, even in interest of a simple proportional tax system, and certainly in the interest of a progressive tax system—which I believe in, and in which I believe the mass of the American people believe—we need some shift in the benefits of the tax cut from the upper income groups to the lower and lower middle-income groups. That is precisely what my amendments would accomplish.

FACTS ON INCIDENCE OF TAXATION

Mr. President, in corroboration of my statement that the excise taxes are highly regressive, I call attention to a publication of the Joint Economic Committee issued in 1955 on Federal Tax Policy for Economic Growth and Stability. That publication showed that for those with incomes under $2,000 the Federal excise taxes took 5 percent of their income, but only 1.9 percent—or about 2 percent—of the income of those with incomes over $10,000.

So far as State and local taxes are concerned, the excise and sales taxes for those with incomes under $2,000 cost them 5.7 percent, but for those with incomes over $10,000 it was only 2.2 percent, or a combined total of 10.7 percent for those with incomes under $2,000, as compared to 4.1 percent for those with incomes over $10,000.

LOW INCOME GROUPS PAY TWICE AS MUCH OF INCOME THAN HIGH INCOME GROUPS

Similarly, if we consider State and local property taxes, there is a downward shift in the incidence as income goes up from 4.8 percent for those with incomes under $2,000 to 3.4 percent for those with incomes over $10,000, or combining these, we arrive at a figure of a 15.5 percent incidence of taxation for those with incomes under $2,000 and only a 7.5 percent for those with incomes over $10,000 or only one-half has high as the proportion borne by those under $2,000.

In other words, the system of sales taxes and general property taxes is highly regressive. So far as Federal income taxes which are actually paid, they really do not offset the regressive nature of the rest of the tax structure.

We need to shift income from the upper groups to the lower groups if we are to get even an approach to justice.

TAX REDUCTION TO LOW INCOME GROUPS WILL BE SPENT

In addition, there is another advantage to the proposal. The gains to those in the lower income groups would be almost entirely spent. There would be a direct increase in consumption, and therefore a direct stimulation to production.

Senators might ask, "Will not the amounts going to corporations be invested and hence spent, so that there would be no net change? Do you not merely take from one pocket and put it in the other?"

A LARGE PROPORTION OF CORPORATE PROFITS NOT INVESTED

That statement is not wholly true. A large portion of corporate earnings are not now invested. They are made but not invested. I have computed figures showing that in the past few years—between 1959 and 1963—corporations raised $244 billion from depreciation, depletion allowances, retained earnings, and such external sources as new issues. They spent only $154 billion for new plant and equipment. The net increase in inventories, cash, other assets and receivables, $16 billion, is unaccounted for. So in practice approximately $90 billion is either unaccounted for or put into Government securities, real estate, inventories and cash. It is probably safe to say that approximately $50 to $60 billion went into cash, the purchase of short-time Government securities, or real estate, which did not add to the productive equipment of the company.

So we would not be subtracting an equal amount of productive resources from the corporations to that which we would be adding in the way of consuming power to the low-income groups.

BOTH JUSTICE AND EFFECTIVENESS PROMOTED

From the standpoint of justice, the amendments are needed. From the standpoint of economic efficiency, they are needed. It is difficult for me to see how the administration forces can oppose the amendments. It is difficult for me to see how any member of the Democratic Party who believes in the principles of our party can oppose them.

Yesterday we heard piteous cries that the Ribicoff amendment would not help those in the low-income groups—that it would not help those who live on "red beans and rice," so to speak.

The Senate now has an opportunity to provide the administration forces with

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e ability to help the poorer groups. ıe proposal would really be an aid to ose in the lower income groups.

Mr. GRUENING. Mr. President, will ıe Senator yield?

The PRESIDING OFFICER. The me that the Senator has allotted himːlf has expired.

Mr. DOUGLAS. I yield to the Sentor from Alaska 2 minutes on his own .me.

Mr. GRUENING. Mr. President, I ould not more heartily approve of any .mendments than those which the disınguished senior Senator from Illinois ıas offered. They are modest, but to a

imited extent designed to rectify one of he basic evils in the bill, which is that nost of the proposed tax reduction vould go to those in the higher income brackets and to those who least need it. My judgment of the tax bill in its present form may seem harsh, but I fear, true. It is essentially a bill to make the rich richer. It does little for the working man, for the small businessman, for the salaried employee, for the people with modest incomes and large families. It believe it is time for the Senate to realize that, and at least adopt the very moderate amendments offered by the Senator from Illinois, which aim to rectify that situation to a slight degree.

Senator DOUGLAS' amendments would help the people in the lower income groups, the people with large families, those with small or moderate incomes, those very people who need tax relief. I hope the Senate will agree to the amendments. I shall support them.

Mr. LONG of Louisiana. Mr. President, I yield myself 5 minutes.

The general purpose of the amendments is to strike from the bill certain of the reductions and tax incentives for business, and to increase the tax reductions for those in the lower income brackets.

The committee has brought forth a balanced bill. The bill was approved by those who speak for the laboring groups and those in the low income groups.

It also comes to us with the approval of those who speak for the business community.

Two types of testimony were offered to the committee. We heard those who spoke for the laboring groups state, "This is a good bill, but we think we can show you how you can improve it. If you would like to improve it, we would suggest that you take out the tax reductions which business would get and take out the provisions which would be an incentive to businesses to build new plants, hire additional people, expand, and increase their activity.

"We are not much impressed by the argument that incentives for profits make jobs. Take out that part of the bill, or cut down drastically on that provision, and give a greater reduction to those in the lower income brackets."

Then the business representatives would come before the committee and say, "This is a good bill. We recommend the bill. Like organized labor, we were consulted in putting it together. We were heard before the committees, and we think our case has been reasonably considered. But we think we can show you how you could improve the bill. There is too much tax reduction frittered away by eliminating from tax liability to their Government completely those people who now pay a small amount of taxes. The tremendous reductions which would be given to those in the lower income brackets would really wind up as money spent on tobacco and frittered away on relatively unimportant items. The best way to proceed is to give that money to us and let us use it to build plants, to create jobs, more employment; and as tax incentives, we think we can show you how we can employ a great deal more people. Instead of giving a person a greater tax cut, we will get him a better job at more pay."

Mr. DOUGLAS. Mr. President, will the Senator yield, on my time?

Mr. LONG of Louisiana. I shall yield to the Senator in just a moment or two, after I have completed my thought.

The committee heard both sides and wound up by saying "If we pass the bill the way it is, they are all going to be happy. Labor is going to be happy. The low-income groups will be happy. Business will be happy. There will be more jobs, and more prosperity. We shall have incentives for business on the one hand and incentives for consumers on the other hand."

So we brought forth a bill that has the best balance we thought we could reach. We had the assistance of 400 good economists. I know the Senator from Illinois [Mr. DOUGLAS] is a good economist, but there are 400 economists in about 43 universities who think this is a good bill. If we pass the bill the way it is, when we go home we ought to be happy. If we pass it the way the Senator from Illinois says it should be, the business community will say that it has been unfairly treated. We think it is better to pass a bill over which the low-income groups and labor and business groups are happy. Why pass a bill over which half of America is happy and half is unhappy? To sweeten the bill for labor or for the low-income groups would make it sour for the other groups.

I think the bill is a good balance. This is the bill the President wants. This is the bill President Kennedy wanted. This is a bill that business and labor are willing to agree to.

I now yield to the Senator from Illinois.

Mr. DOUGLAS. Mr. President, I yield myself 45 seconds on my time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DOUGLAS. First, let me say that the total number of persons removed from taxation under this amendment would be approximately half a million. The present bill would take out a million and a half. These amend-

ments would take out only 1 percent of the taxpayers that the Senator from Louisiana referred to yesterday in opposing the Ribicoff amendment. Yesterday the Senator from Louisiana wept copious tears for those who had only red beans and rice to eat. Today he would not permit them to have the benefits of these amendments.

Mr. LONG of Louisiana. Before this session is through, I shall offer my friend from Illinois a chance to demonstrate how much he is in favor of people who are in need. I am going to introduce a welfare amendment. Sometimes the Senator from Illinois votes for it; sometimes he does not. The Senator may be sure that I will offer such an amendment and give him an opportunity to demonstrate whether he is for those people.

Mr. DOUGLAS. His amendments often provide that most of the welfare goes to Louisiana and to people who will vote as the Senator from Louisiana wants them to vote.

Mr. LONG of Louisiana. The reason we do so well in Louisiana is that we do not do what some of the penny-pinching Scrooge-like governments in other States and other legislatures do. When the Congress provides certain money, those States cut back on appropriations when the Federal Government gives additional help.

Fifty-six percent of the tax reductions proposed by the Senator's amendments would go to people with a gross adjusted income of between $5,000 and $10,000. If the Senator wants to help the poor, that is not the way to do it. Those with an income of between 0 and $3,000 would receive only 16 percent of the benefits of the amendment of the Senator from Illinois; meanwhile his amendment would be taking away a great proportion of the tax incentive for business which would help these people get better jobs, not in the long run, but in the short run, because the bill would help business expand and modernize, which would mean more capital equipment and more jobs.

When we look at the remainder of the Senator's amendments, 56 percent of the benefits of the Senator's amendment would go to people with an income of between $5,000 and $10,000. The largest segment of the benefits would go to those making between $5,000 and $10,000.

The committee has sought to produce a balanced bill. The biggest tax cut goes to people in the lower income brackets—1,500,000 Americans would be removed from the rolls of income-tax payers under the bill. A single man making $1,000, with no dependents, would have his tax reduced from $62 to $16, a 75-percent cut. For all tax returns in the 0 to $3,000 adjusted gross income class, the percentage of the tax cut is 39 percent.

Some Senators have suggested that we are not able to provide as much of a dollar tax cut for those people as we provide for someone who is paying $50,000 in taxes. That is beyond our ability. If a man is paying only $60 in taxes, the most we could do is reduce his taxes by $60. If we really want to help, we ought to increase the minimum wage. We shall have an opportunity to vote on that proposal before this session is over.

The Senator's amendment is not the way to help those people. The way to help them is to provide more jobs and better jobs. That is a better approach than to increase taxes on industry on the one hand, and, in the second instance, to distribute the benefits among

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those who pay relatively low taxes or no taxes.

Mr. RIBICOFF. Mr. President, will the Senator yield for a colloquy?

Mr. DOUGLAS. Mr. President, I yield to the Senator from Connecticut. Then I shall ask that a live quorum be called.

Mr. RIBICOFF. I have been interested in the discussion between the Senator from Illinois and the Senator from Louisiana. First, when we propose a tax credit for college education; we are told not to do anything now. We are told to wait for an education bill. When the distinguished Senator from Illinois, with the able assistance and collaboration of the Senator from Tennessee, wants to do something for the lower income groups, the suggestion is made that we wait for a welfare bill. When the issue is pressed further, the suggestion is made that we wait for a minimum wage bill.

I have always found the distinguished Senator from Illinois and the distinguished Senator from Tennessee deeply concerned with all welfare measures, and those who are in need.

I believe the distinguished Senator from Illinois and the distinguished Senator from Tennessee have always voted for minimum wage legislation.

I was very much interested in the colloquy between the Senator from Illinois and the Senator from Louisiana when the Senator from Louisiana said, "Do not jar this bill. Let us take it as it is. The AFL–CIO is for it. The Manufacturers Association is for it." As if that is the answer.. I think the question should be, What is the Senate for? There are 100 Members of this body who should decide the answer.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOUGLAS. I yield 1 more minute to the Senator from Connecticut.

Mr. RIBICOFF. We are Members of the U.S. Senate. I do not believe we should take orders from outside groups but should do what we think is right. We have an opportunity to establish priorities here and now. The time to establish priorities is when a distribution of $11.6 billion is being made. This is an opportunity for the Senate to determine how the tax savings shall be distributed.

The Senator from Illinois is right; and I shall support his amendment.

Mr. DOUGLAS. Mr. President, I shall suggest the absence of a quorum, unless the Senator from Louisiana wishes to speak.

Mr. LONG of Louisiana. Mr. President, I wish to say a few more words.

Mr. President, the amendments would cut the corporate rate in half or makes the 1964 rate 50 percent instead of 48 percent. It takes the revenue from this and increases the minimum standard deduction. Under the bill, the minimum standard deduction is $200 plus $100 per exemption but never more than $1,000. Under the Douglas amendment, the minimum standard deduction will be $200 plus $200 for each exemption with a ceiling of $1,800 instead of $1,000.

First. This amendment is undesirable because it creates an imbalance between corporations and individuals. The bill taking into account reductions made in 1962 for corporations distributed the tax reductions over the period 1962–64 two-thirds to individuals and one-third to corporations. This is roughly in the same relationship as their contribution to tax collections. This bill will upset this balance.

Second. The bill by reducing the corporate rate below 50 percent to 48 percent would have provided an important business and psychological incentive in making Uncle Sam a junior rather than a senior partner in every business enterprise. This amendment loses this incentive and psychological advantage by making them equal partners—50 percent for the Government and 50 percent for the businessman.

Third. The bill provides a tax reduction with those with adjusted gross incomes of under $3,000 of 38.6 percent; for those with incomes between $3,000 and $5,000, the reduction is 27 percent; for those between $5,000 and $10,000, 20.9 percent. This tapers off until the reduction above $50,000 is 13.5 percent. Moreover, as is indicated on page 162 of the report under your committee's bill the reductions keep on tapering off above $50,000 down to a reduction of above 5.5 percent for the top incomes. This is a balanced distribution of the reduction the Douglas amendment would overbalance this on the consumption side.

Fourth. One of the advantages of the present minimum standard deduction is that it tends to be especially beneficial to single taxpayers who are discriminated against by the present uniform per capita exemption. Their discrimination at the present time arises from the fact that costs of living do not go up uniformly as the size of the family increases. The minimum standard deduction in the bill gives $300 with respect to the first individual and only $100 additional for the second individual. The Douglas amendment provides $400 for the first individual and $200 additional for the second. Therefore, it gives greater benefit for additional exemptions. In addition, it breaks the line as to the maximum standard deduction allowable. It will allow a maximum standard deduction of $1,800 in the case of those using the minimum deduction while discriminating against those who use the 10-percent deduction in that that will remain limited at $1,000.

Mr. MORTON. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. Does the Senator from Illinois yield back the remainder of his time?

Mr. DOUGLAS. Mr. President, I do not yield back any time. I ask that there be a "live" quorum call.

Mr. MORTON. Does the Senator wish to have the call now?

Mr. DOUGLAS. Yes.

Mr. MORTON. On the Senator's time?

Mr. DOUGLAS. No. The agreement that was reached was that the time for the quorum call should not be charged to me. If the Senator from Kentucky wishes to speak before the live quorum is called, that is satisfactory.

Mr. LONG of Louisiana. How much time do both sides have remaining?

The PRESIDING OFFICER. The Senator from Illinois has 11 minutes remaining; the Senator from Louisiana has 16 minutes remaining.

Mr. LONG of Louisiana. I yield 5 minutes to the Senator from Kentucky.

Mr. MORTON. Mr. President, I rise in opposition to the Douglas amendments. I agree with the Senator from Connecticut [Mr. RIBICOFF] that we should not make decisions on the basis of who is for or who is against any particular amendment, or who is for or who is against any other part of the bill, or the bill itself. I agree with him that we should make up our own minds and fulfill our responsibilities as Members of the

Senate, and come to the best conclusion by using the best judgment we can.

I believe that the Senator from Louisiana, in the statement he has just made, goes to the very heart of the matter. What was the basic purpose of the bill? The basic purpose of the bill was to stimulate the economy. How was that to be accomplished? It was to be accomplished in two ways. First, it was to be accomplished by lowering the tax on individuals, poor as well as wealthy, so as to generate more consumer spending. Second, it was to lower corporate income tax rates, which had gone to an unconscionable figure as the result of World War II and the Korean conflict, so that industry could modernize and expand, and in this way, first, compete with the rest of the world more effectively. This would lead to more jobs. Second, through the expansion, which would be brought on by the increase in consumer demand, more jobs would be generated for Americans throughout the land.

Mr. President, this subject has been carefully studied, not only by the Committee on Finance of the Senate, but also by the Ways and Means Committee of the House. The bill was sent to Congress in January of 1963. However, even prior to that time the Ways and Means Committee of the House was holding preliminary hearings on the subject.

Some people, however, said that the Finance Committee and even the Ways and Means Committee were dilatory in studying the measure and holding hearings, and that they engaged in delaying action. That is not true. That charge has been adequately refuted.

The tax bill touches every phase of American life. It was only proper that we should study it as carefully as we did.

The point covered by the amendment offered by the Senator from Illinois was studied by the committee. It was debated. Testimony was received on it.

I believe the committee has reported a balanced bill in supporting the House in the rates for individual income taxes and corporate taxes. I appeal particularly to Members on my side of the aisle to reject the pending amendments. I trust that the Senate will stand by the committee on this matter.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. MORTON. I am happy to yield.

Mr. LONG of Louisiana. I am sure the Senator is aware of the fact that what would be done, so far as distributing the tax reduction which would be

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taken from the business community is concerned, would be that more than half of it, or 56 percent, would be distributed to those making between $5,000 and $10,000 a year. Theoretically, the purpose is to help low-income individuals. However, generally speaking, one hardly regards a person who makes between $5,000 and $10,000 a year as being a needy person. A person in those brackets, it is usually agreed, is in the middle-income bracket, or perhaps a little below the middle for some persons. I have always regarded the $10,000 bracket as being an upper middle-income bracket. At least that is true in Louisiana. I cannot speak for Kentucky, of course.

Mr. MORTON. I can speak for Kentucky. I believe our per capita income is below that of the State of Louisiana.

The Senator from Louisiana makes a good point. Of course, if we really wished to do something for the lowest income bracket, we could increase the personal exemption by $100. That would be much more effective than the proposal made by the Senator from Illinois.

However, I believe we have a problem. Let us not lose sight of the basic purpose which the late President Kennedy spelled out in his message to Congress. That was to get the American economy moving. Subsequent messages and statements by President Johnson have indicated that we should pass the bill in order to keep the expanding economy expanding, going ahead, opening up job opportunities.

Mr. LONG of Louisiana. The Senator from Kentucky is well aware, is he not, that a majority of the Senate, contrary to the way the Senator from Kentucky felt, voted to eliminate the dividend tax credit? Thus, many people throughout the country will be paying more taxes when the bill goes into effect because of elimination of the dividend tax credit than would otherwise be the case and the result will be, overall, that the Government must rely upon certain reductions in the corporate tax in order to offset what the corporate stockholders will lose because of the elimination of the dividend credit.

Mr. MORTON. The Senator is correct. The Senator who yesterday successfully opposed my amendment in connection with the dividend credit, the junior Senator from Minnesota [Mr. McCarthy], said in his argument that the reason for eliminating the dividend credit was that the corporate tax rate would be reduced from 52 to 48 percent.

Mr. LONG of Louisiana. That is correct.

Mr. MORTON. If we chop that in half, we should then restore at least 2 percent of the 4-percent dividend credit, if that logic prevails.

The PRESIDING OFFICER. The time of the Senator from Kentucky has expired.

Mr. DOUGLAS. Mr. President, I suggest the absence of a quorum, with the understanding that the time consumed in the call of the quorum be not subtracted from the time of either the proponents or the opponents of the amendment.

The PRESIDING OFICER. That is a part of the unanimous-consent agreement.

Mr. MORTON. Mr. President, will this be a live quorum?

Mr. DOUGLAS. Yes.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 20 Leg.]

Aiken	Hartke	Moss
Allott	Hayden	Mundt
Anderson	Hickenlooper	Muskie
Bartlett	Hill	Nelson
Bayh	Holland	Pastore
Beall	Hruska	Pearson
Bennett	Humphrey	Pell
Bible	Inouye	Prouty
Boggs	Jackson	Proxmire
Brewster	Javits	Randolph
Burdick	Johnston	Ribicoff
Byrd, Va.	Jordan, N.C.	Robertson
Byrd, W. Va.	Jordan, Idaho	Russell
Carlson	Keating	Saltonstall
Case	Kennedy	Scott
Church	Kuchel	Simpson
Cooper	Lausche	Smathers
Cotton	Long, Mo.	Smith
Curtis	Long, La.	Sparkman
Dodd	Magnuson	Stennis
Dominick	Mansfield	Symington
Douglas	McCarthy	Talmadge
Eastland	McGee	Thurmond
Edmondson	McGovern	Tower
Ellender	McIntyre	Walters
Ervin	McNamara	Williams, N.J.
Fong	Mechem	Williams, Del.
Fulbright	Metcalf	Yarborough
Goldwater	Miller	Young, N. Dak.
Gore	Monroney	Young, Ohio
Gruening	Morse	
Hart	Morton	

Mr. HUMPHREY. I announce that the Senator from Nevada [Mr. CANNON], the Senator from Pennsylvania [Mr. CLARK], the Senator from Arkansas [Mr. McCLELLAN], and the Senator from Oregon [Mrs. NEUBERGER] are absent on official business.

I further announce that the Senator from California [Mr. ENGLE] is absent because of illness.

Mr. KUCHEL. I announce that the Senator from Illinois [Mr. DIRKSEN] is necessarily absent.

The PRESIDING OFFICER. A quorum is present.

The Senator from Illinois has 11 minutes remaining under his control, and the Senator from Louisiana [Mr. LONG] has 7 minutes. Which Senator yields time?

Mr. DOUGLAS. Mr. President, I yield myself such of my remaining 11 minutes as I may need.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DOUGLAS. Mr. President, last night, at a time when only a few Senators were in the Chamber, I explained these amendments; and earlier today, when still fewer Senators were in the Chamber, I explained the amendments again.

At this time, when an approximate quorum is in attendance, I wish to explain the amendments once more.

INCREASE MINIMUM STANDARD DEDUCTIONS

They would increase the minimum standard deduction by $100 for each taxpayer and his dependents, and will approximately replace the amount lost by means of that change by decreasing the cut in the income tax on corporations—for the first year, to 51 percent; and for the following years to 50 percent, instead of 48 percent.

The increase in the standard deduction would cost the Treasury $960 million, of which $870 million would be recouped on the corporate tax side.

REDISTRIBUTE TAX BURDEN

I believe that the merits of these amendments are very clear. In the first place, they would effect a needed redistribution of the total tax burden; they would transfer to the lower income groups—those with incomes of less than $10,000—approximately $935 million, or over 97 percent of the total tax cut in the amendment. On the other hand, they would reduce the tax benefits going to those in the groups with incomes of more than $10,000, $20,000, and $50,000.

At present, those with incomes of over $50,000 receive approximately one-third of the dividends paid by corporations; those with incomes of over $20,000 receive approximately 60 percent of the dividends paid by corporations; and those with incomes of over $10,000 receive approximately 80 percent of the dividends paid by corporations.

Therefore, these amendments would help the lower income group; and this is the group which suffers most under our total system of taxation.

STATE AND LOCAL TAXES REGRESSIVE

We should remember that the total of State and local excise taxes, general property taxes, and the Federal excise taxes is nearly $50 billion, or approximately the same amount as is collected under the total Federal income tax. But the excise taxes—whether Federal, State, or local—and the general property taxes weigh most heavily upon the lower income group.

I have already submitted for the RECORD figures which show that approximately 15.5 percent of the income of those with incomes under $2,000 is paid in these taxes, as compared to approximately 7.5 percent of the incomes of those in the brackets above $10,000.

While definite statistics are lacking for those with incomes over $50,000, there is little doubt that they pay less than 7½ percent. Moreover the absolute amount of these regressive fares has increased in these last 10 years, so the degree of regression has increased.

I ask unanimous consent that a table showing these figures be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Percent of income going to taxes by income groups, 1954

Income class	Federal excises	State and local sales and excise taxes	State and local property taxes	Total sales, excises, and property taxes
0 to $2,000	5.0	5.7	4.8	15.5
$2,000 to $3,000	4.5	5.1	4.3	13.9
$3,000 to $4,000	4.1	4.6	4.1	12.8
$4,000 to $5,000	3.9	4.4	4.1	12.4
$5,000 to $7,500	3.6	4.2	3.8	11.6
$7,500 to $10,000	3.3	3.8	3.6	10.7
Over $10,000	1.9	2.2	3.4	7.5

Source: Joint Economic Committee: "Federal Tax Policy for Economic Growth and Stability," p. 98.

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TOTAL TAX STRUCTURE NOT PROGRESSIVE

Mr. DOUGLAS. Since we know of very large loopholes already existing in the total Federal income tax structure, it is clear that the total tax structure is not progressive—although many persons believe it to be; instead, the tax structure is probably actually regressive, in that those in the upper income groups actually pay smaller percentages of their incomes in taxes, as compared with the percentages of their incomes which those in the lower income groups pay in taxes.

From the standpoint of justice, these amendments would help correct that very evil feature of the total tax structure.

WOULD STIMULATE DEMAND

It is said that the changes which would be made by means of these amendments would not stimulate industry. However, I point out that so far as a decrease in the tax on those in the lower income groups is concerned, virtually all the money made available to them by means of the decreased tax would be spent on consumption. Additional funds in the hands of those in the lower income group would act as a stimulant to demand, to spending, and to employment. On the other hand, increased funds in the hands of those in the upper income groups—if such funds were made available to them by means of a decrease in the tax they had to pay—would not help increase investment to the same degree.

SIXTY BILLION DOLLARS OF CORPORATE PROFITS NOT INVESTED

Previously, I have placed in the RECORD data showing that from 1957 to 1963, the profits, after taxes, of American corporations amounted to $244 billion. But only $154 billion of this was spent on plant and equipment, leaving a $90 billion surplus. Some of this was used for inventories and for receivables from customers but my estimates show that probably $60 billion of the corporate profits was not invested in productive enterprises, but was put into cash, Government securities, real estate, or other ventures which did not add to the productive investment of the country.

I believe we can say, therefore, that approximately a quarter of the increased corporate profits is not used productively and does not constitute a stimulus to greater efficiency or greater employment. But almost the entire 100 percent which would be transferred under the amendment I have offered would stimulate consumption and therefore, on that theory, production and employment.

Mr. LAUSCHE. Mr. President, will the Senator from Illinois yield?

Mr. DOUGLAS. I yield.

Mr. LAUSCHE. What would be the net impact upon the loss in revenue?

Mr. DOUGLAS. Approximately neutral.

Mr. LAUSCHE. Approximately neutral.

Mr. DOUGLAS. However, not completely so. There would be a net loss of $90 million in a total tax loss of $11,600 million, or less than 1 percent.

Later today or tomorrow, I intend to reduce the oil depletion allowance by $400 million, which would more than offset this loss and give a governmental surplus of over $300 million in addition.

Mr. ANDERSON. Mr. President, will the Senator from Illinois yield?

Mr. DOUGLAS. I am glad to yield on the time of the Senator from Louisiana.

Mr. SMATHERS. Mr. President, how much time remains?

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from Illinois?

Mr. SMATHERS. Mr. President, I will speak for the Senator from Louisiana and inquire how much time is left to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana has 7 minutes remaining.

Mr. SMATHERS. I am happy to yield to the Senator from New Mexico.

Mr. ANDERSON. Mr. President, I wish to try to get the Senator from Illinois [Mr. DOUGLAS] to correct the statement he just made. He said that today or tomorrow he intended to reduce the oil depletion allowance by $400 million. I believe what he really means is that he will try to do so.

Mr. DOUGLAS. Yes, what I meant was that I would try.

Mr. ANDERSON. The Senator from Illinois [Mr. DOUGLAS] has tried and tried for many years, so he should not bank on $90 million that we know will not be there.

Mr. DOUGLAS. It will be a test of sincerity, if one is worrying about the budget.

Mr. SMATHERS. Mr. President, I yield 1 minute to the Senator from Kentucky [Mr. MORTON].

Mr. MORTON. Mr. President, I trust the Senate will support the committee on this question and oppose the Douglas amendment. As I pointed out a few moments ago, it has taken us over a year to work out the bill and we have achieved a fair bill. We would reduce individual taxes to help the consumers' increased spending. We would reduce corporate taxes in order to increase job opportunities. That is the basic purpose of the bill. I would dislike to see half the corporate reduction transferred to the consumer segment of the economy because I believe, should the Douglas amendment be adopted, it would be self-defeating in its purpose.

I trust that all Senators will strongly oppose the amendment.

Mr. BENNETT. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I yield to the Senator from Utah for 1 minute.

The PRESIDING OFFICER. The Senator from Utah is recognized for 1 minute.

Mr. BENNETT. I wish to ask one question of the acting majority leader. Is it not true, on the consumer side, which is the individual's side, that the tax return will be approximately $8 billion, and the corporate side would represent approximately $2 billion?

Mr. MORTON. That is absolutely correct. From the 50-percent benefits to individuals, under the so-called Douglas amendment, it would go to those in the area of $6,000 to $10,000.

Mr. BENNETT. So the effect would be to cut the potential job-producing impact of the bill in half; and it is already only about a quarter on the consumer side?

Mr. MORTON. That is absolutely correct.

Mr. SMATHERS. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Florida is recognized for 3 minutes.

Mr. SMATHERS. Mr. President, what is proposed by this amendment is to take $870 million away from corporations and give $960 million to the consumer, which would result in a net loss to the Treasury of $90 million.

Fifty-six percent in the proposed Douglas amendment goes to those who have incomes between $5,000 and $10,000. So, instead of helping those "poor" people, it would help those in the brackets between $5,000 and $10,000. Therefore, it would not go to the lower income groups the way the Senator from Illinois thought it would go.

There is already in the bill a minimum standard deduction of $200, and $100 extra for each dependent, which would cost the Treasury $320 million. Eighty-four percent of that amount would go to those who have incomes below $5,000.

I believe that the committee has handled the distribution of the tax burden in a most equitable way. The Senator from Illinois says that corporate profits are high and that not much is being done with them. We agree with that statement. We say that the way to get corporate profits out of the bank and into the business community is to give corporations some incentive.

When the Government takes 52 percent, it is a senior partner in everyone's business. What the bill proposes to do is to reduce the Government's part in every business operation to that of a junior partner, or to 48 percent. The Douglas amendment would reduce it only 2 percent, so the Government would be a 50–50 partner with every businessman. That is not a sufficient incentive to get corporate profits out into the economic lifestream, modernizing equipment, buying new equipment, and providing jobs thereby.

We believe that the proposal offered by the Senator from Illinois, while it is well intentioned, would actually upset the balance now in the bill. It would destroy the incentive which we are trying to achieve. It would not reduce corporation taxes sufficiently. We trust that the Senate will support the committee.

The PRESIDING OFFICER. The time of the Senator from Florida has expired.

Mr. SMATHERS. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Louisiana has 2 minutes remaining, and the Senator from Illinois has 5 minutes remaining.

Mr. ERVIN. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I yield.

Mr. ERVIN. I should like to ask a question to make the issue more under-

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standable. How many extra dollars would the amendment put into the pockets of the individuals in the lowest income group?

Mr. SMATHERS. Nine hundred and sixty million dollars; but the bill already——

Mr. ERVIN. Dividing it among the individuals in the lowest income group, how many dollars——

Mr. SMATHERS. Fifteen percent of that goes into the income group below $5,000, but in the entire bill—I do not have time to go into detail on it—we give $9,200 million in total tax relief to the consumers of the country.

Mr. DOUGLAS. Mr. President, to answer the question of the Senator from North Carolina [Mr. ERVIN], my amendment would give $150 million to those with incomes of less than $3,000, and $235 million to those with incomes from $3,000 to $5,000, or a total of $385 million to those with incomes under $5,000. It would give $540 million to those with incomes between $5,000 to $10,000. Only $35 million would go to those with incomes over $10,000.

My time is too limited to go into more detail, but in brief, under the corporate tax, 80 percent of the benefits would go to those with incomes of over $10,000, 60 percent would go to those with incomes of over $20,000, and one-third of the benefits would go to those with incomes of over $50,000. So my amendment would effect a needed and beneficial redistribution.

This is the best and most effective way to redistribute income, if we wish to help the lower income groups below $10,000. It is better than increasing the exemptions for which I voted yesterday.

So far as corporations are concerned, I invite the attention of the Senate to the fact that since 1954 we have already granted them approximately $5 billion a year in tax relief in the form of, first, accelerated depreciation, then higher depreciation ratios than in the investment credit of last year.

The proposal would effect a needed change, particularly in view of the fact that our system of excise taxes—our State, Federal, and local taxes and our general property taxes—is highly regressive, and we need some shifting of income if we are to make our total tax structure even proportionate.

Mr. President, I ask for the yeas and nays on the amendments.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

Mr. SMATHERS. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Louisiana has 1 minute remaining, and the Senator from Illinois has 3 minutes remaining.

Mr. LONG of Louisiana. Mr. President, I yield my remaining time to the Senator from New Mexico.

Mr. ANDERSON. Mr. President, I wish to second what the Senator from Kentucky [Mr. MORTON] said a moment ago. He said that the amendments would throw out of balance a bill that we have been trying to work out. A short time ago there was a vote on a proposal relating to dividend credit.

I voted against the proposal to restore the dividend credit. I and other Senators voted in the way we did because we have been trying to obtain a balanced bill. If we are to vote with that objective in mind, we ought not to agree to the amendments. I point out again that we are trying to produce a balanced bill.

The amendments would remove from the tax rolls entirely about 2 million people.

That is not the only benefit which would be given. The amendments would persuade many people who now elect to itemize their contributions to change their approach and adopt the standard deduction. There has been a great advantage to people who have accounted for their deductions. Most people have done so. The proposal would permit greater use of the standard deductions.

People could merely claim the deduction and not make contributions to charities or things of that nature. It would be a bad thing, though all right for a few. It would be wrong to add a few million people to those in that category.

Mr. President, that is not the way to obtain a bill. We have worked hard on the bill. We could easily change it around. As has been pointed out, the proposed distribution of tax reductions which would be divided $9 billion to individuals and $2 billion to corporations would be a fair distribution. Now the suggestion is made that the income tax reductions for individuals be increased by $2 billion, and that we eliminate the $2 billion of proposed reductions which would be given the corporations. That is not the way to get a bill through the Congress.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOUGLAS. Mr. President, I yield a minute and a half to the Senator from Alaska.

Mr. GRUENING. Mr. President, I think the amendments of the Senator from Illinois [Mr. DOUGLAS] would vastly improve the tax bill. There is a growing feeling abroad that the bill would do far too much for those in the higher income brackets to the detriment or to the nonassistance of those in the lower income brackets.

Yesterday the able Senator from Tennessee [Mr. GORE] recalled his conversation with Henry Ford who had organized a committee to lobby for this bill and testified before the Finance Committee. It was brought out in the colloquy with Mr. Ford that the increase in takehome pay of the average worker would be a mere $3 a week under the bill, whereas in the case of executives receiving $150,000 or $200,000 a year, the takehome pay increase would be $1,000 a week. That is symptomatic of the grave disparities that exist in the bill. It will be said—and it will be said not untruly—that the bill is essentially one which would make the rich richer and do relatively little for the vast majority who are barely getting along. We assume that nearly all favor a tax reduction, although some of us feel that it is not particularly needed at a time of great prosperity at the upper levels. But the assistance in the form of tax reduction in this bill would go to the wrong end of the economic spectrum—the upper end. It should instead go to the lower income groups and the middle income groups. To the extent that the modest amendments of the Senator from Illinois would do that, they are an improvement of the bill. I hope that the amendments will be accepted, for they would be received with great enthusiasm by the overwhelming majority of the people of the United States when they understand what is really involved. As it now stands these people, the majority of our citizenry, having heard so long of and waited so long for tax relief, will wonder where it is. To paraphrase a famous remark of Winston Churchill, it might be said that never will so many have waited so long for so much and received so little. That will not be true of the affluent minority. They will be the great beneficiaries of this legislation.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Illinois has a minute and one-half remaining.

Mr. DOUGLAS. Mr. President, I do not wish to labor the point. Under my amendments a married man having a wife and four children, with an income of $5,000, would receive an added $600 in exemptions, and would therefore under present rates be spared a tax of approximately $120. That is a group which needs relief the most. I believe that not more than half a million would be removed from the tax rolls and these are fellows who ought not to pay income taxes. I hope that some of the copious tears which were shed yesterday for the poor in trying to defeat the Ribicoff amendment may materialize in votes for the amendments today.

The PRESIDING OFFICER. The Senator's time has expired. All time has expired.

The question is on agreeing to the amendments of the Senator from Illinois. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Nevada [Mr. CANNON], the Senator from Pennsylvania [Mr. CLARK], the Senator from Arkansas [Mr. MCCLELLAN], and the Senator from Oregon [Mrs. NEUBERGER] are absent on official business.

I also announce that the Senator from California [Mr. ENGLE] is absent because of illness.

I further announce that, if present and voting, the Senator from Nevada [Mr. CANNON], the Senator from California [Mr. ENGLE], and the Senator from Oregon [Mrs. NEUBERGER] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Illinois [Mr. DIRKSEN] is necessarily absent and, if present and voting, would vote "nay."

The result was announced—yeas 23, nays 71, as follows:

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[No. 21 Leg.]

YEAS—23

Aiken	Gruening	Moss
Bayh	Hart	Nelson
Beall	Hartke	Proxmire
Byrd, W. Va.	Humphrey	Randolph
Church	Kennedy	Ribicoff
Dodd	McGovern	Yarborough
Douglas	McNamara	Young, Ohio
Gore	Morse	

NAYS—71

Allott	Cotton	Hill
Anderson	Curtis	Holland
Bartlett	Dominick	Hruska
Bennett	Eastland	Inouye
Bible	Edmondson	Jackson
Boggs	Ellender	Javits
Brewster	Ervin	Johnston
Burdick	Fong	Jordan, N.C.
Byrd, Va.	Fulbright	Jordan, Idaho
Carlson	Goldwater	Keating
Case	Hayden	Kuchel
Cooper	Hickenlooper	Lausche

NAYS—Continued.

Long, Mo.	Mundt	Smith
Long, La.	Muskie	Sparkman
Magnuson	Pastore	Stennis
Mansfield	Pearson	Symington
McCarthy	Pell	Talmadge
McGee	Prouty	Thurmond
McIntyre	Robertson	Tower
Mechem	Russell	Walters
Metcalf	Saltonstall	Williams, N.J.
Miller	Scott	Williams, Del.
Monroney	Simpson	Young, N. Dak.
Morton	Smathers	

NOT VOTING—6

Cannon	Dirksen	McClellan
Clark	Engle	Neuberger

So Mr. DOUGLAS' amendments were rejected.

The PRESIDING OFFICER. By unanimous consent agreement, following disposition of the Douglas amendment, an amendment intended to be proposed by the Senator from Illinois [Mr. DIRKSEN] will be taken up for consideration. The Chair is advised that the Senator from Kentucky [Mr. MORTON] will present it.

Mr. MORTON. Mr. President, first I move to reconsider the vote by which the Douglas amendments were rejected.

Mr. McCARTHY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MORTON. Mr. President, I call up, on behalf of myself and the minority leader [Mr. DIRKSEN], who is unavoidably absent today, amendment No. 380.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read the amendment (No. 380), as follows:

At the proper place insert the following new section:

"SEC. —. REPEAL OF RETAILERS EXCISE TAXES ON JEWELRY, FURS, TOILET PREPARATIONS AND LUGGAGE.

"(a) REPEAL.—Effective with respect to articles sold on or after the first day of the first month which begins after the date of the enactment of this Act, the following subchapters of chapter 31 (relating to retailers excise taxes) are repealed:

"'(1) Subchapter A (jewelry and related items).

"'(2) Subchapter B (furs).

"'(3) Subchapter C (toilet preparations).

"'(4) Subchapter D (luggage, handbags, etc.).'

"(b) CLERICAL AMENDMENT.—The table of subchapters of chapter 31 is amended by striking out the following:

"'SUBCHAPTER A. Jewelry and related items.

"'SUBCHAPTER B. Furs.

"'SUBCHAPTER C. Toilet preparations.

"'SUBCHAPTER D. Luggage, handbags, etc.'"

Mr. MORTON. Mr. President, in 1941, excise taxes were imposed at the retail level because of an emergency. When they were levied in 1941, Congress gave as its objective "Revenue, and other purposes." In that wartime atmosphere the "other purposes" were clearly to divert consumer spending from some articles that did not contribute directly to the war effort. The intent of Congress on this all-important point is clear. Included in these taxes were those on luggage, jewelry, furs, and toilet preparations.

For instance the components of luggage and leather goods are leather, wood, brass, steel, rayon, and cotton linings—all material that was so badly needed during the war. It is beyond the shadow of a doubt to say that Congress placed an excise tax on luggage and leather goods to curb their sale, not because they were luxuries, but because the components consisted of vital war materials. The excise tax was used as a power to control, retain, and divert the use of defense materials.

Jewelry was one of these products. The tax did help divert money to war bonds; but it also helped to divert labor and materials away from those products and it helped to convert the taxed industries to war production. Their effect as a business depressant was substantial.

The same is true of furs and toilet preparations.

These items were not necessarily selected because they were in the luxury category. They were selected because they posed a minimum of collections and administrative problems for the Bureau of Internal Revenue. The fact that the selection of these few industries was highly discriminatory at the time was regarded as justifiable in those critical emergency days. The Congress clearly recognized that such a selective tax could only be justified in time of great emergency. The Congress therefore, as a part of the bill, provided for the termination of these taxes immediately after the cessation of hostilities.

Notwithstanding this commitment for termination, the taxes remain today. And, the tax continues to divert consumer spending from the taxed articles, just as the Congress intended that it should.

There are few who could maintain the justification that these items are today luxuries. Congress even in enacting the Revenue Act of 1941 did not levy retail excise taxes on luxuries only and refrain from taxing nonluxuries. The classification that was adopted in the Revenue Act of 1941 was unrealistic then and is unrealistic today.

It might well be wise to consider these various categories and their applicability to the description of a luxury item.

No excise tax is collected on the suit a man wears on his back, or on his under-

clothing nor on his shoes, but there is an excise tax on the bag in which he must carry his clothes and on the wallet in which he carries his money. Luggage and leather goods are not luxuries nor were they so considered by the Congress when they enacted the Henderson Security Act in which luggage and leather goods were included. What justification is there for this tax on luggage? When considered in the light of many hundreds of items which are not taxable, the answer is obvious, there is no justification.

When a tax is put on some business and not on others, those businesses which are taxed are burdened with a special penalty. Can anyone deny that this is a discrimination by the Government? A business which is punished by a special tax cannot compete on fair and equal terms for the consumer dollar. But even more distressing is the impact this tax has had on the industry itself that furnishes luggage. Since the year 1948, more than 75 manufacturers of luggage and leather goods have discontinued operations. In the main this has been because the businesses that were conducted are no longer profitable and could not continue operation while still being subjected to the 10-percent excise tax.

One of the more disastrous effects of the 10-percent tax on furs has been the drastic reduction of the number of workers who have been employed in the manufacturing field alone. It was at a peak of 14,000 workers, but the union membership now stands at about 7,200. In the correlative field of dressing and dyeing of fur skins there has been a similar drastic drop. This has not been brought about by automation, for this is a handcraft industry, probably the last one of such industries, it is not possible to cut, sew, nail, or finish fur garments in bulk, for each garment has to be handled individually, from the raw state to the finished product.

The glaring inconsistency in respect to the tax on furs are readily apparent. Fur wearing apparel is subject to tax, whereas garments made of other material, comparable in use and appearance, and sold in competition with such fur articles is not subject to tax. A fur trim on a garment subjects it to the tax, and in many cases the trim serves no other purpose than ornamental.

Research in the textile field has made great strides in response to the consumers' growing demand for untaxed cloth garments, as against taxed fur garments, the textile industry has produced high pile fabrics which look like fur and feel like fur and are described as imitations of fur, and which yield garments that resemble fur garments, but which are not subject to tax.

Some of these fabrics actually consist of fur hairs incorporated in a woven backing material, so that garments made therefrom are actually fur garments for all practical purposes, but since the fur is not on the hide or pelt they are tax free. An even greater distortion occurs in the case of a working girl of limited means who buys a moderately priced fur coat, say from $100 to $200, which is subject to a 10-percent excise tax. But, a cloth coat which sells for three or four times that amount, and even more than that, is tax free even though it is obviously a luxury item. This injustice is even compounded in the instance of coats with fur trims. Here it is difficult to determine any justification whatsoever in regulations that prescribe the treatment

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for this particular type of garment. An even more ridiculous situation occurred in the case of the Davy Crockett hats which were sold in the country for a number of years and were made of fur and which sold for $1.50 or $2. Many youngsters throughout the country wore Davy Crockett hats and imitated its creator. These hats were subject to tax. However, a lady's hat selling for $150 or $200 is tax free.

An even more difficult situation arises in the case of jewelry. The regulations that have been issued respecting jewelry are most difficult to interpret by interested members. It becomes a major problem for the retailer, large or small, to know what is and what is not taxed. A nonjewelry product which contains the fine gold equivalent of seven-millionths of an inch in thickness is taxable, if it contains a lesser amount, it is not taxed. The measurement of precious metal to millionths of an inch can only be accomplished in specialized laboratories. Even larger manufacturers have no such facilities.

Congress even in the severe throes of war, did not levy retail excise taxes on luxuries only and refrain from taxing nonluxuries. Many articles of jewelry, as well as other products which are taxed, cannot be regarded as luxuries—the simple gold wedding band, the watch, a silver-plated bowl. Their widespread use and modest price deny this categorization, yet they are taxed. Conversely, numerous articles that some regard as luxuries have never been taxed at retail—yachts, objects of art, high Paris fashions, and so forth.

Most jewelry is sold to retail jewelers, haberdasheries, and other outlets that are small business in every respect—

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many are family owned and operated. Over the years, excise regulations on jewelry have developed into a complex maze of technicality. Simple accurate compliance with the tax is a near insurmountable task for the average retailer. The collection of retail excises is an expensive cost of doing business for the average retailer of taxed products. The jewelry retailer, for example, must insure that in all his advertising, prices either say "plus 10 percent tax" or "tax included." They must figure the tax on each sale, be it a 10-cent sale or a $1,000 sale. Separate bookkeeping entries must be made for taxes collected. Separate tax reports and remissions must be made quarterly. Periodic tax audits are made. Certain sales and certain types of products must be accompanied by tax exemptions certificates which the retailer must be able to produce during audit. Some retailers refuse to handle taxed products because of the expense of being a tax collector. Repeal of excise taxes will relieve retailers, mostly small business, with the complex problem of tax determination and the expense and time-consuming problem of tax administration, collection, and mission. This effort and expense can be diverted from nonprofit, uneconomic tax collection work to profit-producing, employment-producing selling, with its subsequent revenue-producing results. What purpose can be gained in a free peacetime economy in attempting to penalize the purchase of one type of product versus another? Certainly some regulations are essential where public health and safety may be a factor; but if the retail sale of any product in which these factors are not present is penalized by Government, the economy is not free. The discriminatory features of the present retail excises represent unfair and undue Government influence on the free choice of the consumer. Where selective action discriminates against certain products to the advantage of others, it works to the detriment of all in its interference with the free working of the laws of supply and demand.

Mr. President, no greater issue can be raised than that of attempting to assess a luxury tax on toilet preparations. Included in this category are such items as perfume, toilet waters, cosmetics, hair restorers, hair dyes, toilet powders, and any other similar substance, article, or preparation, by whatever name known or distinguished, which are used or intended to be used for toilet purposes. I would not be the one, Mr. President, to insist that these are luxuries. Although the beauty of our ladies seldom needs the assistance of these products. Nonetheless their addition frequently enhances the beauty already existing. Of all the items that are included in the so-called luxury taxes levied in World War I days, none in my opinion works a greater hardship than the imposition of a tax on these products classified as toilet preparations.

Mr. President, these excise taxes have now been collected for a whole generation. These taxes have been permitted to stand, but with repeated promises that they would be repealed. Every time the question of repeal has arisen the excuse has been offered that more time is needed to study this type of tax. The same argument was repeated again this year in the Finance Committee. It now appears that the House Committee on Ways and Means intends to begin another study on the possibility of repealing these excise taxes as well as other excise taxes. Mr. President, no further study is necessary. In all fairness the commitment that was made, that was contained in the original act, must be kept and the time to keep it is now. It must be honored now by repealing these remaining taxes.

One of the arguments against repealing has been the amount of revenue that is received from this source. In fiscal year 1963 a total of $443,559,000 was collected from these four taxes. Luggage yielded $74,019,000; jewelry yielded $181,902,000; furs produced $29,287,000; and toilet preparations counted for $158,351,000 of this total.

In testimony before the Finance Committee both the Secretary of the Treasury and the chairman of the Federal Reserve Board testified that we could manage a $9 billion deficit which would be incurred through reductions in taxation. At the time of their testimony it was assumed that this would be the deficit that we would have to contend with for fiscal 1965. Now, however, we are promised a budget that will have a deficit of only $4.9 billion. Certainly there is enough room in the new budget to include the repeal of the excise taxes. Such repeal would not create an unmanageable situation from the deficit standpoint.

In addition, Mr. President, there are certainly many areas where further economy can be practiced and the savings would be sufficient to offset the loss in revenue that would be experienced through a repeal of these excise taxes. I need only to refer to a few areas where such economy can be practiced: The Domestic Peace Corps, the Conservation Corps, the making of loans for the construction of motels under the ARA program. The Symington report on the International Development Association program for loans to India points to an area where hundreds of millions can be

saved. Several similar possibilities exist in the entire foreign aid field. I submit that there is only one reason that repeal of these taxes is opposed and that is the loss of revenue. That situation will not change, that argument will still be sounded regardless of whatever other acts might be taken.

On January 14, 1963, President Kennedy in his state of the Union message observed:

For it is increasingly clear—to those in Government, business, and labor who are responsible for our economy success—that our obsolete tax system exerts too heavy a drag on the private purchasing power, profits, and employment. Designed to check inflation in earlier years it now checks growth instead. It discourages extra effort and risk. It distorts the use of resources. It invites recurrent recessions, depresses our Federal revenue, causes chronic budget deficits.

I agreed with that observation at the time it was made and I agree with it now Mr. President and in line with carrying out the purposes of the President's recommendations to remove the drag that our obsolete tax system exerts, one of the best places to begin is by repealing the excise taxes that still remain from the 1941 act.

A repeal of these excise taxes would certainly result in increased purchasing by the consumer. This would apply to all consumers but more particularly probably to the new families being established daily. Thousands of young people are getting married every day of the year. They represent probably the largest single market for the sale of most consumer products. Most of these young people have a real struggle. Every dollar that they can lay their hands on goes to buy something they need when they set up housekeeping. These excise taxes reduce the amount left for buying the many things they need for their home. If retail excise taxes are repealed then surely these young people would spend the extra money right then. Of that you can be certain. Although in each case the amount of tax would be relatively small and the amount to be spent would be relatively small, in the aggregate the amount of new spendable income available for immediate and daily use would be sizable and important. And the effect would be immediate.

The effect on the industries whose products are subject to the retail excise

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tax would be felt immediately. These industries estimate that they could increase their present sales by 10 to 15 percent if the taxes were repealed. This could only result in more jobs and larger payrolls and increased benefits to the whole U.S. economy. The result of excise tax repeal I submit creates a priority to this form of stimulus to the economy fully as urgent and fully as deserving as the other form of reduction being considered.

Consider for a moment, Mr. President, the burden that is placed upon the small merchants who make up for the most part the jewelry and luggage, the small drug stores, and the small department stores. The Treasury Department does not have available the number of retailers who file returns for excise taxes which they have collected. This lack of information amazes me but nonetheless the Treasury does not have it available.

The Department of Commerce advises me that the 1958 census of manufacturers showed 56,232 drug stores, 23,751 jewelry stores, 1,416 luggage and leather shops, and 3,157 department stores. But add to this the thousands upon thousands of small and large groceries who may sell many of these taxed items. These are small family-owned businesses for the most part. The collection of retail excise taxes by the retailers is an expensive cost of doing business.

This measure was considered in committee two separate dates. When first considered it was adopted—the amendment was adopted by the committee by a vote of 9 to 6. However, as the hearing progressed that day, certain changes were indicated on the voting list and final result at the end of the day showed that the amendment had been rejected by a vote of 10 to 7.

But this was not the only effort. Subsequently the amendment was offered in modified form. On this second trial when the first vote was taken, the vote was 10 to 5 to remove excise taxes from the toilet preparations. The vote was 10 to 5 to remove excise taxes from luggage. On jewelry the vote on the modified amendment which would exempt the first $100 in sales was approved by a vote of 13 to 2. The same $100 limitation was included in the amendment to remove the tax on jewelry, and this was approved by the same vote, 13 to 2. These substantial majorities seem to reflect the conviction of the committee. They were impressive.

However, the final session of the afternoon produced an amazing demonstration. The committee has resumed consideration of the measure during the afternoon of January 23. I was on the floor at the time the committee went back into session. When I returned to the floor for the final vote I was advised that a motion had been made to strike all of

the amendments which had been adopted to repeal excise taxes and that the motion had carried by a vote of 9 to 8.

What had happened, Mr. President? In the interval between the time that the vote was taken on these four items during the morning of the 23d and the time that the committee went back into session in the afternoon the "Texas twist" had been applied, and it had its effect. It is no secret that the President called members of the committee. This information was given to me by members who were called. This is a fact. The telephone calls produced the results that had been desired. I have no quarrel with the President, however, I do contend that this matter of raising revenue is a function that is the prerogative of Congress. The executive department of Government is given no authority by the Constitution to raise revenue. The Congress is the sole responsible department of Government that the Constitution charges with this responsibility. It is time that the Congress assumed its responsibility. This can be done without assistance or coercion from the executive branch of the Government. It is time the Members of Congress accept this responsibility and demonstrate their willingness to carry out their duties. This is the time for Members to stand up and be counted on this issue. Are we to repeal excise taxes or not? Are we to honor the commitment that we have made and overlooked year after year for the past 18 years?

Now, Mr. President, this is far too long for the promise that the Congress made when it enacted these taxes not to be carried out. This is an election year, I may remind the Members. The women consumers in our country pay far more of the excise taxes than do the men, and they can become very explosive. They, combined with the retailers who collect the tax, can also apply the twist. I say, Mr. President, that it is time for us to honor our commitment, it is time for us to repeal this wartime emergency excise tax.

It is time to give the American consumer and the American retailer a break. Let the consumer keep the $443 million of revenue instead of dumping it into the Treasury, and, if there is any logic to the tax bill he will spend it. This is one of the principal purposes of this measure.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MORTON. I yield.

Mr. JAVITS. Mr. President, when this matter was presented to the Finance Committee, a limitation of $100 was placed on jewelry and furs. Is that provision still contaned in the amendment?

Mr. MORTON. The amendment does not contain any limitation. The amount that the Treasury would keep if that $100 limitation were included is less than 10 percent of the total amount involved.

It was felt that the burden placed on the retailer by making him a tax collector in this case is a substantial burden. If we put a $100 limitation on furs and jewelry, the amount that the Treasury will recover is inconsequential compared with the total involved. It would still leave the small retail department store and, in fact, all retail department stores, with the burden of collecting the tax. This would apply to all stores, even the small store handling coats if a coat has a small piece of fur on it. Therefore it was decided not to include the $100 limitation. I had a conference by telephone with the minority leader yesterday, and it was decided that we would go ahead and make a clean repeal.

Mr. JAVITS. The principle is important with me. It is the principle that luxuries be taxed and necessities be not taxed. I should like to ask the Senator from Kentucky a frank question. I would be minded to offer an amendment to his amendment providing for a $100 limitation. I would not do that if the Senator from Illinois would find it obnoxious to him were I to do so. Therefore I say to the Senator that I would be prepared to vote for the amendment if it contained a $100 limitation. I am not prepared to vote for it without such a limitation contained in it.

I realize that one vote does not mean much. However, the principle is very important to me. I ask the Senator frankly this question: Would he consider it disagreeable to the sponsor of the amendment, the Senator from Illinois [Mr. DIRKSEN], who unhappily for all of us is not present, if I were to propose such an amendment to his amendment?

Mr. MORTON. I feel sure that it would not be disagreeable to the Senator from Illinois [Mr. DIRKSEN]. In fact, he at one time had introduced such an amendment. Such an amendment was adopted. Then the committee, later in the day, reversed itself. Therefore, I am sure it would not be disagreeable for the Senator to offer such an amendment. The vote may be close, and his vote is important. It he wishes to offer his amendment to the Dirksen-Morton amendment, he is, of course, at liberty to do so, and his action will be perfectly understood.

Several Senators addressed the Chair.

Mr. JAVITS. Will the Senator permit me to make a parliamentary inquiry before he yields to other Senators?

Mr. MORTON. I yield.

Mr. JAVITS. At what point in the

proceedings could I offer an amendment to the pending amendment?

The PRESIDING OFFICER. If the Senator from Kentucky yielded to the Senator from New York for that purpose, the Senator from New York would be in order to do so at this time.

Mr. JAVITS. And if the Senator from Kentucky refused to yield at this time for that purpose, when would it be in order to do that?

The PRESIDING OFFICER. As soon as the Senator from Kentucky had yielded the floor the Senator would be able to do so if he were recognized.

Mr. JAVITS. When the Senator's time has expired?

The PRESIDING OFFICER. There is no time limitation.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. MORTON. I yield.

Mr. DOUGLAS. I am very glad that the Senator from New York has raised this point, because this was the precise amendment to the Dirksen amendment which I submitted in the committee, as the Senator from Kentucky will remember. I am prepared to support the amendment if it has a $100 limitation in it. I shall be compelled to vote against it if it does not have that limitation in it. I believe that the amendment

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in its general outline is correct. However, I do not believe we should grant an exemption from taxes for a $10,000 diamond ring or for a $9,000 royal mink coat. Therefore, I hope the amendment to the amendment will be found to be acceptable by the Senator from Kentucky when such an amendment is offered.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. MORTON. I yield.

Mr. PASTORE. First I wish to compliment the Senator frem Kentucky for bringing up the amendment. I am inclined to agree with the distinguished Senator from New York and the distinguished Senator from Illinois that if we place ourselves in the position this afternoon of trying to defend the removal of the excise tax on a $10,000 diamond ring or a $9,000 fur coat, the amendment in those high brackets will not get very far. I am sure, unless we put a limitation on it, we shall give the amendment the kiss of death. I strongly urge the Senator from Kentucky not to let us reach a vote on the limitation, but that he accept it as a modification of his amendment.

Such an amendment was adopted in committee. The amount of $100 is reasonable. We are discussing the matter of jewelry and other so-called luxuries, items such as handbags. The housewife whose husband makes about $4,000 a year should not be forced to pay an excise tax on a modest handbag.

A handbag today is as much a part of a woman's accessories as are her shoes. Why should we regard a handbag as an extravagance or a luxury? If a man buys 100 shirts, why should not 75 of those shirts be considered a luxury? This matter of the measurements of luxuries can lead us to a rather ridiculous argument.

Some jewelry items are considered to be more or less accessories and a part of a person's attire. I hope the limit will be $100, because I think that would offer a practical chance of having the amendment adopted.

In conclusion, let us not forget that the excise taxes were imposed during the war, when goods were in scarce supply and money was in abundance. The object was to slow down the purchase of certain articles.

Now the reverse is true. We want bigger business. The argument that has been made for an $11 biliion reduction in taxes is that it would stimulate the economy; that it would put more money into the pockets of the consumer, so that the consumer would buy more and thereby create more jobs. If that is the philosophy behind the bill, if it is desired to create jobs in Rhode Island, if it is desired to create jobs in the centers of manufacture of articles that are not out-and-out luxuries, and if we limit the amount to $100, the time has come when this removal is absolutely necessary. It is an integral part of the bill and is in accord with the philosophy of the bill. It is actually in line with the genesis of the bill. If we want to do the right thing today, let us remove this excise tax, which was imposed as a business brake. If one wants to accelerate once more, he takes his foot of the brake and steps on the accelerator. If we want to help to accelerate the economy this afternoon, let us take off the brakes by taking off the excise tax.

I thank the Senator from Kentucky.

Mr. MORTON. Mr. President, in view of the persuasive remarks I have heard in the last few minutes, I should like to alter the amendment to read as follows:

> At the end of the bill insert the following:
>
> "TITLE IV—EXCISE TAXES
>
> "SEC. 401. RETAILERS EXCISE TAXES.
>
> "(a) LIMITATION OF TAX ON JEWELRY AND RELATED ITEMS.—Section 4001 (relating to imposition of tax on jewelry and related items) is amended by inserting after '10 percent of the price for which so sold' the following: ', to the extent such price exceeds $100'.

"(b) LIMITATION OF TAX ON FURS.—Section 4011 (relating to imposition of tax on furs) is amended by inserting after '10 percent of the price for which so sold' the following: ', to the extent such price exceeds $100'.

"(c) REPEAL OF TAX ON TOILET PREPARATION.—Chapter 31 (relating to retailers excise taxes) is amended by striking out subchapter C (relating to toilet preparations).

"(d) REPEAL OF TAX ON LUGGAGE, HANDBAGS, ETC.—Chapter 31 (relating to retailers excise taxes) is amended by striking out subchapter D (relating to luggage, handbags, etc.).

"(e) TECHNICAL AMENDMENTS.—

"(1) The table of subchapters for chapter 31 is amended by striking out:

"SUBCHAPTER C. Toilet preparations.

" 'SUBCHAPTER D. Luggage, handbags, etc.'

"(2) Section 4003 (relating to exemptions from tax on jewelry and related items) is amended by striking out subsection (b).

"(3) Subchapter B of chapter 31 is amended by striking out section 4013 (relating to exemption of certain auction sales).

"(4) The table of sections for subchapter B of chapter 31 is amended by striking out:

" 'Sec. 4013. Exemption of certain auction sales.' "

"(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles sold on or after the first day of the first month which begins after the date of the enactment of this Act."

Mr. DOUGLAS. Mr. President, I congratulate the Senator from Kentucky for agreeing to make this change, which has also been suggested by the Senator from New York [Mr. JAVITS] and the Senator from Rhode Island [Mr. PASTORE].

The junior Senator from Illinois [Mr. DIRKSEN] and I proposed it in committee. I am happy to support it. It will in the main remove taxes from purchases made by persons in the lower income groups.

Mr. MORTON. I thank the Senator from Illinois. He has correctly stated what occurred in committee.

Mr. JAVITS. Mr. President, I, too, wish to thank the Senator from Kentucky. His action is most statesmanlike. I am most happy to support the amendment.

Mr. CARLSON. Mr. President, will the Senator from Kentucky yield?

Mr. MORTON. I yield.

Mr. CARLSON. I appreciate the situation that has confronted the Senator from Kentucky. After all, he is presenting the amendment on behalf of the distinguished minority leader. As a member of the Committee on Finance who supported both Senators from Illinois on the amendment, I am delighted that the Senator from Kentucky has agreed to accept the $100 limitation. I hope the amendment as modified will be approved by the Senate.

I am completely in accord with the statement of the Senator from Rhode Island that we want to do something to put money in the hands of the consumer. This is the part of the tax bill where that can be done. I hope the amendment will be agreed to.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. MORTON. I yield.

Mr. HUMPHREY. Can the Senator from Kentucky give the Senate any idea of what the total revenue cost of his amendment would be? Does he have an estimate?

Mr. MORTON. Yes; the total cost originally was estimated as $443 million. The $100 exclusion would bring that figure down to around $400 million.

Mr. HUMPHREY. Does the Senator propose to substitute this particular amendment for any other provision in the bill?

Mr. MORTON. No; this would be a new section.

Mr. HUMPHREY. So it would be an additional tax reduction on the aggregate figure in the bill?

Mr. MORTON. The Senator is correct; it would be an additional tax reduction. But, as the Senator from Rhode Island so eloquently stated, this is a wartime tax, imposed to discourage the sale of items which are not luxuries in any sense of the word. It is about high time the wartime taxes were repealed.

Mr. HUMPHREY. I am not arguing that point. The Senator from Kentucky makes a valid point that in many instances the articles are not luxuries. For example, there are people engaged in the retail business who find it most disagreeable to act as tax collectors for the Federal Government.

I wondered why we should not include light bulbs, for example. The tax on light bulbs is a manufacturer's tax. On that, a profit is built. When one is in the retail business and handles an item that is shipped to him by a wholesaler, that item includes a tax in the wholesale price. When the retailer makes his regular markup, he makes it on that tax as well as upon the cost of the item. That is standard retail practice. A light bulb is about as important for the average householder or average citizen as any item of clothing; it is as important as the tires on the car of a worker who drives to work. There is a tax on tires. I might add that there is a tax on the tax, so to speak, because when a tax is imposed at the manufacturer's level, there is also a markup upon the wholesale price of the commodity, plus the tax.

There is also a tax upon radios, and even a tax upon automobiles themselves.

I am concerned about any amendment

to the bill that would substantially increase the overall tax reduction, because it seems to me that we arrived at a sort of consensus as to how much of a tax reduction there could be in terms of the budget problems and in terms of the needs of the economy. I believe the Senator from Kentucky should give some

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consideration not merely to the items which have been discussed.

I have some familiarity with these particular items from a business point of view as well as from a legislative point of view. The Senator from Rhode Island is eminently correct. When a woman buys a $10 purse or a $8 purse, or whatever it is, that article is taxed. But that is hardly a luxury item; I could not agree more with the Senator.

We all know that these are wartime taxes. However, most of the taxes we pay today are related to wartime costs. That is why we pay heavy income taxes, corporate taxes, and other kinds of taxes. We should take a good, hard look at the kind of discrimination that the removal of the tax obligation by this amendment would incur. It is difficult to differentiate, for example, between a toiletry item, upon which a 10 percent tax is levied and a light bulb, because the same woman who buys a bottle of cold cream and pays a 10 percent tax also buys a light bulb on which there is a tax. Should we remove the tax from one item and leave it on the other?

Let me summarize several important points that we must not lose sight of when considering this particular amendment dealing with excise taxes on a few items. These items are only a very small proportion of all the merchandise on which the Federal Government collects excise taxes. Altogether, excise taxes are levied on 50 major categories of retail goods, including literally thousands of different kinds of articles. The entire Federal excise tax structure is interconnected. Cutting taxes on a piecemeal basis would clearly be discriminating against the manufacturers, retailers and consumers of all the other items subject to excise taxation.

Yet if we begin cutting excise taxes on the Senate floor, we will be opening a Pandora's box. This is not the time or place to give adequate consideration to the many thousands of separate products that are involved in this very complicated area. If we limited ourselves to a few items without proper consideration of all the rest of the field, we would be acting neither responsibly nor fairly.

At the same time, we should remember that excise taxes are a vital part of the total Federal tax structure. In the 1964 fiscal year all Federal excise taxes will bring in to the U.S. Treasury revenues of $10.2 billion. This is almost as much money as is involved in the present income tax bill. Can we afford to cut Federal revenues by another $10 billion? Clearly there is a limit to the amount of tax reduction the Treasury can take.

Literally years of planning and deliberation lie behind H.R. 8363. All this planning has assumed stability in other parts of the Federal tax structure. Having deliberated so long on H.R. 8363, will we not jeopardize all this forethought by heedless cuts and slashes on a few haphazardly chosen items of merchandise?

The pending income tax bill will make substantial reductions in the taxes of every consumer and retail merchant. All in all, it will reduce taxes by $11.6 billion. It is estimated that 93 percent of all individual tax cuts will be quickly reflected in consumer spending. Moreover, the largest tax reductions go to the people about whom some speakers this morning have expressed so much concern—the poor and the small shopkeeper. Taxpayers with incomes below $3,000 will have their taxes cut by 39 percent, and small businessmen will get a 27-percent tax reduction. This is a very substantial amount of tax relief.

Mr. President, I have suggested that cutting excise taxes, no matter how politically appealing it may be, is not something that we should rush into on the spur of the moment like this. The distinguished chairman of the Ways and Means Committee has announced that hearings on the entire Federal fiscal tax structure will be held this spring. This is a far better approach than trying to make piecemeal changes. For this reason I oppose this amendment as an ill-considered attempt to tinker with fiscal policy. I urge that we wait until we can deal with this subject in a judicious manner.

Mr. PASTORE. Mr. President, will the Senator from Kentucky yield?

Mr. MORTON. I yield.

Mr. PASTORE. Senators would be surprised to learn how many women can do without light bulbs, but cannot do without lipstick.

Mr. HUMPHREY. If they do not have light bulbs, they cannot see the lipstick. The Senator from Rhode Island is one who knows that women really like to look at themselves.

Mr. PASTORE. They can always use gas or candlelight.

Mr. HUMPHREY. I suggest that the Senator from Rhode Island tell them to use gas. However, there is a tax on it.

Mr. PASTORE. The Senator from Minnesota makes a good point. We have

reached a point where all excise taxes should be reviewed and considered seriously. However, we are being very moderate today. This is a moderate approach.

I do not think a woman's purse can be included in the same category as a set of tires. There is some distinction.

I admit that I am somewhat provincial in my position. I am interested in jewelry because Rhode Island is the jewelry center of the world. It irks me to have someone say that if a girl wishes to buy a small piece of jewelry, costing $5 or $6, she is buying a luxury item, when it is merely something that she can wear to complement her dress. Or perhaps it might be a set of buttons part and parcel of her dress; yet it is considered as a luxury item. That is no luxury—that is a necessity. We are a long way from the luxury line.

The amendment offers a moderate approach. I realize that many arguments can be made to expand the proposal, expand it wider and higher, but I think this is a good start. I hoped that the distinguished Senator who offered the amendment would accept the modification and take it to conference. At least, let us get the amendment moving. What we are trying to do is to stimulate the buying power of the people. Never underestimate the power of women—especially their buying power. How better can that be realized than to have the girls buy lipstick or cold cream, or buy themselves nice handbags? Let us make our women beautiful. Let us not tax that beauty. Let us adopt the amendment.

Mr. MORTON. Mr. President, on the amendment, as modified, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MORTON. Mr. President, now I yield to the Senator from Florida [Mr. SMATHERS] to enable him to accept my amendment. [Laughter.]

Mr. SMATHERS. Mr. President, I am pleased to be yielded to; and I regret that I am unable to accept the amendment.

I wish to reply to the remarks of the Senator from Rhode Island. He said this is a moderate amendment. He also said that his attitude about it is somewhat provincial. Perhaps—unhappily—many Senators have a provincial interest, and perhaps I am one of them. However, if this amendment were enacted, its direct cost would be $455 million, even without the enactment of the provision one sought to be added by the Senator from Rhode Island.

On the other hand, this amendment would, in the long run, cost about $10 billion, because similar amendments would be added—as the Senator from Louisiana [Mr. LONG] said in the committee, when we were debating this measure there. He said:

> This will not cost $455 million; it will cost $10 billion, because in that event the Members of Congress from other States would be able to persuade Congress to remove the excise taxes from the articles manufactured in their States. For instance, the Senator from Michigan would like to have the excise taxes taken off automobile tires and automobiles. We from Florida, where everyone has a telephone, would like to have that excise tax removed. In fact, the Senator from Kansas has proposed an amendment to that effect. If we were to start by removing the excise taxes from light bulbs and automobiles, finally the able Senator from Washington—a leader in the transportation field—would decide that he would like to have the excise tax taken off transportation; and when that was done, the Senator from Indiana would want the excise tax removed from horns, bugles, and other musical instruments, because they are made in his district.

At that rate, Mr. President—and I say this with great respect for the Senator from Rhode Island, and there is no one for whom I have more respect—when Congress got through taking off all those excise taxes, the excise taxes would have little or no application.

Mr. PASTORE. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. With all due respect to the Senator from Rhode Island, I wish to finish my statement before I yield.

So, Mr. President, when we finished removing the excise taxes from all those items, this amendment would have cost $10 billion.

We consider and continue these excise taxes on June 30 of every year or prior thereto, or else most of them automatically expire. It is interesting to observe that this excise tax was not first imposed in time of war. It was first imposed in 1932, and was continued until 1936. The country was not in a war

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then; and the tax was just a way to obtain revenue for the Treasury.

The House Ways and Means Committee has begun to consider proposed legislation to repeal these excise taxes, and is wondering how practical it would be to remove them; and in due course the Senate will also consider that proposal, in accordance with the regular procedure and—by law—the chairman will have to have our committee consider these excise taxes, and the Senate will have to decide whether it believes that some of the excises should be continued or should be repealed. That consideration will occur under our regular procedure.

In short, the Senate must regularly consider the question of continuing or repealing the excise taxes. However, if the Senate now starts to repeal some of them, by means of this bill, and does so to the extent of $10.7 billion, and then adds to that the $11 billion, we shall have—roughly—a $22 billion tax-reduction bill; and I do not believe such action would be very responsible.

The Senator from Connecticut would like to have the excise tax on ballpoint pens removed, because they are made in Connecticut, and he says we would contribute to ignorance if we did not act to make it easier for the children to obtain the pens. He has a good point, because we want the children to use the ballpoint pens as they progress with their education. So the Senator has a good point there. [Laughter.]

But when we start considering all of these excise taxes—which we shall have to do if we act to eliminate one of them—then, instead of causing a $455 million loss to the Treasury, the final cost to the Treasury will be $10 billion. That is why almost all members of the committee have at some time or other favored the removal of the excise taxes, and that is why we finally started to act to eliminate them. Of course, we could not do so in this particular bill; but the committee will consider that subject later in the year, as it must.

So, Mr. President, I cannot accept the amendment.

Mr. MORTON. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I yield.

Mr. MORTON. Today, the Senator from Florida has, in his usual charming way, kicked an awful lost of dust around in this Chamber. [Laughter.]

These are retail excise taxes, and they are collected from the retailers. There are also manufacturers' excise taxes, but these are the retail taxes. A person who goes into a supermarket, to buy groceries or one who wishes to buy something at a drug counter or a cosmetic counter, has to wait while a separate tape is run up and this tax is imposed on his purchases.

I agree that the excise tax on light bulbs should be studied, and also the excise taxes on tires and the other commodities; but I point out that the excise taxes in this particular category are collected at the retail level, and are a burden on consumers generally, and are especially a hardship on the low-income consumers, and also a great hardship on the whole retail industry.

Mr. SMATHERS. Mr. President, at this point, will the Senator yield for a question?

Mr. MORTON. I yield.

Mr. SMATHERS. Does the able Senator from Kentucky believe that the average citizen in Paducah, Ky., believes there is any great difference between whether it is a retail tax or an excise manufacturer's tax?

Mr. MORTON. The nature of the tax is clearly stated on the label, which must show whether the price of the article is shown with or without the tax; and the consumers understand that. I do not live in Paducah, and I do not shop there, so I do not know what the average citizen there would say; but I do live in Louisville, and I say that the average citizen there understands it.

Mr. PASTORE. Mr. President, will the Senator from Kentucky yield?

Mr. MORTON. I yield.

Mr. PASTORE. There is a difference—and this information may come as a surprise to the Senator. These taxes do have an effect on the consumers or purchasers. The Senator from Minnesota was formerly in the drug business, and he will admit that when a person goes into a drugstore, his decision to buy or not to buy depends entirely on whether the excise tax is going to be written on that sales slip, right under his nose. So the tax does have an effect.

I am saying that the whole philosophy of this tax reduction bill is to accelerate purchasing. So let us remove these taxes, which were imposed in the first place as a brake.

If we mean to do what we started out to do, the correct way to do it is to do it directly.

The Senator from Florida said I was being provincial in my attitude about the tax on jewelry. That is correct; but I say we should do all we can to help the women of America purchase aids to their beauty, which is universal and eternal.

Mr. CURTIS. Mr. President, I shall support the amendment; but the question of whether the taxes will be reduced by $11 billion will have to be determined at the time of the final rollcall.

I stress the point that these taxes are imposed on a relatively few manufacturers, who are required to assess the taxes, collect them, do the necessary bookkeeping, and make the returns to the Federal Treasury.

These taxes are a nuisance to people all over the country. When a woman buys five or six items in a drugstore, she will find that perhaps two or three of them are subject to the Federal excise tax, and the others are not. Often the payment of the tax is not recorded, or perhaps the sales clerk becomes confused in attempting to ascertain the correct amount of the tax, with the result

that the customer is required to pay a few cents too much.

The excise tax division of the Internal Revenue Service has had much difficulty collecting the retail excise taxes.

I daresay that every Senator will find in his office files complaints from honest businessmen about the handling of excise taxes. I know of one instance in which a druggist's records were challenged by the Internal Revenue Service, which questioned the number of articles subject to the Federal retail excise tax he had sold. The Government agents said to him, "Your gross sales amount to x dollars, and therefore—by our rule of thumb—we believe you sold x dollars' worth of merchandise which was subject to the Federal retail excise tax"; and he was required to pay that amount, or else engage in litigation over it.

Furthermore, Mr. President, these excise taxes are very widely applied; they must be applied in thousands of places of business in the United States. On the other hand, if the tax were levied at the manufacturers' level, relatively few persons would have to be contacted in regard to it.

I do not say the manufacturers' taxes should not be reviewed and reduced; and perhaps some of them should be reduced today. But the question of the repeal of the manufacturers' taxes should not be confused with the question of the enactment of this amendment, which deals with the retailers' tax.

In answer to the proposal of the distinguished Senator from Florida, I reply that if it is true that the adoption of this amendment would cause a chain reaction which would result in an eventual revenue loss of $10 or $11 billion, certainly it would also be true that a similar reaction and a similar loss would result if the amendment were to be placed in effect a few months later. In short, that argument is an old gimmick which is trotted forth in an attempt to oppose the needed repeal of these excise taxes.

I believe that should be repealed if we are to have a tax reduction of approximately $10 billion.

I did not intend to take so much time. I thank the distinguished Senator for yielding to me.

Mr. MORTON. Mr. President, I yield 2 minutes to the Senator from Oregon.

The PRESIDING OFFICER (Mr. NELSON in the chair). The Senator from Oregon is recognized for 2 minutes.

Mr. MORSE. Mr. President, I agree with the Senator from Kentucky and the Senator from Rhode Island in the arguments they have advanced in support of the amendment.

Since 1947 I have offered amendments on the subject of excise taxes. I have looked into the recommendations of the Committee on Economic Development, composed of a group of outstanding industrial leaders, which has submitted report after report since 1947, calling for drastic revisions of the excise tax program and the abolition of many excise taxes. I have placed those recommendations in the RECORD time and time again.

I do not believe we can avoid these three reasons:

First, that the leaders of Congress pledged, when they levied excise taxes during World War II, that they would

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be removed. During the past 15 years or more, I have placed the statements of those congressional leaders in the RECORD from time to time.

Second, in my judgment, there is no answer to the economists of the Committee for Economic Development as to the restrictive effect of excise taxes on purchasing power. I thought our objective in the bill was to stimulate the economy, to induce people to buy, and thus create the many jobs that would flow from such purchases.

Third, I am not persuaded at all by the argument of the Senator from Florida that this proposal might lead the way to the elimination of excise taxes. That is one of the main reasons why I urge support of the amendment. I believe that is exactly what it would do. If the Senate adopts this amendment today, it will set a precedent so that next May or June we may be able to get rid of other excise taxes, but that is a long day off.

I thank the Senator from Florida for making that argument, because I believe it is the best argument in support of the amendment; because if this amendment is adopted, it will set a precedent, and will pave the way to do what we should have done a long time ago, namely, get rid of most of the excise taxes.

Mr. BENNETT. Mr. President, will the Senator from Kentucky yield?

Mr. MORTON. I yield 2 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for 2 minutes.

Mr. BENNETT. I should like to follow up the comments made by the Senator from Kentucky and the Senator from Nebraska as to the difficulties the excise tax creates, not only for the buyer, but also for the seller.

The Senator from Kentucky referred to the brother who operates a supermarket, and has to have two tapes.

I have in mind a personal friend in a small town in my State who operates a one-man drugstore. Each time he sells a taxable item, he must stop and get out a pencil and notebook and write down a description of the item, the price the customer paid for it, and the amount of the tax, because that is the only device by which he can protect himself when the Internal Revenue inspector comes along. This slows the situation down, and it also slows down his ability to serve his customers. It is an eternal burden to the little man who is trying to operate a small business. I believe this is one of the most potent reasons why we should get rid of taxes of this kind. They are purely nuisance taxes, not only to the buyer, but also to the man who wishes to serve his customers well.

Mr. HARTKE. Mr. President, will the Senator from Kentucky yield?

Mr. MORTON. I yield.

Mr. HARTKE. I should like to inquire of the Senator from Kentucky whether this includes all of the sales taxes.

Mr. MORTON. Federal retail sales taxes.

Mr. HARTKE. It includes all of the retail excise taxes. Does it exclude diesel fuel oil?

Mr. MORTON. This includes leather goods, furs, toilet preparations, and jewelry, with a $100 limit——

Mr. HARTKE. As I understand, that leaves only one retail excise tax which is not included——

Mr. MORTON. It does not touch the gasoline tax.

Mr. HARTKE. That is the only one left.

Mr. JAVITS. Mr. President, will the Senator from Kentucky yield for a correction? It leaves the tax on theater tickets, and I am about to offer an amendment on that subject.

Mr. HARTKE. That would leave only the diesel fuel oil tax. If we are to have a uniform ticket on retail taxes, we must take that out; but, if not, I should like to make a brief statement on behalf of schoolchildren.

At the present time, if one plays a musical instrument in an orchestra or a band in an institution, and the institution buys the instrument for the child's use, there is no excise tax, but an exemption is allowed. But, if the parent buys the musical instrument for use in the same orchestra or the same band in the same institution, an excise tax is levied. The Senator from Kentucky and I were both subject to an adverse editorial, so I wonder whether he would be willing to include this textbook, so to speak, on musical instruments only for schoolchildren.

Mr. MORTON. That is a manufacturer's tax.

Mr. HARTKE. There is no question about it; it is a manufacturer's tax.

Mr. MORTON. I cannot complicate the amendment. To get into this area would be to open up Pandora's box. The Senator from Indiana and I were the joint targets of an unfavorable editorial, so I wish to stop agreeing with the Senator from Indiana. I ask the Senator not to get me into that jam again. I cannot accept the proposal.

Mr. HARTKE. So far as I am concerned, there is great interest in encouraging the beauty of women, and I believe that children should also be encouraged, in the cultural field, to further their musical education and not to inhibit it.

Mr. MORTON. I am for furthering the musical education of children, but I cannot open up the amendment any further. I am sorry.

Mr. BEALL. Mr. President, will the Senator from Kentucky yield?

Mr. MORTON. I yield 3 minutes to the Senator from Maryland.

Mr. BEALL. Mr. President, I have for some time advocated the repeal of the wartime excise taxes. In line with this, I shall support the pending amendment, as well as any other amendment designed to repeal excise taxes.

Excise taxes were enacted during a wartime period to discourage the use of transportation and communications facilities and to discourage the purchase of luxury items. The war is over. There can be no justification for further discouraging the use of these facilities or purchase of these goods.

There is general agreement on the need for expanding our economy. An expanding economy requires increasing investment in services and goods, and anything which discourages investment in services and goods in an obstacle to an expanding economy.

I am convinced that tax reduction is necessary. However, there is a segment of our population which will not benefit from a tax cut. I refer to those low-income people who are not taxed, as well as those who are unemployed. Under the provisions of this bill, these individuals will continue to pay excise taxes on products and services which have become necessities. These people are entitled to participate in the lightening of the tax burden.

In today's economy, it does no make sense to classify as luxuries clocks, watches, and ladies' handbags, and yet, in this bill, these items are listed as luxuries and are subject to an excise tax. A lady's handbag is every bit as necessary as the pockets in a man's trousers.

The thousands of retail and manufacturing taxes fall on all citizens alike, but they fall heaviest on those who can least afford them. This tax bill, we are told, is designed to stimulate the economy and place additional purchasing power in the hands of the consumer. In view of this, we should start by repealing the excise taxes.

I intend to support the pending amendment, and any others which promise to relieve our people of obnoxious and illogical excise taxes.

UNANIMOUS-CONSENT REQUEST

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that debate of the Morton amendment be concluded at 1 o'clock, and that the time be divided, 15 minutes for the sponsor of the amendment, and the remainder of the time to the opponents, the time to be divided and controlled by the Senator from Louisiana.

The reason I request that the opponents have control over the majority of the time is that, so far, the proponents have held the floor for the most part.

Mr. JAVITS. The Senator from Louisiana should make one proviso, and that is that the amendment can be amended. I do not expect any, but I do not believe a unanimous-consent request should preclude amendments to an amendment.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that time on the amendments be limited to 10 minutes on each side.

The PRESIDING OFFICER. Is there objection?

Mr. LAUSCHE. Mr. President, reserving the right to object, I should like about 7 or 8 minutes.

Mr. LONG of Louisiana. I yield to the Senator that amount of time.

The PRESIDING OFFICER. Is there objection?

Mr. MAGNUSON. Mr. President, reserving the right to object, I wish to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senators will state it.

Mr. MAGNUSON. Is the Morton amendment subject to amendments pertaining to excise taxes that would not relate to the retail collection of taxes?

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The PRESIDING OFFICER. Germaneness of amendments is not required.

Mr. SMATHERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SMATHERS. Does the ruling of the Chair then mean that there could be added to the Morton amendment an amendment which would reduce the excise tax on light bulbs, automobile tires, automobiles, ballpoint pens, musical instruments used in high schools, and transportation?

The PRESIDING OFFICER. The Senator is correct. Is there objection to the unanimous-consent request?

Mr. GORE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. PROXMIRE obtained the floor.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. PROXMIRE. I am happy to yield to the majority leader.

Mr. MANSFIELD. Mr. President, has a unanimous agreement been entered into?

The PRESIDING OFFICER. No agreement has been entered into.

Mr. MANSFIELD. I express the hope that there will be none, because I have been notified by at least one Senator that he would object. If any unanimous-consent requests are made, I believe they should be made while that Senator is present in the Chamber, and he should be given some notice.

Mr. LONG of Louisiana. Mr. President, I understand that, but I believe that if a Senator desires to keep the Senate from voting, he should remain in the Chamber to see that the Senate does not vote, or find some other Senator who will remain here to see that the Senate does not vote. I do not believe that a single Senator who wishes to impede the movement of the Senate should have the privilege of delaying the activities of the Senate in absentia. I think he should be present to do it.

Mr. MANSFIELD. If I had known that the request was to be made, I would have objected in the name of that Senator, because I believe that every Senator is entitled to that consideration. I believe the Senator from Louisiana feels the same way.

Mr. LONG of Louisiana. That is more consideration than the majority leader has ever accorded the Senator from Louisiana in absentia.

I have negotiated with the Senator in relation to subjects that I did not want considered when I could not be present, but it has been my impression that if a Senator wished to keep the Senate from acting, he would be required to be present or to find some Senator who would take the responsibility of keeping the Senate from voting.

Mr. PROXMIRE. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Wisconsin has the floor.

Mr. SMATHERS. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. SMATHERS. I believe that all Senators who might have some interest in objecting to a unanimous-consent request are now in the Chamber. I wondered if, while Senators are present, we might not explore the prospect of having a vote at 1 or 1:30 p.m., which I think would give every Senator an opportunity to be heard.

Mr. MANSFIELD. Mr. President, will the Senator yield further?

Mr. PROXMIRE. I yield.

Mr. MANSFIELD. There is nothing I would rather do, because several Senators have engagements of peculiar significance to them this afternoon. But I feel I would have to object unless I could get the "go ahead" from Senators who have come to me. I believe the Senate can vote on the amendment very shortly anyway.

Mr. McCARTHY. Mr. President, will the Senator yield?

Mr. PROXMIRE. I am happy to yield to the Senator from Minnesota.

Mr. McCARTHY. I should like to ask the majority leader if it would be agreeable to him, since it is apparently the amendment now before the Senate on which Senators have requested delay, to consider other amendments, temporarily laying aside the present amendment.

Mr. MANSFIELD. I believe the Senate can reach a vote on the amendment in a reasonable time. I would hope so.

Mr. GORE. Mr. President, will the Senator yield?

Mr. PROXMIRE. I am happy to yield to the Senator from Tennessee.

Mr. GORE. In view of the remarks that have been made, I believe I am justified in asking the indulgence of the Senate for a moment. I have no objection to voting on the amendment. I am ready to vote now. So I am not delaying the Senate.

I am not angry at anyone. We operate here as a body of Senators in the most exclusive and important legislative body in the world. Gentlemen's agreements are entered into and kept. The leadership has always acted—and in the present case is so acting—as the agent of the Democratic majority. The minority leader acts as the agent of Senators on his side of the aisle.

The distinguished junior Senator from Louisiana states that a Senator must be on the floor of the Senate in order to have his rights protected. In the 12 years that I have been in the Senate the leadership has always undertaken to protect the rights of every Senator on his side of the asle with respect to a unanimous-consent agreement.

Yesterday, though I felt I had a good deal more wisdom to impart, the majority leader suggested a time to vote. Perhaps he thought I had talked long enough. I am sure I had talked too long. I readily agreed to have a voice vote on the pending amendment immediately and then to offer a similar amendment proposing a smaller increase in the personal exemption, and to ask for a yea-and-nay vote on the second amendment. I agreed to a 10-minute limitation of time for debate.

The majority leader himself suggested that the time be 30 minutes, to be divided 15 minutes to each side. I agreed to that arrangement.

But suddenly there was a motion to table. That is a procedural motion. I believe that procedure has been resorted to entirely too often recently. It is the most oppressive parliamentary tactic available. True, every Senator has a parliamentary right to make a motion to table, but if Senators will reflect, the motion has been regarded as a procedural motion which is the prerogative of the leadership.

Perhaps I am in error, but until there is some better understanding and until there is some clarification of what the rights of Senators are and how fully agreements entered into in good faith should be complied with, I felt the necessity today, not out of anger, but out of regard for Senate procedure and the rights of every Senator, to ask the leadership to refrain from entering into unanimous-consent agreements for the time being.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. MANSFIELD. I should like to express the hope that the Senate can reach a better understanding of the use of the tabling motion, so that its meaning will be absolutely clear to all Senators concerned.

Mr. GORE. Mr. President, will the Senator yield further?

Mr. PROXMIRE. I yield.

Mr. GORE. I should like to inquire of the majority leader whether I have in any way misstated the understanding which he, I, the Senator from Florida [Mr. SMATHERS], and the Senator from Louisiana [Mr. LONG] had yesterday.

Mr. MANSFIELD. Insofar as I can recall, the Senator has stated the situation correctly.

Mr. President, I express the hope that, in view of the fact that we cannot have a unanimous-consent agreement on the amendment now before the Senate, the Senate will be able to come to a vote shortly, because of some especially diffi-

cult circumstances affecting certain Senators.

That does not mean that the Senate is not going to remain in session late. I know of no dinners tonight that Senators must attend. I hope we may proceed with the bill and with the amendments expeditiously.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield to the Senator from Louisiana.

Mr. LONG of Louisiana. Let me say, for the benefit of the Senator from Tennessee, that I regret exceedingly that there was a misunderstanding yesterday with regard to the amendment offered by the Senator from Tennessee. On an informal basis, the Senator from Tennessee stated that he wanted a vote on his amendment and that he was willing to limit time on it on any reasonable basis. That was agreed to. There was no written agreement. I regret to say that there was a misunderstanding in that there was no meeting of the minds.

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The Senator from Tennessee felt that there would be a direct vote on the amendment. The Senator from New Mexico, if he was on the floor at the time, did not understand that to be the case, and the Senator from New Mexico moved to table the amendment.

The standard unanimous-consent agreements that have been entered into in the Senate have been agreements merely to limit debate.

Such an agreement is actually a substitute for a motion to table. It is an agreement to limit debate so both sides may have equal time to be heard, at the conclusion of which time the Senate will vote on whatever the proposition may be. When the time has expired, Senators may do any one of many things. They may move to amend the amendment, to table the amendment, or to refer the whole matter back to the committee. All sorts of motions are in order when the time has expired on the proposal. That has always been so under the unanimous-consent agreements. They have been merely agreements to limit debate, and have not foreclosed Senators from other rights when the debate has been limited.

Some Senators would like to have it agreed that, in limiting debate on their amendments, there would be no motion to table their amendments. That is a new twist or a new problem we have not contended with before. Prior to this time, when any Senator wanted to make a motion to table—and it was usually the leadership or the Senator in charge of the bill—he waited until such time as he felt there had been adequate debate before making the motion.

We have seen times when we thought some Senator was treated unfairly. I recall a time when the then majority leader moved to table an amendment offered by the Senator from Oregon before he had had an opportunity to discuss or debate it. I thought that was an oppressive motion.

I regret what happened yesterday. I think the Record will show that yesterday the Senator from Tennessee felt he had an agreement that there would be a direct vote on the amendment, rather than a motion to table. If he thought there was such an agreement, so far as I am concerned, and so far as the leadership is concerned, we would like to have accommodated him. But there is no rule to foreclose a Senator from making a motion to table at any time he wishes to make such a motion.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. PROXMIRE. Mr. President, I have the floor. I yield to the majority leader.

Mr. MANSFIELD. Mr. President, to confirm what the distinguished Senator in charge of the bill has just said, he was the one who anticipated me in asking that the action on the motion to table be vacated. I was the one who made the suggesttion, but he was the one who made it first.

Mr. GORE. Mr. President, will the Senator yield?

Mr. PROXMIRE. Mr. President, I shall yield only once more, because the majority leader has urged me to get on with my statement on the amendment.

Mr. GORE. Mr. President, I am appreciative of the fact that not only the majority leader, but the Senator in charge of the bill and the Senator from Florida, attempted to have the action of the Senate rescinded, and to comply with what I, at least, understood to be the spirit of the agreement. So the Senator from Tennessee is not angry at anyone, but he feels there should be a clarification of this matter for the protection of the procedures of the Senate and the protection of Senators who enter agreements in good faith.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. PROXMIRE. For 10 seconds.

Mr. LONG of Louisiana. If the Senator from Tennessee still wants a direct vote on the amendment, I hope very much that the Senator from Tennessee will offer it, because if that is what he thought the understanding was, I would like to accommodate him.

Mr. PROXMIRE. Mr. President, I support the amendment offered by the Senator from Kentucky [Mr. MORTON] for two reasons. In the first place, in my judgment, the bill, if it is passed, will be inflationary. I think most economists agree, whether they support the bill or not, that there is danger it may be inflationary.

The tax bill should certainly not be approved unless the Federal retail sales taxes on a number of items which many people regard as essential is repealed. The proposal is to remove the tax, up to $100 on furs, also the tax on jewelry, cosmetics, and other articles.

I have visited many retail establishments in Wisconsin. Businessmen are having a hard time keeping their heads above water. In my judgment, it would be very helpful to them to remove these taxes, as proposed. It would mean their profits would be helped a little, and they could perhaps decrease retail prices a little, which would help the battle against inflation.

The second point I should like to make is that a large number of Americans are left out of the tax bill. Eighty percent of those over 65 years of age will get no benefit from the tax cut, because they do not have enough income to pay tax. The majority of American farmers are left out, because they do not have an adequate income to pay tax. As the Senator from Maryland pointed out, the unemployed are left out because they do not have an adequate income to pay tax.

However, those people buy inexpensive cosmetics, furs, clothing, and so forth. It will be at least a little help to them if the retail tax repealer passes.

Finally, the main objection to the amendment is that it would cost about $425 million. I intend to offer an amendment a little later today that would save, on the basis of Internal Revenue taxation estimates, some $725 million. The Senator from Illinois [Mr. DOUGLAS] will offer an amendment that would save $400 million. I think we can responsibly support this proposal without a significant net, overall loss to the Federal Treasury.

Mr. MORTON. I yield to the Senator from Wyoming [Mr. SIMPSON].

Mr. SIMPSON. Mr. President, out in the hinterlands, in the tall country in the wonderful State of Wyoming, equality of women was recognized before Wyoming became a State in 1890. Adoption of this amendment would represent a recognition of equality of women by taking the obnoxious tax off wearing apparel as has been done for men. I am sure they would be appreciative of it.

Mr. LONG OF Louisiana. I yield to the Senator from Ohio [Mr. LAUSCHE].

Mr. LAUSCHE. Mr. President, I do not contemplate supporting the amendment because I think in principle it is in conflict with the entire program which is sought to be adopted by the Congress.

When President Kennedy made his recommendation for a tax reduction, he confined it to the income tax.

The theory of the proposal was that excessive income taxes operated as a repressive influence upon the full exercise of corporate capacity and individual capacity to create. No mention was made in his proposal about cutting excise taxes. The bill as it has come before us deals with corporate and personal income taxes, and not excise taxes.

Experts who testified before the committee, and economists who testified before the committee and who have written articles for magazines, have repeatedly used Europe as an example of how to stimulate growth. They agree it should be done by reducing income taxes, but not reducing excise taxes. I cannot be too vigorous in pointing out that if we make a study of the methods with which revenues are collected by Western nations and those in the Western Hemisphere, especially Canada and the United States, we find that excise taxes are the sources through which revenues are collected. Income taxes, both for corporations and individuals, have been reduced.

In Austria they were reduced probably three or four times. On each occasion the theory was to take away the restraint that tells an individual to quit working because he has earned more than he can possibly save because of the tax imposed on him.

On Monday I introduced into the RECORD a tabulation of the taxes in European countries. Since a number of Senators are present, I would like to read what that tabulation shows. The United States is at the bottom of the totem pole in collecting excise taxes—83 percent of its revenues are derived through income taxes, and 17 percent through excise and other indirect taxes.

Canada collects 65 percent in income taxes and 35 percent in indirect and excise taxes; Japan, 64 percent in income taxes and 36 percent in excise taxes; the Netherlands, 64 percent in income taxes and 36 percent in excise taxes.

Coming to the Socialist countries, if I may call them that, an astounding aspect of the statistics is that Norway collects 60 percent of its revenues in excise taxes and 40 percent in income taxes. Denmark collects 54 percent in excise taxes and 46 percent in income taxes.

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I now get back to the United States. It collects 84 percent in income taxes and 16 percent in indirect and excise taxes.

What would this amendment lead to? It has already been said that hearings will be held to reduce our excise taxes. How far are we going to go? If we reduce taxes on jewelry and on the other items embraced in the amendment, where will we stop?

If calamity is portended by this unprecedented entry into a new field of Government finance, the theory being that the less we tax and the more we spend the better off we will be, where are we going to stop?

I would like to ask the chairman of the Committee on Finance whether there is any item in the bill dealing with excise taxes?

Mr. BYRD of Virginia. None whatsoever.

Mr. LAUSCHE. There is none whatsoever. Will the Senator tell us whether there is any design or purpose, so far as he knows, confined to the bill to income taxes, and whether it was accidental that excise taxes were omitted?

Mr. BYRD of Virginia. Amendments were offered in committee, and the excise tax amendment was finally defeated—by a small margin, it is true, but it was defeated. In the bill itself as it came to the committee there is no mention of excise taxes. As it came out of the committee there was no mention of them.

Mr. LAUSCHE. Does the chairman contemplate, in the Committee on Finance, taking up the subject of excise taxes as a separate item?

Mr. BYRD of Virginia. We will if and when a bill comes from the House. The chairman of the Ways and Means Committee of the House has made a public statement to the effect that he intends to start hearings on the whole program of excise taxes. When the bill comes from the House, if it does, the Senate Finance Committee will promptly meet and give consideration to whatever the House passes.

The Senator from Ohio knows that matters of this importance have always originated in the House.

Mr. LAUSCHE. I point out one aspect of this problem which I believe to be exceedingly important. In the bill now before the Senate we are blocked in trying to adopt what we think are acceptable proposals, because the framework has been finished, and it is not desirable to add to it. With respect to jewelry, is it not better to take up the whole field of excise taxes at one time so as to determine whether preferential treatment is being given to one item over another because it may fall outside the category of luxuries?

If we exempt jewelry today, it is out. If there are other items more meritorious than jewelry, will they be excluded because later we shall have to say that we cannot make any more cuts?

This is much more than a mere $40 million item. This goes to the whole structure of the problem. If it were only $40 million, no one would worry about it.

Mr. LONG of Louisiana. Four hundred and forty million dollars.

Mr. MANSFIELD. Four hundred and forty-five million dollars.

Mr. LAUSCHE. It is a good thing that I did not know that before I started, or I would have been higher up in the air than I am now. So it is $400 million.

Mr. MANSFIELD. Four hundred and forty-five million dollars.

Mr. BYRD of Virginia. Four hundred and forty-five million dollars.

Mr. LAUSCHE. What are we going to do later when other items are presented? I cannot see it. I close by saying that running through the discussion are ripples of the evidence of what lies ahead. Arguments are already being made about other items that will be put forward. It forebodes black days.

Mr. LONG OF Louisiana. Mr. President, I wish to address myself briefly to this subject. When the late President Kennedy proposed his tax cuts in his address to the Economic Club in New York, he said that everyone would have his own tax bill and his own ideas of how the taxes should be reduced. In some respects, we have seen that situation develop on the floor of the Senate. We have heard Senators say that they would vote for the bill, but would like to rewrite the entire bill more in keeping with the way they would like to have it passed.

In an election year, it would perhaps be asking too much that we might escape politics completely. I suppose the Democrats who expect to run for office hope to tell the public, "Yes; I voted for a responsible tax cut."

If this is to be a partisan issue at all—which I hope it will not be—perhaps it would not be bad politics for our Republican friends to offer their own tax cut bill and say, "Yes; we voted to cut individual income taxes."

But then it could be asked, "What did you do to remove the excise tax from ladies' handbags?" Or, "Yes, it is true that you voted to reduce corporate tax rates, but you ignored the excise tax on

low-cost jewelry. See what you failed to do."

In some States, it might not be bad politics for those who might want to differ with the wisdom of a tax cut to take the attitude, "While we did vote to reduce income taxes by $11.6 billion, we are responsible for maintaining $10 billion of excise taxes."

The Committee on Finance resisted all efforts to change the excise tax system. The Senator from Indiana [Mr. HARTKE] offered an attractive amendment designed to remove the excise tax from musical instruments for children who play in their high school bands when they themselves buy the instruments. If the band buys them, no excise tax is imposed now. But the amendment of the Senator from Indiana would have removed the tax, if the band could not afford to buy the instrument and the child bought his own horn.

Originally that amendment was defeated by a substantial voice vote. But subsequently an amendment was offered by the Senator from Arkansas [Mr. FULBRIGHT], recognizing the distress of the legitimate theater, to remove the excise tax imposed on it. As I recall, such removal would have resulted in a revenue loss of $5 million.

At that point the minority leader, one of the most distinguished members of the committee, proceeded to move to remove the tax from ladies' handbags. That motion carried. That opened the door to proposals to remove the excise tax on jewelry and everything else.

In a half hour, not only did those amendments carry, but the amendment that was originally defeated by a substantial voice vote, to take the tax off musical instruments—and I voted against it—was agreed to by a unanimous vote, because Senators did not want to be considered "meanies," who would not vote to remove taxes on musical instruments used in high school bands.

Everything else was cut then. In the half hour between 12 and 12:30, our committee had voted a $455 million reduction in excise taxes, not only at the consumer level, but also in the field of the manufacturers' tax, removing the tax on ball-point pens and other such items. The only reason why we did not repeal $10 billion of excise taxes was that we had to quit for lunch.

If we are going to enter into the field of excise taxes, and start taking them off one by one, we are going to set the stage to take them all off. If we start by taking off the tax on furs, how can we insist on maintaining the tax on light bulbs? After all, the lady will have to have some light in the house to find her furs. If we begin by removing the excise tax on jewelry, how can we insist on maintaining the tax on telephones for someone who cannot afford jewelry?

If it is proposed to remove the excise tax from other items sold by merchants, why is it proposed to maintain it on business machines used by business?

What about matches? Why not remove the excise tax on matches? If a man cannot afford a cigarette lighter, should he not have the benefit of the removal of the tax on matches? What about sporting goods and sporting equipment? What about fountain pens? What about firearms used by the man who takes his little boy out to teach him something about the great outdoors?

Every time we got into one excise tax subject, we got into another. We finally managed to get nine votes together, including those of Democratic Senators who had been successful in having amendments agreed to. The distinguished Senator from Arkansas [Mr. FULBRIGHT] was willing to agree to forgo his amendment if other Senators would forgo theirs. So we managed, by a vote of 9 to 8, to vote ourselves out of the trap that we had voted ourselves into.

Mr. MORTON. This was after lunch.

Mr. LONG of Louisiana. Yes.

Mr. MORTON. After lunch and some telephone calls, we undid what we did that morning.

Mr. LONG of Louisiana. I did everything I could to try to persuade the committee to return to a point of respon-

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sibility. After lunch, we managed to get out of the trap.

So far as I was concerned, I talked with those whom I could reach, including Treasury officials, recognizing that we would enter a bottomless pit once we got into it. However, we managed to get out of the trap.

Then the Senator from Kansas [Mr. CARLSON] proposed an amendment to exempt "camper coaches" and "slide-in cabins" from the automotive manufacturer's excise tax. He said it would not cost more than about $1 million. Some Senator asked, "What is the revenue-loss estimate?"

As I recall, the staff gave us an estimate that the cost to the Treasury would be $1 million.

I said, "No; the cost would be $5 billion, because if we vote to remove this tax, we shall have to vote to remove many others. The result would be a loss of $5 billion."

The House Committee on Ways and Means intends to study the entire subject, and will take action on it. We shall

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have an opportunity to vote later on the question of extending or removing excise taxes this year, when $1.9 billion are due to expire. We shall have to face this subject at that time.

The Senate now has to measure up to the issue as to whether we shall retain the excise taxes and try to maintain a balanced tax bill which seeks, eventually, to reach a balanced budget, although not in the first year or so, or whether we shall vote for a tax bill that will be irresponsible and that will end with a fantastic budget deficit to the extent that we might even have to recommit the bill and forget the whole thing.

Mr. FULBRIGHT. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. FULBRIGHT. In that connection, as the Senator has said, I offered in committee an amendment which would have repealed the excise tax on theater admissions. I appreciate the Senator's reference to the reason why I was willing to forgo the amendment. I was absent that morning, as was the Senator from New Mexico [Mr. ANDERSON]. When we heard about what had happened in committee, we returned and saw the wisdom of the Senator's position.

I offered the amendment in committee which would have repealed the excise tax on admissions to the living theater and certain musical concerts. The amendment was adopted on its merits, but, unfortunately, a few days later it became a victim of extraordinary circumstances—not related in any way to its merits—which resulted in repeal of all the excise tax amendments adopted earlier by the committee.

I sponsored this amendment in hopes that it might have the effect of pumping some life into the faltering legitimate theater. There is no great ground swell of support from my constituents for repealing the tax and the few of them who will ever benefit from its repeal will do so only in the form of lower priced tickets. But this action should be taken to preserve and promote the living theater for the Nation—not merely for Broadway.

I regret that I find myself in the position of having to vote against my own proposal because of the complications that would arise now if any excise tax amendment were included in this bill. But I hope that a legislative record that has been made will insure that this tax is one of those included in the first general excise tax repeal bill to pass the Congress.

Concern was expressed in some quarters that repeal of the tax would only result in increasing profits to producers and that the benefits would not be passed on to theatergoers. I was assured by many leading representatives of the theater industry that they intended to pass on the benefits of the tax repeal and that they would work to insure that this approach was followed generally throughout the industry.

I ask unanimous consent to have printed at this point in my remarks a statement by the National Association of the Legitimate Theatre and the League of New York Theatres, which discusses the plight of the theater industry and the reasons why repeal of the tax is so important.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF THE NATIONAL ASSOCIATION OF THE LEGITIMATE THEATER, INC. AND THE LEAGUE OF NEW YORK THEATERS, INC., SUPPORTING ELIMINATION OF THE FEDERAL TAX ON THEATER ADMISSION

The National Association of the Legitimate Theater, Inc. is a national association comprised of the country's leading theater producers and theater owners. The League of New York Theaters, Inc. is comprised of the leading theater producers and theater owners in New York.

It is a vital public concern to foster and stimulate cultural development throughout the Nation. Cultural development is essential because it gives breadth and richness to each of our lives. It is equally important to demonstrate to others the intellectual achievement possible in a free society. In the current struggle for the minds of men, keen observers have indicated that we will not win by material means alone. We must demonstrate that a free society can be a creative society as well.

A keystone in the cultural arch is the living theater. Indeed, it has been one of the areas of most significant cultural achievement in our country. It is a deep and important expression of our national life, of our aspirations, folkways and values. The 30-odd theaters in New York are the core of our theatrical world. Spread across the country and in virtually every one of the 50 States, there are more than 190 year-round theaters, in which live dramas, comedies, and musicals are presented. In addition, there are an even larger number of summer stock theaters, which likewise are located throughout the Nation.

The 50 to 75 new plays produced each season by the core of our theater in New York spread out across the country through openings in other cities and through subsequent tours. They provide the source material for our widespread summer theater operation and for the more than 75,000 non-professional groups spread over the United States.

We must assure the continued vitality, creativity, and variety of our contemporary contribution to culture through theatrical productions. These productions provide an important outlet for the imagination which abounds in our Nation. In our society, as it has been in every great society throughout

history, the health of the theater has been a measure of cultural quality. If it languishes, something is deeply wrong in the Nation's mind and spirit.

The theater in our country is the product of the free enterprise system and exists by that enterprise. It does not have, nor has it sought governmental assistance. In this sense, our theater is almost unique; this is a most important reason for assuring its continued vitality.

The theater industry in practically every other country of both the free world and the nonfree world is subsidized by government. Even England has resort to a partial subsidization of its theater. The subsidized theaters are used by these countries as an important part of their international programs to spread their culture abroad. We have seen numerous instances of the export by the Iron Curtain countries of theatrical groups of such high quality as the Bolshoi and Brecht companies, to convince others that the Communists are people devoted to cultural endeavor, and therefore are freedom loving people—a most dangerous error in logic.

We must meet these efforts with the best of our own. Our theater must continue to be one of our most effective and proudest displays of the cultural values which can he attained and maintained by a free enterprise system. It has been, and can continue to be, a most valuable conduit for the export of ideas.

The need for support of the theater has never been more critical than at present. The living theater has been on a continuous decline for the last 30 years. Over the last decade, the plight of the living theater has become extremely grave.

The theater is caught in a serious cost-price squeeze which could prove fatal unless some relief is found. Radically increased costs and staggering financial losses have brought about a steady diminution of productions. Already certain forms of dramatic entertainment, highly estimable as cultural products, are no longer financially feasible. In the past several years, there has been increasing difficulty in raising the venture capital necessary to continuation of our free enterprise system in presenting theatrical production. Indeed, this season, several plays have gone up to the point of rehearsal without sufficient capital even to permit initial opening, no less the ultimate opening on Broadway. The cultural weathervane has given us warnings which we cannot ignore.

A detailed statement of the desperate situation of the living theater is contained in the pamphlet entitled "Crisis in the Free World Theater" prepared by John F. Wharton, Esq., an eminent member of the New York Bar. This pamphlet was submitted to each Member of Congress in 1962 and forms the basis and background for my statement. A copy of that pamphlet is attached and made a part of this statement.

The theater has never sought, nor does it now seek, governmental support in terms of subsidy to alleviate the pressure and bring about the necessary revitalization. It merely seeks the cessation of governmental burdens, the most critical of which is the excise tax on theater admissions. Instead of supporting theatrical endeavors, the Government, through this unnecessary and discriminatory tax, has placed a backbreaking burden on an already declining and weakened industry.

There is no justification for the continued fettering of the living theater with this tax. It is both harmful and discriminatory. In the last season for which complete figures are available, 77 percent of the new plays produced failed to earn back the venture

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capital invested in them, the combined loss being about $5½ million. At the same time the Federal Government took, in admission taxes: $6 million—more than the total losses of the failures. Already this season, 15 of the 33 shows that have opened are now closed at considerable loss; of those still open many have yet to prove profitable.

Undoubtedly, this Federal excise tax on admissions is the most significant burden imposed by the Government on theatrical productions. Some slight relief was provided in 1954 when the Federal tax was lowered from 20 to 10 percent, but a 5-percent New York City tax was imposed almost immediately thereafter. Experience demonstrated the extremely burdensome nature of this tax and, as a result, it was removed by New York City in 1961. The burden of the higher Federal tax, however, continues.

No other form of cultural endeavor is subjected to this or any similar form of the Federal excise tax. There is no such tax on literature. And the tax normally does not even apply to the exhibition of motion pictures which, because of the nature of their production and exhibition, can be shown to audiences at a much lower admission price than the living theater and often below the $1 exemption from the Federal admission tax. Likewise, television does not suffer from this harsh and discriminatory tax.

An excise tax is always a burden. A booming industry, or even a healthy one, may be able to readily absorb the tax, but a financially declining industry cannot. The excise tax merely accentuates the decline and eventually may prove fatal. Moreover, the imposition of an excise tax on a cultural and educational medium would appear contrary to public policy.

When one contrasts the serious impact of the tax on the weakening theater enterprises with the revenue derived, it becomes even clearer that relief is fully justified. The 10-percent admissions tax yields from the living theater not more than the insignificant amount of 0.0007 percent of Federal revenues. In the fiscal year ending June 3, 1962, the total amount derived from the tax as imposed on the theater was $4½ million, an additional $1.4 million was obtained from admissions to band and other concerts. The need for the tax, thus, is highly dubious. It contributes an insignificant amount of revenue to the Federal Government, yet the burden on the theater of this inconsequential revenue-producing device is significant.

If the promises to aid cultural development and achievement are to be put into deeds, a matter of first priority is the removal of this burdensome, inequitable, and unnecessary excise tax on admissions to the

living theater. The theatrical industry is in urgent need of revitalization. Repeal of the 10-percent admission tax is one of the most effective immediate steps that can be taken to assist in the revival of theatrical endeavor on a sufficiently broad scale to ensure the full utilization of this vital and creative artistic outlet. While elimination of this tax is not a panacea, it would be a significant step forward.

The serious plight of the theater readily demonstrates the destructive consequences of the admissions tax. The following is a brief summary of the significant facts:

THE STATE OF THEATRICAL ENTERPRISE

That the theater is in a state of serious financial decline is clearly shown by the decline in the number of plays produced, a decline in the available theaters in which to exhibit the plays, a drop in attendance, and a continuous lowering of the profit per dollar invested. The last is, of course, of overwhelming importance in an area of endeavor so constantly dependent on new sources of venture capital.

PRODUCTION

The number of new theatrical productions has been continuously declining from the high in the 1927–1928 season of 264 plays to a low of 46 plays in the season ending the spring of 1961. Even during the 1930's the average number of new productions annually remained above 140. In the 1950's, the average was slightly under 60 new plays each year. In the decade of the 1960's, the average already is under 50 new productions a year and continues to decline.

A high level of new productions, of course, is essential to the dynamics of the theater. The vitality of the theater depends on the new crop of talent—playwrights, directors, actors, producers, composers, lyricists—that come forward each year. To obtain this talent, it is necessary that they have an opportunity to learn their trade. If they are to be tested and we are to be assured that the very best talent available reaches the top, everyone must be given an opportunity. Moreover, only by expanded production activity can the theater have the constant vitality, vigor, and incentive that raise the quality of its attractions and bring stabilization to its economy.

THEATERS

In 1931, there were 66 theaters available for major new productions in New York City. This number likewise has declined to less than half and is now just slightly over 30. The newest legitimate theater in New York was built in 1927. This 34 barren years as far as capital facilities is concerned is virtually unique in the American scene.

The decline in physical facilities has not been limited to New York City. The number of legitimate theaters elsewhere in the Nation has declined even more dramatically—from a high of 560 in 1921 to only 193 in 1960. This represents a decline of more than 65 percent over the 40-year period. Again, there are few, if any, new facilities, so that the decline is likely to continue.

ATTENDANCE

Accurate figures for attendance are difficult to obtain. The decline, however, is obvious from the decrease in the number of physical facilities of 55 to 65 percent and the decrease in the number of productions of more than 80 percent.

During the period of this substantial decline in the legitimate theater, the population of the United States increased 46 percent, the per capita disposable personal income (in dollars of constant purchasing power) rose more than 78 percent, and the increased efficiency of public and private transportation brought the theater centers into considerably easier reach.

PROFITS

The theater perhaps as much as any other area of endeavor has been caught in an increasingly serious cost-price squeeze. It suffers from a variety of weaknesses in this regard: (a) it must rely on personal services to a major extent and wage and salary rates are high; (b) it constantly requires new productions which have a relatively short period of productivity; (c) it has met more than average public resistance to increased prices for the product; and (d) it has limited outlets of distribution.

Every play involves the organization of a new enterprise—new sets are bought, new costumes are made, new props secured, often in a rush and hence at overtime rates. The rise in these costs have been tremendous. In the 1930's a musical comedy could be, and often was, produced for $75,000 to $100,000. Today, the costumes may cost more than that alone. A musical comedy is likely to cost somewhere in the range of a half a million dollars. Even in 1949, "South Pacific" was produced for $225,000; 10 years later, the production of "Camelot" cost $600,000.

The increase in cost of dramas is equally as great and even harder to obtain a return on investment, because of the normally shorter runs, lower average houses, and the lesser prospect of the sale of motion picture rights. It is this area of theatrical production that is suffering the most. In 1938, as an example, "Life With Father" was capitalized at $25,000. It is estimated that it earned over $60 for each $1 invested. Ten years later, the same producer presented a sequel by the same authors, "Life With Mother." This sequel was capitalized at $100,000 and would have required earnings of $6 million to provide the same return. More recently, the production costs of dramas has risen to the $100,000 to $150,000 range.

The increasing costs have cut the potential for profit drastically, and an investor today has no more than a 50-percent chance to recover his investment. As stated in the May 1960 article in Fortune magazine by Daniel Seligman, "for every $2 invested in shows, $1 comes back." As the author goes on to point out, this is not even as good as the racetrack where the return is $1.70 for the same $2 invested. To expect investors to continue to support theatrical productions with this rate of return is folly. It is true that most of the investors are in essence patrons of this partciular form of art. Their numbers, however, are sufficiently limited that they cannot be expected to continue to pour money into theatrical productions at the very high rate required with the current loss picture.

Thus, it is not surprising that venture capital for theatrical productions is becoming increasingly difficult to find, even with the continuing growth of our economy. It is not surprising that today a number of highly qualified productions move into rehearsal without sufficient capital to assure their opening on Broadway. The plight of the theater indeed is serious and becoming graver each year.

CONCLUSION

The plight of the theater is serious. The profit squeeze has reached the point that new investment may shortly become impossible to obtain, particularly since the investors come from a relatively small group and the size of the overall loss in the dollars invested is staggering. The price of tickets has risen so that the upper end of the demand curve has been reached. We do not ask for governmental support but we do say that the living theater will perish if it is not relieved of the present unfair tax burden. There must, therefore, either be some form of support or the living theater will perish.

The theater can be proud of the fact that, despite lack of help and encouragement from the Government, despite financial harassment, despite the imposition of discriminatory taxes, it has maintained, artistically, a vital dynamic theater. But vitality cannot survive financial disaster forever. The theater is on the brink of a cascade. However, it still does not seek subsidization nor special aid. It only asks that it be treated fairly and not be impeded by governmental control.

Elimination of the crippling admission tax would be a most effective immediate measure in moving toward the revitalization of the living theater. It would be a concrete demonstration of recognition of the importance which we place on cultural achievement. It is an essential step if the living theater is to be saved from its present distressingly rapid decline.

Mr. ALLOTT. Mr. President, I support the amendment offered by the Senator from Kentucky on behalf of the

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distinguished minority leader. I believe that at some time in the consideration of these matters we must consider removing from certain industries the burden which was placed on them under wartime conditions and under the belief that they were supposed to be luxury taxes.

The Senator from Kentucky has included in his amendment an exemption of $100 for jewelry and furs; or, if one wishes to state it in another way, the tax would not apply to jewelry and furs that cost under $100.

I heard a Senator say yesterday that he could not buy a watch for $100. I am surprised to know that, because I have worn one for 15 years on my wrist, and it cost two-thirds of that amount. I do not anticipate that I shall go over the $100 mark soon.

Certain industries have been hurt year after year by these retailers' excise taxes. I frankly confess, in behalf of my constituents in Colorado, that I am interested in the luggage industry, because the luggage industry in my State, while small, perhaps, in relation to the industry over the whole United States, is one of the largest industries in our State, and happens to be one of the largest units in the United States. Yet it has to cope unfairly, year after year, with the retail tax upon its sales.

If it can be said in this day and year, when people have to travel from one end of the country to the other constantly in the course of their business, that a tax should be imposed upon a piece of luggage because luggage is a luxury, we had better reevaluate our thinking. I cannot understand such distorted thinking.

I wish the distinguished Senator from Ohio had not stepped outside the Chamber. He based his argument a few moments ago upon the fact that the United States is at the bottom of the totem pole on excise taxes.

Perhaps he has not stopped to consider the fact that in Europe the base of the retail excise taxes is a much broader spectrum of commodities than is the case in the United States. If a broad spectrum were covered by the U.S. excise taxes, perhaps there would be justification for raising more revenue from taxes in the excise field.

However, when these taxes are applied at the retail level to a comparatively few commodities and businesses, as is the case in the United States, they are penalized and their growth is stopped. Heaven knows enough has already been done in this country to hinder the development of small businesses. Perhaps one of the things which has contributed most greatly to that development has been the so-called progressive income tax—which is supposed to be progressive and is supposed to have exactly the opposite of its actual effect. However, at every turn it gives an advantage to big business, rather than to small business.

It has been argued that the Senate must not adopt this amendment, for the reason that its adoption would involve not only an immediate tax loss of $443 million, but also, as a result of a chain reaction, a final tax loss of perhaps $10 or $11 billion.

On the other hand, Mr. President, I point out that the President has submitted a $97.9 billion cash budget for this year. I have studied it and I have also studied the obligational authority which would be required this year. According to my estimate, the actual amount of

money we shall obligate and spend during the coming year will exceed $103 billion.

Mr. President, if the Government continues deficit spending year after year and if Congress is to be so irresponsible as to cut the taxes for the next year to the extent of $11 billion, I maintain that the amount of tax relief which would be provided by this amendment can be given to small businesses all over the country, which sell luggage, small articles trimmed with fur, or jewelry. Those in the business of selling those commodities must sell them if their proprietors and employees are to make a living. However, at the present time those businesses must devote a considerable portion of their overhead costs to the bookkeeping work they do for the Government—for the Government, Mr. President, not for their own businesses.

Therefore, Mr. President, with these facts in mind, I believe the Senate should adopt this amendment.

I am sorry to disagree with the Senator from Louisiana. It has been said that hearings on the entire excise tax field will be held. However, we must distinguish between those taxes at the manufacturers' level and those at the retail level. By means of this amendment, we would begin to repeal those at the retail level, and thus decrease the burden which today is placed on small businesses. Perhaps such hearings will be held, and I am sure that the Senators who have stated they will be held have good intentions. I believe what they tell us. On the other hand, I know that no broad attack will be made upon the general excise tax field, because I am sure the statement they made was made for the purpose of drawing the fire from the support for this amendment.

Let us not delude ourselves: Either this amendment will be adopted today by the Senate, or else no reduction of the excise taxes in these fields will be made this year.

Mr. President, for these reasons, I sincerely hope that the Senate will vote to give this break to the small business people who have to collect these taxes and have to explain to the International Revenue Service the details in connection with their collection, and who have to bear the burden of these taxes. Certainly it is time that—finally—Congress give them this break.

The estimate of the immediate, direct cost of the pending amendment is $433 million; and it is also estimated that, in the long run, the final cost, as the result of the ensuing chain reaction, might be $10 or $11 billion. But, Mr. President, what would that $11 billion amount to, after all, in view of the very great deficit which now exists and which is constantly being increased?

If Senators really believe that the $11 billion cut contemplated as the result of enactment of the pending bill will really stimulate the Nation's economy until it is jiving down the road at 100 miles an hour, then let us make this small additional cut, and thus provide a little additional jive, and really make our economy travel.

Mr. HRUSKA. Mr. President, I speak in support of the amendment to eliminate certain excise taxes which were imposed originally as wartime taxes under emergency conditions.

At that time, everyone was willing to do his utmost to contribute to the need for increased taxes and to give maximum support to the Government's objectives during that emergency period. The need to continue these taxes has long ceased and no justification can be made for their continuance.

Today these taxes are applied on a discriminatory basis. Some industries have felt a considerable loss in sales and as a direct result over the years many workers in those industries were displaced.

To justify these taxes on the basis that the articles taxed are luxuries is simply not the fact. There is no basis for telling a woman that toilet articles and cosmetics are luxuries. Leather goods such as handbags, purses, and luggage are necessities in today's way of modern living. Jewelry sales, of course, cover many items, with the majority of sales falling into lower cost items, much of which is costume jewelry. To continue to exact these taxes under these circumstances is simply not justified.

Because of the high tax rates on these articles, many persons forego purchases and as a result, sales are lower.

We are told that the pending bill is a tax incentive bill designed to stimulate the Nation's economy. I can think of no greater way to provide the stimulus for purchases than to remove these taxes and permit the consumer's voice to be heard. I am certain that the response will be surprising to many.

Every time an effort is made to reduce any excise taxes, Treasury officials argue that we are undermining our tax structure and that great disaster will befall us because of the loss of revenue involved. Having received these dollars over many years, I believe Treasury officials consider these taxes to be permanent rather than temporary and their arguments are not persuasive to me.

One of the most neglected groups of businessmen in our Nation is the small businessman who in most cases represents a family enterprise. Usually, there are few outside employees and the burdens of running the business fall upon the owner and his immediate family. Recordkeeping is a constant chore and failure to comply will subject him to Federal penalties. We have too many burdens on business today which are of a Federal nature. Whenever we have an opportunity to release such onerous tasks, we should seek to accomplish it.

Mr. President, I can think of no better way to stimulate our economy than to eliminate these taxes. The revenue loss will be small in comparison to the benefits which will be derived by such action. This is one means by which we can achieve a higher level of prosperity and

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growth. This money will remain in the hands of the taxpayer and he will have an incentive to spend it. This amendment should be adopted.

Mr. President, I ask unanimous consent that several letters I have received on this subject be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

J. M. MCDONALD CO.,
OFFICE OF THE PRESIDENT,
Hastings, Nebr., January 30, 1964.

Hon. ROMAN HRUSKA,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR HRUSKA: I noticed that Senator EVERETT DIRKSEN has introduced an amendment, No. 380, to the tax reduction bill (H.R. 8363) which would have the effect of repealing the wartime excise taxes on such items as jewelry, furs, toilet preparations, and luggage.

I hope you will lend your important support toward the passage of this amendment. I hope that it will be included in the tax reduction bill and certainly with the support of men like yourself this is a possibility.

It seems to me that there has long been a great interest on the part of the general public, and certainly on the part of a very large portion of those in the retailing business to "have done" with these excise taxes which served a purpose during the war years but which were never considered as a continuing source of tax revenue.

It would seem to me, and I hope you would agree, that a tax reduction in the form of repeal of these wartime taxes would be in the general best interests of our country, as well as being in the specific interests of both business and consumers.

There are several reasons why this is so. Repeal of these excise taxes would:

1. Raise our standard of living by making possible, and actually encouraging, increased purchasing of goods now so taxed.

2. Create more jobs in both the manufacture and retailing of this presently taxed merchandise, due to an increase in sales and production of these items.

3. Because of the increased business resulting as above, there would be additional revenue provided through other forms of taxation—more than offsetting the loss of revenue from present excise taxes.

4. Develop increased production of items. presently carrying an excise tax which would, in turn, benefit all purchasers because of the lowered costs of such goods to customers.

The present excise taxes, which were at one time referred to as "luxury taxes" have long been a source of irritation to our customers. There is no present justification for their continuance, and I am certain you feel, as I do, that although we must certainly have taxes, they should be justifiable and with a logical reason for being.

It seems that I write you frequently soliciting your help or consideration in this area or that—and wonder how you find time to consider all the tremendous volume of correspondence you do receive. So I thank you Senator for considering this request—and for using your influence in this matter.

Sincerely yours,

C. E. BLAIR.

RETAIL MERCHANTS ASSOCIATION,
Lincoln, Nebr., January 29, 1964.

Hon. ROMAN L. HRUSKA,
U.S. Senate,
Washington, D.C.

SIR: At a special executive committee meeting of the Retail Merchants Association of Nebraska held in Columbus yesterday, a unanimous decision was reached regarding repealing of Federal excise taxes.

First, that the Dirksen amendment meets with our approval and we seek your support of it. Second, a telephone poll was taken and a unanimous positive response was voiced by 39 key retailers spread across the State of Nebraska. Third, that the Retail Merchants Assoication executive be directed to contact the Nebraska Senators in the name of Nebraska Retailers. Fourth, that retailers not bombard Senators with wires and telephone calls, but let the association speak for retailing generally.

We feel confident your thinking is in line with ours, and offer our support to you.

Very truly yours,

M. J. "BUB" GRAHAM,
Exective Vice President.

NORTH PLATTE, NEBR.,
January 29, 1964.

Hon. ROMAN HRUSKA,
Senate Office Building,
Washington, D.C.

DEAR SIR: I am wiring to you and asking you to support the Dirksen repeal amendment when it is presented for action on the Senate floor. This is tax bill H.R. 8363. This is very definitely an unfair and discriminatory tax. You cannot imagine the heavy burden this puts on a small business to collect and handle this tax. It costs us and other businesses hundreds of dollars each year. All this besides the fact that

most items taxed are not luxuries. Please do what you can in our behalf to correct this situation.

Yours truly,

NORMAL L. HOUSE,
House Platte, Nebr.

BURKE DRUG,
GRAND ISLAND, NEBR.,
January 30, 1964.

ROMAN HRUSKA,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: I understand that Senator DIRKSEN has proposed an amendment to the tax bill to repeal Federal excise tax. I certainly support this action myself and urge you to vote in favor of this amendment.

This is a tax that is applied against just a few people and not the population as a whole. Certainly it is one that causes the retailers across the United States many problems because it is a tax that is added at the time of purchase and the customer draws resentment from the tax; they are buying an 89-cent item and all of a sudden it turns into a 98-cent item because of the Federal excise tax. A few years back they finally got halfway sensible about this specific tax and removed the baby products from the list which were classified as luxury items. But certainly, the majority of items under the classification I would not classify as luxury items. For example, I would hate to see a woman without lipstick and her hair set into place with different types of hair spray. I don't think any of us would appreciate the woman in our life if they didn't attempt to make themselves beautiful, so I wouldn't consider beauty, in this particular case, a luxury. I would imagine that you could make your appointments on time fication cards in just a paper sack in your pocket, but I don't think that a billfold is a luxury item—it is a necessity to every man and woman that carries one. The watch on your arm; I don't know how you could make your appointments on time, without something to remind you of just what time it is. This is not a wartime situation any more; this tax was imposed originally as a base tax to be used in the necessity of war and it was imposed against so-called luxury items. The American public very readily accepted it as such in the time of necessity, but the same "of necessity" is over and I hope that with the Dirksen amendment, the Federal excise tax on so-called luxury items is over, too.

Sincerely yours,

WILLIAM A. BURKE.

YARGER JEWELRY,
West Point, Nebr., February 1, 1964.

DEAR SENATOR HRUSKA: We appeal to you to give your complete and wholehearted support to the bill to repeal the Federal retail excise tax on jewelry and to support Senator EVERETT M. DIRKSEN in every way possible when he brings this fight to the Senate floor.

We have been in the retail jewelry business here in West Point for the past 16 years and know better than most what the bill would mean to all customers and those in the retail jewelry business.

We feel that it is very unfair that we have to struggle to operate a business under this severe handicap when so many other businesses which sell items of merchandise just as luxurious (or more so) than ours do not have to collect the tax or spend the many hours every year keeping track of all of the extra bookwork.

We will appreciate all the support you can give this bill.

Sincerely,

Mr. and Mrs. LAMONT YARGER.

BRISTOL JEWELRY,
Burwell, Nebr., January 30, 1964.

Hon. ROMAN HRUSKA,
Washington, D.C.

DEAR SENATOR: I am asking your support to Senator DIRKSEN's repeal amendment—a measure to repeal the excise tax. I am a retail jeweler in Burwell, Nebr., and I have long contended that the excise tax is unfair because it is levied on just certain items, many of which we jewelers sell.

What was once a war measure, passed with the promise that it would be repealed as soon as the war was over, has become a permanent fixture; or so it seems, for it has been in effect for 20 years. The tax which was levied on so-called luxury items also covers a good many items which are necessities such as alarm clocks, billfolds, and even the plainest of wedding rings.

It is unfair to the consumer and unfair to the merchant that sells these items, for it tends to limit his sales and discriminate against a legitimate business. A lifting of this tax would promote business by encouraging the purchase of many items that people have held off buying as long as they could to avoid the tax. Such a measure would stimulate business and bolster the economy, which would be good for us all. Besides that it would put taxes on a more fair basis.

I am sure that other businessmen feel the same way about this measure and we will all appreciate your support of the tax repeal.

Yours truly,

W. W. BRISTOL.

Mr. GORE. Mr. President, I shall not detain the Senate for more than 5 minutes, for I know that Senators wish to proceed to vote on the pending amendment.

I rise in support of the amendment.

The Senator from Indiana said adoption of the amendment would open the floodgates; but a moment earlier he advocated enactment of the pending bill, because, so he said, the economy needs stimulation.

I am among those who believe the deficiencies in the economy, to the extent they exist, require specific treatment; but I am not among those who believe

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that under present circumstances the economy needs major general stimulation, particularly in view of all the economic indices, which now stand at all-time highs.

I would prefer to have this amendment offered as a substitute for some of the inequitable tax provisions included in the pending bill.

The pending amendment proposes that certain excise taxes be repealed. In my opinion, the Federal excise taxes can be repealed with more economic justification, more social justification and more general benefits than would result from enactment of the present provisions of the pending bill, which in my opinion constitute a major attack upon the progressive nature of the Federal income tax. The pending bill would make our tax law far less progressive, and in many respects would make it more regressive.

I know of no more regressive type of taxation than a Federal sales tax; and, Mr. President, in this instance we are speaking of the tax on articles which millions of the American people buy, but for whom the pending bill provides no tax relief whatever. A woman who buys a handbag for $5 may not receive any tax reduction at all by means of the bill as it now stands. Unless this amendment is enacted into law, there will be continued in the law a tax which will cost her 50 cents on that $5 handbag; or if she buys a $50 cloth winter coat with a fur collar, the value of the fur collar must be estimated and the excise tax on it must be paid. There are many working girls who have not yet achieved a level of income for which this bill would provide any tax relief. A young working girl might buy an economically priced dress of a particular color, and might want to buy some costume jewelry to wear with it; and if she does, she must pay the excise tax upon it. There are millions of the American people who will receive no tax reduction whatever by means of the reduction of the corporate income tax rate.

Mr. President, unless more Senators start to speak against regressive taxation, we shall be headed toward a massive Federal sales tax or manufacturers' excise tax. I think now is a good time to begin resisting such a course by repealing some of the excise taxes which now are imposed on the articles which the great mass of our people buy.

Therefore, I support the amendment.

Mr. CARLSON. Mr. President, I did not wish to let this debate close without expressing my views on repealing excise taxes.

For a number of years I have had the privilege of serving on committees dealing with taxes, in the House Ways and Means Committee for 8 or 10 years, and presently in the Senate Finance Committee. I believe it is generally agreed that excise taxes are regressive taxes. Repeal of such taxes would, in my opinion, do several things. I believe that would be more beneficial than many of the other items we might pass in the bill; and I do support the tax bill.

I become concerned when Senators who are defending the bill talk about $11.2 billion and then adding $400 million to the $11.2 billion because it would completely bankrupt the Nation's economy and destroy our Federal fiscal system. I believe that is going a little too far.

I believe there is some immediate effect on this question. One effect would be an immediate increase in consumer expenditures. I believe that is the purpose of the tax bill that we shall be voting for. It gets money out to the people immediately.

I favor repeal of retail excise taxes still imposed on sales of furs, luggage and handbags, cosmetics, jewelry, and silverware. Such repeal will further every objective of the proposed tax reduction program.

In addition, retail excise tax repeal contains several unique advantages; it would: First. Immediately increase consumer expenditures. The faster consumer spending is increased by tax reduction, the more rapidly the goal the President has set would be reached. Repeal of retail excise taxes would provide money for increased purchases, immediately on enactment of the bill.

Over $400 million is now collected annually in retail excise taxes—in the fiscal year, 1962, it was $415 million. This sum was all collected at the final point of sale. It is collected on daily purchases of products by consumers in every State of the Union. Obviously, it is presently reducing by 10 percent the money available for purchases of other goods. Equally obvious, when these taxes are repealed, that amount of money is immediately available for increased consumer spending.

Second. Maintain price stability. Little good can come from any tax relief of this kind unless prices to the consumer are actually reduced by the amount of the present tax. I assure you that competition within industries is so severe that repeal of the 10-percent excise tax will in fact be passed on to the consumer. The present, before tax, price level will be maintained. To the consumer, the repeal of retail excise taxes will mean a 10-percent reduction in cash outlay at the point of sale, providing that much more for immediate added purchases.

Third. Reduce retailer's cost of doing business. Collecting retail excise taxes is a very real and costly burden to retailers. A great deal of bookkeeping and

record-keeping is necessary. To the small retailer it is a nightmare, to the large retailer it is a headache of sizable proportions. The tax on each sale must be collected, recorded, audited, and eventually paid to the Government, whether it be 5 cents on a 50-cent purchase, or $50 on a $500 purchase. Unfortunately, there are thousands of 50-cent sales for every $500 sale and obviously, as the unit of sale decreases, the cost of collection increases. The cost of collection is a tax-deductible business expense by every retailer involved, which in the aggregate can substantially affect corporate tax revenues.

Fourth. Beneficial to industries and to the economy. I sincerely believe that repeal of retail excise taxes will be of direct benefit to the whole U.S. economy for it will free immediately and daily, a substantial sum for the purchase of any product of the consumer's preference. However, the importance to industry cannot be overemphasized. Repeal will, for the first time since pre-World War II, place its products on an equal base with other products now competing for consumer preference, and will remove the Government from the untenable position of influencing consumer selection of the types of goods and services for which he wishes to spend his money.

It is conservatively estimated that if retail excise taxes are repealed, the annual sales of these products should increase by 10 to 15 percent from present levels. This can only result in more jobs, larger payrolls and increasing benefit to the whole economy. The results of excise tax repeal claim priority over this form of stimulus to the economy fully as urgent and fully as deserving as other forms of reduction being considered.

Retail excise taxes were originally imposed in 1941 in the amount of 10 percent of the retail price on the sale of furs, luggage, cosmetics, and jewelry. In 1943, as the war progressed, these taxes were raised to 20 percent. In 1954, Congress reduced the rate to 10 percent, where it remains today.

I submit, aside from the beneficial effects of the reduction of individual and corporate taxes, and the reversing of corporate normal and surtax rates, that the repeal of retail excise taxes at the Federal level will accomplish additional and most needed results:

First. Retail excise tax repeal will furnish the quickest flow of additional spendable income into the economy of all the various forms of tax reduction proposed.

Second. Excise tax repeal will pass the savings on to the consumer because of strong competitive forces within affected industries.

Third. Excise tax repeal will relieve the tax collectors and retailers of an oppressive and costly administrative burden, thus offering both added incentive and the prospect of compensating tax revenue.

Fourth. The products affected by excise taxes will be in a position to compete with other nontaxed products on an equal basis.

Fifth. Unlike income tax reduction, excise repeal will have none of its effects dampened by increased State income taxes.

Sixth. The affected industries cannot fully discharge their responsibilities toward furthering America's economic growth, burdened as they are by the discriminatory, wartime-imposed levy, which had, as was one of its original purposes, the depression of business in the affected industries.

I sincerely hope the amendment offered by the Senator from Kentucky will be approved. I believe it is in the interest of the Nation's economy. It is in the interest of the taxpayers, and in the interest of the consumer.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, offered by the Senator from Kentucky [Mr. MORTON].

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On this question the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

The rollcall was concluded.

Mr. MANSFIELD (after having voted in the negative). I have a pair with the distinguished minority leader, the Senator from Illinois [Mr. DIRKSEN]. If he were present and voting, he would vote "yea"; if I were at liberty to vote I would vote "nay." Therefore I withdraw my vote.

Mr. HUMPHREY. I announce that the Senator from Indiana [Mr. BAYH], the Senator from Nevada [Mr. CANNON], the Senator from Pennsylvania [Mr. CLARK], and the Senator from Arizona [Mr. HAYDEN] are absent on official business.

On this vote, the Senator from Arizona [Mr. GOLDWATER] is paired with the Senator from Nevada [Mr. CANNON].

If present and voting, the Senator from Arizona would vote "yea" and the Senator from Nevada would vote "nay."

I further announce that, if present and voting, the Senator from Indiana [Mr. BAYH] and the Senator from Ari-

zona [Mr. HAYDEN] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Illinois [Mr. DIRKSEN] and the Senator from Arizona [Mr. GOLDWATER] are necessarily absent.

The pair of the Senator from Illinois [Mr. DIRKSEN] has been previously announced.

On this vote, the Senator from Arizona [Mr. GOLDWATER] is paired with the Senator from Nevada [Mr. CANNON]. If present and voting, the Senator from Arizona would vote "yea" and the Senator from Nevada would vote "nay."

The result was announced—yeas 45, nays 48, as follows:

[No. 22 Leg.]

YEAS—45

Aiken	Gruening	Pastore
Allott	Hickenlooper	Pearson
Beall	Hruska	Pell
Bennett	Jackson	Prouty
Boggs	Javits	Proxmire
Carlson	Jordan, Idaho	Ribicoff
Case	Keating	Saltonstall
Cooper	Kennedy	Scott
Cotton	Kuchel	Simpson
Curtis	McGovern	Smith
Dodd	Mechem	Symington
Dominick	Miller	Tower
Douglas	Morse	Williams, Del.
Fong	Morton	Young, N. Dak.
Gore	Mundt	Young, Ohio

NAYS—48

Anderson	Hill	Monroney
Bartlett	Holland	Moss
Bible	Humphrey	Muskie
Brewster	Inouye	Nelson
Burdick	Johnston	Neuberger
Byrd, Va.	Jordan, N.C.	Randolph
Byrd, W. Va.	Lausche	Robertson
Church	Long, Mo.	Russell
Eastland	Long, La.	Smathers
Edmondson	Magnuson	Sparkman
Ellender	McCarthy	Stennis
Engle	McClellan	Talmadge
Ervin	McGee	Thurmond
Fulbright	McIntyre	Walters
Hart	McNamara	Williams, N.J.
Hartke	Metcalf	Yarborough

NOT VOTING—7

Bayh	Dirksen	Hayden
Cannon	Goldwater	Mansfield
Clark		

So Mr. MORTON's amendment, as modified, was rejected.

Mr. LONG of Louisiana. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, I call up my amendment, No. 387.

The PRESIDING OFFICER. The amendment offered by the Senator from Wisconsin will be stated.

The LEGISLATIVE CLERK. An amendment (No. 387) on page 38, beginning with line 7, to strike out all through line 9, on page 39, as follows:

(e) TREATMENT OF INVESTMENT CREDIT BY FEDERAL REGULATORY AGENCIES.—It was the intent of the Congress in providing an investment credit under section 38 of the Internal Revenue Code of 1954, and it is the intent of the Congress in repealing the reduction in basis required by section 48(g) of such Code, to provide an incentive for modernization and growth of private industry (including that portion thereof which is regulated). Accordingly, Congress does not intend that any agency or instrumentality of the United States having jurisdiction with respect to a taxpayer shall, without the consent of the taxpayer, use—

(1) in the case of public utility property (as defined in section 46(c)(3)(B) of the Internal Revenue Code of 1954), more than a proportionate part (determined with reference to the average useful life of the property with respect to which the credit was allowed) of the credit against tax allowed for any taxable year by section 38 of such Code, or

(2) in the case of any other property, any credit against tax allowed by section 38 of such Code,

to reduce such taxpayer's Federal income taxes for the purpose of establishing the cost of service of the taxpayer or to accomplish a similar result by any other method.

Mr. PROXMIRE. Mr. President, I hope Senators will be able to hear the debate on this amendment. It is very important. There has been placed on the desk of each Senator a brief argument in favor of the amendment, which I hope Senators will peruse.

Mr. President, the bill as now drafted, as submitted by the committee, provides that the investment credit for utilities will not be passed through to consumers. Regulatory bodies will by law not be allowed to recognize the increase in after-tax income which the investment credit provides. They cannot adjust the fair rate of return on this basis and thereby reduce rates.

Two kinds of utilities are affected by this provision: first, transportation utilities; and, second, other public utilities.

Under present law, transportation utilities now enjoy a full 7-percent investment credit. The committee bill as now drafted changes present law to provide that a regulatory body will not be permitted to recognize any of this benefit in setting rates. The law also provides a 3-percent investment credit for those utilities which are not transportation utilities.

The bill as reported by the committee provides that a regulatory body can only recognize the benefit of the investment credit for the nontransportation utilities in setting rates over the life of the asset.

I think I can demonstrate a little later that both these provisions in the bill as reported by the committee represent a windfall gain for stockholders of public utilities, and a very substantial loss for consumers.

My amendment would eliminate the most directly inflationary section of the bill. If the amendment is defeated, estimates by Prof. Robert Eisner, of Northwestern University—a noted and very competent and careful authority—indicate that the bill will cost the general public as utility customers $630 million in 1964, and more than $1 billion a year by 1972, on the basis of estimating a growth rate of 8 percent a year, which is the growth rate which has taken place for the last 20 or 30 years.

This loss to consumers is more than twice the investment credit benefit for utilities. It works out this way because with a 50-percent corporation income tax, the regulatory body can reduce rates by more than twice the investment credit, and maintain the fair rate of return to the utility at the same level or without the investment credit.

In this calculation the assumption is made that State regulatory bodies will do what has been done in the past, which is to follow Federal regulatory practice. Some State regulatory agencies—including the one in my State—are against the treatment in the bill; but there is great pressure to follow what the Federal Government, through the Federal Power Commission, has done by practice, and what Congress has established as a precedent. It is the logical assumption that this would be the result.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. MAGNUSON. I am quite concerned about this section of the bill. I have some mixed feelings and conclusions about it, because, after all, this is a bill to give tax relief to business and individual income tax payers.

Mr. PROXMIRE. As the Senator remembers, Congress passed that bill in 1962, and at that time we discussed whether or not a passthrough should be permitted.

Mr. MAGNUSON. I remember.

Mr. PROXMIRE. There was a conflict in the testimony.

Mr. MAGNUSON. I remember that. I believe the distinguished late Senator from Oklahoma, Mr. Kerr, agreed at one time that it should be passed through.

Mr. PROXMIRE. Yes.

Mr. MAGNUSON. The conferees went to conference; and when they returned they had not agreed on the passthrough, and gave good, justifiable reasons on both sides of the question.

Does the Senator interpret the section as it now reads to be mandatory on a State agency?

Mr. PROXMIRE. I do not so interpret it. It is not mandatory on a State agency. It is mandatory on the Federal agencies. However, it is my contention that a State agency will follow the Federal agency under many circumstances, and eventually probably under all circumstances in all States.

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Mr. MAGNUSON. One other feature has bothered me. There is a great deal of merit on one side of this question. Many potential customers want to be served by a gasline or a pipeline. There are not too many hydro lines involved any more, because they have been spread out pretty well. However, I refer to gaslines and other means of transportation. Whether it be a pipeline, an airline, a bargeline, or whatever, it may want to make a capital investment in order to serve many people who now are not served.

Does the Senator interpret that to be one of the objectives of the provision?

Mr. PROXMIRE. No. In the judgment of the Senator from Wisconsin, there is no question whatsoever that if a utility wishes to serve additional customers, it will be in a position to make an investment in equipment to permit it to do so and take advantage of the investment credit; and the regulatory body will permit the utility to raise its rates to a level necessary to permit it to finance the equipment which is necessary. That has always been done.

Mr. MAGNUSON. Let us assume the situation of a gasline in my part of the country. This is a competitive industry.

Mr. PROXMIRE. In the 3 percent range, the Senator is correct. It is correct when it has reference to transportation utilities.

Mr. MAGNUSON. So we are not talking about monopolies. A company goes before the State regulatory body in Idaho, or Washington, or Oregon, with an application to make a capital investment to serve a new area. It is invariably accompanied by a proposal to raise the rates because of the capital investment to be made.

One argument has been proposed on the other side of this question, also, and the Senator from Louisiana can point this out, I am sure; namely, that they would have no standing if this pro-

vision were in the bill, and they had made a capital investment to serve new areas, when they came before the State agency and asked for increased rates. The net result would be to stimulate more capital investment and to keep the rates at the same level, or to lower the rates, if they had a figure to support a greater revenue. I know that I am speaking as a lawyer, on both sides, but that is what is bothering me about the provision in the bill. Does the Senator from Wisconsin consider that there might be that possible effect?

Mr. PROXMIRE. There is no question, the way the bill is drafted, as it comes from the committee, first, that any utility that needs to raise money in order to expand its facilities to serve additional customers is in a position to do so; and if the committee bill remains as it is, they will be in as just a strong position to ask for an increase in rates for this purpose as they are at the present time. They might even be in a stronger position.

Mr. MAGNUSON. The utility commission would take into consideration the fact that they have had a tax credit and therefore the justification for a raise in rates would be rather temporized.

Mr. PROXMIRE. That is true under the present law and under my amendment, but it is not true if the bill stands as it is.

Mr. MAGNUSON. I cannot agree, if the bill stands as it is, that a State utility regulating body would not, under any circumstances, take that into consideration.

Mr. PROXMIRE. I say to the Senator from Washington that this is the entire issue. Under the bill as it is presently drafted and reported by the committee, a Federal regulatory agency cannot, but a State agency may. The State agency will often follow the Federal practice. There will be tremendous pressure for it to do so.

Mr. MAGNUSON. I know that our commission feels very strongly on the subject.

Mr. PROXMIRE. So does ours in Wisconsin.

Mr. MAGNUSON. Wisconsin has probably the most independent regulatory body of any State in the Union. It has pioneered in this field.

Mr. PROXMIRE. We are very proud of that fact. Our regulatory body has strongly protested this provision in the bill. It has indicated that the pressure is to follow the Federal practice, and that pressure will be built up and will become stronger, even though the Commission disagrees.

Mr. MAGNUSON. I am directing my discussion primarily to the hydro side of this subject. I am not too knowledgeable about the figure, but when the tax credit reaches a certain figure—I believe it is 3 percent, or something like that—regardless of what any law provides, any profit from such tax credit must be passed on.

Mr. PROXMIRE. What it provides for the electric utilities is that a regulatory body will not consider the investment credit in full in the year in which the investment credit is earned. It will have to be spread. Let me explain that. Let us take, for example, a utility firm which invests, say, $10 million in 1 year. The investment credit then is $300,000. Under present law, in accordance with the amendment, the regulatory body would have to take that $300,000 increase in after-tax income into consideration. Does the Senator follow me?

Mr. MAGNUSON. Yes.

Mr. PROXMIRE. Under the bill reported by the committee, if the equipment were depreciated over a 20-year period, the regulatory body would be able to take only the $15,000 reduction into consideration in establishing rates. In the case of A. T. & T., this would amount to $22 million each year, and the loss to the people who use the telephone service would be $22 million from this one utility. This is true because of the fact that, first, the amount is spread over a period of years, and we would never catch up; second, the equipment investment is growing each year as the Nation grows and as the need for the services grows.

Mr. MAGNUSON. I understand that. It seems to me that if we are to give a tax benefit to a corporation—and I do not care which corporation it is—it is useless to say, "We will give you a tax benefit, but you cannot have it; you must pass it on." We might as well let things stand the way they are.

Mr. PROXMIRE. I believe I have an answer for that point. The utility industry is divided on that issue. However, there are important, knowledgeable, and experienced people in the industry, including the head of A. T. & T., and Mr. Donald Cook, president of the American Electric Power Co., who say that the real benefit to the utility will be through passing the credit on. If it is passed on, the people will need more service and more equipment. As a result, the utility will make a bigger investment in equipment than if it were not passed on. It would be foolish for the stockholders to buy equipment merely

because they took advantage of the investment credit, if they could not use it. While they might gain a little by taking advantage of the investment credit, they would lose by buying an asset they could not use.

Mr. MAGNUSON. Some of the credit would ultimately be passed on, regardless of what is in the bill.

Mr. PROXMIRE. No. I believe that ultimately some of it will be passed on for the 3 percent; none of it for the 7 percent.

Mr. MAGNUSON. The officials of the regulatory body of my State say they will compel the utilities to pass it on.

Mr. PROXMIRE. That is the State regulatory body; but the State regulatory body does not have jurisdiction over the long lines of A. T. & T., for example.

Mr. MAGNUSON. I am concerned more about the hydro part and about the pipelines.

Mr. PROXMIRE. In the case of a utility that covers many States, the FPC would have jurisdiction. In such a case it could not be passed on.

Mr. MAGNUSON. I am in somewhat of a dilemma. I believe other Senators will find themselves in it also. The last vote proved it. I do not suppose there is any greater advocate of the repeal of excise taxes than I. I go on the theory that we get more money in the Treasury by repealing nuisance taxes than we do by collecting them.

We have repealed the transportation tax and the theater tax. If it had not been for the fact that excise taxes will be considered between now and June, and that we shall have a complete look at the subject, I would have gone along with the other amendment. I did not think it was fair to have only one segment taken care of.

This provision might affect the private utility which is in competition with a public power body. It would apply as an incentive, I hope, to the whole field of transportation. If there is any segment of the American economy that needs that kind of incentive, it is transportation, because it is the most sensitive part of our American economy. Most people do not realize it, but it represents one-fourth of our gross national product.

Mr. PROXMIRE. The Senator is correct. The policy of the transportation

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industry, as established by the ICC—that is the prime regulating body—is to pass the credit through. There is some ambiguity, but the latest official statement of the Commission is that the investment credit should be recognized for what it is—an opportunity for a utility to reduce its taxes—and that therefore it should be considered as an element of income, and should be passed on.

This would benefit not only the consumer, but also the utility and the country. It would persuade the utility to buy more equipment, because the equipment would be bought for only one reason, that is, to provide more service.

Mr. MAGNUSON. If there is a bigger gross income, the rates, in some cases, ought to be lowered. I have heard that this action might put to rest a large number of applications—for small amounts, it is true—for increased rates, if the bill can be passed, because the reason for the applications is the difficulty some utilities have in raising money to provide improved service. I do not know how true that is.

Mr. PROXMIRE. The applications have been made on the assumption that the law will be changed. My proposal would keep the law as it is at present.

Mr. MAGNUSON. I am glad the Senator offered the amendment. I think the subject should be clarified. Much can be said on both sides of the question. But if this provision were to apply to a monopoly in hydroelectric power, I would go even further than does the Senator from Wisconsin. But the question is not so simple.

I have found over the years that competition in the field of energy, whether it be gas, oil, or hydro, is becoming quite keen throughout the country. There is very little monopoly anywhere any more. There may be in some isolated areas. When the utilities are stimulated to provide better service and expand their service to the consumer, the result might be that rates could be kept as they are or lowered, and the consumer would receive better service because of the fierce competition involved.

Mr. PROXMIRE. The investment credit in competitive industry will be passed on because of the forces of competition. The regulatory agencies should perform the same function for utilities.

Mr. MAGNUSON. Sooner or later.

Mr. PROXMIRE. Sooner or later. But where there is a monopoly, or a utility has a monopoly, and a provision exists in the law that a regulatory body cannot pass the benefit on unless the utility consents, there will be a situation in which the benefit will not be passed on, and the consumer will not get the benefit. The whole purpose of Congress in passing the investment credit was to expand the economy, through investment

in needed equipment. The committee version will frustrate this purpose.

Mr. MAGNUSON. Out in my part of the country, some 25 years ago hydroelectric power was somewhat of a monopoly. It was produced at the lowest cost. It was new; it was fine; people liked it. But over the years, even though we have low-cost hydropower in our area, as the Senator from Idaho [Mr. CHURCH] knows, competition from gas, oil, and other means is becoming stronger and stronger. I do not know what effect nuclear power will have on hydropower, in the long run. It is not noncompetitive any more, as it used to be.

Surely the point of the Senator from Wisconsin is well taken, as it relates to the nature of a monopoly. I agree with him on that point. But the amendment covers a broad field.

Mr. PROXMIRE. Where there is no monopoly, I argue that competitive forces will result in a substantial pass-through.

Mr. MAGNUSON. I thank the Senator from Wisconsin. I did not mean to take so much time.

Mr. PROXMIRE. The Senator from Washington has been very helpful.

Mr. President, before I yield to the Senator from Vermont—and I shall yield to him in a moment—I ask unanimous consent to have printed at this point in the RECORD a table that explains why it will be possible, if the investment credit is maintained in its present form, and as it will be if my amendment is agreed to, to reduce rates by twice the value of the investment credit.

I also ask unanimous consent to have printed at this point in the RECORD a table compiled by Professor Eisner, which shows $630 million of benefits to the consumer, under my amendment, rising by 1997 to $6.348 billion in the lower rates, assuming the estimates he makes are realistic.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE I

	No investment credit	Investment credit (without flow-through	Investment credit (with flow-through
Net income before taxes	200	200	186
Taxes	100	100	93
Investment credit	0	7	7
Net income after taxes	100	107	100

TABLE II.—*Potential costs to consumers of regulatory provision regarding investment credit (sec. 202(e)) in H.R. 8363,*[1] *if rate of growth of investment per annum is 8 percent*

[In millions of dollars]

Year	Annual	Cumulative
1964	630	630
1965	653	1,283
1966	693	1,976
1967	735	2,711
1968	783	3,494
1969	834	4,328
1970	889	5,217
1971	950	6,167
1972	1,016	7,183
1973	1,088	8,271
1974	1,164	9,435
1975	1,248	10,683
1976	1,340	12,023
1977	1,438	13,461
1978	1,545	15,006
1979	1,661	16,667
1980	1,785	18,452
1981	1,921	20,373
1982	2,067	22,440
1983	2,224	24,664
1984	2,394	27,058
1985	2,578	29,636
1986	2,776	32,412
1987	2,991	35,403
1988	3,223	38,626
1989	3,473	42,099
1990	3,743	45,842
1991	4,035	49,877
1992	4,350	54,227
1993	4,691	58,918
1994	5,058	63,976
1995	5,455	69,431
1966	5,884	75,315
1997	6,348	81,613

[1] Note following major assumptions underlying calculations:

1. Effective total corporate profits tax rate will be reduced to 50 percent in 1964 and 48 percent thereafter.

2. Costs to consumers in all regulated industries will be adjusted to give "fair rate of return" after taxes.

3. Investment tax credit in 1962 in regulated industries equaled $279,000,000, which was the sum estimated in the "Survey of Current Business," July 1963, p. 4, for corporations in transportation, public utilities, and communication.

4. Half of investment credits are assumed to relate initially to "public utility property" on which a partial current flowthrough is permissible (subpar. (1)). This flowthrough is estimated at 3 percent per year.

5. The requirement in existing law for reduction in depreciation basis (the Long amendment) is not removed. If this requirement is eliminated the actual costs to consumers would rise by about $30,000,000 per year by 1974 in the case of 4-percent growth and rise gradually thereafter. In the case of 8-percent growth, repeal of the Long amendment would increase the cost to consumers of the regulatory provision by some $40,000,000 per year by 1974 and reach an amount of increase equal to $200,000,000 per year by 1997.

Mr. PROXMIRE. Mr. President, I now yield to the Senator from Vermont.

Mr. AIKEN. Mr. President, I desire to ask the Senator from Wisconsin a few questions. Before doing so, I should like to refer briefly to the colloquy which took place between the Senator from Wisconsin and the Senator from Washington, during which the Senator from Washington referred to the fierce competition that exists among utility companies today.

Has the Senator from Wisconsin observed, as I have, that today, apparently, a fiercer effort is being made on the part of the utilities to eliminate competition than during the past 25 years?

Mr. PROXMIRE. The Senator from Vermont is correct. There is no doubt that in many areas utilities having monopolies will not be challenged. It is true, to some extent, of gas and oil pipelines. In my State, one firm, until recently, supplied about 95 percent of the natural gas. That is a monopoly.

Mr. AIKEN. The adoption of this provision of the tax bill would not lessen the efforts of utilities to eliminate competition.

Mr. PROXMIRE. The Senator is absolutely correct.

Mr. AIKEN. Does the Senator know whether the President approves the provision of the bill as reported by the Committee on Finance?

Mr. PROXMIRE. It is my understanding that the administration has not taken a position for or against. The Senator from Oregon [Mr. MORSE] yesterday supported the amendment vigorously and said he had been attempting to obtain a statement from the administration; but there has been no commitment from the administration either way.

Mr. AIKEN. Next, I refer to the President's message on consumer interests

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that was sent to Congress today. I refer to the statement on page 3, item No. 4:

> Federal Power Commission orders on gas rates have channeled millions of dollars of refunds of past overcharges to American families who use gas for cooking and heating.

Does the Senator from Wisconsin contend that this provision of the bill, which he is seeking to eliminate, would affect the power of the Federal Power Commission to order refunds of past overcharges to American families?

Mr. PROXMIRE. The Senator is absolutely correct.

Mr. AIKEN. I asked the Senator a question. I do not know what the correct answer may be.

Mr. PROXMIRE. The Senator's question should be answered in the affirmative. The provision in the bill would interfere with the power of the Federal Power Commission to reduce rates.

Mr. AIKEN. If the President decided to favor the provision of the bill as reported by the Committee on Finance, it would be quite inconsistent with this statement in his consumer message to Congress, would it not?

Mr. PROXMIRE. Yes. It is very helpful to have the Senator from Vermont bring up this excellent consumer message of President Johnson's. It is one of his finest messages. It is one of the few times a President has addressed himself to the entire problem of consumer interest. It seems to me that my amendment fits in with the spirit of the President's message. It means that the consumer will have an opportunity to benefit from this tax credit.

The important thing is that it is the most effective way to develop an increase in the purchases of equipment by the utilities industries, through the transportation and electric utilities. Demand will be increased. There is no realistic basis for increasing rates.

Mr. AIKEN. I thank the Senator from Wisconsin.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator from Wisconsin yield?

Mr. PROXMIRE. I yield to the Senator from Delaware.

Mr. WILLIAMS of Delaware. I intend to support the amendment offered by the Senator from Wisconsin. I have a similar amendment at the desk; however, I will withhold it and join in support of the amendment of the Senator from Wisconsin.

Mr. PROXMIRE. The Senator from Delaware spoke to me about the amendment. I deeply appreciate that. It was a most cooperative and helpful gesture. He is a member of the Committee on Finance. I am moving into his territory. He told me he intended to offer an amendment, but I happened to have submitted mine a few hours before he had his ready. He graciously deferred to me, and I appreciate his kindness.

Mr. WILLIAMS of Delaware. I shall support the Senator's amendment. To keep the record straight, I think it should be made clear that the administration supported the language in the bill as it was presented to the Committee on Finance. I regret to have to say that. But I believe it should be clear so that there will be no misunderstanding when Senators vote.

Personally, I disagreed with their reasoning. I took the position that the section should be stricken because, in fairness to all taxpayers and particularly from the standpoint of consumers, I cannot understand why anyone would

support such a provision. If the section is allowed to remain in the bill it will specifically provide that the regulatory agencies cannot under any circumstances pass through any of the benefits of the investment credit to the consumers. That is spelled out in clear language. I cannot understand that reasoning, particularly in light of the President's message in which he said he wanted to do something for the consumers.

Mr. PROXMIRE. It is my understanding that while the administration initially took that position, its present position is one of not taking sides either way on this particular amendment. It is true that initially the administration supported this provision in the bill; but the Senator from Oregon [Mr. MORSE] and others have tried to learn the present position of the administration, but the administration will not disclose it. The Senator from Delaware is correct; the administration will not disclose its present position.

Mr. WILLIAMS of Delaware. The administration may be trying to back away and not take a position at this time. But when the proposal was first presented to the committee the administration endorsed it as a part of the program, and there is nothing in the record to show any official change in its position. That point should be made clear as Senators vote. I hope the Senate will vote that provision out of the bill.

The language in the bill which the pending amendment proposes to strike, is definitely an anticonsumer proposal.

Why would the administration or anyone else be so determined that under no circumstances can the American consumer get some of the benefits under this tax-reduction proposal?

When the Congress passed the investment credit in 1962 it specifically provided that the regulatory agencies were free to pass these benefits on to the consumer.

The language in the pending bill, however, changes that and provides that unless the corporate taxpayer agrees, the regulatory agency cannot establish rates wherein any of this tax reduction can be passed on to the consumer.

That was not the intention of the Congress in 1962 when the investment credit proposal was first adopted and I hope the Congress will repudiate the rights of the consumer here today.

The Proxmire amendment striking this section from the pending bill should be adopted.

Mr. PROXMIRE. I thank the distinguished Senator from Delaware, the ranking minority member of the Finance Committee, and an outstanding expert on taxes. Certainly all of us recognize that he lets the chips fall where they may and he represents extremely well the public interest.

Mr. MAGNUSON. Mr. President, will the Senator from Wisconsin yield?

Mr. PROXMIRE. I yield.

Mr. MAGNUSON. I hope the Senator from Vermont [Mr. AIKEN] did not think I said the Commission was trying to help the utilities avoid competition. To the contrary, I say that in these utility media there is more competition than ever before.

Mr. AIKEN. But I point out that their executives are using the same procedures that were being used 30 years ago in the effort to eliminate competition.

Mr. MAGNUSON. Yes, they have not changed.

Mr. AIKEN. I had hoped the younger generation, which is taking over, would be more public spirited. However, I still find the same school of thought in charge of the management, and in their attempts to eliminate competititon they still use the same practices that were used many years ago.

Mr. MAGNUSON. Yes; and the Senator from Vermont and I have joined for many years in this fight.

Mr. AIKEN. Yes.

Mr. MAGNUSON. Mr. President, I wish to ask a question or two of the Senator from Wisconsin.

First, let me say that it seems to me it is not good policy for Congress to set up the Federal Power Commission and expect it to do a good job as between the consumers and the utilities, and give it sufficient authority for that purpose, and then include in a tax bill a provision which would prohibit the Commission from doing certain necessary or desirable things. It seems to me the proposed tax credit should be provided; I think that will be wise. I believe it should be provided to the utilities throughout the country, for I believe the effect will be good for the economy. But I also believe the Congress should allow the Federal Power Commission to decide whether the tax credit is to be passed on—in short—permit the Commission to order what it believes to be equitable in a particular case in which an application for a rate increase or a rate reduction is made.

Mr. PROXMIRE. I think it very significant, Mr, President, that the Chairman of the Commerce Committee, who is responsible more than any other Member of the Senate is for the congressional directions given the regulatory bodies and commissions, particularly the Federal Power Commission, has made that statement. His position—and I believe it makes all the sense in the world—is that the regulatory body should have

authority to decide for itself whether the tax credit should be passed on. That is the way the law now reads, and that is the way my amendment would leave it.

Mr. MAGNUSON. Yes, leave that provision in the bill, and leave that authority with the Commission, which then could say to a particular utility, "You are doing a good job, and are better serving the consumers, and are doing so more efficiently and cheaper."

I cannot assume that in every case the Commission would require that the tax credit be passed on. Perhaps the finances of a particular utility company would not justify a requirement that the

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credit be passed on at this particular time. The Commission might say to such a committee, "Keep the tax credit proceeds now; it will be in the interest of the consumers that you do so"—whether in the case of one of the pipelines or one of the bargelines or some other utility.

So, for that reason, I am in sympathy with the purpose of the amendment.

Furthermore, I do not believe the Finance Committee should determine that policy; I do not think the Finance Committee should, after Congress has directed that a tax credit be given, take the position that Congress should instruct the Commission exactly what should be done with the tax credit. In other words, neither do I think Congress should say to the Commission, "You must see to it that the tax credit goes to someone else."

I believe Congress should say to the Commission, "Prescribe rules and regulations by means of which the tax credit will be given, and then see how it works out, and then determine what should be done in the public interest." In other words, we should permit the Federal Power Commission first to determine the revenues received, the rates charged, and so forth.

I think there is some merit in following such a procedure, and I believe that many members of the Finance Committee feel the same way.

Mr. PROXMIRE. I thank the Senator from Washington for his statement, which is extremely helpful.

I point out that unless this amendment is enacted into law, the pending tax bill will include a wholly unprecedented congressional dictation to regulatory bodies, by prohibiting them from deciding the best use to be made of this tax credit, and thus will fail to permit the Federal Power Commission, the Interstate Commerce Commission, and other Government regulatory commissions to decide whether this tax credit should be passed on, and if so, how much.

Mr. President, I support the principle involved in allowing that discretion to the regulatory commissions.

I hold in my hand certain papers in docket No. 14850, before the Federal Communications Commission. This is a report and order which was adopted. It is dated July 31, 1963; and from page 6, I read the following:

> In this connection, if the investment tax credit is viewed as a reduction in taxes, it would appear that the only appropriate accounting method would be "flow through."

Mr. President, that quotation comes from docket No. 14850. Thus we find that the view of the Federal Communications Commission, as firmly established in that docket, is that the tax credit should be recognized for what it really is—a reduction in cost.

The Federal Power Commission took the following position in a very brief docket—No. R–232, dated January 23, 1964—only about 10 days ago:

> The Commission has reached the conclusion that on the basis of existing law the accounting treatment to be prescribed should be to flow through the credit to income.

This is the established position of the Federal Power Commission; but the pending bill, as it now stands would result in action by Congress to flout and reverse that position of the Federal Power Commission. The members of the Commission are appointed by the President, and their nominations are confirmed by the Senate, and their entire public careers are devoted to the study of regulatory matters.

The Senator from Washington [Mr. MAGNUSON], who is an outstanding authority in this field, has said—and said it very well—that Congress should delegate this discretion to the Commission, so as to enable it to decide just what amount of the tax credit should be passed on.

Finally, Mr. President, I shall quote from a February 1, 1963, decision of the Interstate Commerce Commission in docket No. 34178, "in the application of uniform system of accounts, actual Federal income taxes payable for each year"—that is after credits.

> When an available depreciation allowance produces a reduction in Federal income taxes, no matter how temporary the benefit may be, the effect on net income should be the same as a reduction in taxes produced by lower tax rates. Possible income taxes to be assessed in the future are not an element of tax expense for the current year.

And so forth. The Commission concludes, as follows:

> We have carefully considered the diver-

gent views and all of the arguments presented by the respondents in this proceeding and affirm the ultimate findings contained in our preliminary notice herein that no sufficient justification has been presented to warrant a change in our present accounting rules and the statement of policy previously announced under date of February 9, 1959.

In other words, after the investment credit provision was enacted into law, and in direct consideration of that fact, the Interstate Commerce Commission said it was not changing the accounting rules.

I ask unanimous consent that these documents or dockets pertaining to the investment credit, from the Federal Power Commission, the Federal Communications Commission, and the Interstate Commerce Commission—the major regulatory bodies of this Nation—be printed at this point in the RECORD.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

EXHIBIT II–A

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION, WASHINGTON, D.C.—DOCKET NO. 14850 (RM–377) (RM–381)

(In the matter of amendment of pts. 31 and 35 of the Commission's rules (Uniform Systems of Accounts for Class A and Class B Telephone Companies and for Wire Telegraph and Ocean-Cable Carriers, respectively) concerning accounting for investment credits made available by the Revenue Act of 1962. Possible like amendment of the Uniform Systems of Accounts for Class C Telephone Companies and for Radiotelegraph Carriers (pts. 33 and 34 of the rules, respectively).)

REPORT AND ORDER OF JULY 31, 1963

(By the Commission: Commissioner Hyde dissenting with a statement; Commissioners Lee and Ford dissenting.)

1. On November 21, 1962, the Commission adopted a notice of proposed rulemaking in the above-entitled matter which was published in the Federal Register on November 29, 1962 (27 F.R. 11773) in accordance with section 4(a) of the Administrative Procedure Act. This notice presented for comment on or before December 26, 1962 (with allowance for reply comments on or before January 8, 1963), proposals of the American Telephone & Telegraph Co. (A.T. & T.) and the Western Union Telegraph Co. (WU) with respect to accounting for investment tax credits made available under the Revenue Act of 1962. By order dated December 13, 1962, the closing dates for filing comments and reply comments were extended to January 28, 1963, and February 18, 1963, respectively. Pursuant to the Commission's order released June 7, 1963, oral argument directed to the respective merit of the three basic approaches of accounting for the investment tax credit set forth in the notice of proposed rulemaking was heard by the Commission on July 15, 1963.

2. The Revenue Act of 1962 provides for the deduction of "investment tax credits," relating to the construction or acquisition of certain facilities, in the determination of Federal income taxes due from taxpayers for 1962 and subsequent years. The investment tax credit is computed by applying certain percentages to the cost of qualifying plant placed in service during the taxable year. Telephone companies and domestic telegraph companies are allowed a maximum of 3 percent of the cost of qualifying property with a useful life of 8 years or more. Lesser percentages are applicable to qualifying plant with a useful life of 4 years or more but less than 8 years. Nonutility industries generally, as well as international telegraph companies, gas pipeline companies (other than local distribution systems) and transportation companies are allowed a maximum of 7 percent credit rather than the 3 percent maximum allowed for telephone and domestic telegraph companies. The property base for computing depreciation for tax purposes over the life of the property is reduced by the amount of the investment credit which the taxpayer is eligible to receive.

3. Under the proposal for amendment of part 31 submitted by A.T. & T., the plant accounts would be reduced by the amount of the investment tax credits and an offsetting amount would be added to operating taxes. The proposed amendment to part 35 submitted by Western Union would permit 52 percent of the investment tax credit to be set up on the books in a deferred tax account with an offsetting amount added to operating taxes. The remaining 48 percent of the credit would be permitted to "flow through" to income. The deferred taxes under Western Union's proposal would be used over the life of the property to absorb the calculated additional taxes in subsequent years resulting from the lower property base used for tax depreciation allowance.

4. The notice pointed out that the Commission's uniform systems of accounts, as presently worded, permit charges to the tax expense accounts only for the taxes actually payable and, with minor exceptions, arising out of operations during the current accounting period. If either A.T. & T.'s or Western Union's requests were to be granted, it would involve a departure from this fundamental theory which underlies the present systems of accounts.

5. The notice listed the following basic ways to reflect investment tax credits in the accounts:

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(a) "Flowthrough" accounting, which would permit the investment credits to "flow through" immediately to net income. This would require no change in any of our systems of accounts.

(b) "Flowthrough" accounting for 48 percent of the investment credits and normalization of 52 percent of such credits by setting up a reserve for deferred taxes. The contra entry to establish the reserve would be a charge to operating taxes. (WU's proposal).

(c) Normalization by entering the investment credits as a credit to the plant accounts [1] and charging operating taxes. (A.T. & T.'s proposal.)

The notice incorporated as appendixes A.T. &. T.'s and WU's requests for rule making and asked for comments concerning the propriety of those proposals as well as any alternative accounting proposals which were deemed to be appropriate. Comments and briefs were also requested with respect to the intent of Congress in enacting the investment credit provisions of the Revenue Act of 1962 and the extent to which this Commission should recognize such intent in considering amendment of its accounting rules. Comments were also requested on whether, if we were to amend our telephone and wire-telegraph and ocean-cable systems of accounts, like amendments, in principle, should be made to the uniform systems of accounts for small telephone companies and for radiotelegraph carriers. The notice also stated that whether or not amendments are made in our accounting rules as a result of this proceeding, we intend to amend our common carrier annual report forms (forms M, O and R) to the extent, if any, necessary to disclose clearly therein the amounts of the investment credits received and how they are being accounted for.

6. Twenty-six comments were received. Six comments, representing the views of five State commissions and the Administrator of General Services, favored "flowthrough" accounting. One carrier, in addition to the original request of WU, favored partial normalization which would allow 48 percent of the credit to "flow through" and defer the remaining 52 percent. Eighteen comments favored full normalization but did not all agree on the method of accounting to accomplish such normalization. Some of these 18 favored a direct credit to plant, 1 favored crediting a deferred credit account, several did not specify the method of accounting they favored to accomplish the full normalization, and others were agreeable to either a direct credit to plant or a credit to an account offsetting the gross plant investment. Of the 18 favoring full normalization, 5 were from carriers or groups of carriers, 10 were from State commissions, 2 were from public accounting firms, and the other was from the American Institute of Certified Public Accountants. One State commission favored uniformity of accounting by Federal agencies consistent with accounting previously prescribed in similar situations. The six comments favoring "flowthrough" accounting were from the Wisconsin Public Service Commission, Alabama Public Service Commission, California Public Utilities Commission, New Hampshire Public Utilities Commission, New York Public Service Commission, and the Administrator of General Services. The comment favoring 48-percent "flowthrough" and 52-percent normalization was from RCA Communications, Inc. The 18 comments [2] favoring full normalization were A.T. & T., American Cable & Radio Corp., General Telephone & Electronics Corp., Hawaiian Telephone Co., United States Independent Telephone Association, Arizona Corporation Commission, Delaware Public Service Commission, Florida Railroad and Public Utilities Commission, Massachusetts Department of Public Utilities, Minnesota Railroad & Warehouse Commission, Montana Board of Railroad Commissioners, New Mexico State Corporation Commission, North Dakota Public Service Commission, South Dakota Public Utilities Commission, Virginia State Corporation Commission, American Institute of Certified Public Accountants, Arthur Andersen & Co., and Lybrand, Ross Bros. & Montgomery. The comment favoring uniformity of accounting was from the Washington Utilities and Transportation Commission. The only comment received in reply to the original comment was received from A.T. & T. This comment was primarily a rebuttal of the arguments for "flow through." The comments that were submitted were quite extensive and no detailed summary of such comments is incorporated herein. However, the arguments included in such comments have been fully considered.

7. The comments have dwelt at some length on the so-called legislative intent behind the investment tax credit and many of them have implied that the Commission is precluded by such legislative intent from judging the appropriate accounting on the merits in accordance with sound public utility regulatory principles. We do not agree with this implication. It appears to us on the contrary that Congress fully intended that the tax legislation here involved should fit into the normal regulatory scheme. In this connection, analysis of the legislative history in light of the comments referred to is indicated. Under section 220 of the Communications Act, the commission is given plenary powers to prescribe accounting procedures for carriers subject to its jurisdiction. It is axiomatic that amendment or repeal of a statute by indirect implication is not favored. *Georgia* v. *Pennsylvania Railroad Co.*, 324 U.S. 439, 456–7; *Swettman* v. *Remington Rand*, 65 F. Supp. 940; 82 C.J.S. section 419. The necessary inference to be drawn from those comments which would preclude the Commission's judgment of the regulatory treatment to be accorded the tax credit is that Congress intended by the tax statute to amend or repeal that portion of the Communications Act which gives the Commission authority to prescribe accounting methods. Aside from the fact that there was no such express statement either in the statutory enactment itself or the record of the legislative proceedings leading up to such enactment, there are several clear indications in the legislation and its history leading to a contrary conclusion. One clear indication of Congress thinking stems from the fact that several parties testifying in the congressional hearings (most of whom filed comments in favor of full normalization in this proceedings)

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[1] Another method of accomplishing full normalization would be to credit an offsetting reserve.

[2] The Illinois Commerce Commission, while not filing comments, appeared at the oral argument in favor of full normalization.

advocated that the legislation contain express provisions requiring that the tax benefits conferred be spread over the entire life of the assets which provided the measure of such benefits. Congress did not see fit to include such provisions.

8. Another clear indication that Congress intended the tax credit to be compatible with, and not in derogation of, the existing regulatory scheme is found in the House Ways and Means Committee Report wherein it explains the reason for the difference in the percent of credit allowed most regulated public utilities versus other enterprises. The report states:

"The investment credit in the case of most regulated public utilities is in effect 4 percent rather than 8 percent. The smaller credit is provided in such cases because much of its benefit in these regulated industries is likely to be passed on in lower rates to consumers, thereby negating much of the stimulative effect on investments. Moreover, the size of the investment in regulated public utilities, such as electric companies, local gas companies, telephone companies, etc., will in large part be determined by the growth of other industries, rather than their own." [3]

A.T. & T., which is the only one of those favoring full normalization to take note of this statement in its comments, attempts to explain this statement by suggesting that the House committee really meant that ratepayers would obtain the lower rates mentioned by virtue of the fact that the credit would reduce the rate base and thus increase the rate of return. We believe, however, that if the committee had had in mind only this indirect effect, it would have stated it as such and would not have couched its explanation in terms of "passing on" the benefit of the credit in lower rates to consumers. The only possible way in which much of the benefits of the credit can be passed on immediately to consumers is by the "flow through" technique.

9. The comments favoring full normalization would have us interpret literally the several statements contained in the legislative history that the tax credit in effect reduces the cost of the new plant. The fallacy of such a literal reading is, of course, apparent since the cash outlay for new plant is the same with or without the tax credit. No benefits of the credit are realized until taxpaying time and then only as a reduction in the total amount of the tax paid. The real benefit and incentive to investment are the extra dollars made available at this time for, as will be pointed out later, such purposes as extra dividends, corporate growth through reinvestment, et cetera.

10. The question may well be asked as to how Congress intended the tax credit to be an investment incentive to utilities if the entire amount is to be passed along to consumers in the form of lower rates. The answer, of course, is that in most cases it will not all be passed on even under the "flow through" principle. Only in the case of a utility which has already reached the upper limits of a reasonable rate of return is such a result possible, and even then rates cannot be reduced to give immediate effect to the reduction in taxes. In the case of marginal utilities, such as some railroads, for example, it may well be that none of the amount will be passed on to the consumer. It is this factor, present to some degree in the case of most utilities, of providing the means of increasing earnings and making it easier to obtain capital, both directly through retained earnings and indirectly through rendering its securities more attractive to investors, that constitutes the real incentive. It is worthy of note in this connection that the comptroller of A.T. & T., one of the petitioners in this proceeding, testified in opposition to any tax credit of this nature for utilities on the ground, inter alia, that it was not necessary to encourage the Bell System to construct additional plant. He pointed out that the Bell System has a duty to construct such plant as is necessary to provide service to its customers and that the Bell System companies had been successful in the past in raising sufficient capital to finance the additional facilities required. Representatives of other utilities, including Western Union, however, spoke in favor of the legislation.

11. While not directly indicative of congressional intent, it is interesting to note the interpretation placed on the legislation by the agency most concerned. The Internal Revenue Service in construing section 38 of the code states as follows:

"Under these circumstances, it would be inappropriate in computing earnings and

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profits to allow as a decrease thereto the gross amount of Federal income tax liability before reduction by the amount of the investment credit. Similarly, the adjustment to basis required by section 48 of the code for the year the property is placed in service may not be reflected as a reduction in earnings and profits for such year." (Rev. Rul. 63-63, IRB No. 1963, 15, p. 7.)

12. One statement contained in the conference report (H. Rept. No. 2508, p. 14) requires comment. The statement is as follows:

"It is the understanding of the conferees on the part of both the House and the Senate that the purpose of the credit for investment in certain depreciable property, in the case of both regulated and nonregulated industries, is to encourage modernization and expansion of the Nation's productive facilities and to improve its economic potential by reducing the net cost of acquiring new equipment, thereby increasing the earnings of the new facilities over their productive lives."

The proponents of a "normalization" approach urge that this language indicates a congressional intent to require the treatment of the tax credit which they advance. We disagree. The language quoted is, of course, one way of describing the general effect which Congress hoped to achieve. The suggestion, however, is that this description implies a congressional intent that the credit granted should never, in any circumstances, be passed on to the consumer in the form of lower rates, except by way of reduced depreciation charges and reduced earnings re-

[3] H. Rept. No. 1447, supra, p. 8.

quirements over the life of the plant involved. No language preceding or following in the conference report suggests such an interpretation. And the other pertinent indications of legislative intent, including the failure of Congress to include specific statutory language on the point although requested to do so, are to the contrary. In light of all the circumstances, we do not think such a drastic construction is warranted by a single detached statement.

13. In view of the foregoing, it appears that Congress did not intend to tie the Commission's hands in carrying out its regulatory functions. One of those functions, imposed by section 220 of the Communications Act, is the prescription of the accounts to be maintained by carriers subject to its jurisdiction. It appears that the Commission is free to consider the proper accounting for the investment tax credit on its own merits with due regard for sound accounting and regulatory principles. Here it is appropriate to emphasize that this is an accounting, rather than a ratemaking, proceeding.

14. Extensive arguments were included in the comments received and/or in the original requests for rulemaking in favor of each of the three basic methods of accounting that were offered for comment. After considering all of the comments received, we believe it appropriate to analyze the true nature of the investment tax credit as a persuasive guide in deciding the proper accounting to be followed. In this connection, if the investment tax credit is viewed as a reduction in taxes, it would appear that the only appropriate accounting method would be "flow through." If the investment credit is viewed as a tax deferral which can be accurately determined, then only 52 percent of the investment tax credit represents a deferral of taxes. Under this theory, the remaining 48 percent would be a reduction in taxes and could be appropriately accounted for only by letting it "flow through" to income. However, if the investment tax credit is viewed as a reduction in the cost of plant resulting from either a contribution by the Government toward the construction of plant or a reduction in taxes applicable to construction that should be capitalized negatively, then the only accounting which would seem appropriate would be full normalization by a credit to plant or a variation thereof such as by a credit to a deferred credit account or to an offsetting reserve.

15. It is our view that the investment tax credit represents a reduction of income taxes and should be so recorded in the accounts. The Revenue Act of 1962 specifically provides that the Federal income tax liability shall be reduced by the amount of the investment tax credit. The amount of the tax due the Government is determined after deductions of the credit. The deduction of the investment tax credit does not appear to be any different than other deductions such as the foreign tax credit, the dividends received credit for individuals, and the credit from regulated investment companies which are deducted to determine the income tax liability. The qualified property on which the credit is based is merely a convenient tool used to compute the dollar amount of the tax reduction intended by Congress. The same effect, that is, the reduction of the amount of the income tax, could have been accomplished by some other means such as a reduction in the income tax rates. The fact that the basis of the property is reduced to compute depreciation for tax purposes is merely a method adopted by Congress to avoid duplication of a portion of the tax reduction derived from the investment tax credit over future years.

16. The avowed purpose of the investment credit, to encourage the modernization and expansion of productive facilities and thus to stimulate the economy, is accomplished by reducing the taxes payable by those taxpayers who construct or acquire such qualifying plant. The reward for adding such plant is actual cash in hand as the result of the lower income tax which must be paid. The benefit is received currently in fewer dollars paid out in taxes, thus providing more stimulation for reinvestment than is spread over the life of the property. The law, however, does not restrict the manner in which the tax reduction should be used. It can be used to pay dividends, reduce prices, build additional plant, or for whatever other purpose the taxpayer wishes. The increased earnings resulting from the tax reduction will tend to stimulate the economy however they are used. If paid out in dividends, the recipient of the dividends can buy additional goods or reinvest the funds received as dividends. If used to reduce prices, the consumer can use the amount of the price reduction for the same purposes. If retained by the taxpayer, the funds can be reinvested in additional plant facilities and the increased earnings reported in the financial statements may also tend to stimulate the economy. Thus it appears to us that the true nature of the credit is best reflected by the increased earnings resulting from the tax reduction.

17. The foregoing view is also in accord with this Commission's position, which is a well settled one over the years in commission and court decisions, that the actual results of operations should be reflected in the accounts. For ratemaking purposes, it may be necessary at times to make adjustments to the reported results of operations to remove the effect of abnormal or unusual occurrences. This can and should be done without altering the records of actual results reflected in the accounts. However, we cannot agree that the Federal income tax account or any other expense account should contain amounts for income tax liabilities not actually incurred. Likewise, the net income resulting from this tax reduction, which, like the rest of the net income from operations is not restricted, should not be obscured by including in the accounts, amounts for taxes or other expenses not actually paid or incurred.

18. It is argued by some that inasmuch as the investment tax credit must be deducted from the cost of plant in computing depreciation expenses for tax purposes in future years, provisions for such future taxes should be reflected in the accounts currently, on the theory that the income taxes may be higher in future years as a result of the reduced tax basis of the plant used to compute deprecia-

tion for tax purposes. However, it is not possible to predict what the actual amount of such higher taxes will be over the future life of the plant. A number of factors can change the effect of this aspect of the law. If the tax rate is changed the amount of the tax effect of this part of the law will change. Changes in the tax rates are currently being discussed by Congress. If a taxable loss is suffered by the taxpayer in future years, the lower amount of depreciation for tax purposes may not result in any more taxes being paid. If there is a decline in profits, a lower tax rate may be applicable to the taxable income arising from the lower depreciation expenses computed for tax purposes. With continued plant expansion, any higher taxes due to lower depreciation expenses are likely to be more than offset by the investment tax credit in future years as additional qualifying property is constructed or acquired. The theoretical higher taxes which are supposed to result from the investment credit would thus be postponed indefinitely into the future. Even without continued plant expansion, which is and for the foreseeable future will be typical of the industry, the average life of communications property is so long that it is inconceivable that an accurate prediction of the ultimate future tax effect could be made. We do not believe that current taxes actually paid and the resulting net income should be altered on such speculative possibilities of higher taxes in the future years. At most, the prospects of such higher taxes in future years is a contingent liability which we do not believe should be reflected in the accounts.

19. Inasmuch as we are convinced that the investment credit is a reduction in the total amount of income taxes and should be so reflected in the accounts, it follows, of course, that we do not believe the plant accounts should be reduced by such credit. We consider the property constructed or acquired as merely a measuring device used to compute the reduction in the income tax liability. Furthermore, the actual original cost of equipment with respect to which an investment tax credit has been received, is no different from the original cost of identical equipment purchased in prior years at the same cost with respect to which no investment tax credit has been received. Likewise, the original cost of equipment qualifying for the investment tax credit is no different, for comparable units, from the original cost of plant additions which do not qualify for the investment tax credit. Moreover, we do not believe that the original cost of equipment recorded in the accounts should reflect the fluctuation which may result from any subsequent changes which may be made in the formula used to compute the amount of the investment tax credit. We are convinced, therefore, that our original cost concept should be preserved and no reduction should be recorded, either directly or indirectly, in the plant accounts with respect to the investment tax credit.

20. It is also argued that the accounting in the books should be consistent with the tax treatment required in connection with the future depreciation of the qualified property. We recognize that it is more convenient to have the prescribed accounting for book purposes the same as that required for

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tax purposes. However, we do not consider this feature of sufficient importance to affect our basic concept of the proper accounting which should be accorded the investment tax credit. If in all other respects, the arguments for two approaches to accounting were equal, then we might be persuaded by the desirability of consistent treatment because of the savings in work and recordkeeping. In the instant case, however, we are firmly convinced that the original cost in the property accounts should be maintained. We are also mindful of other instances where the prescribed accounting treatment on the books differs from the treatment for tax purposes, such as, capitalization of interest during construction, payroll taxes and other labor costs connected with construction. It does not appear, therefore, that the argument of consistency of treatment between book and tax accounting is of sufficient weight to affect our decision herein.

21. Also, while it may be desirable to prescribe accounting which will coincide with the ratemaking treatment to be accorded items affecting income and the balance sheet, such procedure is not always practicable, particularly where ratemaking decisions have not yet been made. In such circumstances, we believe that the accounting should be prescribed on its own merits in such manner that full information will be available for any rate treatment which may be deemed appropriate when ratemaking decisions occur. This proceeding is purely an accounting matter and the Commission is not deciding at this time what ratemaking treatment will be accorded by this Commission to investment tax credits. In view of the differences of opinion among the State commissions who filed comments in this proceeding, it appears that different rate treatment will probably be accorded the investment tax credit in various jurisdictions. We believe that flowthrough accounting will provide more useful data and require the maintenance of less supplementary records than either of the other basic accounting methods herein considered. It offers the further advantage of simplicity in accounting since no special entries are required. Any regulatory authority having rate jurisdiction may order such supplemental records to be maintained as it sees fit, which may involve reservations of surplus to implement the ratemaking policy.

22. In view of the foregoing and after full consideration of all the comments received as well as other information which is available to the Commission, we conclude that the proper accounting with respect to the investment tax credit arising from both owned and leased property is to account for it as a reduction in income taxes and let such reduction flow through to operating income. As stated in the notice of proposed rulemaking in this proceeding, we have interpreted all of our uniform systems of accounts as presently requiring flowthrough accounting. Consequently, no amendments to our systems of accounts will be ordered herein.

23. Separate instructions will be issued with respect to disposition of any amounts

carried in the "other deferred credits" accounts that were accrued therein with respect to investment tax credits under the waiver of our rules for which permission was granted in order released November 20, 1962.

24. In view of the foregoing, it is ordered, that the proceeding in docket No. 14850 is terminated with respect to proposed changes in the uniform systems of accounts.

FEDERAL COMMUNICATIONS COMMISSION.
BEN F. WAPLE,
Secretary.

Adopted: July 29, 1963, released: July 31, 1963.

DISSENTING STATEMENT OF COMMISSIONER HYDE

I dissent to the order adopting the 100 percent or initial year "flow through" method of accounting for investment tax credit. In my opinion, the tax credit operates as a reduction in the cost of plant and should be spread over the service life of plant giving rise to the credit (service life flow through method).

The order which has been adopted is not consistent with accounting regulations previously approved by the Commission, is inconsistent with accounting principles supported by a preponderance of opinion in the accounting profession, is contrary to the legislative intent of the investment credit law, and results in accounts giving a substantial distortion of income for the initial year, as compared to the remaining years of the life of the property.

Part 35 of the Commission's rules, which is its prescribed system of accounts for wire-telegraph and ocean-cable carriers, contains in section 1–3, Components of Construction Costs, under subparagraph (d), a mandatory provision that any amounts earned during the construction period incidental to the construction, less correlated expenses, shall be credited to the cost of construction. "Correlated expenses" includes income taxes allocable to the amounts earned during the construction period. Thus, we find in the Commission's most recently promulgated (and consequently presumably its system most up to date and responsive to modern accounting thought) complete system of carrier accounts, that if the conduct of construction activities is the proximate cause of the incurrence of an income tax liability, the amount thereof must be used to increase the cost of plant. I submit that if this is sound accounting, and I believe it is, when the conduct of construction activities is the proximate cause of a reduction in income taxes, the amount thereof should be used to reduce the cost of plant. This principle, applied to the investment tax credit, means tax normalization, balance sheet method or service life flow through—all of which are the same thing under differing titles.

Now, let me carry the above income tax analogy, taken from part 35 of the Commission's rules, a little further. Suppose Congress were to decide to encourage American telegraph companies to "buy American" when adding to their communications plant. Suppose that the method adopted by Congress to accomplish this were to provide that the income tax bill of any telegraph company purchasing foreign-made plant and equipment would be increased by a 3 percent of the cost of such plant and equipment, but not in excess of 25 percent of the income tax liability as calculated without considering the foreign purchases penalty. It seems to me that this would be an "investment penalty," the exact reverse of the investment credit we have in the Revenue Act of 1962. I imagine we could all agree that this investment penalty would be required to be capitalized. If so, why is it not equally logical that the investment credit be given "negative capitalization" treatment?

The majority does not deny that there are deferred income taxes involved in the investment tax credits. Deferred income taxes are involved in any case when a situation is created wherein book depreciation expense, i.e., that recorded in the accounts for the future, is going to be greater than the depreciation expense which is available for income tax purposes. The investment credit fits this definition exactly since the tax depreciation base of eligible property is reduced by the amount of the credit while the accounting depreciation base is not. The adoption of initial year flow through accounting for the investment credits may be misinterpreted as an indication of policy for ratemaking purposes even though the majority insists that it is deciding an accounting matter only. Such an interpretation would be inconsistent with ratemaking policies adopted by the Commission just recently in the Private Line case. In this connection, reference is made to paragraph 265 of that decision reported in 34 FCC 217, 356. A like ratemaking policy was followed by the Commission involving a more substantial amount of money in fixing rates for Western Union's DATACOM. The failure of the Commission's accounting rules to keep in step with its ratemaking policies is the subject of an accountant's certificate of exception on page 20 of the Western Union report to shareowners for 1962.

There are those who would argue that income taxes, either positive or negative, cannot get into cost of construction under part 31 of our rules because section 31.2–22 in subparagraph (b)(8) mentions taxes on physical property only. Such argument overlooks interpretation case 2 in Appendix A of part 31 wherein the Commission ruled that social security taxes should be charged to construction "so as to apportion the total tax equitably among the costs of rendering public utility service, of construction of telephone plant, and of other operations of the company." This is an excellent statement of principle. Its application to the investment credit most surely calls for the service life flow through method of accounting as well as ratemaking for the investment credit. Equitable apportionment calls for attention to timing as well as amount and the service life method takes care of the timing whereas initial year flow through does not.

Studies submitted by the United States Independent Telephone Association illustrate the fluctuations in recorded earnings created by initial year flow through accounting for the investment credit. I would be the last one to suggest that accounting should be so performed as to minimize legitimate

fluctuations in recorded earnings. The function of accounting is to present the facts and let the chips fall where they may. However, where the investment credits are concerned, earnings fluctuations created by initial year flow through accounting are not legitimate, and when accounting does not meet this test of legitimacy, it is requiring the publication of distorted earnings results. I deplore this backward step in public utility accounting where so much progress has been made since the scandals of the twenties in obtaining financial statements that can be relied upon by regulatory bodies and investors alike.

EXHIBIT II–B

UNITED STATES OF AMERICA, FEDERAL POWER COMMISSION—DOCKET No. R–232

(Investment tax credit under 1962 amendment to Internal Revenue Code; accounting treatment by public utilities, licensees, and natural gas companies. Before Commissioners Joseph C. Swidler, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Harold C. Woodward, and David S. Black.)

INTERIM ORDER

(Issued Jan. 23, 1964)

The Commission has under consideration in this docket[1] an order prescribing the accounting treatment to be accorded under the Commission's Uniform Systems of Accounts to the investment tax credit provided by the Revenue Act of 1962.[2]

[*P. 1963*]

The Commission has reached the conclusion that on the basis of existing law the accounting treatment to be prescribed should be to flow through the credit to income. We recognize, however, that legislation is pending in the Congress dealing with the investment credit and that it is not now possible to determine whether such legislation as might be adopted would require a different accounting treatment for the credit.

In order to enable affected companies to close their books of account for the year 1963, the Commission hereby notifies all public utilities, licensees, and natural gas companies that the interim accounting prescribed for the investment tax credit under order No. 261, docket No. R–231, issued January 9, 1963,[3] continues in effect for calendar year 1963 and in accounting for income taxes until further notice or order of the Commission.

(By the Commission: Commissioners O'Connor and Woodward dissent as to the statement of the accounting treatment which is appropriate under existing law. Commissioner O'Connor believes decision should be deferred until Congress has acted on the pending legislation. Commissioner Woodward favors deferred tax accounting.)

JOSEPH H. GUTRIDE,
Secretary.

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[1] Notice issued Jan. 15, 1963, published in 28 F.R. 528 of Jan. 19, 1963.

[2] 76 Stat. 960, Public Law 87–834, sec. 2, adding new secs. 38, 46–48, 181, to and amending certain existing sections of the Internal Revenue Code of 1954.

[3] 29 FPC 62, 28 F.R. 402.

INTERSTATE COMMERCE COMMISSION

No. 34178

ACCOUNTING FOR FEDERAL INCOME TAXES UNDER NEW DEPRECIATION GUIDELINE LIVES AND INVESTMENT TAX CREDIT: DECIDED FEBRUARY 1, 1963

(In the application of uniform systems of accounts, actual Federal income taxes payable for each year, based on the effective tax regulation for the year, shall be recorded in the tax accounts. Change in present accounting regulations with respect to tax reductions resulting from tax-depreciation guideline lives and investment tax credit, found to be not necessary. Appropriate order entered.)

Report of the Commission, Division 2, Commissioners Freas, Webb, and Herring, by Division 2

By notice of proposed rulemaking published in the Federal Register on November 8, 1962 (27 F.R. 10909), we initiated an investigation with respect to carriers in all modes of transportation subject to the Interstate Commerce Act concerning the matter of accounting rules to be applied for Federal income taxes in connection with (1) the new shortened tax-depreciation guideline lives authorized by the Internal Revenue Service in Revenue Procedure No. 62–21, July 1962, and (2) the investment tax credit authorized in the Revenue Act of 1962.

The material facts bearing on the issue here presented are not in dispute, and a public hearing or oral argument would serve no useful purpose. In view of the close proximity to the closing of the carriers' books for the year 1962, a preliminary notice, dated December 17, 1962, to all carriers subject to the Commission's accounting rules, embodying our ultimate findings on the issue before us, was served on December 20, 1962.

The new tax-depreciation guideline lives authorized in Revenue Procedure No. 62–21 is a significant development in income tax methods and procedures. This tax revenue procedure authorizes substantial reductions in the lives of depreciable property effective with tax returns for the year 1962. For example, the tax regulation specifies depreciation guideline lives for railroad locomotives, freight and passenger cars, and other similar equipment as 14 years, compared with presently used service lives averaging 15 to 25 years for locomotives, and 25 to 30 years for other equipment; for bridges, trestles and culverts, elevated structures, shops and engine houses, and similar structures, the guideline life is 30 years, compared with presently used service lives averaging about 50 to 70 years, depending upon the structural material. Similar substantially shortened guideline lives are specified for many other classes of property.

The tax-depreciation guideline lives so authorized may be used by taxpayers for 3 years without being questioned by Internal Revenue Service, regardless of the taxpayers' past experience with respect to life-of-service performance in replacing property. The guideline lives so used for tax-depreciation deductions are subject to adjustment in later years if conditions prescribed in the tax regulations as to replacement performance

and formula for depreciation reserve ratios prescribed in life adjustment tables are not met. After the expiration of the 3-year period prescribed in the tax regulations, ending with the year 1964, the shortened guideline lives must be justified by demonstrating a replacement performance policy through the reserve ratio tests. If the prescribed tax guideline ratio tests are not met, the service lives used for tax depreciation will be lengthened percentagewise annually.

The Revenue Act of 1962 contains an important provision known as the "Investment Tax Credit." Under this provision the taxpayer is allowed a credit against taxable net income equal to 7 percent of the cost of new property acquired during the taxable year, provided the property has a life of 8 years or more. The credit for property with a life between 4 and 8 years is somewhat less than 7 percent. This tax credit is to be applied to offset tax liability up to a specified amount and a percentage of tax liability in excess thereof. The investment tax credit is to be deducted from the base upon which tax-depreciation deductions are to be allowed. For example, a taxpayer purchasing new property for $100,000 becomes entitled to a tax credit of $7,000 against his tax liability for the current year; this credit is then applied to reduce the base to $93,000, upon which current and future tax-depreciation deductions are allowed.

In recording depreciation in the corporate books of account under our accounting rules, as distinguished from Federal income tax returns, carriers are required to use the straight-line method of depreciation applied to the estimated useful life, based on past experience and informed judgment as to probable future service, for each class of property. The initial estimated useful life is revised and rates of depreciation are adjusted as may be found necessary from time to time as a result of changes in conditions. Depreciation procedures are so prescribed by us in uniform systems of accounts for financial accounting of carriers, notwithstanding unlike depreciation methods and other special provisions authorized by the Internal Revenue Service for tax purposes.[1]

Tax-depreciation deductions, based on the tax-depreciation guideline lives, will be much larger in amount than book depreciation computed under this Commission's accounting rules in the early years of the service lives of facilities. Question therefore arises, (1) should the actual Federal income tax expense of each year, based on taxable income reported in the tax return for the year, be recorded in the corporate books of account and in financial statements to the Commission; or (2) should the tax reduction realized because of tax depreciation in excess of book depreciation be treated as tax deferment and included in a suspense or reserve account to provide for taxes that may have to be paid in later years to offset the earlier tax reductions, under a continuing procedure for year-by-year equalization of tax charges in computing net income, without regard to actual tax liability in each year's tax return.

Essentially the same question arises as to whether tax reduction realized from the investment tax credit should be included in the corporate income reports and financial statements each year or be treated as tax deferment under a continuing procedure for year-by-year equalization of tax charges. Such income equalization procedure could be accomplished in the same manner as tax reduction realized through use of the tax-depreciation guideline lives, or by regarding the investment tax credit as a reduction in the cost of property and the depreciation base.

Carriers in the several modes of transportation, public accountants, and others filed responses in this proceeding pursuant to our Notice of Proposed Rule Making inviting views and comments. The responses contained divergent views on the question of proper accounting for the tax reductions hereinbefore discussed. Respondents expressing views in favor of treating the reduction in tax payments resulting from use of depreciation guideline lives and the investment tax credit as tax deferment and then equalizing the distribution of such payments to income by a process of interperiod tax allocation, assert that this procedure is essential for a proper matching of revenues and expenses for each year, and would result in equitable allocation of income taxes to expenses each year in relation to earnings for the year even though the amount so allocated is different from actual tax payment for the year. Some respondents assert that the investment tax credit is a true reduction in cost of property, the purchase of which gives rise to the credit. These respondents declare that unless allocation or equalization of tax payments in the accounts is authorized in order to compensate for the differences between tax depreciation and book depreciation, and also for the investment tax credit, the reported net income from year to year will be distorted and unrealistic.

These proponents of deferred-tax accounting propose that, accountingwise, the excess of normal income taxes (taxes that would have been payable without the benefit of depreciation guideline lives and investment tax credit) over actual tax payments should be placed in a suspense or equalization account for later year-by-year allocations, so that taxes reported in financial statements each year would agree with the taxes that would otherwise be payable each year on the basis of the straight-line depreciation recorded in the corporate accounts.[2] In advocating this tax-deferral or tax-equalization accounting

[1] Uniform systems of accounts for carriers in the several modes of transportation, Code of Federal Regulations, title 49. The rules for motor carriers provide that the straight-line method of computing depreciation shall be employed, except that the mileage method may be used for automotive equipment in which event the rate per mile shall be applied to the number of miles traveled each year.

[2] Of the investment tax credit realized, some of the respondents would treat 52 percent of the amount as deferred taxes and the remaining 48 percent as a true reduction of taxes for the year in which the tax credit is obtained.

procedure, they point out that such method of accounting has the approval of public accountants as being in accordance with "generally accepted accounting principles," and request us to modify our rules and authorize that procedure. The term "generally accepted accounting principles" is commonly used to denote broad basic principles which have received general business acceptance, with considerable tolerance for variation

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among different industries because of special conditions or long-established usage.

On the other hand, most of the responses filed by respondents are in opposition to tax-deferrment or tax-equalization procedure. They express the view that actual taxes payable for each year, based on the effective tax regulations of the year, is the only liability to the Government and the true amount to be recorded in the corporate accounts and financial statements each year for tax expenses; and that when taxes so computed are reported in the tax return for a year no deferred-tax liability remains unpaid for the year and no amount should be recorded in the accounts and financial statements for unpaid taxes or for tax-liability contingency. These respondents assert that tax-deferment or tax-equalization procedure, whereby payments would be allocated over a period of years and not recorded as tax expenses in the year for which the payment is made, would obscure the true tax expense for each year and obliterate the tax consequences of transactions and events within each year.

In opposing tax-deferral or tax-equalization accounting procedures the opponents declare that the ever changing tax system does not lend itself to interperiod tax allocation because of uncertainties associated with such allocation; and that tax reductions resulting from tax-depreciation guideline lives and investment tax credit are just as real as though statutory tax rates were decreased.

The question presented in this proceeding with respect to accounting for the tax effect of tax-depreciation guideline lives and the investment tax credit is essentially an extension of the matter of accounting for tax consequences of accelerated depreciation pursuant to provisions of section 167 of the Internal Revenue Code of 1954, previously considered by us, and which resulted in our statement of policy dated February 9, 1959, wherein we stated that the actual Federal income tax expense of each year, based on taxable income reported in tax returns, shall be recorded in carrier's books of account and in financial statements to the Commission. Accounting for Federal Income Taxes, 24 F.R. 1401.[3] That statement of policy contains the following conclusions:

"When an available depreciation allowance produces a reduction in Federal income taxes, no matter how temporary the benefit may be, the effect on net income should be the same as a reduction in taxes produced by lower tax rates. Possible income taxes to be assessed in the future are not an element of tax expense for the current year. As to depreciable property with an expected life of 30 years, or even less, it is illogical to expect that tax reductions resulting from accelerated depreciation allowances can be matched with tax increases of the future. New property units acquired in the future will provide increased depreciation allowances to offset decreasing allowances for older units. Furthermore, income tax rates and tax procedures are subject to change from year to year, and the computation of income taxes differs as between carriers, and for any carrier differs as between years, in too many respects to justify special provision for a fluctuation in taxes resulting only from depreciation allowances.

"After consideration of the views for and against normal income taxes, different in amount from the income taxes actually payable, it has been decided that the charge to income each year for that year's Federal income taxes should be the amount produced by application of the effective tax regulations to transactions within the year. The present-day shipper should not be required to provide from current freight rates for possible increased taxes of the indefinite future."

We have carefully considered the divergent views and all of the arguments presented by the respondents in this proceeding and affirm the ultimate findings contained in our preliminary notice herein that no sufficient justification has been presented to warrant a change in our present accounting rules and the statement of policy previously announced under date of February 9, 1959. We reach the same conclusions set forth in that statement of policy, that actual Federal income taxes payable for each year, based on the effective tax regulations for the year, shall be recorded in the tax accounts of the carriers' books of account, and in financial statements.

Carriers are presently required to disclose, in explanatory notes in their annual reports to us, reductions in income taxes because of accelerated depreciation pursuant to section 167 of the Internal Revenue Code. The requirement for disclosure will be extended to apply to tax reductions attributable to tax-depreciation guideline lives, as well as the investment tax credit, and appropriate procedural rules will be issued to implement this requirement.

An appropriate order will be entered discontinuing the proceeding.

Appendix: Interstate Commerce Commission

(February 9, 1959, Notice to All Carriers Subject to Prescribed Accounting Rules—Accounting for Federal Income Taxes)

The Commission has given consideration to provisions of section 167 of the Internal Revenue Code of 1954, which permit allowances for depreciation to be computed by accelerated methods. The election to use such allowances reduces Federal income taxes thereby increasing net income during the early life of property newly acquired but, by decreasing depreciation deductions in later years, permits no more to be deducted for any unit of property than would be available under straight line depreciation.

This optional income tax treatment presents a problem in administering prescribed accounting regulations. It has been studied by other Federal agencies which regulate ac-

[3] Reproduced as appendix to this report.

counts, by State commissions in connection with the ratemaking function, and by the accounting profession. One approach has been to charge to operating expenses the same amounts that are claimed as depreciation allowances for income tax purposes. This has the advantage that depreciation charges within net income are comparable to the basis on which income taxes are computed. Another view has been that income should be normalized by including therein the amount by which taxes are reduced when depreciation allowances are high to create a reserve which would be reversed as depreciation allowances diminish.

The Commission has repeatedly held that depreciation by the straight line method best serves the purpose of assigning the service loss on transportation property to income of the years in which the property is in revenue service. The use of other depreciation methods for income tax purposes is not an acceptable reason for changing our depreciation accounting requirements. Accelerated depreciation allowances available under the revenue code provide an earlier recovery of an investment with resultant tax advantages, and are not intended to be a standard for measuring the rate at which service loss is incurred.

When an available depreciation allowance produces a reduction in Federal income taxes, no matter how temporary the benefit may be the effect on net income should be the same as a reduction in taxes produced by lower tax rates. Possible income taxes to be assessed in the future are not an element of tax expense for the current year. As to depreciable property with an expected life of 30 years, or even less, it is illogical to expect that tax reductions resulting from accelerated depreciation allowances can be matched with tax increases of the future. New property units acquired in the future will provide increased depreciation allowances to offset decreasing allowances for older units. Furthermore, income tax rates and tax procedures are subject to change from year to year, and the computation of income taxes differs as between carriers, and for any carrier differs as between years, in too many respects to justify special provision for a fluctuation in taxes resulting only from depreciation allowances.

After consideration of the views for and against normal income taxes, different in amount from the income taxes actually payable, it has been decided that the charge to income each year for that year's Federal income taxes should be the amount produced by application of the effective tax regulations to transactions within the year. The present-day shipper should not be required to provide from current freight rates for possible increased taxes of the indefinite future.

The amount of reduction in Federal income tax payments realized for each year and the accumulated sum for the current and prior years due to the use of accelerated depreciation in tax returns will be disclosed by explanatory notes in reports filed with this Commission. Carriers are urged to disclose this information in their reports to stockholders and in financial statements released to the press.

As a statement of policy this notice will be served on all carriers subject to prescribed accounting regulations, and notice will be given to the general public by depositing a copy in the office of the secretary of the Commission in Washington, D.C., and by filing it with the Federal Register.

HAROLD D. MCCOY,
Secretary.

Mr. PROXMIRE. Mr. President, the precedent which the pending bill would establish in the absence of the inclusion of this amendment would constitute an initial breakthrough for utility lobbyists, and thus would enable them to exert pressure upon Congress to act to prohibit other regulatory bodies from ordering that other tax credits, amounting to cost reductions, be passed on. After all, if we are to make an exception in the case of this investment credit, where shall we draw the line?

We know how active the lobbyists are. They do a thorough job, and they are necessary and desirable. But a failure by Congress to include this amendment in the law would be a negation of the existing policy and would be a clear indication to the lobbyists—if the pending bill, as enacted into law, did not contain this amendment—that in connection with other situations of this sort, they would be able to succeed in attempts to have the entire amount of such a fair tax credit or return retained by the utility companies, and thus result in negating and ending the present fair-return concept.

Mr. President, what sense would the fair-return concept make if it could be changed into a superfair return—which would be the result of the proposed investment credit, in the absence of this amendment.

Mr. President, I submit that this principle is plainly ridiculous.

I am happy to yield to the Senator from Iowa.

Mr. MILLER. The Senator's amendment is appealing to me with respect to a part of the matter proposed to be de-

[*P. 1965*]

leted and with respect to another part with which I am concerned. Insofar as the Senator's amendment would repeal or delete that part of the bill which provides that no pass through is necessary "in the case of any other property"—and I am reading now from lines 5 and 6, page 39, "any other property" relates to the nonregulated public utility—except for what is included in subparagraph 1 on page 38, line 18.

The Senator's amendment seems to have a great deal of equity, because it would make sure that customers would share the benefits. But insofar as the Senator's amendment would repeal sub-

section (1) on line 18 on page 38 of the bill, as I understand the position of the Senator from Wisconsin, he wishes to permit the Federal Power Commission to require a passthrough in the case of certain public utilities in the year in which the tax credit is achieved. That is the position of the Federal Power Commission. The Senator from Wisconsin wishes that position to be maintained.

On the other hand, the position of a good many utilities is that they are willing to pass through to the customer but they wish to pass through over the life of the property.

Mr. PROXMIRE. There is a good answer to that——

Mr. MILLER. May I make one point? Not only is this position of a good many utilities, but I am sure the Senator from Wisconsin knows it is also the position of the Accounting Principles Board of the American Institute of Certified Public Accountants, as set forth in opinion No. 2, entitled "Accounting for the Investment Credit."

Mr. President, I ask unanimous consent to have this opinion printed in the RECORD.

The being no objection, the opinion was ordered to be printed in the RECORD, as follows:

The Accounting Principles Board (American Institute of Certified Public Accountants) in opinion No. 2, entitled "Accounting for the Investment Credit":

"We believe that the interpretation of the investment credit as a reduction in or offset against a cost otherwise chargeable in a greater amount to future accounting periods is supported by the weight of the pertinent factors and is based upon existing accounting principles.

"In concluding that the cost reduction concept is based upon existing accounting principles we attach substantial weight to two points in particular. First, in our opinion, earnings arise from the use of facilities, not from their acquisition. Second, the ultimate realization of the credit is contingent to some degree on future developments. Where the incidence of realization of income is uncertain, as in the present circumstances, we believe the record does not support the treatment of the investment credit as income at the earliest possible point of time. In our opinion the alternative choice of spreading the income in some rational manner over a series of future accounting periods is more logical and supportable.

"We conclude that the allowable investment credit should be reflected in net income over the productive life of acquired property and not in the year in which it is placed in service."

Mr. PROXMIRE. May I say to the Senator from Iowa that in the argument that the credit should be passed through over a period of years over the life of the assets, he overlooks how utilities operate. Utilities rarely, if ever, will have one isolated year in which they will make vast purchases of equipment. In virtually all cases they will purchase similar amounts of equipment each year. So there is rarely an occasion during which the utility would take a large credit one year and suffer the risk of a disproportionate cut in rates so that the utility might suffer in the future.

Furthermore we should have some faith in regulatory bodies. After all, they are appointed to establish equitable rates fair to all. And I am convinced, from the experience I have had with such regulatory bodies, that they are not going to have punishing reductions in rates because of one year's unusual circumstances in which the utility buys a great deal of equipment.

Furthermore, over the great spectrum of utilities, 9 out of 10, or 99 out of 100, will have somewhat the same amount of investment—a little more or a little less, year after year. Furthermore, if we adopt the proposal in the bill for 3 percent utilities and permit a spread-over, it means a loss of more than $20 million to American phone users alone. The A.T. & T. opposes this provision. It takes the statesmanlike position that the provision in the committee bill is wrong. It recognizes that its stockholders will receive more than $20 million in windfall gains, which they recognize does not make sense.

Mr. MILLER. Mr. President, will the Senator yield further?

The PRESIDING OFFICER (Mr. RIBICOFF in the chair). Does the Senator from Wisconsin yield to the Senator from Iowa?

Mr. PROXMIRE. Before I yield, let me give the Senator from Iowa an example.

Mr. MILLER. If they pass it through over the life of the property?

Mr. PROXMIRE. Each year the A.T. & T. now buys about $2½ billion worth of equipment subject to investment credit. Obviously the impact with this single utility on consumers is very great. Let us take a simple example, a firm which would buy $10 million worth of equipment on which it earns an investment credit of 3 percent. It would get a $300,000 credit. Now, if the passthrough is required that year, it will have to be a passthrough rate reduction of $300,000.

Mr. MILLER. For only 1 year?

Mr. PROXMIRE. But if it is spread over a number of years, the first year it will provide only a rate reduction, if it is 20 percent of its life, of $15,000.

Mr. MILLER. I understand that, but they will have to give their customers the benefit of that $300,000 either this year or next year or over a series of years. I do not understand where the windfall is going to come from, whether the customer will get it in 1 year or over a period of 10 years.

Mr. PROXMIRE. There are two reasons for it. One is the interest rate factor, the fact that they will have $285,000 to work with, interest-free, which they would not otherwise have. The other reason is that utilities in this country grow as the population grows, and the utilities have grown at an 8-percent rate—they never catch up. I have placed in the RECORD a statement showing hundreds of millions of dollars involved with all the utilities accounted for in the country. It is a substantial advantage. This was carefully calculated by a professor of Northwestern University, who has devoted his life to this subject and is an expert in the field. There will be a substantial advantage for utilities because they are growing and because they will have this interest-free money.

Mr. MILLER. With all deference to the professor to whom the distinguished Senator from Wisconsin referred, when the Senator from Wisconsin talks about a windfall and uses that example, and in effect says there is a windfall of $300,000, I believe we must be careful because, first of all, the fact that utilities are growing seems to me to be irrelevant. I recognize that utilities are growing and that is one reason why I voted against the investment tax credit. I still believe it is a bad law, but I do not see the relevance between that and the windfall to which the Senator from Wisconsin refers.

The Senator pointed out there is an interest factor. To that extent, possibly, we might say the stockholders of the corporations would benefit, because the $300,000 has to be paid out only over a period of 10 years, or in 1 year; and the utility could not invest the extra money.

Mr. PROXMIRE. The interest factor becomes important when this vast amount involved is considered.

Mr. MILLER. With a growing investment in equipment——

Mr. PROXMIRE. Let me make one further point. I believe the Senator from Iowa is absolutely correct, that for the 3-percent utilities it is not a question of a comprehensive windfall to the stockholders under any circumstances. Why not share the benefit as a prominent utility spokesman, Donald Cook, head of the American Electric Power Co., has argued, by passing it on? Then the utility would benefit. It would grow and develop, and its stockholders would benefit in the normal way. The customer would also benefit. So, why not let the regulatory body which has the responsibility and the competency decide whether or not the credit should be passed on?

Mr. MILLER. I am not going to argue with the Senator from Wisconsin about the desirability of passing it on. I believe where we part company is that I believe the American Institute of Accountants, which is a practical group of people, a realistic group of experienced people who know far more about the accounting problems in this field than anyone in the Chamber, might well follow the suggestion that the passthrough be over the life of the property.

[*P. 1966*]

Would the Senator from Wisconsin consider dividing his amendment into two parts, so that the Senate will have an opportunity to vote with respect to deleting subparagraph 1, which I do not wish to do, and vote with respect to deleting subparagraph 2, which I believe is responsive to most arguments that the Senator from Wisconsin has advanced? The case is certainly much stronger with respect to subparagraph 2, and I know the Senator from Wisconsin recognizes that we both wish to have a passthrough. Under subparagraph 2, there would be no passthrough, so there should be no argument between us on that. We are together on the amendment in so far as that is concerned.

Mr. PROXMIRE. Mr. President, my understanding is that the Senator from Louisiana has at least strongly opposed any amendment that would strike out the 7-percent benefit than he is in relation to the 3-percent provision. I feel that perhaps a stronger argument can be made against the section relating to the 3 percent to be spread over a period of time than can be made against the section relating to 7 percent, which would apply only to transportation facilities, in order to afford some element of competition. Is that correct?

Mr. LONG of Louisiana. In the opinion of the Senator from Louisiana, if the Senator from Wisconsin desires to strike any section of the bill, he ought to move to strike the entire section 203. I believe it is unfair to heap more and more tax benefits on some segments of industry without affording an opportunity to other segments of industry to enjoy the same ability to compete and have the same incentives that are available to the industries differently situated.

I believe that the Senator has an

amendment which would strike section 203(a) which he proposes to offer before the debate is over. If section 203(e) were deleted, the Senator from Louisiana would be inclined to feel that section 203(a) should be deleted also.

Mr. PROXMIRE. The Senator from Iowa is posing a different kind of question. He wished to divide the pass through amendment into two parts, so that there would be one vote on the portion of the amendment relating to the 7-percent compulsion against passing through, and a separate vote on the requirement relating to the 3 percent applying to transportation facilities, the benefit to be spread over the life of the asset. The Senator feels that two separate questions are involved.

Mr. LONG of Louisiana. If any Senator hopes to arrange things so that every carrier except the pipelines would obtain the benefit of the tax credit, the Senator from Louisiana serves notice that he is against such a proposal. If any Senator wishes to arrange things so that, as between utilities, every utility except the electric companies and the gas pipelines would receive the benefit, he is against that, too.

The whole transportation industry believes that the fair and proper way to handle the situation is to not require a "flowthrough."

But if the proposal is to be one under which one segment of industry would be benefited and others would be discriminated against, the Senator from Louisiana would be against it. He would be against the inclusion of section 203(e) (1) unless paragraph (2) were also included. If subsection (e) is eliminated, the Senator from Louisiana would like to see the entire section taken out. Incidentally, I believe that is what the Senator from Wisconsin would like as a second best. As the Senator knows, the provision was sent to us by the House. We did not originate it.

Mr. PROXMIRE. I have some answers to the argument which he has made. The Senator from Louisiana has stated that the transportation utilities should all be treated alike. I believe that is exactly what my amendment would do and what the present law provides. Nothing requires a regulatory body to permit the pass-through. Furthermore, if a competitive phase of the transportation industry were involved, the investment credit would be passed through by force of competition, because competition would keep the price down. We need the regulatory body only where there is no competition. As the Senator from Louisiana knows, the whole justification for a regulatory body is that the public needs protection from excessive rates. Otherwise the rates would go higher than they would otherwise go. It is a substitute for competition. Therefore, the amendment of the Senator from Wisconsin would keep the present law, which would put utilities on the same basis as other business which is not regulated except by the regulatory power of competition.

Mr. LONG of Louisiana. The Senator from Louisiana will state his argument when he obtains the floor. He feels that it would not be helpful to state his argument in colloquy with the Senator from Wisconsin.

Mr. MILLER. Mr. President, will the Senator from Wisconsin permit the Senator from Iowa to ask a question on this subject of the Senator from Louisiana?

Mr. PROXMIRE. I yield for that purpose.

Mr. MILLER. I should like to ask the Senator from Louisiana the following question: The Senator has indicated his opposition to enacting section 203(e) subsection (1) without subsection (2). It seems to the Senator from Iowa that if section 203(e)(1) were in the bill, and section 203(e)(2) were not in the bill, the regulating agencies would have to take into account the competitive situation which the regulated and the nonregulated utility under section 203(e)(2) would face. If they do not, they are not really regulatory agencies. Why is the Senator so worried?

Mr. LONG of Louisiana. I do not agree with the Senator on that point. When I can obtain the floor, I shall explain my views.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. PROXMIRE. Before I yield to the Senator from Vermont, I should like to make it clear that my amendment would not abolish, reduce, or affect the investment credit at all—not in any way—except to provide that the regulatory body shall have the power it has today, to decide, if it thinks it is right, that the benefit of the investment credit may be passed on to the consumer. That is all it does.

Mr. MAGNUSON. "May."

Mr. PROXMIRE. "May," not "shall." The discretion is left in the regulatory body.

I yield to the Senator from Vermont.

Mr. AIKEN. I have heard the provision of the bill referred to as a "windfall" to the utilities many times this afternoon.

Mr. PROXMIRE. I should like to interrupt at that point by saying that in 1962, when I debated the subject with the Senator from Oklahoma, I said that

the investment credit would be a windfall to the utility stockholder. He said it would not be for one reason, and that was because the amount received would be passed through to the customers of the utility. That was his whole defense. He had no other.

Mr. AIKEN. That is the point I was leading up to. Would not the Senator from Wisconsin consider referring to the proposal, at least part of the time, as an attempted raid upon the consumers and the taxpayers of our country? I think that might be a better category for it to fall into than the category of a windfall, because whether the amount is $300 million or $1 billion, we know for a fact that it will not be passed on to the consumers. So why not call it by its right name?

Mr. PROXMIRE. I agree with the Senator from Vermont wholeheartedly.

With relation to the 3-percent item, which troubles many Senators who have a solid knowledge of the subject and feel very strongly about it, I think we should recognize what the 3-percent item would do in providing a spread over the life of the asset. The committee bill provides an entirely fictitious hypothesis, which does not exist. It is said, "Let us assume that the utility, instead of buying the asset in 1 year, paying for it in 1 year, and having it 1 year, buys it over a period of 20 years, pays for it in 20 years, and has it only for 20 years." I say that is a fiction which has no connection with reality at all.

Furthermore, if the regulatory body wishes to regulate in that way, it is perfectly free to do so under my amendment. Therefore, it seems to me that the amendment, which applies to both the 7-percent and the 3-percent credit, makes sense, because it is the only way in which discretion can be left in the hands of the regulatory body completely.

Mr. CHURCH. Mr. President, will the Senator yield?

Mr. PROXMIRE. I am happy to yield to the Senator from Idaho.

Mr. CHURCH. I should like to ask the Senator if he does not feel that it would be well for us to remind ourselves as to why we treat utilities differently than we treat other forms of business? Is it not true that the regulatory commissions were established in the first place, either because of the monopoly character of utilities or because their central role in the economy was so great

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that all other businesses depended on them?

Therefore, it was found to be necessary to establish regulatory commissions in order to regulate utility rates, to assure them of a fair return, but to protect the general consumer interest against overreaching or excessive profiteering?

Mr. PROXMIRE. The Senator could not be more correct. The ultimate objective was, as he has stated so well, to protect the consumer interest. That is correct.

Mr. CHURCH. And, in order to protect the consumer interest, while giving the utilities a fair return, we found it necessary, as a matter of good policy, to permit the regulatory agencies, whether they were State or Federal, to have broad discretionary power in determining a fair rate of return for each utility, based upon its fiscal situation in the community it served.

Mr. PROXMIRE. Yes, indeed. It is my understanding that in Wisconsin the electric utilities are allowed to earn about 6 percent on their capital investment. In Ohio it is 9 percent. The rate varies in other States. Regulatory bodies will permit the utilities to have large earnings in certain years because of unusual circumstances, and not enforce rates on utilities that might be upsetting to them.

Mr. CHURCH. The Senator's amendment is addressed to a single provision in the bill which interferes with the kind of discretion which the regulatory commissions have always had. In other words, it seeks to give to the regulated, a measure of control over their regulators, which they have never enjoyed before?

Mr. PROXMIRE. That is correct.

Mr. CHURCH. This is unprecedented so far as Federal law is concerned. Is that correct?

Mr. PROXMIRE. Within the knowledge of the Senator from Wisconsin, it is.

Mr. CHURCH. If all this is so, is not this a matter of public policy that properly should be considered by the legislative committee which is charged with such responsibility?

Mr. PROXMIRE. The Senator is correct. That is what my amendment would do. It would eliminate from the bill the provision in question. It would eliminate from the bill a matter which I believe comes under the jurisdiction of the Commerce Committee, and provides that this shall be a tax-cut bill, and only a tax-cut bill. Other committees which have responsibility over regulatory bodies could decide whether or not a change in policy was justified, on the basis of examination into the subject through committee hearings.

Mr. CHURCH. I agree that this is a legislative matter which should be considered by the Commerce Committee. It is a very important departure from what

has been established policy in the past. Therefore, I think the Senator's amendment is well designed. It ought to be adopted. I hope it will be.

I should like, with the Senator's permission, to ask unanimous consent to have printed here in the RECORD a more extended statement of my reasons for supporting the Senator's amendment.

Mr. PROXMIRE. I have no objection.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR CHURCH

Section 203 (e) states that no Federal regulatory agency shall take certain actions to flow through the tax savings from the investment tax credit to the utility's customers without the consent of the utility. This section says quite openly that it is to be the utility—not the regulatory commission—that determines finally how the tax savings from the investment tax credit shall be handled.

But the first part of section 203(e) says that in passing the investment tax credit in 1962, Congress intended "to provide an incentive for modernization and growth of private industry (including that portion thereof which is regulated)."

The assumption is clear: the only way to assure modernization and growth of regulated utilities is to make certain that the utilities keep the tax savings from the investment tax credit. Obviously a dire emergency exists if the utilities are compelled to ask Congress to get into the details of the regulatory business. According to Federal Power Commission Chairman Joseph C. Swidler—this would be the first time that Congress had prescribed the details, the specifics, of rate treatment of costs by any utility commission so far as I am aware.

A drastic step, this unprecedented attempt to bypass the Federal regulatory agencies. But the evidence is substantial that Congress' aim—to spur modernization and growth—might be just as successfully achieved if the tax savings from the investment tax credit were passed on to utliity customers.

FPC Chairman Swidler, testifying before the Senate Finance Committee, said: "There is much to be said for the position that in the case of public utilities and natural gas pipelines it is the rate of growth in the use of their product or service which controls their investment in new facilities, and that the rate of growth is in turn largely affected by the level of rates which their customers must pay. In this view, utilizing the credit as a basis for reducing rates, and increasing consumption might well achieve the objectives of the statute far better than either of the specific formulas it prescribes."

This statement, and a similar one by President Donald Cook of American Electric Power Co., a major private utility, show that there are at least two ways in which the tax savings from the investment tax credit might be used to stimulate modernization and growth of regulated utilities:

1. The dollars of tax reduction from the investment tax credit could be kept by the utility and invested in new facilities. It is this alternative that the utilities have asked Congress to write into the law of the land, leaving no other route open.

2. These dollars of tax reduction could be used by the utilities to lower their rates, thus encouraging more use of utility services, and thus stimulating added utility growth to meet the increased demands.

There is more than one way to stimulate utility modernization and growth (which is the Congressional aim), and it would be most unwise to write into law a provision which prevents alternative approaches.

But there is another matter that cannot be overlooked, even if those who favor Section 203 (e) would like to overlook it. Where does the money come from in the first place? Where do the regulated utilities obtain the extra funds that result from the tax reduction available through the investment tax credit?

The fact is that these funds come from the utility customer. The utility customer pays the utility for services on the basis of rates set to include normal Federal income taxes. But when the utility does not pay these taxes—because the investment tax credit permits the utility to reduce its tax payments to the Federal Government—the customer has paid phantom taxes—takes which are not paid by the utility to the Federal Government.

In the interest of fairness and equity, the utility should return this money to the customer through reduced rates. If, on the other hand, the utility keeps the money, then the customer has contributed interest-free capital to the utility, without the knowledge of the customer that he has made an interest-free loan to the utility.

This is what the regulated utilities are asking Congress to do—to put its OK on an arrangement through which the utilities will be guaranteed the right to keep the money which the utility customers have paid in phantom taxes to the utility; and to prevent any Federal regulatory commission from taking action to see that the utility customer gets his money back, in some way or other.

I say we should vote down this proposal, which Senator DOUGLAS has called the worst single feature in the bill. Section 203(e) puts the wolves in charge of the henhouse, giving the private utilities regulatory authority which should belong to the Federal regulatory commissions. Section 203(e) writes into law a single solution to the problem of using investment tax credit savings to stimulate utility growth, although there are obviously other approaches that would produce more growth, and at the same time produce more consumer benefits. Section 203(e) would legalize the utility's attempt to take money from the consumer and slip it in the pockets of the stockholders.

If we believe in the regulatory process, let us protect it from this attack by the utilities, rather than permitting the utilities to control the regulatory commissions with the approval of Congress. I urge my colleagues to vote down this anticonsumer provision, and vote it down by a decisive margin.

Mr. CHURCH. Mr. President, one further point. I take it, from the Senator's lucid explanation of his amendment, that if it is adopted, it will do nothing other than strike from the bill the particular provision we have been discussing.

Mr. PROXMIRE. The Senator is correct.

Mr. CHURCH. Investment tax credit would remain available for utilities; but this deliberate interference with the discretion we have customarily given to regulatory commissions would be the only part stricken from the bill. Is that correct?

Mr. PROXMIRE. The Senator is correct. I thank him very much.

Mr. McCARTHY. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. McCARTHY. Generally I am in support of the position of the Senator from Wisconsin, but I think the case is not as clear and simple as some Members of the Senate would like to make it. If we go back to the basis on which investment credit was approved by the Congress, we start on a somewhat different basis. Some of us opposed it. The Senator from Tennessee and I proposed a simple reduction in corporate taxes at that time as an alternative to investment credit, on the ground that a corporation could then decide how it wanted to use its tax savings, whether to invest it for
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capital equipment or otherwise, depending on what the particular circumstances might be. But the investment credit was approved; and the theory was that it would have the effect of encouraging both the utilities and other businesses and industries to invest in capital equipment, and thereby stimulate the economy. That was the argument made for it. We now see that the provision that the tax credit should not pass through to the consumers is not inconsistent with the justification for adopting investment credit.

The argument which could be made for the position of the Senator from Wisconsin [Mr. PROXMIRE] is that eventually this advantage should be reflected in rates in any case, and it should be assumed that regulatory agencies will exercise discretion early in the administration of their offices with reference to the tax credit, so that the ultimate effect would be the same as if we had approved the language proposed.

Theoretically a case could be made against adoption of the provision but practically, the case is not particularly good.

Mr. PROXMIRE. May I say to the Senator from Minnesota, who speaks with very expert knowledge as a member of the committee, and who has studied this subject, that on the record made by Donald Cook and others, the only way the investment credit can expand expenditures for equipment purchase is for the investment credit to be passed through. There may be other ways, but this is one way to promote expansion. Therefore, the practical argument is on the side of permitting a passthrough if the regulatory body thinks it is appropriate.

Mr. President, the Senator from South Dakota [Mr. McGOVERN] has been patiently waiting a long time, and I yield to him.

Mr. McGOVERN. Mr. President, I wish to support, as best I can, the amendment offered by the Senator from Wisconsin, because I think it is the most valuable and compelling amendment that has been offered to the tax bill. Those of us who are supporting the tax bill have been sold the tax bill mainly on the ground that it is a device that will help consumers; that passing on tax reductions to consumers will stimulate the whole economy; and this is supposed to have a favorable impact on such problems as unemployment. But in the section of the bill which the Senator from Wisconsin is trying to correct, the tax-writing committee provided a device that would bring about the opposite result. It would prevent the regulatory agencies that have been established to protect consumers and the public from exercising their prerogatives, by preventing the passing to consumers of the tax savings called for in the bill.

Mr. President, there is probably no provision in the tax bill before us which has more far reaching implications and importance than section 203(e).

I find myself in agreement with Senator PROXMIRE and others who oppose this section on the grounds that it permits licensed, or franchised, public service institutions, acting as agents of the Government in the performance of public functions, to gain windfall profits in excess of the fair return for which they agreed to render the public service. Prof. Robert Eisman of Northwestern University, a leading authority in this field, has made a compelling case for the Proxmire amendment and his conversations with me have given me a keen appreciation of the public's stake in this amendment.

I am in agreement that we should not, in a tax bill, attempt to legislate the manner in which utilities should be regulated. But I have a deep concern beyond

those very basic considerations as to the effect on our whole economy of this new concept of higher profits for suppliers of energy and transportation.

If our concept of a fair return to suppliers of electricity and transportation is to be increased from 6 percent to 8 or 10 or 12 percent a rise in consumer costs results. And if the costs of energy and transportation are increased, this increase will spread throughout our economy and retard the economic development of the Nation.

As a result of the discussion of section 203(e), I recently reviewed the report of the Paley Commission, "Resources for Freedom," issued in 1952. That distinguished Commission included Edward S. Paley, then president of the Columbia Broadcasting System; George R. Brown, president of Brown & Root, large Texas contractors; Arthur H. Bunker, president of American Metals Climax Corp.; Eric Hodgins, of Fortune magazine; and Edward S. Mason, of Harvard University.

Throughout their discussion of energy, and particularly of electricity, the Paley Commission emphasized the importance of the cost of energy to the whole economy.

The general economic objective of keeping costs of all materials as low as possible applies with particular force to electricity—

This distinguished Commission reported—

because it enters into the cost of practically all goods and services produced in the economy and into the budget of nearly every family.

Even though electricity typically represents only a small fraction of total production costs for most items, a substantial increase in its real costs, reflected in correspondingly higher prices for industrial and other consumers, could have a considerable retarding effect on economic growth.

The Commission then points out the especially serious effect that higher power costs would have on the electrochemical industries, illustrating by citing the fact that each 1 mill increase in power cost increases the price of aluminum by 5 percent.

I ask unanimous consent, Mr. President, to include in the RECORD a table from the Paley Commission report showing the electric energy used per ton of product by certain electrochemical industries, illustrative of the importance of electricity costs.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE V.—*Power requirements for selected electro-process materials*

[Appropriate kilowatt-hour requirement per ton of product]

Material	kWh per ton
Titanium metal[1]	40,000
Aluminum metal	18,000
95 percent silicon metal	17,500
Electrolytic magnesium	16,000
35 percent hydrogen peroxide (100 present basic)	16,000
Electrolytic manganese	10,200
Silicon carbide	8,600
70 percent ferrotungsten	7,600
Sodium chlorate	5,200
Rayon	5,200
Phosphoric acid (via electric furnace)	3,900
Electrolytic zinc	3,400
Chlorine	3,000

[1] Kilowatt-hour per pound of titanium from the President's Materials Policy Commission staff report on titanium.

Source: Adapted from chart of "Process Power Requirements," Chemical Engineering, March 1951, p. 115.

Mr. McGOVERN. The Commission then states:

Changes in production technology will probably increase the number of electro-process materials and will enlarge the power requirements of many other materials by 1975. Broadly and over the long run as important materials like copper become more difficult to obtain, the Nation will need to develop substitutes to replace them. Moreover, as high grade ore reserves of important minerals dwindle, more electric energy will be needed in some cases to use lower grade ores. To mine and concentrate the low grade ore of the Lake Superior region will require 75 to 80 kilowatt hours per ton of concentrates as compared to 3 kilowatt hours per ton of useable high grade ore.

Unless sufficient electric energy is available at favorable costs the expansion of substitute materials and of output from low-grade ores will be retarded.

The Commission points out that many scientific processes are dependent entirely on economic feasibility, and that with increases in costs—including electricity and transportation involved in the amendment before us—many otherwise feasible processes—and resources—are denied to us.

Mr. President, this is only a glimpse into one field at the potential serious effect of adopting, in this tax measure, an inflated profits policy for the provision of public services.

The provision proposed is too far reaching, too dangerous to the economy of the Nation, to be adopted casually.

By prohibiting any of the benefit of the investment credit extended to public service companies to be passed on to consumers, we may very well jeopardize rather than increase economic growth.

Housewives buy appliances when energy costs are low—when it is cheap to let an appliance do the work.

Industries adopt new processes, build new plants and employ new work forces, when lost cost energy makes new processes feasible.

The new, high-profit utility policy inherent in section 203(e) could potentially do more harm over the years to the economy of this Nation than the good done by other portions of the bill.

In this connection, the New York Times yesterday carried an editorial which I ask unanimous consent to have

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printed in the RECORD at this point, as well as an editorial in today's Washington Post.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the New York (N.Y.) Times, Feb. 4, 1964]

GIFT TO THE UTILITIES

There are many questionable provisions in the tax reduction bill now being considered in the Senate, but none is more unconscionable than the gift proposed for the utility industry.

The gift is in the form of an amendment forbidding the Federal Power Commission and other regulatory agencies from exercising any control over the investment credit provided for public utilities. The regulatory agencies are supposed to set rates that insure a fair return on utility investments. The proposed amendment means that the FPC could not take the tax credit into account in setting rates. As a result, electric and gas companies would receive a windfall estimated at $300 million, which would not be passed along to consumers.

The size of this windfall alone should give pause. Yet big as it is, it is not the most disturbing element in the proposed amendment. By limiting the power of the FPC in setting rates, Congress will increase the cost of utility services to consumers. And it will encourage the utility lobby, and pressure groups representing other regulated industries, to press for new restrictions on the ratesetting function of the regulatory agencies.

Even so, there could be a case for the amendment if it were to spur corporate spending and cut costs to consumers, which were the original objectives of the investment credit. But utilities will not have any extra inducement to spend and consumers will not be benefited. This is not the kind of gift that the Congress should be bestowing.

[From the Washington (D.C.) Post, Feb. 5, 1964]

LOOPHOLE TO BE CLOSED

We hope that the Senate, which struck down a reduction in the tax rate on capital gains because a crucial loophole was not closed in the House version of the tax bill, will also eliminate an obscure rider which would hamper the Government regulation of gas and electricity rates and add billions to the burden borne by consumers.

Section 202(e) of H.R. 8363—the Revenue Act of 1964—would bar the Federal regulatory agencies, notably the Federal Power Commission, from taking into account in rate determinations the tax savings granted under the "investment credit" provisions of the 1962 tax act. Permitting a utility to include in its rate base taxes which it never paid would burden consumers with between $300 and $600 million in extra charges during 1964, and costs of this tax morsel would increase sharply over time. Moreover, a dangerous precedent would be established for direct congressional intrusion into the ratemaking process.

Public utility regulation has been traditionally based on the premise that cost savings are to be passed on to the public in the form of lower rates. But this principle will be subverted and public utility regulation left in a state of shambles unless the Senate deletes this devious provision from the tax bill.

Mr. LONG of Louisiana. Mr. President, who has the floor?

Mr. PROXMIRE. Mr. President, I have the floor. I yielded temporarily.

The PRESIDING OFFICER. The Senator from Wisconsin had the floor, and yielded.

Mr. LONG of Louisiana. Mr. President, can a Senator yield for other than a question?

The PRESIDING OFFICER. If the regular order is called for, a Senator may yield only for a question.

Mr. LONG of Louisiana. Mr. President, I have no objection to having the Senator place in the RECORD what he requested, but under the conditions that exist at this time, I do think we should follow the regular order.

The PRESIDING OFFICER. The Senator from Louisiana has asked for the regular order.

Mr. PROXMIRE. Mr. President, I think the Senator from Louisiana will agree that what I have been doing in answering questions asked by the Senator from Idaho [Mr. CHURCH], the Senator from Vermont [Mr. AIKEN], and the Senator from Minnesota [Mr. MCCARTHY].

I ask unanimous consent that the Senator agree to let me yield 2 minutes more to the Senator from South Dakota.

Mr. LONG of Louisiana. Mr. President, I ask for the regular order.

Mr. PROXMIRE. Does the Senator object?

The PRESIDING OFFICER. The regular order has been called for.

Mr. McGOVERN. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. Mr. President, may I yield for a question to the Senator from South Dakota?

The PRESIDING OFFICER. The Senator has that right.

Mr. McGOVERN. I should like to ask the Senator from Wisconsin a question. Even if we were to assume—which I do not think we should assume—that it might be desirable to change the powers of the regulatory commissions, should that be done in a tax bill, or should it be done after careful consideration and review by the Commerce Committee, which properly has jurisdiction over this field?

Mr. PROXMIRE. That is a crucial element in the debate, and one of the prime reasons for offering the amendment. We should not, in a tax bill, decide legislative policy with regard to regulatory bodies. That is something which is the responsibility and function and duty of the Committee on Commerce. I am happy that the distinguished chairman of the Committee on Commerce, the senior Senator from Washington [Mr. MAGNUSON], has said exactly the same thing. Although he thinks there is some merit in what the committee has done, I hope he will support my amendment. However, he, too, feels that the policy should be decided by his committee on the basis of hearings and committee discussion. They are the experts in this area, and they should be accorded due courtesy, and the opportunity to decide this policy.

Mr. McGOVERN. This is the first time that I have had an opportunity to take the floor during the discussion of the bill.

Mr. LONG of Louisiana. Mr. President, I call for the regular order.

The PRESIDING OFFICER. The regular order is asked for.

Mr. McGOVERN. I thank the Senator from Wisconsin for yielding to me.

Mr. PROXMIRE. I shall conclude very quickly. I have referred to the fact that Mr. Donald Cook, who is the president of the American Electric Power Co., has taken a very strong position on the investment credit, and that he feels it should be passed through. Who is Mr. Donald Cook? Mr. Donald Cook is such a prominent spokesman of the utility industry that he is one of two or three utility representatives who were asked by the Finance Committee to testify in 1962 on the investment credit, so that the committee might gain a practical understanding of whether or not the investment credit should be adopted and, if so, how it would work.

The American Telephone & Telegraph Co. is opposed to the investment credit. It has been against it. It has said that it would not accept it. Even though it meant a benefit of $75 million to them, it said it would not take it, and is opposed to it.

I wish to quote in part what Mr. Donald C. Cook said before the Finance Committee in 1962 in favor of the investment credit for utilities. He said:

> From the point of view of whether the tax credit would apply as an incentive to construct additional plant and equipment, it is almost a matter of indifference as to whether the tax reduction is passed on to customers or not.
>
> This is true because as indicated above, it is the reduction in fixed charges with the resulting decrease in revenues necessary to support the expenditures for plant that operates as the incentive to build, not the receipt, and retention of cash resulting from reduced expenditures for taxes.

In other words, if there is an investment credit and it is not passed on, it means that more cash is available for stockholders.

Why should they invest in equipment unless it is needed to service customers? What makes customers want and need more service? Lower rates. There is nothing else. Lower rates. It is a matter of arithmetic. A little further on Mr. Donald Cook said, in his testimony:

> What I have tried to say to the committee, Senator, is that reduction in taxes will reduce our fixed charges, and by reducing the fixed charges, it will make marginal projects feasible. We do not need the cash that would become available—although some industries may, we do not need the cash that would become available from this tax reduction in order to finance the additions to our plant. If we can reduce our fixed charges, we would be in a position to finance out of our own resources or by going to the capital markets all of this plant and any other plant that we need to construct.

On January 3, Mr. Donald Cook wrote a letter to the chairman of the Finance Committee, in which he supported his position very eloquently. I ask unanimous consent that the letter may be printed in the RECORD at this point in my remarks.

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There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> AMERICAN ELECTRIC POWER CO., INC.,
> *New York, N.Y., January 3, 1964.*
>
> Hon. HARRY FLOOD BYRD,
> *U.S. Senate,*
> *Washington, D.C.*
>
> DEAR SENATOR BYRD: My attention has recently been called to a statement, dated November 15, 1963, filed with the Finance Committee in behalf of Edison Electric Institute by Walter Bouldin, its president. The statement supports the enactment of section 202(e) of H.R. 8363, relating to the treatment of the investment credit by Federal regulatory agencies.

The statement argues that (1) the investment credit does not have the characteristics of a reduction of tax expense, and (2) the investment credit's objective of stimulating capital expenditures will not be attained by passing on the benefit of the credit to utility customers.

Although American Electric Power Co. is a member of EEI and I am a member of the EEI board of directors, the statement was not seen by me or by any representative of my company prior to its submission. I strongly disagree with the above arguments. Since I expressed contrary views in testimony before the Finance Committee in April 1962, when the committee was considering the investment credit provisions of H.R. 10650, and to remove any implication that the statement reflects the views of all EEI member companies, I feel impelled to write you to set the record straight.

It is my view that the investment credit does in fact represent a reduction in current Federal income tax expense, and therefore a reduction in current operating expenses; that the investment credit will stimulate capital expenditures by utilities even if all or part of the tax saving is passed on to customers, or if the tax saving forestalls or reduces an otherwise necessary increase in rates; and, indeed, that the use of this tax saving to reduce or avoid an increase in the price of the taxpayer's product is best calculated to increase demand and in turn to stimulate plant investment, and thus to carry out the basic objectives underlying the adoption of the credit.

It is my understanding that these views are also shared by a number of other utility companies and are advocated by many Federal and State regulatory agencies.

I am sending a copy of this letter to each member of the Finance Committee.

Sincerely yours,

DONALD C. COOK,
President.

Mr. PROXMIRE. Mr. President, I have almost concluded my remarks. Before I yield the floor, I should like to call attention to the fact that the utilities not only have the investment credit advantage, but they are also in the position if they need capital, to go to the regular financial markets to obtain it.

The 50-utility index by Standard & Poor's, which includes gas, electric, and telephone, was 21.1 for September 1963.

I believe anyone who has studied this subject knows that it is an excellent ratio. There used to be a rule of thumb that if the price-earnings ratio on a stock goes above 17, it is time to sell the stock. The average in the industry is far above what the rule of thumb would indicate for high-priced stock. The utilities are in an excellent position to get all the money they need.

The 25 utility price-earnings index by FPC—which is all electric utilities—was 20.8 for December, 1963.

A few of the latest available price-earnings ratios from FPC are:

Baltimore Gas & Electric	21.2
Commonwealth Edison	22.2
Consolidated Edison	20.4
Detroit Edison	20.4
Florida Power & Light	29.4
Virginia Electric & Power	27.7

The Standard & Poor's railroad index for September was 11.3.

Senators who vote against the amendment, in my judgment, are contradicting the policy of their own State regulatory bodies, which those bodies have arrived at after very careful study. They are the most competent people in their States in this area. They have devoted their whole lives to this field.

Mr. President, the New York Times editorial, which strongly supports the amendment, has already been placed in the RECORD. I should also like to call attention to an editorial published in this morning's Washington Post.

I ask unanimous consent that the editorial may be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

LOOPEHOLE TO BE CLOSED

We hope that the Senate, which struck down a reduction in the tax rate on capital gains because a crucial loophole was not closed in the House version of the tax bill, will also eliminate an obscure rider which would hamper the Government regulation of gas and electricity rates and add billions to the burden borne by consumers.

Section 202(e) of H.R. 8363—the Revenue Act of 1964—would bar the Federal regulatory agencies, notably the Federal Power Commission, from taking into account in rate determinations the tax savings granted under the investment credit provisions of the 1962 Tax Act. Permitting a utility to include in its rate base taxes which it never paid would burden consumers with between $300 and $600 million in extra charges during 1964, and costs of this tax morsel would increase sharply over time. Moreover, a dangerous precedent would be established for direct congressional intrusion into the ratemaking process.

Public utility regulation has been traditionally based on the premise that cost savings are to be passed on to the public in the form of lower rates. But this principle will be subverted and public utility regulation left in a state of shambles unless the Senate deletes this devious provision from the tax bill.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. PROXMIRE. I am happy to yield.

Mr. DOUGLAS. First, I commend the Senator from Wisconsin for the

amendment he has offered. It is very much needed. I should like to ask the Senator one or two questions, if I may.

Yesterday, as shown at pages 1802 and 1803 of the CONGRESSIONAL RECORD, the Senator from Montana [Mr. METCALF], referred to earnings figures for the 50 largest utilities in the country. This compilation shows that they had invested capital of $34,952,933,000. They made a profit of $3.145 billion. If my arithmetic is correct, that is an average rate of earnings of 9 percent. Does not the Senator think this is a very good profit?

Mr. PROXMIRE. I believe the figure indicate very clearly that any further advantage to stockholders who get the benefit of this figure is wholly unnecessary. I could characterize it as notice to the customer.

Mr. DOUGLAS. Is it not correct to say that what the bill does, so far as the federally regulated utilities are concerned, is to prohibit the federally regulated utilities from passing any of these amounts to the consuming public; that it does not allow them discretion, but prohibits them, actually?

Mr. PROXMIRE. Yes. This is a crucial point. I believe it should be understood by the Senate. If we pass the bill as drawn, we compel the public utility commissions not to pass on this reduction in taxes and this increase in income. Instead we prohibit them from passing it on.

Mr. GRUENING. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. GRUENING. Has the Senator from Wisconsin, who is very properly fighting this provision in the bill, ever heard of a provision in the tax bill which compelled people not to pass their profits on?

Mr. PROXMIRE. There are two elements in the Senator's question.

First. This provision should not be in the tax bill. If it should be anywhere, it should be in a bill reported by the Committee on Commerce dealing with regulatory policy.

Second. Congress should not dictate that a fair return is not enough, and that utility stockholders should receive more than a fair return.

That is what the provision in the bill would require. On top of a fair return, the utility would receive more. It would receive more on top of the 9 percent. As the Senator from Illinois has said, get their 9 percent and then some by law. If the utility regulatory body decided that 9 percent was a fair return, that would be the amount the utility would receive.

Mr. GRUENING. Is there any understanding as to the origin of this strange provision? Was a lobbyist working on the program? It sounds like the days of Sam Insull.

Mr. PROXMIRE. I do not know the origin of it. I presume there are those who would directly benefit. I am sure they made their views and convictions plain before the Committee on Finance.

Mr. DOUGLAS. Is it not true that what the Senator from Wisconsin is trying to do is to give Federal regulatory bodies discretion as to whether or not they will pass on the benefit?

Mr. PROXMIRE. I am trying in this amendment to maintain the discretion which the regulatory bodies now have. This would mean that present law would remain as it is, as it has always been in the past, and as we hope it will be in the future. The regulatory body would decide what is a fair return.

Mr. DOUGLAS. Is it not true that possibly in the case of some railroads—I am not certain that it would hold true for every railroad—the Interstate Commerce Commission may find that the rates at present are inadequate to enable them to earn a fair return on the fair value, and that in those cases the

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Interstate Commerce Commission may say that the benefit should not be passed on?

Mr. PROXMIRE. Yes; furthermore, there is nothing in the amendment or in present law that would prohibit regulatory bodies from not passing the investment credit on and establishing a rate over and above a fair return, if they desired to do so.

So far as the Interstate Commerce Commission is concerned, I quoted from its latest order or determination, in which it said that it thought this factor should be a consideration.

As the Senator from Illinois knows, many railroads are not doing well financially. In those cases, the benefit would not be passed on. The railroads would always be entitled to earn a fair return.

Mr. DOUGLAS. But in cases in which the present rate of return was fair, or more than fair, the Senator would give to the regulatory bodies the power to say that the benefit should not be passed on but should be retained?

Mr. PROXMIRE. That is correct. The regulatory agencies have power to do that, but are under no compulsion to do it.

Mr. DOUGLAS. Is it not true that the accounting forms which the various State commissions prescribe for the regulation of electric utilities are largely modeled upon the forms prescribed by the Federal Power Commission?

Mr. PROXMIRE. The Senator from Illinois is correct. This is one of the transparent reasons why, if the Federal Power Commission is compelled to act as the bill provides—that is, to give all the benefit of the credit to the stockholders, and none to the consumers—the regulatory agencies of the States will almost inevitably follow such a procedure. Some States will resist. Wisconsin will resist temporarily; so, perhaps, will Illinois. But as other States adopt such a procedure, eventually all States will adopt it.

Mr. DOUGLAS. In other words, the gains which the electric and gas utilities may make as the result of the benefit from not passing the profits through will not show up in the statements prescribed by the Federal Power Commission, and therefore will not show up in the statements prescribed by State utility commissions. Is not that true?

Mr. PROXMIRE. The Senator is correct. That accounting idiosyncrasy or peculiarity is something that has been overlooked. One of the arguments made by the Committee on Finance is that this requirement would not be effective for State electric utilities because they are not regulated by a Federal regulatory body. The accounting procedures forms are the same, and this is one of the big elements that would put all utilities in the same position.

Mr. DOUGLAS. As I understand, the Senator from Wisconsin believes that if this practice spreads into the States, the initial cost—or, I should say, the initial windfall—would be around $600 million.

Mr. PROXMIRE. Yes. Estimates made by Professor Eisner—and they were made carefully—are that the benefit to the consumer would be twice the size of the investment credit because the credit is against income tax—the income could drop by twice any investment credit. Without passthrough, the initial loss to consumers would be about $630 million; by 1972, there would be a loss of $1 billion; and by 1997, on an estimated 8-percent growth assumption, the loss would be around $5 billion or $6 billion a year.

Mr. DOUGLAS. That would be at previous growth rates?

Mr. PROXMIRE. That is correct.

Mr. DOUGLAS. I thank the Senator from Wisconsin.

He has thrown much light on the question. I hope his amendment will be agreed to. It seems to me that it would be scandalous if it were rejected.

Mr. KUCHEL. Mr. President, will the Senator yield?

Mr. PROXMIRE. Mr. President, I yield to the Senator from California.

Mr. KUCHEL. I object to the provision in the bill. I shall support the Senator's amendment.

Mr. President, the Senate is being asked to accept a very dubious "hitchhiker" to the tax bill in the form of a proposal to weaken the utility regulatory process.

I refer to section 203(e), which would instruct the Federal regulatory agencies on how to treat for ratemaking purposes the reduction in taxes for public utilities resulting from the investment tax credit.

This "hitchhiker" is dangerous—and that he has a lot of friends down the road who are even more dangerous.

It has been recognized by many that section 203(e) is not a tax proposal at all—it is a regulatory proposal, and thus it should not be in a tax bill.

I have been impressed by the testimony given the Senate Committee on Finance on section 203(e) by California Utilities Commissioner George G. Grover, speaking as official representative of the entire State commission.

Commissioner Grover declared at the outset that section 203(e) has only an "incidental connection" with tax legislation and is, in reality, a regulatory proposal. He explained:

> Suppose the regulatory commissions were called upon to pretend that wages are more than they are, or that pencils cost more than they do. You would not feel that that was anything but a regulatory proposal. But because it is put in a tax bill, and because Congress happens to have, in addition to its regulatory jurisdiction, tax authority, it tends I think to give the impression that Congress has a special power over taxes as utility expense, which it does not have over wages as utility expense.

Federal Power Commission Chairman Joseph C. Swidler also made the point during the hearings that section 203(e) is not a revenue section, and he hinted that more hitchhikers are waiting down the road for future tax bills if Congress sets this precedent of legislating the details of the treatment of the items of cost for ratemaking purposes.

Public utility commissions were created in the first place because legislative ratemaking had proved to be infeasible. If Congress now prescribes the specifics of rate treatment of costs by the regulatory agencies, Congress henceforth in Swidler's words, "will be beseiged on both sides to allow more or less for this item or that until, I think, one can visualize, the decline of the regulatory process progresses to the point where it could no longer produce just and reasonable rates in the current legal sense of that term."

Commissioner Grover, speaking for the California Commission, made it clear that in our State the regulatory body is

insisting and probably will continue to insist that the benefits of the tax incentive be "flowed through" to consumers. He said, however, that in some States the commissions may be expected to follow the Federal lead, if Congress insists upon prescribing ratemaking criteria for the Federal agencies.

Commissioner Grover noted that while section 203(e) ostensibly provides equal treatment for the utility and nonutility industries, it does not in fact provide equal treatment. At the same time, he said, Congress does not in this section recognize the fundamental differences between utilities and nonutilities.

> Utilities are regulated—directly comprehensively, continuously regulated—

He told the Finance Committee.

> If profits are too high, rates are reduced; if profits are too low, rates are increased; it is unlawful to charge more, or less, than the rates fixed by public authority.

He stated further that utility construction may be ordered if the regulatory authority finds its facilities to be inadequate.

All of this, in the judgment of those most familiar with this field, is different in the case of nonregulated companies. Since Government control is limited in nonutility situations, the taxing power can be used as an indirect method of control—as in the investment tax credit. While section 203(e) ostensibly would treat utilities the same as nonutilities in providing the tax credit incentive it would, in reality, not treat them alike.

In the case of a manufacturing company, the tax saving would increase net profit, or to put it another way, would "flow through" to profit. The manufacturer then could decide whether to use the additional profit to reduce prices, to build new facilities, or to increase dividends.

For the regulated utility, this "flow through" to profit would be highly desirable from the regulatory standpoint, Commissioner Grover said. The California Commission wants this tax saving to "flow through" to profit in the case of regulated utilities, because it accurately records the financial facts about the utility.

The utilities, on the other hand, do not want to record these financial facts in the same way as an unregulated company, because their profit is subject to regulatory control. Commissioner Grover declared that section 203(e) "is nothing more nor less than a proposal to remove a portion of the profits of public utilities from the jurisdiction of Federal regulatory agencies. As such, it is a direct assault upon the integrity of the regulatory process."

While section 203(e) affects directly only the Federal regulatory agencies, [*P. 1972*]
Commissioner Grover predicted that its passage will create difficulties both for the State commissions and the regulated utilities.

With the California commission holding fast to its present requirement for "flow through" of the tax incentive benefits to consumers, and the Federal Power Commission required to take an opposite position, many utilities in California would be placed under a dual system of control which would force them to maintain two accounting systems. The very fact that the FPC had not taken a position on the investment tax credit at the time of Commissioner Grover's appearance before the Senate committee had rendered the California commission's job more difficult, he reported. One large California utility, he said, has had to keep the amount of the credit in a special suspense account, and because of the uncertainty the California commission had not sought to reach that account for rate reduction purposes. Millions of dollars each year are involved in connection with this one company alone, he added.

The purpose of the investment credit, of course, is to stimulate the economy. Commissioner Grover made it clear in his testimony before the Senate committee that he favors extending the credit to regulated utilities and, in fact declared that he personally favors giving such utilities the full 7-percent credit rather than 3 percent.

At the same time, he opposes giving the utilities the right to say how this tax saving will be used, on grounds that this is properly the responsibility of a regulatory commission.

In some cases, he said, the commissions will permit the utilities to keep all or part of the tax saving, where earnings have fallen below reasonable levels. In other cases, where profits are at reasonable levels, the regulatory commissions will use all or part of the investment tax credit to reduce utility rates.

This is a very important point. If utility rates are reduced, that stimulation of the economy which is intended by Congress will, in fact, take place. As Commissioner Grover put it:

> Like taxes, the cost of buying utility service is very close to a necessity for most people. Utility rate reductions, like tax reductions, therefore, have the effect of improving public purchasing power and stimulating economic activity. These rate reductions are not at the utilities' expense, and the net

result is to spread the tax reduction more widely over the economy.

Where utility consumers are manufacturing industries and commercial establishments, these rate reductions will be particularly effective in stimulating business.

Regulated utilities themselves are by no means unanimous in their eagerness to obtain this regulatory concession from Congress. It has been noted earlier that the American Electric Power system has proposed to pass along its tax incentive savings to consumers in the form of lower rates, on grounds that it will stimulate greater use of electricity and, in the long run, result in stronger financial position for the electric companies.

Another group of forward-looking electric utilities, represented by Cameron F. MacRae, of the New York law firm of LeBoeuf, Lamb & Leiby, submitted testimony at FPC's hearing on accounting treatment of the tax incentive in favor of "flowthrough" of the benefits to consumers:

> We regard it as a tax reduction and we think that is the commonsense view of it, and there we stand—

Mr. MacRae stated, explaining that he spoke for Consolidated Edison Co., Niagara Mohawk Power Corp., Orange & Rockland Utilities Co., Portland General Electric Co., and Pacific Power & Light Co.

Reluctantly, I have come to the conclusion that section 203(e) represents an attempt to use Congress as an instrument by which to erode the regulatory wall which was created simply because the public interest demanded it. I want to see a continuance and a strengthening of an American public utility industry dedicated to providing American consumers with the best possible service at the lowest possible cost.

I urge the Senate to delete section 203(e) from the pending bill.

Mr. PROXMIRE. I thank the distinguished Senator from California. His support means a great deal. He is a man whose reputation has been hard won. It is a reputation that is very high in Wisconsin, as it is in California and throughout the country. His support for my amendment means much, both personally and, I am sure, in terms of his influence on other Senators.

Mr. KUCHEL. I thank the Senator from Wisconsin.

Mr. JAVITS. Mr. President, will the Senator from Wisconsin yield?

Mr. PROXMIRE. I am happy to yield to the Senator from New York.

Mr. JAVITS. There is one thing that I believe has not been made sufficiently clear by the Senator from Wisconsin, namely the relationship between State and Federal regulation. I see much merit in the Senator's amendment, and I am sympathetic toward it. But I should like to have this point clarified.

Does the Senator contend that there are areas in which there is both State and Federal regulation?

Mr. PROXMIRE. In fairness, it should be said that my amendment would have no direct effect on State regulatory bodies. A State regulatory body would be free to ignore it.

The Senator from Illinois [Mr. DOUGLAS] has pointed out that because of uniform accounting forms used and because of the general pattern followed by Federal agencies, especially in matters of Federal taxation, it is his expectation, as it is mine, that many States will immediately follow Federal policy and do the same thing. Within a few years, virtually all States will be following that practice.

The Senator from New York is correct in saying that there are cloudy areas where the situation is confusing. I should think that would add force to my amendment. Obviously, if there is one policy on a statewide basis and a sharply conflicting policy on a national basis, that would tend to complicate the administration of the law and result in inequities.

Mr. JAVITS. Can the Senator from Wisconsin give any illustration of how his proposal would force a State to adopt the same rule?

Mr. PROXMIRE. It would not be forced to do so, but that great pressure would be exerted on the States.

I am sure the Senator from New York knows, from his wide experience as attorney general of his State and in other public positions, the pressure that a public utility regulatory body is under from the utilities it regulates. The pressure is intense to raise rates. But the pressure to lower rates is very slight.

Really, there is virtually no pressure from or on behalf of the consumers, except from a few public-spirited officials. The result is that, on a national basis, if this provision of the pending bill goes into effect, the concentrated power of the public utility lobbyists will be very great, and, in that event, in my opinion, it will not be very long before the State commissions will be subjected to similar pressures and will proceed to follow the Federal practice.

Mr. JAVITS. The Senator from Wisconsin has stated the facts in regard to action by the Federal Power Commission on this tax credit and in regard to the question of passing the credit

through; and he has also discussed the situation in the case of the Interstate Commerce Commission. Does he have other examples to cite?

Mr. PROXMIRE. I now quote from the January 23, 1964, order of the Federal Power Commission:

> The Commission has reached the conclusion that on the basis of existing law the accounting treatment to be prescribed should be to flow through the credit to income.

That is a very clear statement by the Federal Power Commission.

In my judgment—although I anticipate that this will be contested by the Senator from Louisiana—it is also clear that the Interstate Commerce Commission has taken the same position in its order of February 1, 1963.

Mr. JAVITS. What about the ones who regulate the aircraft companies, and so forth; does the Senator from Wisconsin have information from them?

Mr. PROXMIRE. I have none from the Civil Aeronautics Board, although I understand that this would be a fairly academic question at the present time, because I think most of those companies are not earning in excess of a fair return.

Mr. JAVITS. I should like to pursue another line of questioning, and I hope the Senator from Wisconsin will join me in exploring it: Apparently the argument in regard to the 3 percent for the public utilities is very different from that for the forms of activity subject to the 7 percent, the basis for the distinction being that the prohibition now contained in the pending bill would absolutely prevent a pass-through, whereas for the other utilities it would still require amor-

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tization over the life of the asset or the utility.

Mr. PROXMIRE. In other words, for the transportation utilities which would be permitted a 7-percent tax credit, the prohibition would be absolute and certain; for the utilities which would be permitted the 3-percent tax credit—the American Telephone & Telegraph Co., the electric utilities, and so forth—the passthrough would have to be over the life of the asset.

Mr. JAVITS. The Senator from Wisconsin has referred to the competitiveness in other areas, especially in connection with the truck transportation industry, and similar ones. Can he qualify the amendment as being an effort to equalize the competition? In other words, if the pass-through is prohibited, competition is equalized for all truck transporters and the others in that area, where there is a heavy competitive factor.

Mr. PROXMIRE. Yes, indeed; and I think that is an excellent point, because some have tried to argue the other way. The Senator from Louisiana said that the other firms, which are outside public-utility regulation, are in a position to hold on to the investment credit. I say they are not, because the competition itself requires—on the basis of any understanding or practical comprehension of how the tax credit operates—that it will pass through.

So I say the tax credit would be passed on in competitive industries. My amendment would make the pass-on of the tax credit apply to noncompetitive regulated industries.

Mr. JAVITS. Or the converse would be that if the pass-on were prohibited in the case of the regulated transportation companies, the other companies might figure that all of them would hold on to it, too; and, in that event, the competitive situation would not affect at all the question of whether the credit was passed through. So the question could be as broad as it is long.

Mr. PROXMIRE. It could be, if the competition were imperfect—as it often is in the United States.

Mr. JAVITS. But thereby the public utilities would be put to a disadvantage, by means of this mandatory requirement.

Mr. PROXMIRE. That is correct.

Mr. JAVITS. Has the author of the amendment considered the possibility of a plan somewhat more adaptable to specific situations than the pending amendment, with its rather broad sweep?

Mr. PROXMIRE. In reply to that question, I say that I feel that this amendment is exactly as it should be, for the reason that it leaves this matter completely to the discretion of the regulatory body—which is the way it should be. If we permit Congress to give a little direction as to rates, I think we shall lose the main argument in regard to the version of the bill the committee has reported.

Mr. JAVITS. Will the Senator from Wisconsin, the author of the amendment, now say that if his amendment is enacted into law, the legislative intent of the amendment will not be the negative one of attempting to deprive any board of that discretion—thereby indicating the attitude of the Senate or the Congress—but that he understands that there are situations in which the pass-through may not be required, either in whole or in part.

Mr. PROXMIRE. I think I must state my own position on the amendment, as

its author—namely, that it would maintain the present policy on the part of the regulatory bodies. The purpose of the amendment is not to change that in any way or to say that the tax credit must be passed through; but my position is that the regulatory bodies—which, in my judgment, have said they intend to pass the tax credit through; and I have placed in the RECORD documentation to show that—should be permitted to continue this policy, without dictation by Congress; and I think the Senator from Washington [Mr. MAGNUSON], the chairman of the Commerce Committee, contributed greatly to the legislative history in this connection when he said that is his opinion, discretion on the pass-through should be left with the regulatory bodies.

Mr. MAGNUSON. Yes. If there were to be included in the bill a requirement that the companies must pass the tax credit through, that would be as unfair as the others, for then Congress would be saying to the utilities, "You cannot keep the tax credit; you must pass it through." In that event, the Commission could do nothing.

Mr. JAVITS. I take it that the Senator from Wisconsin has in mind the policy of the regulatory agency for the time being.

Mr. PROXMIRE. The whole point of the amendment is to let them—not Congress—determine their policy.

Mr. JAVITS. I thank the Senator from Wisconsin.

Mr. PROXMIRE. I thank the Senator from New York for his very helpful questions.

Mr. GORE. Mr. President, will the Senator from Wisconsin yield?

Mr. PROXMIRE. I yield.

Mr. GORE. Is it not true that the intent of the Senate, in the first place, in voting for the investment credit to the regulated utilities was—and at the time was made perfectly clear—that the benefits should be passed through and would be passed through to the consumers?

Mr. PROXMIRE. When I voted on that bill in 1962, that was certainly my understanding; and it was corroborated and emphasized by the Senator from Oklahoma, who, in debate with me, stated exactly that.

However, it is true that the conference report and the House took a different point of view. Therefore, I think the legislative history is not explicit, express, and clear.

Mr. GORE. Mr. President, will the Senator from Wisconsin yield further to me?

Mr. PROXMIRE. I yield.

Mr. GORE. Lest someone impute to the author of the amendment some unusual power to interpret the legislative intent, I wish to ask the able Senator from Wisconsin whether it is true that he, the senior Senator from Illinois [Mr. DOUGLAS], the senior Senator from Tennessee, and other Senators agreed, in concert, in conference among themselves, that certain amendments would be offered by various members of that group.

Mr. PROXMIRE. Yes, indeed; and I am certainly a junior member of the group, if ever there was one.

Mr. DOUGLAS. But the Senator from Wisconsin is a very valued and valuable member of it.

Mr. PROXMIRE. Certainly the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. DOUGLAS] were the leaders; and they made the suggestions, and they have done all the work on this matter.

Mr. GORE. But the Senator from Wisconsin is a very able and very respected member of any group of which he is a part.

This amendment was one of the key and important amendments which the group considered.

Incidentally, the press has been wont to dismiss those of us who have been waging the battle for what we regard as the public interest, as "a little band of liberals."

I must suggest that before the fight is finally over in both committee and in the Chamber, this so-called little band will leave a little footprint on the bill including, I believe, the adoption of this amendment. Therefore, I suggest that the intent of the amendment which the senior Senator from Wisconsin offers embodies the legislative will and intent of many Senators, and that intent is to preserve the law as it is with respect to the pass-through of benefits from the investment credit.

Mr. PROXMIRE. That is absolutely correct. To preserve the law as is. There is no question about that.

Mr. GORE. The question has been raised here as to whether it would be proper to give the benefit and then to take it away. That is not the case at all. As I shall try to demonstrate later, taxes are considered by regulatory agencies as a part of the cost of providing services. The regulatory agencies, by decisions which I shall read, have ruled that the amount of taxes actually paid, which is the tax liability less the investment credit, is the proper item of cost.

Is it not true that what the bill would do would be to require the Federal regulatory agencies to treat the investment in equipment, for purposes of determin-

ing fair and reasonable rates, at 100 percent, rather than the actual effective cost, which in one instance is 97 percent and in the other 93 percent of purchase price.

Mr. PROXMIRE. I can answer the question which the Senator from Tennessee asked before: clearly and emphatically, "Yes." That is why we wish to preserve the law as it is now. But as I understand, we have to recognize that it was the full and complete legislative history of the 1963 investment credit with regard to utilities that was confusing and ambiguous. I am happy that that the Federal Power Commission and

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the Federal Communications Commission have taken a clear and unequivocal position that the tax credit should be passed on. I think the ICC has taken the same position, but there is some dispute about it. All I can say, in complete honesty, is that what I am purporting to do is to keep the present law as it is. On the basis of what I have said before—and I must be consistent—this leaves discretion with the regulatory bodies. I am satisfied that that discretion will be exercised, as it always has been in the past, and that the full tax liability, and only the tax liability, will be taken into account, and no more.

Mr. LONG of Louisiana. Mr. President, will the Senator from Wisconsin yield for a question?

Mr. PROXMIRE. I am glad to yield.

Mr. LONG of Louisiana. Assuming that some agencies are not required to pass through the benefits of the credit, as I am certain they are not; and inasmuch as the Senator from Wisconsin is saying that he believes in passing on the credit, why does he not offer his amendment to require that they all pass it on? The Senator says that he believes in a pass on. If he believes it is evil not to pass it on, why does he wish to condone anything less, such as a pass on in some cases and not in others?

Mr. PROXMIRE. The answer to that is easy and simple, and has been given by the Senator from Washington, the Senator from New York and other Senators, and that is that we strongly believe that the regulation of utilities should be left to the regulatory bodies. That is why Congress created them. It is not up to the Senate to tell them how to regulate utilities. It is not up to the Senate to say what is a fair return and what is not a fair return. That is the job of the regulatory bodies. If they are not doing a good job in that regard we should not approve the appointees the President appoints to these commissions.

Mr. LONG of Louisiana. Do we not tell them how they are to regulate when we enact the statutes that created them? We instruct them how to regulate not only in the statutes which create them, but also in subsequent laws which we have passed which relate to them.

Mr. PROXMIRE. We do, indeed. We tell them that they should represent both the producer and the consumer, and that they should permit a rate which would provide a fair return; but we do not go so far as to say that a fair return must ignore a definite and clear gain which they can get by reason of a provision in a Federal income tax; or we have not done that until today. This will be the first time we have ever done anything like that.

Mr. LONG of Louisiana. If there is to be an investment credit, is the carrier to receive the benefit of the credit, or not? The issue is just that simple. When we passed the statutes, which did we intend?

Mr. PROXMIRE. Let me say to the junior Senator from Louisiana that in my judgment the carrier will get the benefit of the credit if it is passed on. That is a position that has been taken by the leaders of the utilities.

Mr. LONG of Louisiana. I am satisfied that the ICC does not require any carrier to pass on any of the credit. If the Senator from Louisiana is correct, it would be outrageous to require the carrier to pass it on.

Mr. PROXMIRE. No, indeed.

Mr. LONG of Louisiana. Why does not the Senator from Wisconsin speak to that point, instead of making legislative history that would indicate that the present practice of spending to require passing on should continue?

Mr. PROXMIRE. Because the most important argument which I have made is that we should not dictate that kind of policy. It is up to the regulatory bodies to decide, with some legislative committee established by the Senate itself, such as the Commerce Committee, headed by the Senator from Washington, not the Finance Committee, which deals with taxation, what kind of regulatory policy there should be.

Mr. DOUGLAS. Mr. President, will the Senator from Wisconsin yield?

Mr. PROXMIRE. I yield.

Mr. DOUGLAS. I should like to clarify the situation with a homely illustration.

Suppose there were two men, one of whom ate only two meals a day and the other ate four meals a day, and we gave the equivalent of a meal a day in tax credit. The regulatory body says, "The man who has only two meals a day deserves it so that he can get three meals a

day." He gets his three meals a day through the investment credit.

Are we then going to say, because we give an extra meal to an underfed man, that we must "superstuff" a man who is already getting four meals?

Mr. PROXMIRE. The point the Senator from Illinois makes is logical, and it follows directly from what the Senator from Louisiana has said. Of course, the ICC permits the investment credit to be passed on, but many of these industries are not earning a fair return, in some cases. Under the circumstances, they should receive full value as stockholders of the investment credit with no passthrough.

Mr. DOUGLAS. What about the gas pipelines? Are they doing badly?

Mr. PROXMIRE. The Senator from Illinois is more expert in that area than I am, but they are doing very well.

Mr. DOUGLAS. Yes. Nevertheless, they will get the 7-percent credit and cannot be ordered to pass it on. Are our electric utilities as a whole doing very well?

Mr. PROXMIRE. The Senator from Illinois recently mentioned that they were earning 9 percent on their investment capital.

Mr. DOUGLAS. Yes, on the average. Is it necessary to "stuff" them with an "additional meal" a day when they are already at least comfortably fed, and some of them are overfed?

Mr. PROXMIRE. The record shows that this provision would not accomplish the objective that the Senate had in mind for the investment credit, because it would not mean that they would purchase more equipment. The way to induce them to purchase more equipment is to lower the rate and increase their market so as to make necessary the purchase of additional equipment.

Merely because the company can save 7 percent in the price of equipment does not mean that they are going to buy unnecessary, useless equipment.

Mr. PELL. Mr. President, will the Senator from Wisconsin yield?

Mr. PROXMIRE. I yield.

Mr. PELL. The original study of the 7-percent investment credit was designed to encourage new investments. Will not the amendment run against the thrust of the general purpose, in that the regulatory agencies will be applying set rates in such a way as to keep profits uniform? I should like to see investment credit even larger than it is, from the standpoint of the growth of our Nation, so that there will be capital construction. I am thinking particularly of the railroads, and the money that is spent in new construction or in capital equipment. To my mind, anything we can do to increase such investment is important. Would not the amendment go against this theory?

Mr. PROXMIRE. It would not, for several reasons. In the first place, a utility which is earning a fair return each year is able to earn more when its customers are able and willing to buy more because rates are lower.

The utility can always go to the regulatory body and obtain higher rates if such higher rates are necessary for the company to finance the purchase of additional equipment. As Mr. Donald Cook said, they have plenty of cash. They can always get the rates they desire if they need them in order to obtain additional equipment.

In a situation such as that of railroads which are not earning a fair return, the investment credit would automatically be passed through because they would be allowed to earn up to 6, 7, 8, or 9 percent. As the Senator from Rhode Island knows, most railroads are losing money or making only 1, 2, or 3 percent on their investment. So there is no question that the program could work to stimulate railroad investment.

Furthermore, the greatest tragedy for the investment credit in terms of frustrating congressional intent—I have made the statement several times, but I shall say it again—lies in the fact that if the investment credit is merely kept in cash by the utility, or if it is paid out in dividends to stockholders, it is not used to buy equipment. If instead the money is used to lower rates, and those rates can be lowered twice as much as the credit, on the basis of the calculation I put into the RECORD, the customers would be likely to buy more. If customers would buy more, more equipment would be required, and the utility would expand its purchases of equipment. That is the way to make the investment work the way we want it to work.

Mr. GORE. Mr. President, will the Senator yield?

Mr. PROXMIRE. I am happy to yield to the Senator from Tennessee. I have

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held the floor much too long. I shall yield the floor after the Senator from Tennessee has asked his question.

Mr. GORE. I shall have some additional remarks to make later, but it seems to me that this is an appropriate time to point out that the railroads are not generally seeking higher rates. In almost all cases, the railroads are seeking to lower rates. So we have an entirely different situation as between a

natural gas pipeline, which is seeking to raise rates, and a railroad which is seeking to lower rates. In fact, we have two separate regulatory agencies, each with proper jurisdiction, and each with a mandate under the law to protect the public interest. I do not believe that the ICC and the FPC could be merged into one agency and be expected to reach the same conclusion on an application by a railroad which seeks to lower rates as it would on an application by a pipeline company which seeks to raise rates. The problem is complicated. It is not a simple question of why give them the benefit and then take it away? That is not the case. I shall seek to develop this point in my own remarks.

Mr. PROXMIRE. I thank the Senator from Tennessee. He has stated a helpful correction. His superior knowledge of the railroad industry is very helpful, because that was not my understanding. I did not appreciate the fact that railroads have been seeking overall and generally lower rates.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. MAGNUSON. I dislike to prolong the debate, but I do not wish the two Senators to let the RECORD stand in respect to what it shows about railroad rates. Railroads seek to lower rates for some commodities only. They seek to raise rates on other commodities. Some railroads desire to lower rates; some want higher rates. It is a complicated field. I suggest that the RECORD not show that railroads generally desire low rates. They would like to lower rates if their financial position would permit them to do so. But a great game of chess goes on about lowering rates between modes of transportation. Generally speaking, there are some areas in which the railroads would like to lower rates.

Mr. GORE. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. GORE. One should not undertake to make absolute statements in that regard. A general statement has exceptions. The statement I made has exceptions. I believe it is generally true that the overwhelming proportion of railroad petitions before the ICC is directed toward a lowering of commodity rates.

Mr. MAGNUSON. Bulk commodity rates.

Mr. GORE. Bulk commodity rates. But what the Senator said, and what I now acknowledge, seems to me to illustrate that the question is one which should properly be vested in a regulatory agency, a quasi-judicial agency, that could take proof, hold hearings, and would be charged with the responsibility of the public interest. It does not lend itself to detailed legislative action.

Mr. PROXMIRE. Mr. President, I yield to my colleague from Wisconsin.

Mr. NELSON. Mr. President, I wish briefly to commend the senior Senator from Wisconsin for a remarkably able presentation of an overwhelmingly persuasive case on behalf of his amendment.

What I am about to say has been repeatedly said this afternoon, but there continues to appear to be some confusion on the part of some Senators about the function of regulatory bodies. As the senior Senator from Wisconsin has said, it is the function of the regulatory bodies to protect both the public interest and the legitimate private interest of the utility. The test is that they should set rates to be paid by the consumers which assure the company a fair rate of return. Every single item that goes into constituting a part of that profit is a part of the fair rate of return.

Every single item that constitutes a part of that profit is a part of the fair rate of return. The present bill would provide a fair rate of return plus. The regulatory agencies are not in the business of giving cost-plus profits. They are in the business of assuring a fair rate of return and protecting the public interest.

Wisconsin has a great and distinguished tradition through its regulatory bodies. David Lillienthal was the chairman of our public service commission in Wisconsin back in the 1930's.

He went from there to the Tennessee Valley Authority, where he became Chairman of the Authority. Today we have as chairman of the public service commission in Wisconsin a man whom, I am proud to say, I appointed as chairman of that commission—Leonard Bessman—who seeks as conscientiously and as ably as any man we have ever had in history to protect the public interest.

But I point out that the public service commission in Wisconsin is not typical of regulatory bodies in all the States. There are only a few exceptions, in which consistently the regulatory bodies have been regulating in behalf of the public interest. If the public service commission should decide not to pass on the benefit to the consumer, it might, by the calculations of our public service commission, cost the consumers a total of over $10 million per year in Wisconsin.

Mr. PROXMIRE. That is in Wisconsin alone.

Mr. NELSON. In Wisconsin alone. There would be a $10 million a year loss to the consumers in a State with 4 million

people. That means that hundreds of millions of dollars are involved when this is added up for all the States of the Nation.

The senior Senator from Wisconsin has said the State agencies will not be compelled to pass this tax saving on or to hold it back. I am confident, however, that when we get into something involving hundreds of millions of dollars, we shall see the most fantastic lobbying of the regulatory agencies, in all the States of the Nation that has ever occurred. It will be unlike anything we have seen before in history. The utilities are not going to pass up an opportunity to influence their own regulatory agencies. They will use the argument that the Federal agency cannot pass on the benefit so therefore they have some status on which to argue that the State should not pass on the benefit to the consumer.

With the support they will get, they will lobby against the consumer's interest, successfully, over the country, and only a handful of regulatory agencies will stand up for the consumer's interest.

The day will come in my State when we shall not have a regulatory agency that is as interested in the public interest as the present one is, because all the Governors in the future will not appoint to the commission those who have the same public interest at heart. So there is at stake hundreds of millions of dollars, and in a decade billions of dollars, of the consumer's interest. That interest should be protected by adoption of the amendment offered by the Senator from Wisconsin.

In conclusion, Mr. President, there are at least five good reasons for supporting this amendment.

First. The provision would interfere with the whole history and tradition of independent regulatory operations.

Second. The provision is contrary to the intent of the Senate when it approved the Revenue Act of 1962.

Third. The provision would represent a direct subsidy of millions and perhaps billions of dollars to the private utilities by the consumer.

Fourth. The provision, by forcing the regulatory agencies to maintain artifically high rates, would directly contribute to inflation.

Fifth. The provision, contrary to the whole intent of the Revenue Act of 1962 and the bill we are now considering, would not stimulate investment. In fact, by maintaining artifically high rates, it may even reduce demand, therefore, reduce investment in the utility industry.

This last point deserves emphasis. There is very little evidence to suggest that the investment credit encourages the utilities to increase their plant and investment. The whole purpose of the Revenue Act of 1962 was to stimulate investment. Last year the utilities were not forced to flow through the tax credit. But a report published by the Department of Commerce in the Survey of Current Business stated that the public utility investment plans for 1963 were little changed from the plans in 1961 and 1962. In fact, according to the Edison Electric Institute, as reported in Newsweek magazine, the utilities cut back their investment plans by 19 percent for the second and third quarters of 1963. Last week's January 27 issue of Electrical World showed that 1962 capital expenditures for the entire electrical utilities industry had not yet reached the level of 1957, 1958, 1959, 1960, or 1961—and they were only slightly above the 1962 level for this industry.

Sometimes it is argued that the utilities need this extra benefit in order to attract capital. Nothing could be further from the truth. I have before me the Bear, Stearns & Co., monthly comparison of electric utilities common

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stocks for January 1964. This indicates that the average gross income as a percent of total capitalization is 6.8 percent for the private utilities. In my own State of Wisconsin, the most important companies all had earnings in this range.

The Wisconsin Electric Power Co. earned 6.1 percent.

The Wisconsin Power & Light Co. earned 6.4 percent.

The Wisconsin Public Service Corp. earned 7.2 percent.

These are well-managed, successful companies that have no difficulty in attracting capital.

In sum, there is little evidence that the utilities have been encouraged to expand their investment by the tax credit provision of the Revenue Act of 1962. Moreover, the evidence suggests that when and if the utilities wish to expand their investment, they have no need of the provision: They have no difficulty in getting capital. Thus the basic argument that this benefit is required to stimulate investment and thereby stimulate the economy seems false. In fact, we find the utilities simply coming before the Congress asking us to direct the regulatory agencies to force the consumers to increase the profits of the utilities. Indeed, there are a number of enlightened members of the industry who recognize that this attitude is bound to hurt the industry itself. The utilities are divided on this question.

There is ample evidence, for example, in a speech by Mr. Donald C. Cook, president of the American Electric Power Co., at the Great Lakes Conference of Railroad and Utilities Commissioners on June 21, 1963, that a major fight is raging within the industry. There are many in the industry like Mr. Cook who realize the need for moderation. They understand that they cannot continue to demand undue benefits at the taxpayer's expense. Moreover, they realize that flowing through the tax credit in order to lower rates is the best way to stimulate demand.

In fact, Mr. Cook has been fighting an uphill battle against many other representatives of his own industry. Mr. Cook rightly notes that the congressional intent of the tax credit to utilities was that this should be treated as a normal tax reduction; that is, it should be flowed through to the consumer. Others in his industry, such as Mr. Walter Bouldin, president of the Edison Electric Institute—an organization of private power companies—argue incorrectly, I think, that the legislative history does not indicate an intent to treat the tax credit as an ordinary tax reduction.

Thus, the industry itself is split on this issue. It is divided between those who feel it both prudent and profitable to flow through the credit and reduce rates—and between those who want to take everything they can at the expense of the taxpayer and the consumer.

The implications of section 203(e) for the Wisconsin consumer are only too obvious. For one thing, Wisconsin is an area greatly dependent upon rural electric systems. Throughout the Nation nearly one half of the energy purchased annually by the rural electric systems is purchased from the private power companies. During fiscal year 1963, the total power purchased from commercial power companies by REA-financed systems was $109,200,000. In Wisconsin, the total was $1,647,936.

We in Wisconsin have a direct stake here. The exact extent of that stake is difficult to measure for we must predict how much of the credit thus should be passed on to the consumer. Having made this prediction, we must analyze what would happen if section 203(e) is approved and the regulatory agencies are directed not to flow through the credit to the consumer. Furthermore, we must make some assumptions about the way State regulatory agencies will act once the Federal agencies set the precedent.

There are many aspects to this problem. I have asked the Federal Communications Commission to estimate how much the tax credit for investment in interstate telephone services might be kept or passed on to Wisconsin consumers. Mr. Robert E. Stromberg has provided a very rough estimate that the investment credit related to interstate service in Wisconsin in 1963 amounted to about $350,000. Assuming that the corporate Federal income tax rate is reduced to 50 percent, this means that a rate reduction of approximately $700,000 could have been flowed through to Wisconsin consumers.

I have asked the Federal Power Commission to estimate a rough measure of the impact on Wisconsin gas consumers of section 203(e). Mr. Joseph E. Swidler has provided an estimate of $1,600,000 a year cost to the Wisconsin consumer.

Finally, if the Wisconsin Public Service Commission were to follow suit and adopt the pattern of the Federal regulatory agencies in its own operation, there would be a further cost to Wisconsin consumers due to local service of approximately $8,160,000 per year. I ask unanimous consent to insert at this point a statement provided by Mr. Leonard Bessman, chairman of the Wisconsin Public Service Commission. It should be noted that Mr. Bessman forecasts an annual amount of investment credit of $4,080,000. Assuming a 50-percent corporate tax rate, if this investment credit were passed on in the form of rate reductions, the reductions would amount to $8,160,000.

If section 203(e) is approved and if the Wisconsin Public Service Commission follows the Federal precedent, the Wisconsin consumer will be forced to pay an additional $10 million each year to the private utilities. In 10 years, the most conservative estimate is that he will have been milked by the utilities for more that $100 million.

Mr. President, I urge that this provision be deleted from the bill we are now considering. I hope it is deleted and that the House of Representatives will agree with such action. However, if the Congress does not agree to remove this unwise and inequitable provision, I would strongly urge the State regulatory agencies to stand together and refuse to follow the Federal precedent in their own operations. There will, however, be tremendous pressure upon the State agencies to follow the Federal precedent. There will be lobbying with the regulatory agencies unlike anything we have even seen before in history because of the hundreds of millions of dollars at stake.

There is no doubt that the present Wisconsin Public Service Commission will stand up for the public interest, but what will happen to the Wisconsin con-

sumer when we have a commission, as we sometime surely will, that is not so concerned with the public interest?

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the following: a chart which specifies the cost to the Wisconsin consumer due to higher rates if the tax benefit is not "flowed through"; a statement by Robert E. Stromberg; a letter written by Mr. Joseph C. Swidler, Chairman of the Federal Power Commission; and a breakdown of the Wisconsin class A privately owned electric, gas, water, and telephone utilities forecast of investment tax credit.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Cost to Wisconsin consumer due to higher rates if tax benefit is not "flowed through" (sec. 203(e))

	1963	Minimal 10-year estimate
Interstate telephone service cost	$700,000	$7,000,000
Interstate gas pipeline cost	1,600,000	16,000,000
Wisconsin electric, gas, water, and telephone costs	8,160,000	81,600,000
Total	10,460,000	104,600,000

Interstate telephone services in the United States had a total investment credit in 1963 of about $17 million. The total telephones in Wisconsin amount to about 2.1 percent of the total telephones in the United States. On this basis it is estimated that the investment credit related to interstate services in Wisconsin in 1963 amounted to about $350,000.

Wisconsin Telephone Co. and General Telephone Co. of Wisconsin in 1962 had investment credit for the two of them combined of about $900,000. This amount should not change much in 1963. Since the two named companies combined account for about 90 percent of the telephone business in Wisconsin as measured by plant investment and revenues it is estimated that all telephone companies in Wisconsin will receive investment credits in 1963 totaling about $1 million.

So, if the Wisconsin Public Service Commission were to go along with "service life flow through" of the investment credit for telephone companies as required of Federal regulatory agencies (specifically FCC) by the tax bill the total amount kept from being flowed through to telephone users in Wisconsin in the initial year by the tax bill would be on the order of $1,350,000 per year. In terms of giving the telephone companies $1,350,000 additional net income by means of a rate increase or reducing their net income by means of a rate reduction a factor of 208.33 must be applied to provide for the effect of a 52-percent corporate Federal income tax rate. On this basis $1,350,000 becomes $2,812,500.

ROBERT E. STROMBERG.

FCC, *February 1, 1964.*

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FEDERAL POWER COMMISSION,
Washington, D.C., February 3, 1964.

Hon. GAYLORD NELSON,
U.S. Senate,
Committee on Interior and Insular Affairs,
Washington, D.C.

DEAR SENATOR NELSON: This is in response to your letter of January 31, 1964, asking for any information we have available of the impact on consumers in Wisconsin of section 202(e) of the Revenue Act of 1964, H.R. 8363 (sec. 203(e) of the Senate bill).

A rough measure of the impact on Wisconsin gas consumers can be obtained from the attached computations with respect to Michigan-Wisconsin Pipe Line Co. which is the principal wholesale supplier of gas to consumers in Wisconsin. The attachments indicate that on the basis of the investment tax credit reported by Michigan-Wisconsin in 1962, the impact on Wisconsin consumers if section 202(e) is enacted could be approximately $800,000 per year. If the estimate is based upon the investments of Michigan-Wisconsin over the past 5 years, the figure would be approximately $1,600,000 a year.

Sincerely,

JOSEPH C. SWIDLER,
Chairman.

Dollar impact on Wisconsin consumers if investment tax credit of Michigan-Wisconsin Pipe Line Co. is allowed, in cost of service for future dates basis—Investment tax credit reported for 1962

Investment tax credit reported in FPC form No. 2 for year 1962	$800,000
Portion applicable to Wisconsin consumers	400,000
Impact on Wisconsin consumers if investment tax credit is allowed in future rates	800,000
Revenues from Wisconsin (50 percent)	58,634,421
Total revenues	116,475,122

$800,000 × 50 percent equals $400,000.

Dollar impact on Wisconsin consumers if investment tax credit of Michigan-Wisconsin Pipe Line Co. is allowed in cost of service for future dates basis—Average additions for years 1958–1962

Additions as reported in FPC form No. 2:	
1958	$6,389,406
1959	36,071,254
1960	70,852,418
1961	8,737,922
1962	14,157,515
Total	136,208,515
Less 15 percent of nonqualified property	20,431,277
Qualified property	115,777,238
Average for 5 years	23,155,447
Investment tax credit at 7 percent	1,620,881
Effect if investment tax credit is allowed in future rates	3,241,762
Impact on Wisconsin consumers if investment tax credit is allowed in futures rates (50 percent of line 19)	1,620,881

Wisconsin class A privately owned electric, gas, water, and telephone utilities forecast of investment tax credit, 1963–67

[In millions]

Year (a)	Actual qualified plant additions (b)	Smoothed plant additions (c)	Forecast of plant additions (d)
1956	$91	$107.1	
1957	118	110.3	
1958	111	113.5	

Wisconsin class A privately owned electric, gas, water, and telephone utilities forecast of investment tax credit, 1963–67—Con.

[In millions]

Year (a)	Actual qualified plant additions (b)	Smoothed plant additions (c)	Forecast of plant additions (d)
1959	$136	$116.7	
1960	121	120.0	
1961	130	123.1	
1962 [1]	110	126.3	
1963			$129.5
1964			132.7
1965			135.9
1966			139.1
1967			142.3
Total	817	817.0	679.5

Total qualified plant additions forecast for 5 years, 1963–67	$680,000,000
Investment tax credit at 3 percent	20,400,000
Forecast of average annual amount of investment tax credit	4,080,000

[1] Estimated.

NOTE.—(1) Smoothed additions in col. (c) are least squares smoothing of amounts in col. (b). (2) Amounts in col. (d) are extension of smoothed amounts in col. (c).

Mr. PROXMIRE. Mr. President, I point out that my colleague was Governor of Wisconsin for 4 years. He made a distinguished record. One of the fields in which he distinguished himself was in his appointments to the public utility commission of persons who had a deep understanding of the necessity of being devoted to the public interest and who had the fiber and strength to resist unjustified importunities which they always undergo from the public utilities they are regulating.

I thank the Senator for his eloquent and most effective statement.

I yield the floor.

Mr. TOWER obtained the floor.

Mr. TOWER. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I yield the floor.

Mr. LONG of Louisiana. Mr. President, any Member of this body is privileged to take a self-righteous attitude with regard to any legislation in which he thinks he is not only right, but a hundred percent right, and thinks that the other person is not only wrong, but a hundred percent wrong and that such a person is little short of being a robber baron.

On occasion I have taken that attitude. and have spoken on a matter, having difficulty staying within the rules of the Senate. I can remember when Senators were conducting a filibuster against the satellite communication bill, which the Senator from Louisiana contended would give at least 50 percent of that monopoly to a private telephone company. The Senator from Wisconsin voted for it. It was all I could do to say what a horrible bill he was voting for, in giving the biggest monopoly in the world an even bigger monopoly.

There is before the Senate a relatively simple proposal. If we brush aside all the complicated arguments and look at what we are really talking about, we find that 2 years ago Congress passed the bill providing for the so-called investment credit.

When it adopted the investment credit provision, Congress provided that there would be a 3-percent investment credit for regulated utilities that were regarded as being monopolistic in character to the extent that they had no competitors for the service. In other words, the 3-percent investment credit would apply to a telephone company on the theory that people had to have telephones, and therefore the utility had captive customers whether the public wanted that situation or not. This would also apply to an electric company, which although people do not have to heat their homes by electricity, nevertheless they have to have electric lights in their homes.

So Congress made a distinction in regulated utilities which are regarded on the one hand as being locked-in monopolies, and allowed them only 3-percent investment credit, while it looked at the transportation industry and regarded it as being a competitive industry. Railroads were competing with other railroads. All the railroads were competing with the trucking lines. Both types of carriers were in turn competing with pipelines for customers. Even pipelines were competing with other pipelines.

They were all competing with the barge lines, which were in turn competing with tanker fleets.

We recognized the competitive nature of the industry which existed, for example, in New York, where pipelines carrying gas are trying to take customers away from railroads carrying coal. Both of them are fighting the trucking lines for customers carrying coal or oil. All of them compete with the enormous tankers, some with a draft of 70 feet, some having twice the tonnage of the *Queen Elizabeth,* which carry the lowest cost fuel of all; namely, residual oil. So here they were all trying to get business, and all are competitive.

Congress took the attitude at that time that the carriers were entitled to the 7-percent tax credit just as other manufacturing industries were entitled to it. For the reasons that these industries were in competition with one another in seeking to do business with others, Congress took the attitude that if we were to provide the 7-percent tax credit to encourage industry to have the latest machinery and the most efficient operation, we would not want to work toward the day when we had a space age manufacturing industry and a horse and buggy transportation industry, but that we would let them go forward together.

The legislative history as made on the floor of the Senate by the late Senator Kerr of Oklahoma, who was the Senator

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in charge of the bill, suggested, when the bill was initially considered, that it was the intention of the Senate that the tax credit be passed through. When the matter went to conference, the House and Senate conferees reached an agreement. The understanding between Senator Kerr and the House managers was that the tax credit would not be passed through.

Apparently the House had one thing in mind and the Senate another. It is clearly stated in the report of the managers for the House that it was intended by the managers and by those who drafted the report that it was not to be passed through. This is also what Senator Kerr said. He was speaking for the conferees of the Senate when he said:

> It is the understanding of the conferees on the part of both the House and Senate that the purpose of the credit for investment in certain depreciable property, in the case of both regulated and nonregulated industries, is to encourage modernization and expansion of the Nation's productive facilities and to improve its economic potential by reducing the net cost of acquiring new equipment, thereby increasing the earnings of new facilities over their productive lives.

That would suggest that what Senator Kerr said on the floor when he was managing the bill was no longer the opinion to which the conferees agreed when he spoke for the conferees of the Senate on returning the conference report to the Senate.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. TOWER. Apparently speaking for the administration, Secretary Dillon, on May 3, 1961, in his testimony before the Ways and Means Committee, in speaking of the transportation industry, said:

> Although subject to various forms of regulations of their charges, are in fact highly competitive businesses with varying rates of return on investment. Many of these enterprises are not only competitive among themselves at given regulated prices, but also must compete with private truck fleets, private airplanes, and other transportation facilities operated by industrial corporations which would be eligible for the credit.

Mr. LONG of Louisiana. The Senator is correct. When the Senator from Oklahoma made the statement on the floor that the utilities—not only the utilities, but the transportation industry as well—would be required to pass the tax credit through to their customers in reduced prices, he was in large measure relying upon the testimony of Mr. Donald Cook, to whom reference has been made, but as I have said, his position was changed after the conference.

The House, in considering this legislation in 1963, recognized the difference between the problem involved with the electric utilities and that with respect to the transportation industry. Recognizing the complete monopolistic situation with regard to the electric utilities and telephone companies, the House had said that these companies would be required to pass the credit through, but only over the life of the asset. That would mean that the companies could benefit from the interest on the money during the time that they were passing it through to the users, and no longer.

Mr. McNAMARA. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. McNAMARA. In relation to passing through on the part of the utilities—the telephone companies and electric companies—it is true, is it not, that they are regulated generally by State agencies? Would they be forced under the Proxmire amendment to pass it through immediately, or could it be done over the life of the asset?

Mr. LONG of Louisiana. The State agencies would not be affected. They could do as they wished.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. McNAMARA. Does that satisfy the Senator from Wisconsin?

Mr. LONG of Louisiana. If the Senator will permit me, I would rather settle that point later. I would like to explain my position.

Mr. McNAMARA. The Senator bases his argument on what was adopted 2 years ago when the 7-percent tax credit was created.

I voted against it. The Senator lost me to start with, and he will have to pick me up, because I am sure he needs my vote.

Mr. LONG of Louisiana. So far as the law stands today, I believe it would make no difference as to State regulation if the Proxmire amendment were agreed to, or if the committee amendment were retained. In any event, what we are talking about is the federally regulated commissions established by Congress, which are regarded as arms of Congress. We are talking about how those agencies would handle their responsibility. This has no reference at all to how a State agency would handle its decision to regulate.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I know that the Senator will disagree. I know the Senator will suggest that someone in the State agency might say that this is the Federal practice, and that they would want to adopt it. They may if they so desire, but they do not have to do so.

Mr. McNAMARA. I am not impressed by the "fallout" argument.

Mr. LONG of Louisiana. The Interstate Commerce Commission takes the position that Congress intended this credit to be an incentive. In its letter of September 26, 1963, it takes the position that in its judgment Congress intended the tax credit to be an incentive for modernizing and improving and expanding the services of the carriers that they regulate. Therefore the Commission says that it is not attempting to take this credit back from the carriers, and does not propose to do so.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. Mr. President, I listened to the Senator from Wisconsin. I would appreciate it if he would let me finish my argument. I know he will disagree. I should like to state my case in chief.

The letter to which I have referred, on page 3, makes it very clear that the ICC took the exact attitude that was expressed by he House managers, and by Senator Kerr after the conference, in unequivocal terms, that it was intended as an incentive to modernize the railroads, the bargelines, and the trucklines.

So far as the CAB is concerned, that regulatory agency does not fix the rates of the airlines. Those rates are fixed by competition. Therefore, so far as that agency is concerned, this does not make any difference.

So there is no real reason why that agency should become involved one way or the other. We have heard much debate to the effect that if we do not let the Federal Power Commission require the utilities to give up their investment credit, there will be higher rates. Those who make that argument completely overlook the value of competition.

Let us look for a moment at the car riers of persons. Which carrier is it that is making all other carriers more efficient? It is the airlines; and the airlines are the carriers whose rates are not regulated. The airlines have taken away practically all the long-distance transportation of railroads and buses. Airlines have taken step after step to buy new equipment, even when they were losing money, and have gone head over heels in debt, year after year, to buy new equipment, knowing that by providing better service to the public, they would be enabled to compete more strongly with the railroads and buslines. It is the airlines that are battling the railroads and buses and are causing the railroads to face the problem of featherbedding and to face a strike by labor, in order to eliminate unprofitable service.

Airline fares are not regulated by a regulatory agency. They provide faster and better service. I can now go to my hometown in Louisiana in one-third of the time it took me to go there when I first came to the U.S. Senate. Why? Because the airlines did what the House is suggesting that the Senate do for air carriers; that is, encourage them to invest money to improve equipment and provide better service.

There has been much unfavorable talk about pipelines, as though they were robber barons. I have heard that said before. Some years ago, the public in this area was served with manufactured gas. It is no longer served with manufactured gas. Years ago, gas was manufactured from coal. That gas left a residue in the pipes, which meant that over a period of time the pipes had to be taken up and replaced. Furthermore, those who used the gas manufactured from coal were well advised to wash down their walls from time to time because of the residue that was left inside the house.

Today, the atmosphere in Washington, D.C., is cleaner than it was before the coming of natural gas. The atmosphere in Washington is cleaner than it is in New York City, where large quantities of residual fuel oil are still used. The reason is that the gas pipelines coming to this area supply a cleaner, better, more efficient, cheaper product, at a low-

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er price. Everyone who uses natural gas has a lower priced commodity and has been saved substantial value.

That would have no impact one way or the other, except to this extent: One of these days, if the gas suppliers find new customers and new uses for their products, it may become necessary for them to build additional pipelines. If so, they will be able to make a tremendous saving by what is called looping the pipelines. A line already exists; an organization is in being to do business. Pumping stations are already operating; the cost is much less to lay a new pipe alongside an existing pipe than it is to condemn a route and engage in all the processes necessary to lay the first pipeline initially.

As the law stands today, it provides credit for the enormous new tanker fleets that carry residual fuel oil from Venezuela to New York City. On a B.t.u. basis, residual fuel oil is cheaper than natural gas. That is one reason why the atmosphere in New York City is not so clean as it is in Washington. The apartment house owners in New York use large amounts of residual fuel oil for heating purposes. The fuel oil carrier obtains an investment credit to encourage him to modernize and improve his fleet. Congress provides such investment credit for the barge lines and the railroads, to encourage them to improve and modernize their facilities, which they are doing. Congress provides such investment credit to enable the airlines to do the same thing.

What would happen if the committee amendment were not adopted? The Federal Power Commission is the one agency that stays always at loggerheads, always at dagger points, with the utilities it regulates. I think I know why that happens to be the case. It is because the railroads seem to have a little influence concerning who is appointed to the Interstate Commerce Commission. The railroads seem to have a commission that is somewhat friendly to their point of view.

Similarly, the airlines seem to have some influence as to who is appointed to the Civil Aeronautics Board, because the airlines seem to have a commission that is friendly to their problems.

But the pipelines have no influence as to who is appointed to the Federal Power Commission. The Federal Power Commission would drink the blood of the pipelines, and vice versa, with the result that the pipelines are regulated by a majority recommended by Drew Pearson, and the like. So the Federal Power Commission now proceeds to wage its war on the pipelines. It says, in effect, "We want to make you give up your investment credit, because you have had a tax saving that we want to have you give up for the benefit of the consumers."

The pipelines say, in reply, "If you do that, we cannot borrow money in the money market in New York in competition with the fellow with whom we are competing."

Ordinarily, one would think the railroads would like that. The railroads can obtain an investment credit; the pipelines cannot. By the time the railroads have finished fighting their case through the Supreme Court of the United States, trying to decide what Congress meant in the first place, and they finally get a decision, what happens? Assuming that the Federal Power Commission wins its case against the pipelines, then the Interstate Commerce Commission might well undertake similar action against the railroads. So the railroads begin to see the threat down the road if they were to have their investment credit taken away from them. That, of course, would be a threat to all industries.

As the President said in his state of the Union message, nothing bothers a businessman like uncertainty. The businessman who plans to use his investment credit to improve his business is uncertain whether he can keep it or not.

Mr. SALTONSTALL. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield to the Senator from Massachusetts.

Mr. SALTONSTALL. I have listened attentively to the Senator from Louisiana. Two questions occur to me. One is with respect to utilities, which receive a 3-percent investment credit. If the committee is sustained and the Federal Power Commission has no power to regulate, will there not be different systems in the various States? In Massachusetts the utilities commission might do one thing, and in Louisiana the commission might do another thing. That is one question that occurs to me, if the committee's action is sustained.

The other question relates to the 7-percent credit, in cases of competition, as the Senator has mentioned.

Do we not have to rely on the integrity

and intelligence of the Interstate Commerce Commission and the various other Federal regulatory commissions to decide what is fair and to pass it through, to use the expression, or to permit it to be used for investment? Those two questions occurred to me as I listened to the Senator from Louisiana.

Mr. LONG of Louisiana. As the bill stands before the Senate at this moment, it does not, quite correctly, in my judgment, attempt to tell a State regulatory agency how that agency shall conduct its business. That agency is privileged to require the carriers to set up its books as the Commission directs it to. It is privileged to regulate the utilities' profits, and to include anything else the Commission desires to have included, and to leave out anything the Commission wants left out. As a strong believer in States rights, I believe that is the way State regulatory agencies should act. State commissions will vary on that point.

So far as Federal commissions are concerned, they are created by Congress and are regarded as an arm of Congress. We establish them and say how they are to do business. We prescribe the general standards that are to be used in determining what a fair return is.

When we vote a tax cut, a big question is raised. So far as ordinary competitive industry is concerned, industry that is not subject to regulation, it is very clear that we intended it to get the benefit of the tax cut which is an investment credit.

But Congress also voted a similar tax cut for regulated industries. Are we to leave the Commissions in doubt as to whether that credit should be recouped from the carrier or the utility? Should we not have the responsibility of instructing them and saying, "Yes; we intended that they should have this tax cut as an incentive to modernize and expand"?

Mr. SALTONSTALL. In other words, the Senator from Louisiana is saying that the Federal Power Commission, with respect to pipelines, the Interstate Commerce Commission, with respect to railroads, and the CAB, with respect to airlines, should not have any discretion with relation to the tax investment credit?

Mr. LONG of Louisiana. It seems to me we should tell them, one way or the other. We should say, "This is a tax cut that we will provide you. We will give you an investment credit if you will modernize your service."

It seems to me we should say, "Here is an investment credit. We propose that you should keep it because it will be profitable for you to modernize your business and reduce your rates."

Incidentally, a friend has just handed me a picture of a Southern Pacific mammoth freight car which has just been put in operation. That enormous freight car is being placed in service by the Southern Pacific Railroad, and the result will be to reduce costs and modernize the service and provide better and more efficient transportation service. That company is one of those which will get the tax credit.

The question is whether we want all these utilities to be treated alike. Secretary Dillon said—according to his lights—that he wants that to be done; and I say so, too. All who compete should be treated alike; and we think that those who later on will compete should receive the same treatment.

So, Mr. President, this is what the House thinks, and this is what the administration seems to think.

I have before me a memorandum which gives the position of the administration. The Treasury says it thinks this is consistent with the tax policy of the investment credit because these are competing carriers, and that if we are to do this for one of them, we should do it for all. However, the Treasury deferred to the regulatory Commissions on the overall policy.

As to the regulated carriers, the Treasury says we should consult the regulatory Commissions. But among some of the Commissions there is great uncertainty. The Interstate Commerce Commission says none of the carriers should be allowed to keep the tax credit.

Mr. TOWER. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. TOWER. Were the regulatory agencies originally given the power to compel the transportation companies to flow through the credit, in the first place? Was that authority conferred on them

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by the original bill? I understand it was not.

Mr. ANDERSON. Just the reverse was the case.

Mr. LONG of Louisiana. The Senator says just the reverse was the case; and he was one of the conferees. He says just the opposite intention was expressed.

Mr. TOWER. But we are informed that that power is not conferred by this measure.

Mr. LONG of Louisiana. The Senator is referring to the statement made by the House, in connection with its consideration of the bill, before the House version of the bill was referred to the Senate committee.

Mr. TOWER. But the bill contained no such provision; therefore, we would not now be removing from the regulatory agencies a power Congress previously gave them.

Furthermore, is not a regulatory agency possessed of quasi-executive and quasi-judicial powers given it by Congress; and is it not a creature of Congress; and should not its policy be determined by Congress, or else Congress would have unlawfully delegated away that much congressional authority?

Mr. LONG of Louisiana. That is correct.

Mr. SIMPSON. Mr. President, let me ask whether the Senator agrees that this is a case in which Congress should reach its decision, after careful deliberation, as opposed to a decision by the regulatory agencies as to what should be done?

Mr. LONG of Louisiana. I agree. But I submit that if the bill as it now stands is not enacted and if the existing situation is allowed to continue, the confusion will continue, for I am told that even the members of the Federal Power Commission cannot agree on this point, and that a majority of the Commission takes the position that a passthrough should be required, but that a substantial minority takes the opposite view; and I understand that the Interstate Commerce Commission takes a different view, and that all of its members are arguing about what Congress intended. In that case, Congress should state what it intended and what it means.

Mr. TOWER. In the FCC, the vote was 4 to 3; and in the Federal Power Commission, the vote was 3 to 2.

Mr. LONG of Louisiana. Yes. Imagine that, Mr. President—such a determination by a 3-to-2 vote. The Federal Power Commission decided, by that close vote, that it believed Congress required it to make the passthrough; the others say just the opposite. If the present situation is allowed to continue, the argument will continue for years and years, and the members of the commissions will still be confronted with the question, "What did Congress want us to do?" That is why I challenged the position taken by the Senator from Wisconsin and by other Senators who support his point of view. I say to them that if they do not agree with me and if they think the passthroughs should be required, why not have Congress tell the commissions what Congress wants done. But those Senators do not want that to be done; they want to do what President Johnson has said should not be done. But he has said that about the worst thing Congress could do in this situation would be to refrain from telling the businessmen what Congress believes should be done.

I challenge Senators who disagree with me in regard to the proper point of view for Senators to take: If they do not agree with my view of this matter, let them offer an amendment to require the passthrough to be made.

Mr. SALTONSTALL. Mr. President, will the Senator from Louisiana yield to me?

Mr. LONG of Louisiana. I yield.

Mr. SALTONSTALL. Is it not true that the 3-percent pass-through would be regulated by the State regulatory commissions? I point out that, as the Senator from Louisiana has said, no doubt different regulations would be established in different States. Is it not true that the utilities subject to the 7-percent tax credit would not pass it through? In that event, should not a separation be made?

Mr. LONG of Louisiana. Mr. President, I believe I understand the point the Senator from Massachusetts is making, although I believe he slightly misunderstands the situation.

Subsection (e)(1) directs what procedure shall be followed in the case of the regulated interstate carriers, so far as they are being regulated by the Federal Power Commission. It would direct the Federal Power Commission as to how it shall exercise its activities in regulating the interstate transmission. When power is transmitted across a State line, the interstate transmission is regulated by the Federal Power Commission; but the transportation within a State is subject to regulation by the agency having jurisdiction of the local service area—for example, let us say, the Massachusetts Public Service Commission. So the Federal Power Commission is instructed as to how it should exercise its responsibilities over the interstate transmission lines; and it would be entirely up to the local agency to determine how it would regulate the carriers and distributors in the intrastate service—the portion it regulates.

Let us consider the situation in the case of a natural gas pipeline: The Federal Power Commission would determine how it would exercise its responsibility in connection with the transmission of the gas from Texas to Washington, let us say, or from Washington to Virginia. The Virginia Public Service Commission would have its own procedures, and it would have authority to require that they be followed in connection with the intrastate transportation of the gas—within the State of Virginia. The Virginia Commission could either follow the Federal Commission practice or it could

require an entirely different practice, both in connection with accounting and profitmaking, for the distribution systems for the purely intrastate functions which are regulated by the State public service commissions.

Mr. SALTONSTALL. I understand that the basis of the argument the Senator from Louisiana is making really is that unless Congress adopts the position which has been taken by the Finance Committee, the existing law will remain in its presently completely uncertain position, as has been the case for a considerable length of time.

Mr. LONG of Louisiana. Yes; and it is now completely uncertain.

Some argue that Congress should let the commissions decide. However, it is clear that the commissions cannot agree; so even if Congress were to decide to let the commissions decide, it is clear that the commissions would be unable to decide, and eventually would take the matter to court; and in the court case, the principal basis of the argument would be, "What did Congress mean, in the first place?" Then, 2 or 3 years later the case would come up in the Supreme Court of the United States, and no doubt finally some relief would be provided. But throughout that long, tedious process, the uncertainty and the debate would continue.

Mr. MILLER. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. MILLER. I think this is the point the Senator from Wisconsin was trying to make earlier today. It seems to me we could very properly divide the amendment of the Senator from Wisconsin, or perhaps we could modify it, so as to have it do one or another of several things. Perhaps we could have it provide whether subsection (e)(1) would remain in the bill by itself or whether both subsection (e)(1) and subsection (e)(2) would remain in the bill.

Of course, if Congress voted to have subsection (e)(1) remain in the bill and to have subsection (e)(2) go out of the bill, then what the Senator from Louisiana has been saying about the uncertainty and the problems of the various regulatory agencies would continue to be the case. On the other hand, it seems that we are getting ourselves into an inconsistency here by the way the committee bill is presented. There is a difference in treatment under (e)(1) and (e)(2). Under (e)(1), we say in the case of electrical energy, water sewage disposal services, gas through local distribution systems, telephone and telegraphic services, that we are not going to have a passthrough more than a proportionate part over the life of the property unless we want to, regardless of what the regulatory agencies have to say about it. But with respect to other types of pipeline companies, we are saying, "You do not have to pass through at all." Why the difference? Perhaps there should not be a difference, but perhaps the Senate should be permitted to vote on whether they will be treated the same or not.

Mr. LONG of Louisiana. The Senator from Iowa may not agree, but the House Ways and Means Committee drafted this language. As far as I can determine, the electric utility companies and the telephone companies are completely satisfied that this is a fair distinction between the two. Various companies have a locked-in monopoly, and they are not under the competitive pressure that exists in the transportation industry, so

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that the transportation industry has a better claim on retaining its tax credit because of the competitive nature of those industries.

Mr. MILLER. Mr. President, will the Senator from Louisiana yield further?

The PRESIDING OFFICER (Mr. McGovern in the chair). Does the Senator from Louisiana yield to the Senator from Iowa?

Mr. LONG of Louisiana. I yield.

Mr. MILLER. This is exactly the reason why Congress said, "You are only going to have a 3-percent investment tax credit instead of 7 percent." Now we come along and say, "We gave you too much with the 3 percent. You must cut that down and pass it through to your customers."

First we go up the hill and now we go down.

Mr. LONG of Louisiana. That is how we got into the hiatus to begin with. Someone representing the electric utility says, "As far as we are concerned, we propose to pass this through anyhow," and that is Mr. Cook they are talking about. He proposes to pass this on now. That is just dandy with us. That is what we try to do. Someone says, "Mr. Cook is speaking for a monopoly that has a locked-in advantage, which has the public as its complete captive. It is fair and proper that we should reduce rates and pass them on through over the life of the asset, or even sooner."

Then those who are in a competitive situation come forward. Some of the railroads do not know what it is to be out of bankruptcy because of competition. Perhaps one day the pipelines will be knocked out of business by the supertankers. Perhaps someone will come along and pass atomic energy through

an electric wire in a most efficient way, which will put them both out of business. These people are in a competitive industry. Both carriers and manufacturers of competing commodities make the point that competition is good for the public, and that we will get better rate reductions by competition and by encouraging competition than we will by the dead grasp of regulation seeking to freeze every last nickel out of the transportation industry. So capital and the best management finds its way into other industries rather than into their industry, so that their industry tends to become backward and does not keep up with the times, while other industries of a competitive nature surge ahead.

Mr. MILLER. If that is so—and I believe what the Senator from Louisiana has just enunciated is sound economic philosophy—why do we not provide in the bill for any pass through with respect to subsection (e)(1)? Why do we not say the same as we do with (e)(2) regarding competition to take care of it?

Mr. LONG of Louisiana. If the Senator from Iowa wishes to strike that section, (e)(1), so far as I know——

Mr. MILLER. The Senator would not suggest striking section (e)(1), but I would suggest——

Mr. LONG of Louisiana. I do not wish to do that either.

Mr. MILLER. I would suggest making (e)(1) read the same as (e)(2), if we wish to be consistent.

Mr. LONG of Louisiana. My best understanding of it is——

Mr. MILLER. This will tie in with the statement of the Senator from Louisiana about the flow-through coming about through competition.

Mr. LONG of Louisiana. My understanding is that, as far as the telephone company and the electric utilities are concerned, they expect a flowthrough, and they want the flowthrough. I believe it would be a disservice to strike section (e)(1). They would not like that. If the Senator from Iowa thinks they are doing us a favor, they would not regard that as a favor at all.

I believe one thing they are trying to do is to get prices down so that they can compete more effectively in the field of household heating, so that to a considerable degree they are trying to make competition more vigorous against the pipelines and the users of residual fuel oil and coal, which of course will eventually cause the other industry to find ways to bring its costs down below the cost of the electrical household heat, if they can get the cost down below the cost of residual fuel oil.

Mr. TOWER. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. TOWER. Is not the whole purpose of this legislation to stimulate economic growth? Is that not the original concept behind it? Is that not why it is being offered as it is with a substantial reduction in tax liability? Does it not embody the philosophy of economic growth, the trickle-down theory and the trickle-up theory? Is it not the intent to produce balanced legislation so that the incentive will go both to consumer and to business? Is not section 203(e) an incentive to business; and should it not, therefore, remain in the bill?

Mr. LONG of Louisiana. The Senator is correct. Some sections of the bill, such as the minimum standard deduction, are intended primarily to put more spending power into the pockets of the consumer, to benefit people in the lower income brackets. There are certain sections which are designed to put more money into the pockets of the consumer. That is where most of the tax impact goes in the bill. But certain other sections are designed to encourage more investment, modernization, and expansion. This section is based on the theory that we will give a person a tax cut if he will do something that we wish him to do. What we wish him to do is to modernize, to improve his service, to build new plants and new equipment; and if he will do something in the public interest we will give him a better tax break than he would otherwise receive. This is where we do something for someone provided he does something which is believed to be in the national interest.

Section 203(a) would repeal the Long amendment of 2 years ago. That was my amendment. That was an amendment to depreciate the 7 points of investment credit which had been allowed under the law. Section 203(a) would repeal the Long amendment that would permit depreciation which from one point of view was something never really paid for, that is, to make investment credit even more attractive than it is now. I believe it will be a big incentive to business to go even further toward providing more modernization and better services.

Section 203(e) also applies to the transportation industry. In this subsection in paragraph (1) there is spelled out the passthrough with regard to certain industries—the electrical industry, and the telephone industry. They are completely satisfied that they have a locked-in monopoly; that they do not have to worry about a competitor putting them out of business; and that these are, therefore, adequate incentives, as far as they are concerned.

Mr. GORE. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. GORE. Mr. President, we have heard a great deal of debate about the legislative intent of the Congress in 1962. It is beyond the power of the present Congress to determine or to alter the legislative intent of the 1962 period. The legislative intent of 1962 has been interpreted by quasi-judicial bodies.

The question before the Senate is not what the legislative intent was in 1962. It is not what the intent of the late beloved Senator Kerr was.

The question before the Senate is whether it will approve a certain provision in the bill or whether it will strike from the bill, as proposed by the pending amendment, the provision which would prohibit a regulatory agency from taking into consideration the benefit of the investment credit in determining what it is charged by law to determine, that is, fair and reasonable rates for consumers to pay.

Even without the provision in the pending bill, not all of the benefit of the investment credit is passed through. Only in the cases of utilities whose earnings have reached the upper limits of what is determined to be a fair and reasonable return on investment is the pass-through effective. In the case of the utility which receives an investment credit on its taxes, thereby reducing its tax payment, but which nevertheless does not in its operation show a reasonable return upon investment, under the existing situation the pass through is not required, and is not effective.

Why? Because the overweening direction of the law to the regulatory agencies is to protect the public interest and to fix rates which are, first, fair and reasonable to consumers and, second, which will provide a reasonable return on investment for the utilities concerned.

We have heard a considerable amount of extraneous debate. Lest this be interpreted only as the opinion of the senior Senator from Tennessee, I should like to refer to a decision.

Before doing so, I hope Senators will permit the observation that the debate today and for the last few days demon-

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strates the great difficulty which one faces in serving in this body, and particularly for a member of the Senate Finance Committee. He must be a lawyer, a scientist, an accountant, an engineer, a tax specialist, and an expert in many respects. Unfortunately, not many are possessed of such talents. I sometimes think least of all the senior Senator from Tennessee. Our limitations therefore dictate the burning of the midnight oil.

That aside, I should like to refer to a decision of the Federal Communications Commission dated July 31, 1963. I read from page 4 of the copy of the decision which I have:

> Point 7. The comments have dwelt at some length on the so-called legislative intent behind the investment tax credit and many of them have implied that the Commission is precluded by such legislative intent from judging the appropriate accounting on the merits in accordance with sound public utility regulatory principles. We do not agree with this implication. It appears to us on the contrary that Congress fully intended that the tax legislation here involved should fit into the normal regulatory scheme.

I now turn to point 10.

> The question may well be asked as to how Congress intended the tax credit to be an investment incentive to utilities if the entire amount is to be passed along to consumers in the form of lower rates.

I digress from the quotation to say that that bears directly upon the point which has been raised repeatedly in debate today. Why would Congress give the benefit with one hand and take it away with the other? I have tried to say that the question is not that simple. I now return to reading from the decision:

> The answer, of course, is that in most cases it will not all be passed on, even under the "flow through" principle. Only in the case of the utility which has already reached the upper limits of a reasonable rate of return is such a result possible, and even then rates cannot be reduced to give immediate effect to the reduction in taxes. In the case of marginal utilities, such as some railroads, for example, it may well be that none of the amount will be passed on to the consumer.
>
> It is this factor, present to some degree in the case of most utilities, of providing the means of increasing earnings and making it easier to obtain capital, both directly through retained earnings and indirectly through rendering its securities more attractive to investors, that constitutes the real incentive. It is worthy of note in this connection that the comptroller of A.T. & T. one of the petitioners in this proceeding, testified in opposition to any tax credit of this nature for utilities on the ground, inter alia, that it was not necessary to encourage the Bell System to construct additional plant.

I digress to recall that I was present the day the official of the A.T. & T. testified. He opposed investment credit for regulated utilities, and very eloquently made the point that a regulated utility is not only regulated as to rates, but is beneficially regulated, too, and protected from competition, thus being given a monopoly supplier position.

The overall requirement was that the utility was to serve adequately the service area for which it had a franchise, and with respect to which the laws and orders of regulatory commissions of both the Federal Government and the States protect the position of the monopoly supplier. Therefore, he opposed it.

Earlier today reference was made to the opposition of Mr. Donald Cook, president of a large electric utility, opposing the provision in the bill.

So it is not a simple question of whether Congress is going to force the passthrough or prevent the passthrough.

The question is whether we will permit the regulatory agencies the freedom and the latitude to take into consideration, in the individual cases that come before them, the true financial position of the utility in arriving at what is a fair and reasonable rate of return on investment and what are fair and reasonable rates for consumers to pay.

I should like to read again from the decision:

> It is our view that the investment tax credit represents a reduction of income taxes and should be so recorded in the accounts. The Revenue Act of 1962 specifically provides that the Federal income tax liability shall be reduced by the amount of the investment tax credit. The amount of the tax due the Government is determined after deductions of the credit.

Lest I take too much time, I hurry now to read the conclusion in the decision:

> We conclude that the proper accounting, with respect to the investment tax credit arising from both owned and leased property, is to account for it as a reduction in income taxes and let such reduction flow through to operating income.

I digress. It is this operating income that is the key factor in determining what is a reasonable rate of return upon investment; and it is the adequacy of a reasonable return upon investment that determines whether or not the rates charged to customers are fair and reasonable.

This is the simple issue. I should not say simple; but it is the issue before the Senate stated as simply as I can state it.

I read further from the conclusion:

> As stated in the notice of proposed rulemaking in this proceeding, we have interpreted all of our uniform systems of accounts as presently requiring flow-through accounting. Consequently, no amendments to our systems of accounts will be ordered herein.

Mr. President, the very able, the very engaging, lovable junior Senator from Louisiana [Mr. LONG], has made an able argument. For him I have deep affection and great respect. He recalled the fight in which he and I engaged with respect to the Communications Satellite Corp. I shall not refer to it at length. I point out that one of the key points in the debate on that bill was that the Government reserved to itself the right to establish its own satellite communications system for the use of the armed services. But now we see the hand of Esau. The Government is taking the position that it will not do so, but will use, instead, the facilities of the satellite corporation. Please pardon the reference. Lest I get into flight on that subject, I shall say no more about it. I shall return to the junior Senator from Louisiana. I can speak more pleasantly, if not more eloquently, about him.

He read a portion of a letter from the Chairman of the Interstate Commerce Commission which bore the date of September 26, 1963.

I did not have an opportunity to read the full letter, but I have a letter dated January 13, 1964, in response to a letter which I directed to the Director, Bureau of Accounts of the ICC on January 10, 1964, which I think bears more specifically upon the question at issue. This letter to me, bearing the date of January 13, in reply to my letter of January 10, bears the signature of Mr. Paolo, Director of the Bureau of Accounts.

I ask unanimous consent that the full letter be placed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JANUARY 13, 1964.

Hon. ALBERT GORE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GORE: This refers to your letter dated January 10, 1964, and the memorandum attached thereto, requesting a very brief memorandum concerning guideline and liberalized depreciation, investment tax credit, and related annual income tax reductions realized by carriers regulated by this Commission; and including, also, tax reductions realized in filing consolidated returns.

The information referred to in the memorandum attached to your letter cannot be assembled from the financial reports of the several thousand regulated carriers in time to send the information to you today, as you request. We are therefore sending you herein the available information concerning the annual amount of tax reductions realized by railroads, together with an explanation of the accounting and rate-making treatment of depreciation and income taxes in this agency. This is in line with the suggestion in the note in your memorandum. The accounting and rate-making treatment is uniform for railroads, motor carriers and car-

riers in the other modes of transportation regulated by this agency.

Annual reports for the year 1962 filed with us by railroads indicate that tax reductions resulting from guideline and liberalized depreciation, combined, amounted to about $164 million; and tax reductions resulting from the investment tax credit amounted to about $27 million. Annual reports for the year 1963 are due to be filed by March 31, 1964.

We do not have assembled at this time sufficient information to enable us to furnish you with a reliable estimate of tax reductions realized by motor carriers and carriers in the other modes of regulated transportation, but, of course, the sum is substantial.

The following is a brief description of the accounting and ratemaking treatment of the tax reductions:

For accounting and financial reporting purposes, we require regulated carriers to use the so-called flow through method of treating the tax reductions, including the full amount realized from the investment tax credit. This means that the reductions are applied to reduce the tax expense thereby increasing net income shown in financial statements. This Commission decided that financial statements should show the actual income tax payments for each year based on the taxable income reported in tax returns. This accounting and financial reporting regulation, however, has not been controlling in our ratemaking work.

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Present-day ratemaking in this agency consists, not so much in broad overall percentage increases in rates, but in case-by-case consideration of applications made for changes in individual rates published by carriers for transportation of commodities between designated points of origins and destinations. These involve principally minimum rates. In determining the cost to carriers of furnishing transportation in these cases, we use straight-line method of depreciation and generally compute the tax expense on the same basis. Thus, the tax reductions realized from accelerated and liberalized depreciation are not used to reduce transportation rates. This applies also to the tax reduction realized from the investment tax credit.

Tax savings realized by filing of consolidated returns has not been a matter of much consequence in accounting and ratemaking in this agency. For accounting purposes we expect carriers to allocate the total payment to the participating companies in an equitable manner. For ratemaking, we determine the tax expense on the basis of the statutory tax rate applied to the income derived from transportation service. Under this procedure tax savings not assignable to transportation service are not used to reduce rates. We have no information available at present on which to determine the annual tax savings from filing of consolidated returns by regulated carriers.

A separate statement is attached setting forth certain information concerning depreciation of property authorized under income tax regulations, including guideline lives, and depreciation methods prescribed by this Commission under our regulations.

Very truly yours,

M. Paolo,
Director, Bureau of Accounts, ICC.

Information Concerning Depreciation Authorized Under Income Tax Regulations and Methods Authorized by Interstate Commerce Commission

The tax regulations specify depreciation guideline lives for property much shorter than those authorized by this Commission. In addition, larger depreciation deductions are authorized under fast writeoff tax procedures in the early years of the useful life than we authorize under our uniform straight-line method. For example, the tax regulations specify guideline lives for railroad locomotives, freight and passengers cars, and similar equipment as 14 years, compared with ICC prescribed service lives, based on past experience of each individual carrier, averaging 15 to 25 years for locomotives, and 25 years for other equipment. For bridges, trestles, and culverts, elevated structures, shops and enginehouses, and similar structures, the guideline life is 30 years, compared with ICC prescribed lives averaging about 50 to 70 years, depending upon the structural material. Similar substantially shortened guideline lives are specified in the tax regulations for many other classes of property.

Mr. GORE. Mr. President, I should now like to read two paragraphs from the letter which I think are pertinent. Lest someone think they are taken out of context, I shall leave the letter on my desk for all Senators to read until it goes to the Public Printer.

I read:

For accounting and financial reporting we require regulated carriers to use the so-called flowthrough method of treating the tax reductions, including the full amount realized from the investment credit.

Whence does the argument come, that only the Federal Power Commission is looking to the public interest with respect to the pass-through of the investment credit?

I continue to read:

This means that the reductions are applied to reduce the tax expense thereby increasing net income shown in financial statements. This Commission decided that financial statements should show the actual income tax payments for each year based on the taxable income reported in tax returns. This accounting and financial reporting regulation, however, has not been controlling in our ratemaking work.

Present-day ratemaking in this agency consists, not so much in broad overall percentage increases in rates, but in case-by-case consideration of applications made for changes in individual rates published by carriers for transportation of commodities between designated points of origins and destinations. These involve principally minimum rates. In determining the cost to carriers of furnishing transportation in these cases, we use straight-line method of de-

preciation and generally compute the tax expense on the same basis. Thus, the tax reductions realized from accelerated and liberalized depreciation are not used to reduce transportation rates. This applies also to the tax reduction realized from the investment tax credit.

I ask unanimous consent to have printed in the RECORD at this point letters which I received from the Federal Power Commission, the Federal Maritime Commission, and the Civil Aeronautics Board, and a copy of my letter to these Commissions, and also to the Interstate Commerce Commission, of January 10, 1964, requesting certain information.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

FEDERAL POWER COMMISSION,
Washington, D.C., January 29, 1964.

Hon. ALBERT GORE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GORE: This supplements our response to your request of January 10, 1964, for information concerning the tax savings to utilities subject to our jurisdiction.

The actual 1962 investment tax credit reported in the 1962 annual reports by 62 interstate gas companies, mainly pipelines, with gross sales of 10,560,170,829 thousand cubic feet, amounted to $26,054,132.

The list of companies and the amounts of investment tax credit reported to the Commission for each are contained on the attached list.

There are an additional 19 interstate gas companies, over which the Federal Power Commission has jurisdiction, which filed 1962 annual reports showing no investment tax credit taken.

A sampling of the investment credit taken by the natural gas pipelines for 1963 indicates that the amount of the investment credit in 1963 is substantially the same as the amount taken in 1962.

It should be kept in mind that the amounts taken in 1962 and 1963 do not represent the full amount of the credit available to the pipelines because many of the pipelines made large refunds pursuant to Commission order during these years and, therefore, had no income tax against which to apply the investment credit. The investment credit can be carried back 3 years and forward 5 years and any residue can be deducted from Federal income taxes in the sixth year. It should also be kept in mind that the effect of the investment credit on the rates consumers pay is approximately double the amount of the credit taken.

The total amount of the investment tax credit will undoubtedly increase for 1964 and for a number of years beyond, not only for the jurisdictional companies listed on the attached sheet, but for the entire industry. This is true because the investment tax credit is geared directly to plant additions and the official forecasts of the American Gas Association show increases in the annual plant additions of 6.1 percent for 1963, 5.9 percent for 1964, 6 percent for 1965, and similar increases, none less than 5 percent, for each year through 1972.

The Commission approved $812 million of new pipeline construction in 1963. The investment credit from this new construction is approximately $57 million, which is a fair estimate of the amount the natural gas pipelines will eventually save. The potential savings to consumers is thus in the order of $120 million a year, as I testified before the Senate Finance Committee.

Inquiries have been received from Senator PAUL H. DOUGLAS and Senator GAYLORD NELSON concerning this matter and similar replies have been made.

Sincerely yours,

JOSEPH C. SWIDLER,
Chairman.

Schedule of pipeline companies reporting investment tax credit in annual report, form 2, for the year 1962

Company	Amount
Algonquin Gas Transmission Co	$121,153
Amere Gas Utilities Co	4,867
American Louisiana Pipeline Co	100,000
Arkansas-Louisiana Gas Co	590,000
Arkansas-Missouri Power Co	34,750
Atlantic Seaboard Corp	399,179
Carnegie Natural Gas Co	25,880
Chicago District Pipeline Co	10,500
Cimarron Transmission Co	2,108
Cities Service Gas Co	525,000
Colorado Interstate Gas Co	250,000
Colorado-Wyoming Gas Co	29,700
Columbia Gulf Transmission Co	1,345,679
Cumberland & Allegheny Gas Co	11,275
Eastern Shore Natural Gas Co	4,568
El Paso Natural Gas Co	1,768,697
Equitable Gas Co	392,261
Florida Gas Transmission Co	20,878
Fort Smith Gas Corp	42,707
Home Gas Co	8,525
Hope Natural Gas Co	460,000
Humble Gas Transmission Co	30,000
Interstate Power Co	163,000
Iowa-Illinois Gas & Electric Co	135,000
Iowa Public Service Co	118,840
Iroquois Gas Corp	218,073
Kansas-Nebraska Natural Gas Co., Inc	372,370
Kentucky Gas Transmission Corp	13,164
Lake Shore Pipe Line Co	12,000
Lone Star Gas Co	760,806
Manufacturers Light & Heat Co., The	324,014
Michigan Gas Storage Co	17,021
Michigan-Wisconsin Pipeline Co	800,000
Mississippi River Transmission Corp	6,700
Montana-Dakota Utilities Co	522,841
Mountain Fuel Supply Co	404,518
Natural Gas Pipe Line Co. of America	2,714,898
New York State Natural Gas Corp	300,000
North Central Gas Co	13,483
North Penn Gas	16,000
Northern Natural Gas Co	880,000
Northern Natural Gas Pipe Line Co	200
Ohio Fuel Gas Co	498,000

Schedule of pipeline companies reporting investment tax credit in annual report, form 2, for the year 1962—Continued

Oklahoma Natural Gas Gathering Corp	2,192
Orange & Rockland Utilities, Inc.	170,824
Pennsylvania Gas Co	68,188
South Georgia Natural Gas Co	14,180
Southern Natural Gas Co	333,000
Southwest Gas Corp	32,972
Texas Eastern Transmission Corp	2,591,900
Texas Gas Transmission Corp	1,835,900

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Transcontinental Gas Pipe Line Corp	$3,594,000
Trunkline Gas Co	212,500
Union Gas System, Inc	8,616
Union Light, Heat & Power Co.	68,514
United Fuel Gas Co	315,415
United Gas Pipe Line Co	1,733,000
United Natural Gas Co	79,889
Valley Gas Co	17,387
Valley Gas Transmission, Inc	11,000
Washington Gas Light Co	460,000
Western Gas Service Co	36,000
Total	26,054,132

FEDERAL MARITIME COMMISSION,
Washington, D.C., January 13, 1964.

Hon. ALBERT GORE,
U.S. Senate,
Committee on Foreign Relations,
Washington, D.C.

DEAR SENATOR GORE: I am pleased to furnish the following information in reply to your letter of January 10, 1964 and the accompanying outline of "Information to be supplied." In keeping with your needs as indicated in the outline, time has not permitted the development of all data which may be available in the files of the Commission. The replies are limited, therefore, to information which is readily obtainable.

While the Federal Maritime Commission has certain regulatory responsibilities in connection with offshore foreign water carriers and other related persons, its authority to prescribe just and reasonable maximum rates is limited to those common carriers by water who operate in the various domestic offshore services, (section 18, Shipping Act, 1916, as amended), i.e., between continental United States, Alaska, Hawaii, any territory, and possession of the United States; and between places within the same territory or possession (except intrastate commerce in Hawaii and Alaska). Financial and operating statements are required only from those carriers operating in the domestic offshore services pursuant to the authority contained in section 21 of the Shipping Act, 1916, as amended.

Vessels are the significant assets owned by the domestic offshore carriers which are subject to depreciation. None of the vessels owned by these carriers were purchased new. The majority of the vessels in the domestic offshore fleet were acquired from the Federal Government pursuant to provisions of the Merchant Ship Sales Act of 1946, as amended. Other used vessels have been acquired from American corporations operating in offshore foreign trades. Therefore, vessels in this segment of the industry are not acquired new and are not provided for in the accelerated depreciation rates provided by section 167 of the Internal Revenue Code. Generally, these carriers have depreciated their vessels, on a straight-line basis, over a period of 20 years. The Bureau of Internal Revenue has permitted, in some instances, carriers to extend the economic life of particular vessels as a result of major alteration or conversion. The Commission has recently held, in one rate proceeding, that for rate making purposes, the domestic offshore vessels of the carrier are to be depreciated on a straight-line basis over a period of 25 years. Experience reveals that vessels in the domestic offshore services are used for 25 years or more.

The following replies are enumerated in accordance with your outline of "Information to be supplied by the Federal Regulatory Agencies."

1. The Commission, except as noted above, has not prescribed depreciation rates to be used by carriers subject to its regulation. The Commission has developed no statistics which would enable it to compare depreciation rates used for tax purposes with those used by the carriers in regulatory proceedings before the Commission. Consequently, it is unable to state the difference between average book depreciation rates and rates permissible if guideline rates were used. The Commission, to date, has not issued any prescribed accounting procedure for carriers subject to its regulation with respect to rate treatment for such tax savings.

2. The Federal Maritime Commission, at present has no established policy as to the treatment of liberalized depreciation tax savings, nor does it have a reporting system whereby this data could be obtained. However, it appears that under the instant circumstances, the effect of this provision upon its domestic offshore carriers is probably minimal. This is dictated by the following:

The domestic offshore trade utilizes a relatively small number of vessels, to which the liberalized depreciation provisions of section 167 do not apply, since predominantly all vessels in the trade were built by the Government prior to 1947, and are categorized as secondhand assets. If increases in value arising from recent purchases or vessel betterments and conversions were eliminated, virtually all of these vessels have exceeded, or in the near future, will exceed, the prescribed guideline life of 18 years.

Under these circumstances, the Commission has not been required to consider the question of liberalized depreciation, and the amount of savings, if any, is not available. If however, unknown to the Commission, carriers have availed themselves of the provisions of section 167, the funds resulting from such savings have been included in the Commission's rate base calculations and allowed the same return as other assets employed in the service.

3. The Commission has generally ignored tax savings realized from the filing of consolidated returns. In some cases, however, the Commission has recognized a reduction in tax liability of a carrier in a regulated service when another service or division of

the same carrier is operating at a loss. The net effect of such a determination might be said to result in reduced rates. The Commission has no means of estimating the amount of the tax savings resulting from such decisions, nor the consequent reductions in rates, if any.

4. The Commission has been unable to accumulate any statistical financial data. In the limited time allowed by your request, no investment tax credit has been found in the financial statements for 1962 of carriers reporting to the Commission. In connection with an investigation of an increase in rates, one carrier has indicated an investment tax credit of $7,000 for 1963. This claim has not been investigated or verified other than superficially.

As stated herein, no industry statistics are accumulated by the Commission and the aggregate gross investment in 1962 and 1963 is not available. Neither the Commisssion nor any of the examiners on the staff have issued any decisions in which investment tax credit has been an issue. The Commission,to date, has not issued any prescribed accounting procedure for carriers subject to its regulation with respect to investment tax credit provisions.

I am sorry that I cannot furnish more complete replies to your inquiries, but this is all that is available under the conditions of your request.

Sincerely yours,

JAMES L. WALLACE,
Director, Bureau of Financial Analysis.

CIVIL AERONAUTICS BOARD,
Washington, D.C., January 14, 1964.

Hon. ALBERT GORE:
U.S. Senate,
Washington, D.C.

DEAR SENATOR GORE: This is in reply to your letter and attached memorandum of January 10, 1964, with regard to guideline tax depreciation, liberalized depreciation, and the investment tax credit as they affect the air transportation industry. Each item is numbered in the sequence reflected in the attached memorandum.

1. The Board does not have the authority under its act to prescribe or approve depreciation rates of the carriers for accounting purposes. However, the Board for ratemaking purposes set a 10-year life for jet aircraft and 7 years for large piston aircraft. The carriers have generally conformed their accounting to these rates although longer lives, up to 14 years, are used by some carriers for jet aircraft. This compares with the 6-year life permitted by the depreciation guidelines. We are enclosing herewith an information memo dated December 16, 1963, which indicates the extent of the use of guideline depreciation by the route carriers in their tax returns for 1962. The reported flight equipment depreciation expense of the 9 carriers included in the summary attached to the memo was 44 percent of such expense for the industry. Accordingly, assuming that the nine carriers reflected in the summary are representative of the industry, depreciation for the industry under the guidelines would have approximated $447,500,000 as compared with $342,900,000 under prior tax policy, a net increase of $104,600,000 in depreciation for tax return purposes. The Board has not formulated a specific policy on the accounting or rate treatment for tax amounts associated with guideline depreciation; however, when tax and accounting depreciation do not agree the substantive import would be the same as for liberalized depreciation discussed below.

2. Air carriers generally depreciate property and equipment on the straightline basis for book purposes. Where liberalized depreciation under section 167 of the Internal Revenue Code is used in the tax returns a related tax amount may be deferred for both accounting and rate purposes thus normalizing reported income taxes from year to year. During the calendar year 1962, the form 41 reports for the industry indicated provisions of $65,517,319 in the deferred income tax account which had a cumulative balance at December 31, 1962, of $168,639,730. At September 30, 1963, the latest information available, the cumulative balance of the deferred tax account was $216,457,105.

The Board does not consider that the higher depreciation expenses which are permitted for tax purposes under section 167 of the Internal Revenue Code reflect tax savings. Rather, the Board considers that the effect of section 167 is to produce a tax saving with respect to the early years which is offset by increased taxes in the later years.

The Board's rate policy with respect to the treatment of liberalized depreciation expenses under section 167 of the Internal Revenue Code is set forth in its opinion in the *General Passenger Fare Investigation,* docket 8008, et al., order E-16068, dated November 25, 1960. In concluding therein that the income tax allowance should be normalized, the Board found that the denial of normalized taxes would be contrary to the intent of Congress to grant all taxpayers what amounts to an interest-free loan to assist business in the modernization and expansion of industrial capacity. The Board does not recognize any balance in the normalizing account as funds upon which a rate of return should be allowed. (The Board found an overall 10½-percent rate of return as a fair and reasonable rate of return for the net working capital, net operating property and equipment after deductions for depreciation and overhaul reservation, and other used and useful assets including equipment purchase deposits.)

3. As a general rule, air carriers do not file consolidated tax returns. The existence of conditions which would permit or be

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conducive to the filing of such returns is extremely limited in the industry. Therefore, the Board has not established any policy in respect to tax savings which could result from the filing of such returns.

4. Based upon reports by the carriers the amount of investment tax credit actually taken in reduction of tax liabilities in 1962 is estimated to be $1,732,600. The Board has not completed a rulemaking proceeding on accounting for the investment tax credit. However, on January 25, 1963, all carriers were informally requested to defer the full

amount of the credit actually taken in 1962. The deferred tax element of the credit (52 percent) would be amortized to income tax expense over the service life of the related equipment and the income element (48 percent) would be amortized to income tax expense over the statutory periods set forth in section 46(c)(2) of the Internal Revenue Code. A proposed rule was issued October 2, 1963, which corresponded with the informal request except that the 48-percent portion for nonsubsidized carriers would be taken into income when realized and 100 percent of the credit would be taken into income by subsidized carriers when realized. Final action on this matter has been deferred pending disposition of House Resolution 8363.

We trust the foregoing meets your needs. If you have further questions we will be happy to answer them.

Very truly yours,

WARNER H. HORD,
Chief, Office of Carrier Accounts and Statistics.

CIVIL AERONAUTICS BOARD,
December 16, 1963.

To: The Board.
From: Chief, Office of Carrier Accounts and Statistics.
Subject: Use of depreciation guidelines by certificated route carriers.

Because of the expected impact of the depreciation guidelines and rules issued by the Internal Revenue Service upon actual income tax expense, the route carriers were requested to inform this Office as to the extent of use of the method.

Under the guidelines carriers can, for income tax purposes, depreciate aircraft over a period of 6 years which is generally shorter than the periods previously used. Nine carriers using the guidelines for computing depreciation in their tax returns indicated an increase of $46 million over the amount which would have been reported for depreciation in 1962 under prior tax policy. The impact of the increased depreciation for the nine carriers would be to reduce actual 1962 income tax of the nonsubsidized carriers by approximately $23.6 million and of the subsidized carriers by $0.3 million, thus temporarily freeing such funds for other uses.

However, the use of guideline depreciation for tax purposes would have little impact upon reported net earnings of the nonsubsidized carriers since they generally follow the practice of accounting for deferred income taxes. In view of the Board's actual tax policy for determining subsidy, the subsidized carriers are not permitted to record deferred income taxes associated with guideline depreciation. Therefore, its use by subsidized carriers would ordinarily result in their reporting lower income taxes and higher net earnings.

A 10th carrier, Trans-Texas, apparently used the guideline depreciation period but the data submitted was incomplete and therefor was not included in the attached summary. Also, the information submitted by Chicago Helicopter, one of the nine carriers, is questionable since depreciation under the guidelines is indicated as being lower than depreciation expense under prior tax policy.

It will be noted from examination of the attached summary that there is no pattern among the carriers using the guidelines.

WARNER H. HORD.

Certificated route carriers—Income tax depreciation allowed by IRS guidelines

Carrier	Depreciation prior policy	Depreciation IRS guidelines	Guidelines increase (decrease)
1. Allegheny Airlines	$2,425,177	$2,786,616	$361,439
2. American Airlines	34,636,438	55,889,666	21,253,228
3. Chicago Helicopter Airways	359,770	344,599	(15,171)
4. Delta Airlines	16,950,862	25,026,710	8,075,848
5. Mohawk Airlines	1,772,465	2,078,160	305,695
6. Northwest Airlines	16,174,237	18,414,187	2,239,950
7. Pan American World	64,502,000	74,537,000	10,035,000
8. Slick Corporation	1,856,680	2,320,850	464,170
9. Western Air Lines	11,630,949	14,957,307	3,326,358
Total	150,308,578	196,355,095	46,046,517

Estimated cash conserved (computed at 52 percent tax rate):
Nonsubsidized carriers $23,605,168
Subsidized carriers 339,021

JANUARY 10, 1964.

CHIEF ACCOUNTANT,
Civil Aeronautics Board,
Washington, D.C.

DEAR SIR: I would appreciate it very much if you could supply me with a very brief memorandum setting forth answers to the questions outlined in the attached memorandum.

Sincerely yours,

ALBERT GORE.

INFORMATION TO BE SUPPLIED BY THE FEDERAL REGULATORY AGENCIES

1. Please prepare a brief statement showing the difference in average book depreciation rates prescribed or approved by the agency and the maximum depreciation rate permissible under guideline tax depreciation and the annual tax savings if the guideline rates were used (to be computed by applying the differential in depreciation rate to the total gross investment of the industry concerned). If available, supply any data already collected concerning the extent of the use of guideline depreciation by such regulated industries. Has the agency formulated any policy on the proper accounting and rate treatment of such tax savings? If so, please describe them.

2. Describe your agency's present rate and accounting treatment of liberalized depreciation tax savings, under section 167 of the Internal Revenue Code, and advise as to the amount of such tax savings in 1962 and 1963, if available. If these tax savings are normalized, what is the present cumulative balance in the normalizing account? What rate of return, if any, does the agency allow on such funds?

3. Does your agency have any policy concerning tax savings realized by the filing of consolidated tax returns? If such savings are used to reduce rates, please estimate the annual amount of such tax savings for the industry concerned.

4. If available, what was the amount of investment tax credit actually taken by the regulated industry in 1962? Otherwise, what was the aggregate gross investment in 1962 and 1963, if available. Assuming that 85 percent of such investment was eligible for the credit, what were the tax savings in those years. Has your agency formulated any policy on the proper accounting and rate treatment of such tax savings? If so, please describe them.

NOTE.—Information is needed as soon as possible. If answer to any question will delay full reply beyond Monday, January 13, omit such answers.

Mr. GORE. Mr. President, I shall not detain the Senate further. This is a complicated issue on which one could speak at great length if he were sufficiently informed. I close by calling the attention of the Senate to the message of President Johnson, which was received in the Congress today. He expresses great concern for the consumer interest, and indicates the appointment of a special assistant and a new consumer committee. I applaud the President. I hope there will be greater activity in the protection of the consumer interest. I respectfully suggest that the pending amendment would be a good place at which to start.

On page 2 of the President's message he refers to action to assure fair rates in transportation, power, fuel, communications, and the like.

Then he says:

What is new is the concern for the total interest of the consumer, the recognition of certain basic consumer rights.

What are some of those rights? He lists them:

The right to safety, the right to be informed, the right to choose, the right to be heard.

Consumers have a right to have their representatives in Congress heard. The full profit position of the utilities should be revealed and the consumers should be informed in that regard.

I do not wish to go at length into a discussion of the President's message, which I applaud. I should like to read this paragraph:

Our record of overall price stability in recent years has been excellent. But the trend of consumer spending for services has been constantly rising; and the safeguarding of the consumer's interest in the area of services is comparatively weak.

The provision in the pending bill would make it weaker.

Briefly, I suggest the advisability of adopting the amendment now pending, because it would preserve for the regulatory agencies, quasi-judicial as they are in nature, the power, the authority, and the responsibility to regulate in the public interest, in the interest of the consumers, and in the interest of the utilities over which they have jurisdiction.

This regulation, as I have indicated by the decision cited, is done in some respects according to broad general principles, but in large measure by decisions upon individual cases, one utility having one situation, another having another, a fair rate appearing to be one thing in one part of the country, but quite another in a different part of the country, because of the differences in operating costs and in return on investment. This involves all costs, including tax costs, which, of course, are affected by the investment credit.

Mr. TOWER. Mr. President, I have no desire to prolong the debate. Therefore I ask unanimous consent to have

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printed in the RECORD my statement in opposition to the amendment.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR TOWER

INVESTMENT CREDIT

In 1962, Congress was concerned about the failure of American industry to expand and modernize plant and equipment. Accordingly, it considered means of increasing investment by domestic industry. Among the means considered were corporate rate reduction, increased depreciation allowances, and the provision of a credit directly against tax liability. The investment tax credit was chosen in preference to other incentive devices primarily because the credit was believed to be a more potent stimulus since it confers the tax benefit directly upon the company making the qualified investment.

Throughout the procedures leading to the enactment of the investment tax credit, distinctions were made between investments which qualified for the maximum credit, investments which qualified for a partial credit, and nonqualifying investments. At all times, it was recognized that investments made by the transportation industry should qualify for the maximum credit. Participation by the transportation industry in the tax incentive program was correctly believed to be essential to the program's success since transportation expenditures constitute more than 20 percent of gross national product, since transportation generates about 20 percent of all taxes collected by the Federal Government, and since transportation provides 14 percent of the Nation's civilian employment.

When the investment tax credit was first proposed by President Kennedy in his tax

message to Congress, he specifically recommended that investments by regulated transportation companies be eligible for the credit.

The President's position was explained in greater detail by the Secretary of the Treasury in May of 1961 while testifying in support of the President's then proposed investment tax credit. In a detailed statement before the Ways and Means Committee on May 3, 1961, Secretary Dillon recommended that the proposed investment credit be made applicable to regulated transportation companies (other than subsidized merchant marine companies), and that the credit not be made applicable to "regulated monopoly industries." The reason for the proposed distinction was stated to be that "investments by these regulated monopoly industries are largely governed by determined public requirements and are subject to regulated consumer service charges designed to provide a prescribed after-tax rate of return on investment." On the other hand, the Secretary testified that enterprises in the transportation field, "although subject to various forms of regulations of their charges, are in fact highly competitive businesses with varying rates of return on investment. * * * Many of these enterprises are not only competitive among themselves at given regulated prices, but also must compete with private truck fleets, private airplanes, and other transportation facilities operated by industrial corporations which would be eligible for the credit."

Thus, as proposed by the administration, transportation companies would be fully entitled to the benefits of the investment credit just like nonregulated companies, while noncompetitive public utilities would not qualify for the credit.

Secretary Dillon's distinction was adopted by the Ways and Means Committee which recommended that transportation companies subject to regulation be treated like other competitive industries as fully qualifying for the credit. However, instead of completely excluding regulated public utilities from the benefits of the credit, the Ways and Means Committee provided a 4-percent credit for such companies. As one of the principal reasons for giving noncompetitive public utilities a smaller credit, the committee stated:

"The smaller credit is provided in such cases because much of its benefit in these regulated industries is likely to be passed on in lower rates to consumers, thereby negating much of the stimulative effect on investments."

Thus, it was made clear that the full benefit of the investment credit was intended for regulated companies qualifying for the 7-percent (then 8-percent) credit.

While the Finance Committee recommended that the maximum investment credit be reduced to 7 percent for taxpayers generally, and to 3 percent for noncompetitive public utilities, it also recognized the validity of the distinction made by Secretary Dillon.

Finally, the distinction between competitive transportation companies and noncompetitive public utilities was enacted into law as section 46(c)(3) of the Internal Revenue Code of 1954.

As was made clear initially by Secretary Dillon, transportation companies which are engaged in a highly competitive industry should be entitled to the full benefits of the investment credit using such benefits as their management sees fit. However, as previously indicated, there are reasons for providing regulated noncompetitive industries with a smaller credit and for allowing regulatory agencies having jurisdiction with respect to such companies to pass a proportionate part of the credit on to consumers.

Nevertheless, since the enactment of the credit, a majority of the commissioners of some Federal regulatory agencies have taken the position that companies subject to their jurisdiction should not retain any of the benefits of the investment tax credit.

For example, on July 29, 1963, the Federal Communications Commission decided by a 4-to-3 vote, "that the best method to reflect investment incentive tax credits made available by the Revenue Act of 1962 is to permit the investment credits to 'flow through' immediately to net income * * *"

Specifically, the majority of the Commission concluded that "the proper accounting with respect to the investment tax credit arising from both owned and leased property is to account for it as a reduction in income taxes and let such reduction 'flow through' to operating income. As stated in the Notice of Proposed Rule Making in this proceeding, we have interpreted all of our uniform systems of accounts as presently requiring 'flowthrough' accounting. Consequently, no amendments to our systems of accounts will be ordered herein."

Under the majority's decision, noncompetitive public utilities would receive absolutely no benefit from the credit in spite of the fact that Congress specifically provided a partial credit for such companies.

More recently, in an order issued January 23, 1964, the Federal Power Commission, by a 3-to-2 vote, announced its conclusion that "on the basis of existing law the accounting treatment to be prescribed should be to 'flow through' the credit to income." Other decisions have indicated that this accounting treatment will be followed for rate purposes.

These commissions have not acted with unanimity. As is evident from the illustrations previously given, a strong minority of each commission favors the treatment under present law which section 203(e) would clearly prescribe. In the case of the one commission, only one vote separated the majority favoring a "flowthrough" interpretation of present law from the minority opposed to the "flowthrough" interpretation. Nor was this commission able to present its views regarding section 203(e) unanimously to the Finance Committee. To prevent such a narrow majority of commissioners from frustrating congressional intent, section 203(e) would prescribe the permissible limits of Federal regulatory agency treatment.

Those opposing the enactment of section 203(e) have taken the position that the investment credit should "flow through" to ultimate consumers, that regulated companies do not need the incentive effect of the investment credit, and that retention of the benefits of the investment credit will result in an unintended windfall to regulated taxpayers. I do not believe that Federal regu-

latory agencies should be the sole arbiters of whether the benefit from the investment credit should be retained by regulated companies.

These arguments in opposition to section 203(e) are based upon basic misconceptions regarding the purpose of the investment tax credit, the role and power of Federal agencies, and the benefits of "flowthrough."

The truth is that the investment credit was intended to stimulate investment, not consumption. That interference by Federal regulatory agencies would upset the balance achieved by the administration's bill between measures designed to stimulate consumption, and measures designed to stimulate investment, and would require a reappraisal of the relative size of the rate reduction going to consumers.

That even if the maximum amount of the attempted "flow through" ever reached consumers, it would be insignificant in amount—less than $1 per year per consumer.

That the transportation industry, like nonregulated industry, is a highly competitive industry which is not required to expand by law, but which will be stimulated to modernize plant and expand facilities and services if permitted to retain the benefits of the investment credit.

That enactment of section 203(e) will not result in any increase in rates to consumers; it simply will not work to decrease them at extra cost to the Treasury and to the investment incentive which was intended.

These facts, together with the other facts outlined above, clearly require the enactment of section 203(e) to assure that the original intent of Congress will be executed by Federal regulatory agencies and to obtain the participation of regulated transportation companies in the growth of the economy.

Mr. TOWER. Mr. President, I believe that a mistaken impression is being conveyed by the debate; namely, that there is some great dichotomy of the American people which divides them into two classes, producers and consumers. I maintain that no such dichotomy exists. We are all consumers. Every one who works is a producer of a product or a service. I reject the notion that the consumer interests and the producer interests are always in conflict. That is not true. I believe that what is good for business is good for everyone. The bill was designed as a stimulant to economic growth. If business prospers, everyone prospers. The bill assaults the problem from two directions. It helps the wage earner, the income earner, and the consumer, and also helps business. It makes the benefits both trickle up and trickle down, according to the two classic theories.

I reject the notion that the amendment is properly a matter for consideration by the Commerce Committee, rather than by the Finance Committee. After all, this is a tax measure, designed to

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stimulate economic growth and to give full effect to the full concept of the bill. It was fully within the purview of the Finance Committee to include section 203. I hope that the amendment proposed by the Senator from Wisconsin will be rejected.

I commend the Senator from Louisiana for his comprehensive presentation of the case against the amendment and associate myself with his remarks.

Mr. LONG of Louisiana. Mr. President, I hold in my hand a list of all the pipeline company investment tax credits for the year 1962. The amount involved is a grand total of $26 million. So far as I know, the other carriers are not being required to flow this credit through.

Something was said to the effect that that was a case for the ICC. It is my impression that the ICC, perhaps, requires the information for accounting purposes, but not for ratemaking purposes. So the figure $26 million is at rate variance with the $600 million, or, I believe, even the $6 billion figure, that was mentioned on the floor of the Senate. It is like some of the things that, when boiled down to what one is acutally talking about, mean that we are talking about $1 for every $100 someone else is talking about.

Mr. SIMPSON. Mr. President, will the Senator from Texas yield?

Mr. TOWER. I yield.

Mr. SIMPSON. I associate myself with the remarks of the Senator from Texas and with the colloquy between the Senator from Louisiana [Mr. LONG] and the Senator from Massachusetts [Mr. SALTONSTALL], as well.

I shall not labor the question at length, because I know the Senate is ready to vote. However, the reason why the 1962 Revenue Act allowed monopolistic utilities a 3-percent tax credit, but allowed the transportation industry a 7-percent credit was the substantial competition the transportation industry faces. After the Committee on Finance acted, the Federal Power Commission, on January 23, 1964, ordered, for accounting purposes, "flowthrough" to consumers of all the incentive of the tax credit.

Mr. President, I ask unanimous consent that that order be printed at this point in the RECORD.

There being no objection, the order was ordered to be printed in the RECORD, as follows:

INTERIM ORDER ISSUED JANUARY 23, 1964

United States of America, Federal Power Commission before Commissioners Joseph C. Swidler, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Harold C. Woodward, and David S. Black.

Investment tax credit under 1962 amendment to Internal Revenue Code; accounting treatment by public utilities, licensees, and natural gas companies—Docket No. R–232.

The Commission has under consideration in this docket[1] an order prescribing the accounting treatment to be accorded under the Commission's Uniform Systems of Accounts to the investment tax credit provided by the Revenue Act of 1962.[2]

The Commission has reached the conclusion that on the basis of existing law the accounting treatment to be prescribed should be to "flow through" the credit to income. We recognize, however, that legislation is pending in the Congress dealing with the investment credit and that it is not now possible to determine whether such legislation as might be adopted would require a different accounting treatment for the credit.

In order to enable affected companies to close their books of account for the year 1963, the Commission hereby notifies all public utilities, licensees, and natural gas companies that the interim accounting prescribed for the investment tax credit under Order No. 261, Docket No. R–231, issued January 9, 1963,[3] continues in effect for calendar year 1963 and in accounting for income taxes until further notice or order of the Commission.

By the Commission. Commissioners O'Connor and Woodward dissent as to the statement of the accounting treatment which is appropriate under existing law. Commissioner O'Connor believes decision should be deferred until Congress has acted on the pending legislation. Commissioner Woodward favors deferred tax accounting.

JOSEPH H. GUTRIDE,
[SEAL] *Secretary.*

Mr. SIMPSON. Mr. President, this was in defiance of the House action and the action of the Committee on Finance, as shown by their actions.

I ask unanimous consent that a summary of my argument be printed at this point in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF ARGUMENT IN SUPPORT OF SECTION 202(e) (2)

1. The purpose of the 1962 tax provision authorizing the investment tax credit was to stimulate the expansion of the Nation's productive facilities. It was intended for the use of industry and not for the direct benefit of the consumer. (See TAA statement, pp. 1, 3, 10, 16, 17.) The consumer is being provided for in the present tax bill through reduction in individual income tax rates.

2. The reason the 1962 Revenue Act allowed monopolistic utilities a 3-percent tax credit but allowed the transportation industry a 7-percent credit was the substantial competition the transportation industry faces. (TAA statement, pp. 2, 3, 10, 11.)

3. The conference report on the 1962 tax bill made clear that the investment tax credit applies to "both regulated and nonregulated industries." (H. Rept. No. 2508, on H.R. 10650, 87th Cong., 2d sess., p. 14.) (TAA statement, pp. 16, 17.)

4. Section 202(e) (2) of the present tax bill was passed by the House and approved by the Senate Finance Committee. It assures that the incentive effect of the investment tax credit will not be denied the transportation industry as certain Federal regulatory agencies are attempting. (TAA statement, p. 15.)

5. After the Senate Finance Committee acted, the FPC on January 23, 1964, ordered, for accounting purposes, "flow through" to consumers of all the incentive of the tax credit. A copy of the order is enclosed. This is in defiance of the House and the Senate Finance Committee actions on section 202 (e) (2).

6. The foremost private advocate of section 202(e) (2) is the Transportation Association of America whose panels of air, oil pipelines, freight forwarders, highways, water carriers, investors, and users support its position. Certain elements are attempting to tag the provision as a "natural gas pipeline" measure only. Although the competitive pipeline industry has a valid interest, the allegation that it is just a pipeline amendment is false and misleading. (TAA statement, pp. 7–10.)

7. The transportation industry asks only for equal treatment with other industries.

8. The transportation industry is not required by law to expand, but must have the same incentives to expand and improve service as all other industries have. Certain elements are erroneously stating that the industry can be required to meet new demands and furnish better service, and, therefore, needs no incentive.

9. By attempting to thwart the intended effect of the tax credit, certain regulatory agencies are interfering with the Nation's tax policy and attempting to superimpose their will on Congress. Nevertheless, certain elements claim that Congress is interfering with the regulatory scheme. The opposite is true, for after Congress announced the policy of stimulating the American economy by means of the investment tax credit, some Federal agencies seek to eliminate that tax incentive by not allowing its use to industries subject to their jurisdiction. Certain regulatory agencies are the ones interfering with the tax policy; once they interfere, they claim that any prohibition on their unlawful action is interference with the regulatory scheme. Section 202(e) (2) is an obvious tax measure and not a regulatory measure, for it enforces the tax policy that all industries should receive the stimulation of the credit.

10. Consumer costs will not increase when this provision is approved. Rates to consumers will not be affected by permitting transportation companies to retain this tax incentive. Granted, if the consumers get all the benefit, their rates will decrease, but this

[1] Notice issued Jan. 15, 1963, published in 28 F.R. 528 of Jan. 19, 1963.

[2] 76 Stat. 960, Public Law 87–834, sec. 2, adding new secs. 38, 46–48, 181, to and amending certain existing sections of the Internal Revenue Code of 1954.

[3] 29 FPC 62, 28 F.R. 402.

would thwart the intent of the tax credit to stimulate industry. If industry keeps the incentive, consumer prices will not change. (TAA statement, p. 2.)

11. If the transportation industry should not receive this incentive, revenues to Treasury from the transportation industry will be reduced by more than twice the anticipated loss in tax revenues. This loss would have to be recouped from all American taxpayers, including the consumers. Assuming the figure of $600 million, which some elements say would be the consumer benefit, is accurate, then Treasury would collect $600 million less from the transportation industry, and the American taxpayer would have to make up this loss. (TAA statement, pp. 3, 14.)

Mr. SIMPSON. Mr. President, those who oppose the recommendations of the Finance Committee on the investment tax credit issue raise a question which should concern the entire Nation. It goes to the heart of our governmental processes.

This debate poses a fundamental moral question—is the law what the Congress determines that it is by majority action after careful deliberation—or is the law what an appointed agency or commission decides it should be?

We all bear witness to fundamental truths about our Government—the principles that separate us in history as a nation in which the interests of our people move forward in freedom.

One of these tenets is that we are a government of law—not a government of men in which whim and caprice can rule.

The question involved in the investment tax credit provision of the Revenue Act is one of reaffirming to the Nation that the legislative process has integrity—that when the people act through their Congress they can be confident such action will not be distorted or negated.

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It is not my purpose to set up a pattern of moral conduct for anyone in this honorable body. My purpose is to suggest with firmness that where the will of Congress has been deliberately expressed through law, that law should not be subverted by any agency of Government.

If we fail to reaffirm the legislative supremacy of the Congress, any agency in effect can be its own congress and the work of the people will have been thwarted.

A brief review of the history of this legislation demonstrates the importance of the principle involved.

The Revenue Act of 1962 specifically authorized a 3-percent investment tax credit for certain classes of utilities which have little or no competition and a 7-percent credit for those which are subject to competition.

The law is specific and clear.

When the act was adopted, after a conference, this statement was made on the floor of this Senate:

> It is the understanding of the conferees on the part of both the House and Senate that the purpose of the credit for investment in certain depreciable property, in the case of both regulated and nonregulated industries, is to encourage modernization and expansion of the Nation's productive facilities and to improve its economic potential by reducing the net cost of acquiring new equipment, thereby increasing the earnings of new facilities over their productive lives.

Despite the specific provisions of the law—despite the language of the report to the Senate—despite current action by this Congress to reaffirm the intent of the law—regulatory agencies have seen fit to thwart the will of Congress by denying the investment credits specifically authorized.

In effect, they are flouting the law of the land. They are establishing rule by men rather than rule by law.

Have the independent agencies become so independent of Congress that they can subvert the law with impunity? Do they not have the same obligation to support the law that is demanded of every citizen? Is it they or Congress which sets tax policy?

These are the fundamental, the moral, questions involved today.

The Revenue Act of 1963 simply reaffirms the intent of Congress in 1962 as expressed in a law which is unequivocal and not subject to misinterpretation.

Those who are fighting against the investment tax provision of the 1963 act opposed it in 1962. Having lost their case in 1962, they are today using the back-door method of regulation to negate a law adopted by a majority of Congress. This is a tremendous disservice to the democratic process, the type of action which destroys public confidence in our system of government.

It is interesting to note that in acting on the investment tax credit question here is no unanimity of opinion within the independent agencies. A simple majority of the membership on various commissions have acted to negate the will of Congress. There is strong minority opposition within the commissions themselves.

This means that the national tax policy can be flouted by a handful of men in defiance of the Congress. Such power in the hands of a simple and transient majority constitutes a danger to the fundamental principles of the American system.

Those who oppose the investment tax

credit provision of the bill now under consideration should, I suggest, direct themselves to the original law. They should not seek to perpetuate government by men through a back-door method.

The concept which they seek to establish could have far-reaching effects in all areas of Government activity.

The question today is not one of whether investment tax credit for regulated industry is right or wrong. That was debated in 1962 and this Congress determined that it was right. The question today is whether the law will be recognized and applied as written. That is what the legislation now before this body seeks to accomplish.

In my opinion, Congress must act to uphold the law. Any other course would be a negation of our very reason for existence and in effect would place congressional blessing on the concept of government by men rather than government by law.

Mr. PROXMIRE. Mr. President, it is my understanding that the distinguished Senator from Georgia [Mr. TALMADGE] wishes to exercise his right—and certainly he has that right—to divide the amendment and have the Senate vote on the 3-percent section and then vote on the 7-percent section. I yield to the Senator from Georgia for that purpose.

Mr. TALMADGE. Mr. President, I am grateful to the Senator from Wisconsin for yielding.

The amendment offered by the Senator from Wisconsin proposes, on page 38, beginning with line 7, to strike out all through line 9 on page 39.

What is proposed to be stricken by the Senator from Wisconsin involves two different propositions and two different treatments of the two different propositions. Therefore, under the rule XVIII, I request that they be divided.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. TALMADGE. Will the Senator from Wisconsin wait for the ruling of the Chair? Then I shall be delighted to yield. Or does the Senator wish to make an argument before the Chair rules?

Mr. PROXMIRE. I shall not make an argument on the parliamentary situation; I am satisfied that the Senator from Georgia is within his rights, though I deeply regret that he is exercising them.

The PRESIDING OFFICER (Mr. McGOVERN in the chair). Under rule XVIII, the Senator from Georgia has a right to demand a division of the question.

Mr. LONG of Louisiana. Mr. President——

Mr. PROXMIRE. Mr. President, I think I have the floor; I yielded temporarily to the Senator from Georgia.

Mr. LONG of Louisiana. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Louisiana will state it.

Mr. PROXMIRE. I yield to the Senator from Louisiana for that purpose.

Mr. LONG of Louisiana. In either event, would a Senator have a right to move to table the whole amendment?

The PRESIDING OFFICER. A Senator would have that right.

Mr. TALMADGE. I thank the Senator from Wisconsin for yielding to me. If he desires me to yield to respond to a question from him, I am delighted to do so.

Mr. PROXMIRE. I should like to have the Senator from Georgia reconsider his action. I am hopeful that the motion to table can be defeated. If it can be, then there will be three yea-and-nay votes on the basis of the Senator's motion to divide the question. I think this question can be decided on two yea-and-nay votes.

While the Senator has an excellent point—there is a difference—there is no question about it—I submit that the basic principle involved is the same. That principle is this:

First, should Congress dictate to a regulatory body that it must permit a return greater than a fair return? This would be true whether it was a 7-percent utilities return, for which the investment credit must be ignored, or 3 percent, where the investment credit must be spread over the life of the asset.

This is because in the 3-percent instance, as the Senator knows, there is free interest during the life of the asset; and if the utility is growing, the concession to the utility is substantial.

The second and last point I should like to make in this connection is that the argument for any benefit to the locked-in monopolistic electric utility is virtually all at the maximum rate of return. The argument that they should get any benefit out of the investment credit is very weak, indeed.

Therefore, I think we could make almost an equally strong argument against both sections. If one disagrees with the Senator from Louisiana and his supporters, I think an equally strong argument can be made on that side.

Therefore, in the interest of expediting the business of the Senate, I hope the Senator from Georgia will reconsider his motion to have the question divided.

Mr. TALMADGE. The Senator is entitled to his opinion, of course. However, I think Congress has the right and the duty to pass laws that affect regulatory bodies. I should much prefer to have the origin of that legislation come before the appropriate committee that has legislative jurisdiction thereof.

The Senate is dealing with a tax matter that originated in the Committee on Ways and Means and was referred to the Committee on Finance. That matter was in the bill at the time it came before the committee, and hearings were held on it. The Senator from Wisconsin is not a member of the Committee on Finance, but I made the same request in the committee. We are voting on two different proposals, one that I can

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support, and one that I will not support. Under those conditions, I have requested that they be divided. Such a division is authorized by the rules. I regret that I cannot withdraw the request, because I am not prepared to vote on two different proposals, one with which I agree, and one with which I disagree.

Mr. PROXMIRE. I understand that the Senator from Georgia is insisting on his right.

Mr. TALMADGE. That is correct.

Mr. PROXMIRE. The Senator has every right to do so. For less than 3 minutes, I shall try to summarize my position.

Primarily, the argument of the Senator from Louisiana is that if we do not agree with the committee's position, we penalize the utilities or transportation companies that are in competition. Our argument is that if a company is in competition, the investment credit is virtually certain to be passed on. Of course, it will be passed on. It will be passed on because competitive forces will see to it that prices are competitive. Either through freedom of entry or other methods, the investment credit eventually will be passed on. However, it will not be passed on in the case of a utility which is a monopoly and the regulatory body has been instructed by Congress not to permit a pass-on.

The Senator from Louisiana also said that the Federal Power Commission—and I hope the Senator from Illinois [Mr. DOUGLAS] will listen to this—is always at loggerheads with the oil and gas utility it regulates.

The President of the United States has made some very sympathetic appointments to the Federal Power Commission, including that of Lawrence O'Connor, whose nomination I opposed on the floor of the Senate for 27 hours, a man who was a lobbyist for the oil industry, a man who certainly represents the interests of the oil industry and oil pipelines.

It seems to me that the regulatory body should not necessarily be totally and completely sympathetic to the producer interests, but should also represent the consumer interests.

Therefore, the basic argument made by the Senator from Louisiana boils down to this very simple issue: He says that the discretion as to whether the investment credit should be passed through or not should be left with the utilities.

I say it should be left with the regulatory body. That is the entire issue.

It is my position that the regulatory bodies which represent the whole public—both the utilities and the consumers—should decide whether the tax credit should be passed through. The Senator from Louisiana argues that only the utilities should decide whether or not to pass through the investment credit. That is the issue.

Mr. President, I earnestly hope the motion which I anticipate the Senator from Louisiana will shortly make—a motion to lay this amendment on the table—will be rejected.

Mr. DOUGLAS. Mr. President, I hope very much that the Senator from Louisiana will not make a motion to lay the amendment on the table. Yesterday, a motion was made to lay on the table the amendment of the Senator from Tennessee. But I think the Senate was entitled to vote, yesterday, on the amendment of the Senator from Tennessee; and likewise I think the Senate is entitled to vote, today, on the amendment of the Senator from Wisconsin.

Mr. LONG of Louisiana. Mr. President, will the Senator from Illinois yield?

Mr. DOUGLAS. I yield.

Mr. LONG of Louisiana. So far as I am concerned, I shall state my position very clearly: I do not think Congress should do these things for one industry and not do them for the competitors of that industry.

This proposal is satisfactory to both the 3-percent utilities and the 7-percent carriers. It is my feeling that we should determine where we stand on this issue.

I was not in favor of the motion to divide the amendment; but if some Senator is going to insist that the amendment be divided, I believe I have no choice but to move that the amendment be laid on the table, so the Senate can subsequently deal with the entire package.

Mr. DOUGLAS. Very well, Mr. President, I would not object to the making of a motion to lay the proposed Tal-

madge motion on the table since that is a technical issue but I do object to the making of a motion to lay the Proxmire amendment on the table which is substantive in nature. These tabling motions give an opportunity for equivocal voting.

Mr. LONG of Louisiana. Mr. President, if the Senator from Illinois will yield further, let me say that if the motion to table is agreed to, the entire section will still be subject to amendment; and then the Senator from Georgia or any other Senator can move to strike out any part of the amendment.

But under the present circumstances—because I believe the Senate should be allowed to vote the entire section either up or down—I have no choice but to move that the pending amendment be laid on the table.

Mr. DOUGLAS. Mr. President, it will be satisfactory to me to have a motion to lay the Talmadge motion on the table agreed to—since that is a procedural issue but not a motion to lay on the table the Proxmire amendment which is substantive and highly important and which deserves to be considered on its merits and voted up or down.

Mr. CARLSON. Mr. President, I wish to speak for only 2 or 3 minutes before the debate on this issue closes.

Apparently section 202(e) is greatly misunderstood.

First of all, section 202(e) does not interfere with or prohibit regulatory agencies from performing their proper functions. It does provide, in the case of public utility property—property of utilities receiving the 3-percent investment credit—that Federal regulatory agencies are not, without the taxpayer's consent, to require that the full effect of the credit be flowed through to the benefit of users of utility services in the year in which the credit was received. The agencies are, however, authorized to flow the effect of this credit through in proportionate amounts, over the life of the public utility property which gave rise to the credit. Thus the sole question is one of timing. We want the effect of the investment credit to be a lasting one and not merely a shot in the arm.

I was a member of the committee of conference between the Senate and the House on the amendments of the Senate to the Revenue Act of 1962 (H.R. 10650) which created the investment credit. The report of that conference endeavored to make clear the intent of Congress respecting the purpose of the investment credit when it said:

> It is the understanding of the conferees on the part of both the House and the Senate that the purpose of the credit for investment in certain depreciable property, in the case of both regulated and nonregulated industries, is to encourage modernization and expansion of the Nation's productive facilities and to improve its economic potential by reducing the net cost of acquiring new equipment, thereby increasing the earnings of the new facilities over their productive lives.

I, for one, believed we had made it clear that the investment credit was not to be considered a simple reduction in taxes but its purpose was to reduce the cost of providing new productive facilities, thereby increasing the profitability of such facilities and, of course, the incentive to create them.

In the months following the enactment of the investment credit it became painfully apparent we had not been sufficiently specific. At least one Federal regulatory agency, after reviewing the legislative history of the Revenue Act of 1962, cited the language from the conference report which is quoted above and found that this did not mean that Congress intended the effect of the credit be spread over the life of the plant. This agency specifically found that the investment credit represents a reduction in income taxes that should immediately be flowed through to earnings.

Section 202(e) simply makes certain that these Federal regulatory bodies will not further misunderstand what the Congress intended and still intends, namely, that the investment credit is to make the construction of plant more profitable over its life and that it is not a mere tax reduction to create an apparent, but not real, increase in net earnings.

Business makes money through the use of its productive facilities. Business does not make money by constructing new plant. The investment credit recognizes this fact. The credit is not intended to cause an artificial increase in profits in the year in which it is received. It is intended to make it possible for a business to have higher earnings over the period in which it uses the plant it constructs. There is nothing in section 202(e) which prevents a regulatory body from recognizing, for any regulatory purpose, the increased earnings which are realized as the property constructed is used in providing service.

When the investment credit was first proposed it was not intended to be ex-

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tended to public utilities. However, in many instances, public utility service is in competition with privately provided service. For example, electric power

companies must compete with privately built and operated generating plants. It obviously would be unfair to provide a credit that would reduce the cost of privately provided facilities at the expense of utility services. Provision, therefore, was made for the public utilities to receive a 3-percent credit.

The real difficulty seems to be that some regulatory agencies would change the investment credit from an incentive to public utilities to improve and expand their facilities into a bonus to the users of the utility service. Regulatory zeal to protect and benefit the public is admirable, but regulatory attitudes that do not recognize congressional purpose and intent is a matter of concern.

The Federal Communications Commission, in a letter to Congressman JOHN W. BYRNES last September, disclaimed any intention that the credit "should flow through immediately to the customers" in all cases. It stated it would require immediate flow through only so that the Commission could, at its discretion, select when the credit should be used to stimulate investment and when it should flow through to customers in the form of rate reduction. The Commission's position is that the credit is not needed to stimulate investment in profitable companies and should in those cases be passed through to the customers by immediate rate reductions. The legislative history of the statute gives no basis for such discrimination. It was the intention of the Congress that the investment credit was to be applied as an incentive to improvement and expansion of productive facilities. Any arbitrary ruling by a Federal regulatory agency requiring immediate flow through would eliminate any incentive for further investment. Any prudent management of a business enterprise would think twice about investing under circumstances which reduce to a minimum, or eliminate, the incentive to invest. It certainly was not the intention of the Congress that companies making a satisfactory rate of return should be precluded by regulatory authorities from using the credit for further improvement and expansion.

The Federal regulatory agencies under section 202(e) retain their rightful responsibility to regulate the real earnings of any company under their jurisdiction. Nothing in section 202(e) would interfere in the slightest respect with the authority of a Federal regulatory agency to recognize, in determining a fair rate of return to the utility, the earnings arising out of use of public utility property in providing service.

Mr. President, for this reason I believe the Senate should not adopt the amendment offered by the Senator from Wisconsin, but should support the position taken by the Finance Committee on this situation.

Mr. LONG of Louisiana. Mr. President, in summary, let me say that when Congress passed the investment credit provision, it made the legislative history in that connection, which was, in the opinion of those of us who were members of the conference committee, that all the carriers were to have the benefit of the investment credit, as a stimulus to modernization.

In some areas—particularly in the railroad industry—one can observe what this provision of law has meant. The Interstate Commerce Commission has permitted the railroads to have the benefit of the tax credit, and the Commission has said it does not intend to have the tax credit taken away from the railroads; and the railroads are engaging in a massive effort to make their industry competitive with other transportation industries.

The Federal Power Commission has decided, by a vote of 3 to 2, that it does not believe that Congress meant the pipelines to have the benefit of the tax credit.

Mr. President, unless Congress states clearly what its decision is in connection with this matter, the transportation industry will continue for years to be in doubt about what is to be done. In short, now is the time for Congress to clear up the uncertainty.

One of the worst situations I can imagine would exist if the railroads, the pipelines, and the other transportation industries had to remain in doubt for the next number of years as to whether they are or are not to obtain the benefit of the tax credit.

In my opinion, it would be better for Congress to state that they cannot keep the tax credit, rather than to permit the existing uncertainty to continue.

Consider the situation in the Federal Power Commission, Mr. President: At the present time, the Commissioners have divided by a vote of 3 to 2; three of them want to have the tax credit taken away from the pipelines and the electric transmission companies, and two of the Commissioners want them to have the tax credit. A mere change of one in the membership of the Commission by means of one presidential appointee could result in a reversal of that decision.

Furthermore, if the matter went to court, it would take years for the courts to decide what Congress intended.

In my opinion, these carriers should have the benefit of the tax credit.

The significance of many of the figures which have been cited has been greatly exaggerated. In my opinion, Congress should now decide whether the pipelines should or should not have the benefit of the tax credit, because they are the ones who are about to become involved in litigation over this question. This entire industry was involved in controversy before the Commission in 1962. That year, the entire amount of the investment credit for them was $26 million—which is a far cry from some of the figures which have been cited during the course of this debate; in fact, one Senator even referred to $6 billion as the correct figure for the entire item.

Mr. President, I regret that a motion to separate the amendment was made. Personally, I would have much preferred to have the Senate take a direct vote on the entire section; and I shall seek to arrive at that result by following the only course now open to me—namely, to move that the Proxmire amendment be laid on the table; and I shall make that motion when other Senators are ready to have it made.

Mr. MONRONEY. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. MONRONEY. As I understand, there is no way in which the trucklines or the railroads or the pipelines could possibly pass back their 7-percent credit to their customers who already have used their services and facilities. Under these circumstances, that branch of the transportation industry must retain the entire 7-percent tax credit, must it not? Is that not correct?

Mr. LONG of Louisiana. Well, at least, it would be very difficult for them to make such refunds at this time.

Mr. MONRONEY. After all, who can now determine who were the owners of freight which was carried some time ago? I believe it would be an utter impossibility for such a determination to be made, and therefore it would be impossible for a refund of the tax credit to be made.

Under these circumstances, the result would be that the only industry thus regulated, among all those in the 7-percent group, would be the pipelines, which are competitive in their rates.

Mr. LONG of Louisiana. Perhaps that is true insofar as past operations are concerned; but I assume that in the future it would be possible for the railroads to be required to reduce their rates for future business—in other words, to require them to forgo the benefit of the tax credit which was accorded them.

Mr. MONRONEY. The rates are filed and then they are approved or suspended. There is no question of return on investment. I am trying to find to whom the pipelines would pass back the money. Would the long gas lines refund it to the Washington Gas Light Co., or would they refund it to the consumer? Is there anything in the amendment that would require the money to go to the consumer or to the central distribution system that is locally controlled by the local regulatory agency and not by the Federal Power Commission?

Mr. LONG of Louisiana. I assume that they would remit to the local company.

Mr. MONRONEY. We have done it without any power Congress can exert for having the benefit filter down, perhaps to the customer or perhaps to enrich or add to the profits of the local distribution system. Is that correct?

Mr. LONG of Louisiana. That is correct, though it perhaps could go to them.

Mr. President, Senators who wish to vote for the tax credit should not vote for it all unless they believe that competition is the great leveler of prices. If we believe that by modernizing industry or by modernizing five different competing carriers, or by modernizing five different competing industries, and modernizing the carriers within those industries, or if they can compete more effectively with them to make more effective the competition they will give one another, prices will be brought down, we should vote to sustain the position of the committee.

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If we believe that any one of these competitors by becoming more competitive and more efficient, can bring prices down, we should vote to sustain the position of the committee.

Mr. President, if we wish to be fair to the carriers, we should not provide—as the Senator from Wisconsin has suggested—a tax advantage to one carrier that would not be provided to the other. We have to give them the same tax credit, and let them compete for business. If we want them to compete according to terms, we should vote for the position that the committee has recommended, which is the position that the House accepted.

Mr. PROXMIRE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Wisconsin will state it.

Mr. PROXMIRE. If the Long motion to table the Proxmire amendment carries, will it be possible to amend the bill with either the first section of the Proxmire amendment with regard to the 7-percent credit, or its second section with regard to the 3-percent credit; or will the whole situation then be out of the

way so that the Senate will proceed with other amendments?

The PRESIDING OFFICER. It would be subject to further amendment at that point.

Mr. PROXMIRE. It is subject to further amendment in this regard?

The PRESIDING OFFICER. That is correct.

Mr. PROXMIRE. Mr. President, I thank the Chair.

Mr. LONG of Louisiana. Mr. President, I believe that Senators who desire to make speeches have made them, and I now move to table the amendment of the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana [Mr. LONG] to table the amendment of the Senator from Wisconsin [Mr. PROXMIRE]. On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia (when his name was called). I have a pair with the Senator from Illinois [Mr. DIRKSEN]. If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I therefore withhold my vote.

Mr. PROUTY (when his name was called). On this vote I have a pair with the distinguished Senator from Arizona [Mr. GOLDWATER]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I therefore withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Nevada [Mr. CANNON] and the Senator from Alabama [Mr. HILL] are absent on official business.

I further announce that, if present and voting, the Senator from Nevada [Mr. CANNON] would vote "nay."

Mr. KUCHEL. I announce that the Senator from Illinois [Mr. DIRKSEN] and the Senator from Arizona [Mr. GOLDWATER] are necessarily absent.

The respective pairs of the Senator from Illinois [Mr. DIRKSEN] and that of the Senator from Arizona [Mr. GOLDWATER] have been previously announced.

The result was announced—yeas 42, nays 52, as follows:

[No. 23 Leg.]

YEAS—42

Allott	Brewster	Curtis
Anderson	Carlson	Dominick
Beall	Cooper	Eastland
Bennett	Cotton	Edmondson
Ellender	Jordan, N.C.	Pastore
Ervin	Jordan, Idaho	Pearson
Fong	Long, Mo.	Saltonstall
Fulbright	Long, La.	Simpson
Hartke	Mansfield	Smathers
Hayden	McGee	Sparkman
Hickenlooper	Mechem	Stennis
Holland	Miller	Symington
Hruska	Monroney	Tower
Johnston	Morton	Walters

NAYS—52

Aiken	Jackson	Neuberger
Bartlett	Javits	Pell
Bayh	Keating	Proxmire
Bible	Kennedy	Randolph
Boggs	Kuchel	Ribicoff
Burdick	Lausche	Robertson
Byrd, Va.	Magnuson	Russell
Case	McCarthy	Scott
Church	McClellan	Smith
Clark	McGovern	Talmadge
Dodd	McIntyre	Thurmond
Douglas	McNamara	Williams, N.J.
Engle	Metcalf	Williams, Del.
Gore	Morse	Yarborough
Gruening	Moss	Young, N. Dak.
Hart	Mundt	Young, Ohio
Humphrey	Muskie	
Inouye	Nelson	

NOT VOTING—6

Byrd, W. Va.	Dirksen	Hill
Cannon	Goldwater	Prouty

So Mr. LONG's motion to table Mr. PROXMIRE's amendment was rejected.

Mr. PROXMIRE. Mr. President, I understand the parliamentary situation now to be as follows: The amendment which I offered has been divided, at the request of the Senator from Georgia [Mr. TALMADGE]—which is his right—so that the Senate will now vote on whether or not it should eliminate the section of the bill which provides that the 3-percent investment credit must be spread over the life of the asset and that the regulatory agencies cannot require the utility to reduce its rates to take into account all of the 3-percent investment credit in the first year in which the utility makes the purchase. Is that correct?

The PRESIDING OFFICER. The Senator is correct. The question is on agreeing to the first branch of the amendment, which proposes to strike out language in paragraph (1), which the clerk will read——

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the reading be dispensed with. It merely refers to the lines. I shall be very brief.

Mr. ANDERSON. Mr. President, may Senators know what they are voting upon?

The PRESIDING OFFICER. The clerk will state the language proposed to be stricken.

The LEGISLATIVE CLERK. On page 38, line 7, it is proposed to strike out the language beginning on line 18, down to and inculding line 4 on page 39, which reads as follows:

(1) in the case of public utility property (as defined in section 46(c)(3)(B) of the

Internal Revenue Code of 1954), more than a proportionate part (determined with reference to the average useful life of the property with respect to which the credit was allowed) of the credit against tax allowed for any taxable year by section 38 of such Code, or

Mr. MILLER. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. I shall yield in a moment.

Mr. MILLER. The Senator from Iowa is still not clear as to what he is to vote on. Is the point before the Senate the amendment of the Senator from Wisconsin to delete the matter which has just been read?

Mr. PROXMIRE. The Senator is correct. That is the understanding of the Senator from Wisconsin. The amendment has been divided, so the question before the Senate is whether or not the language which has been read shall be deleted. If the vote is "yea," the vote is that the language shall be deleted.

Mr. MILLER. Mr. President, will the Senator yield further?

Mr. PROXMIRE. I yield.

Mr. MILLER. I wonder if perhaps the Senator might propose the second part of the amendment first, because if the Senator's amendment with respect to the first part prevails, it will be almost impossible for us to support the second part; but if the second part prevails, I think some of us can support the first part. Would the Senator object to having the second part voted on first?

Mr. PROXMIRE. I appreciate the advice of the Senator from Iowa. I know he has a sincere interest in this question, but it does not make much difference which part is taken up first. If the Senate voted for the first part, frankly, I think the case for the second part would be made stronger. Therefore, I am inclined to go ahead with a vote on the first part.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. PASTORE. Do I correctly understand the Senator from Wisconsin to be opposed to the first part?

Mr. PROXMIRE. The Senator from Wisconsin has offered an amendment which would strike the first part.

Mr. PASTORE. And the reason for that is that the credit is to be spread over a period of years.

Mr. PROXMIRE. The reason for the amendment is that I want to leave it in the discretion of the regulatory body. If the amendment fails, the regulatory body will have no discretion. My argument is that the determination should be made by the regulatory commissions—the Federal Power Commission, the Interstate Commerce Commission, and so forth—and not by Congress in this particular way. It can be spread if the regulatory bodies want to spread it. They have a perfect right to do it, but it is up to them to do it.

Mr. PASTORE. The reason why I asked the question is that I am amenable to a retention of the first part, but I am against the second part. The Senator says that is what would take place.

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Mr. PROXMIRE. As I have said, many persons may feel that way.

Mr. MONRONEY. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. MONRONEY. As the Senator's amendment is now before the Senate, it would strike the first part, which refers to utilities which have a monopolistic position in the service areas in which they operate.

Mr. PROXMIRE. The Senator is absolutely correct. It affects the so-called locked-in monopolies, which are utilities that are in a position to earn a favorable rate of return. They are monopolistic in every sense. They are not really in competition. The same argument cannot be made as regards some of those in the 7-percent category.

Mr. MONRONEY. Can the Senator guarantee that any of the money saved on the 3 percent or anything in his amendment would act on any regulatory body other than the Federal Power Commission or other Federal agency? This provision cannot reach agencies which are operated by State governments.

Mr. PROXMIRE. My judgment is that it would reach the State agencies, because the State agencies will do what they have almost always done in the past; namely, to follow Federal regulation, especially when it comes to a tax matter on which Congress has declared itself. In addition, there are national accounting forms used which will help persuade State agencies to follow the practice of the Federal agency. They are not required to do so.

Mr. MONRONEY. There is nothing in the Senator's amendment that would require any of the agencies in any of the 50 States to follow the pattern he seeks to put in.

Mr. PROXMIRE. I will put it the other way—there is nothing in the bill that requires a State agency to follow the Federal agency, but, as a matter of practice, many State agencies will do so, and in time most, if not all, of the State agencies will do so.

Mr. MONRONEY. The Senator knows that the State agencies adopt different regulations, different periods of writeoff, and different returns on investment. So there is nothing uniform about State regulatory agencies. So it is a pious hope that the States will follow the dictates of the Federal agency.

Mr. PROXMIRE. The pious hope is the other way; the Senator from Wisconsin hopes that the State agencies will not follow the Federal practice and will not feel that it must not pass on this benefit.

Mr. MONRONEY. On the assumption that the Senator wins, it is his pious hope that that will be done.

Mr. PROXMIRE. My position is that I do not think the Congress, the Senator from Oklahoma, or the Senator from Rhode Island, or any other Member of Congress, should dictate to a regulatory body what it should do. That is what this fight is about.

Mr. PASTORE. Is the Senator saying that insofar as a public utility in Rhode Island is concerned, the Senator's amendment is dictating or does he say it is not dictating to Rhode Island what its responsibility to its consumers may be?

Mr. PROXMIRE. I am saying that the bill as reported by the committee, in its present form, would set a Federal pattern which I think may well be followed—it does not have to be; it can be, but it may well be followed—in Rhode Island and other States.

Mr. PASTORE. The point I wish to make to the distinguished Senator is that when I was Governor of my State I fought the telephone company for the benefit of the consumers in a rate case, and I did not have to come to Washington to be told how to do it. That is why I say I am amenable to the first part of the amendment. I refer to the part which relates to interstate commerce and which comes under Federal regulation. So I am willing to go along with the Senator from Wisconsin. But if we are talking about local bodies, it is the prime responsibility of those bodies to protect the consumer.

Mr. PROXMIRE. The Senator is correct. A Governor would be in a stronger position if my amendment were adopted.

Mr. PASTORE. The Governor is strong enough without it. If a Governor is worth his salt, he has power enough to do it without Congress telling him what to do.

Mr. PROXMIRE. We are not telling him.

Mr. PASTORE. We cannot do that—that is the point that I am making.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. HUMPHREY. It seems to me that perhaps the cart has been put before the horse. The bill as written tells the regulatory agencies at the Federal level what to do.

Mr. PROXMIRE. The Senator is absolutely correct.

Mr. HUMPHREY. The proposal before the Senate involves not a matter of tax policy, but a violation of the independence of the regulatory agencies.

Mr. PROXMIRE. The Senator is correct.

Mr. HUMPHREY. I recognize that some States have regulatory bodies for their utilities, and that some do not. For example, in my State of Minnesota, there is no State regulatory body with jurisdiction over the rates of the utilities. There are local regulations in local communities. The investment tax credit pertains to Federal income taxes. It is considered in the rate base of any regulated utility. In the formulation of the utility rate the law at the State level, where there is a State regulatory body, requires that the State commission take into consideration operating costs, fixed costs, a reasonable profit, capital for financial expansion, and other matters. There are many things to be taken into consideration.

It is fair to say that there is nothing in what the Senator is offering which will dictate to any State regulatory agency what it ought to do.

Mr. PROXMIRE. The Senator is absolutely correct. My amendment would retain the present law. It leaves the policy decision up to the regulatory body, because it provides that the Federal agency may pass through the full investment credit. Therefore, the result is going to follow, and follow very quickly in many cases, that the regulatory body, especially if it is a municipal body, will follow the Federal body on Federal tax law.

Mr. HUMPHREY. Things will happen if the bill remains as it is. Everyone knows that it means that the utilities will not take into consideration the tax benefits that accrue under the investment tax credit for utilities.

Mr. PROXMIRE. Yes. Let me explain this important point in the way in which it affects the consumer and the utility stockholder. According to the calculations of Professor Eisner, if this spread-over system is applied to the 3-percent utilities, the pass through will be about 30 percent of the investment credit. The stockholders will receive 70 percent of the investment credit. I submit, on the basis of all the discussion this afternoon, that there is no question that the investment credit does not result,

and almost cannot result, in the purchase of more equipment for locked-in, monopolistic utilities.

If the first part is defeated, it means that only 30 percent will be passed through, and 70 percent will be kept within the utilities.

Mr. HUMPHREY. I must say that the great benefits that the Senator believes will accrue will not necessarily come to pass. However, there is no doubt that if the bill remains as it is it will set a Federal precedent. It is bound to set a Federal precedent. I support the investment tax credit. However, this provision has less effect on monopolistic industries than it has upon a free enterprise industry, where the price is always in doubt. The purpose of the investment tax credit is to encourage investment by highly competitive industries. Private utility companies have a guaranteed market for their product, and therefore their profits are assured.

Mr. PROXMIRE. That is essentially true with respect to the first part. This is a locked-in, monopolistic, noncompetitive public utility. The decision is whether the tax credit should be passed on in part to the consumer.

Mr. HUMPHREY. Mr. President, now everyone knows that, by the very nature of their business, most public utilities inevitably are monopolies. The common practices of American free enterprise do not restrain these utilities, which are free from normal competition. In order to protect the public from an unrestrained exercise of monopoly power, we have established independent regulatory commissions to limit the utilities. The most important job these commissions do is set utility rates.

We all are aware of the pressures that are exerted on Government agencies with this kind of responsibility, and therefore when Congress established these agencies it specifically intended that they should do their job free from outside political pressures.

Section 203(e) in the tax bill would do away with all this. It would interfere with the regulatory process by giving

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orders to the agencies that are supposed to be independent. It would do this by forcing the agencies to abstain from taking their enormous tax savings into account when setting utility rates. We have already given important tax concessions to public utilities. Now, if this provision becomes law, we will force the regulatory agencies to pretend that these concessions do not really exist for purposes of setting rates.

This proposal is a major breach in the dike of utility regulation. Unless we eliminate this section, it will be not only a gross injustice to utility customers, but an invitation to further erosion of the consumer protection supposedly provided by the regulatory process. Under this section the public utilities, not the State and Federal regulatory agencies, would decide who benefits from the enormous tax reductions enjoyed by the utilities as a result of the investment tax credit.

This section prevents agencies from lowering utility rates, even though utility costs are slashed. This is an abandonment of the whole principle of utility regulation as we have known it for generations. It establishes the principle that a utility can grow only by keeping rates high. What an irony, Mr. President, if we passed a tax cut and then approved a section that encouraged high utility bills—a key item in every taxpayer's budget.

The U.S. Congress should stay out of the details of private utility regulation. This is not the sort of detail that we should involve ourselves in. Doing so is only an invitation to concern ourselves with other details in the future, until we, rather than the regulatory agencies, will be doing their job of governing public utility costs.

Furthermore, I consider it vital to the best interests of private utility companies themselves that they not be put in the position of passing judgment on matters traditionally handled by regulatory agencies. If we give them the decision-making power on tax credits, why not also let them set the corporate income tax rates?

When we ask for the rationale behind section 203(e) we are told that the utilities need this help if they are to attract the investment they need in order to finance continued expansion. On Tuesday the distinguished junior Senator from Montana drew our attention to this prediction:

> For as far ahead as almost anyone would dare to look, the investor-owned electric utility industry should maintain its preeminence as the most consistently growing business in the United States.

This optimistic picture of the outlook for private power comes from the well-known brokerage house of Merrill Lynch, Pierce, Fenner & Smith. I do not believe that companies with such rosy prospects need the help of a further tax subsidy.

Mr. GORE. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. GORE. I am asking the Senator to yield because, as a member of the committee, I have done a great deal of

work on this section. The overall principle of both parts of the provision which the Proxmire amendment in its original form would have been stricken, but which now, upon the motion of the junior Senator from Georgia [Mr. TALMADGE], has been divided, is legislative interjection into the regulatory function of a quasi-judicial, independent agency.

Even if both parts of the amendment are defeated, all of the funds will not pass through. If the amendment is adopted in both parts, all of the investment credit will not pass through. That is so because what determines the rate structure is the profit position and the rate of return on investment by the utility. In the case of a utility which even with the investment credit does not earn a fair return, the Proxmire amendment would not require a pass-through, because the present law would not require it.

In response to the senior Senator from Rhode Island, if as Governor of his State he could operate effectively in the regulating of the intrastate utilities, the present Governor could do so without benefit of the provision in the bill.

It is not the Proxmire amendment which seeks to change the law. It is the provision in the bill that seeks to change the law.

If I may be specific, if Senators will turn to pages 38 and 39 of the bill, I believe I can state what the first branch of the amendment would do.

The branch of the amendment now pending would strike from line 7 on page 38 through line 4 of page 39. The second part would likewise strike from line 7 on page 38 through line 17. Then it picks up on line 5 on page 39 and goes through line 9.

If I may state the case briefly, what is provided in the first part is this: It will be understood that lines 7 to 17 are prefatory both to Nos. 1 and 2. So what we are about to vote on is the provision which would require that in the case of utilities that receive a 3-percent investment credit, the pass-through is required by the regulatory agency. This can be applied only on an annual basis, depending upon the assumed life of the equipment or utility, rather than in the year in which the benefit is received.

Mr. PASTORE. Mr. President, will the Senator yield exactly at that point?

Mr. PROXMIRE. Mr. President, I have the floor.

The PRESIDING OFFICER. Does the Senator from Wisconsin yield; and if so, to whom?

Mr. PROXMIRE. I yield to the Senator from Rhode Island for a question.

Mr. PASTORE. When the Senator from Tennessee speaks about a regulatory agency, is he not referring to a Federal agency?

Mr. GORE. Yes.

Mr. PASTORE. There is nothing that affects the right of a State public utility authority to protect the consumers. No matter what we may write into the bill, it is the responsibility of the chief executive of each individual State to protect the consumers of his State against the locked-in monopolies that operate intrastate. That is the argument I make. The argument is being made that we would be setting a precedent.

Mr. GORE. The Proxmire amendment does not aim to change the law.

Mr. PASTORE. I do not think we have a right to change the law.

Mr. PROXMIRE. The Senator is absolutely correct when he says the bill does not require the State regulatory body to do anything.

Mr. PASTORE. That is correct.

Mr. PROXMIRE. But from a practical standpoint, when Congress interprets the Federal tax law and directs a Federal agency to act in a certain way with regard to it, what does the Senator from Rhode Island really expect many regulatory bodies to do? They want to do the right thing. They say that Congress has acted in this way; and that other regulatory bodies have acted in this way. All the pressure is in that direction. The chances are in favor of most State regulatory bodies following the same practice. I do not say all of them would. The Senator from Rhode Island was a wonderful Governor of his State, just as he is a wonderful Senator. He could probably put some steel into a regulatory body.

Mr. PASTORE. I take it the Senator means s-t-e-e-l.

Mr. PROXMIRE. Steel is right. There is no s-t-e-a-l in the Senator from Rhode Island's heart, soul, or mind. So from a practical standpoint, if we want to protect the consumer, we can insist upon the present law and make no change in the law. That means we should vote for the first part of the Proxmire amendment.

Mr. PASTORE. So far as the protection of consumers is concerned, with respect to public utilities that operate within a State, it is the responsibility of the Governor to protect the people of his State. He has the authority to do it through his appropriate State agencies. There is nothing we can do here today that would affect that right. That is what I mean. We cannot divest a Governor of his rights and his responsibilities.

Mr. PROXMIRE. I think the proposal has been debated. The Senator from Rhode Island is entitled to his viewpoint. But it is my conviction that in a matter of this kind, when Congress acts, as it will act if the bill is passed in its present form, most regulatory bodies would feel that this was a Federal pattern, set by Congress, and would regard it as a Federal tax, as if the tax were not in effect, which is what it amounts to.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield for a question.

Mr. AIKEN. I should like to ask a question, after making a short preliminary statement.

I am sure that no Members of this body desire to place in the hands of electric utility companies an instrument that would enable them to weaken or destroy their competition. I cannot help feel-

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ing that this provision of the law is aimed directly at the rural electric cooperatives and the municipal power systems throughout the country. I may be mistaken, but the rural electric cooperatives feel that this proposal is aimed at them. The municipal lighting systems feel that it is aimed at weakening or destroying them. I shall not explain their reasons here; it would take too long to do so. Instead, if the Senator from Wisconsin will permit, I should like to ask unanimous consent to have printed at this point in the RECORD a letter from Mr. Clyde T. Ellis, general manager of the National Rural Electric Cooperative Association, setting forth reasons why this provision of the tax bill would be extremely damaging to them; and also a letter from Mr. Alex Radin, of the American Public Power Association, setting forth the harmful effects of this provision of the tax bill upon the municipal lighting systems of the country, of which there are about 1,200. There are about 1,000 rural electric cooperatives.

We know that some of the private electric utility companies have been waging war against them and are accentuating that war at present. I do not believe any Member of the Senate wishes to weaken or destroy the competitive power that the REA's or the municipal lighting systems exert in many States.

Mr. LONG of Louisiana. Mr. President, I ask for the regular order.

Mr. PROXMIRE. The Senator from Louisiana has asked for the regular order.

Mr. President, has the Chair ruled on the request of the Senator from Vermont to place certain material in the RECORD?

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION,
Washington, D.C., February 3, 1964.

Hon. GEORGE D. AIKEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR AIKEN: Rural electric systems buy more than $100 million worth of wholesale energy annually from the investor-owned utilities.

The wholesale energy bills we pay include, of course, the tax dollars which investor-owned utilities in their role as a tax collector collect from all consumers.

We are opposed to having any part of the taxes we pay as a part of our wholesale power bills pocketed by power company tax collectors. When we pay a bill computed at rates which include a Federal income tax component, we believe that we have a right to insist that the collector turn all of our tax dollars over to the Federal Government, or that these dollars not paid as taxes be returned to the consumers who put them up in the first place.

Section 203(e) of the tax bill now before the Senate prohibits the Federal Power Commission from requiring power companies, except with their consent, to pass on tax savings to consumers. State commissions generally adopt FPC accounting procedures and can be reasonably expected to follow FPC practice in this instance.

Such a procedure makes a mockery of the regulatory process. If the purpose is to stimulate the economy, lower electric rates to consumers are certainly more effective than giving a subsidy to investors.

We respectfully urge you to oppose section 203(e) of the tax bill.

Sincerely yours,

CLYDE T. ELLIS,
General Manager.

AMERICAN PUBLIC POWER ASSOCIATION,
Washington, D.C. January 31, 1964.

Senator GEORGE D. AIKEN,
Senate Office Building,
Washington, D.C.

DEAR SENATOR AIKEN: American Public Power Association, a national trade organization representing more than 1,200 local publicly owned electric systems in 45 States and Puerto Rico, opposes section 203(e) of H.R. 8363 as passed by the House of Representatives and reported to the Senate.

Enactment of section 203(e) would prohibit Federal regulatory agencies in accounting or ratemaking activities from requiring that utilities "flow through" tax savings from the investment tax credit unless the utility concurs. Such a prohibition would have an adverse effect on the interests of APPA members, and purchasers of electricity generally, because it would severely hinder efforts to pass on to consumers "cost of service" reductions resulting from tax cuts and would encourage the imposition of "phantom taxes" on utility customers.

More than 900 local publicly owned electric utilities in 43 States purchase wholesale

power from private power companies. Implementation of section 203(e) would permit charges in excess of those which may be fair and reasonable—without the benefit of review by Federal regulatory agencies in those areas where they have jurisdiction. This proposal would foster and further practices which have allowed private power companies to accumulate more than $1.6 billion in Federal subsidies and to hand out in excess of $600 million in "tax-free" dividends—despite the fact that private power companies have no need for such aid, hold monopoly rights, are sheltered against risk, are provided a guaranteed rate of return, and possess ready access to capital.

Adoption of this measure would endorse utility practices of keeping two sets of books—one for rate purposes and one for tax purposes. Weakening of the ability of Federal regulatory agencies to keep power costs down may boost costs of residential users and manufacturers—to the detriment of the total economy, and at a time when lower rates can significantly increase our ability to compete abroad. Capability of Federal regulators to aid in controlling private utility companies' rates and earnings—reported by the Federal Power Commission to be nearly $500 million above a 6-percent return in 1961—would be seriously lowered if the regulatory agencies cannot enforce their decisions without the consent of the utility involved—a reversal of roles contemplated by the proposal in question.

While there is no question of the right of Congress to amend the law related to these matters, it would appear to be opening a Pandora's box by taking such action; if all difficult questions of regulation must be settled by Congress, not only is the purpose of regulatory agencies placed in doubt, but the Congress is likely to find itself in the role of a quasi-judicial organization before whose committees parties to any dispute will try their cases.

Sincerely,

ALEX RADIN.

Mr. PROXMIRE. I shall take less than a minute to sum up. The point of the Proxmire amendment in its present form is this: The present law should be kept as it is. The Federal regulatory bodies should not be told by Congress whether they can pass the investment credit through in the first year or at any other time.

Finally, the facts are that if the first part of the Proxmire amendment is defeated, for the lock-in monopolistic utilities, 70 percent of the benefit of the investment credit will remain with the utility, and only 30 percent will be passed through.

I yield the floor.

Mr. LONG of Louisiana. Mr. President, I have been insisting on the regular order because I believe Senators are entitled to know what they are voting on, rather than to have to explain to their constituents why they voted wrong. In my judgment, if the Proxmire amendment is agreed to, it will be outlawed, although some Senators will strongly believe this should be done.

When there are yea-and-nay votes, Senators are in the Chamber. After the vote, a Senator will obtain the floor and parcel out the time, back and forth, until most Senators have left the Chamber. When they return, without having heard the debate, they vote for something that they may not have wanted to vote for had they heard the debate. The result is that they have to explain, "I did not understand."

This is a request by Mr. Clyde Ellis and his public power associates. They support the position of the Senator from Tennessee [Mr. GORE], in whose State is located the great Tennessee Valley, where the Government spent hundreds of millions, billions of dollars of Federal money, to provide power.

I have made my position known with respect to the generation of power.

I am in favor of generation if it can deliver power cheaper than the private power companies are doing it now. The private companies, of course, are entitled to make a fair profit after taxes.

We voted for a 7-percent tax credit. After we voted the 7-percent credit, we said that the regulated power companies would get the benefit of a 3-percent credit.

All they are asking is to be permitted to make interest on the money while they are passing it through to their customers. That would be about the same as a 1 percent tax credit for them. But they are competing with public power interests, which every year need more and more Federal funds.

There is a definite place for REA in this country, but I would not like to see it extended to industries that the Congress did not intend. This would hurt their real mission. At the same time I would like to see their competitors get any tax credit to which they are entitled.

Mr. President, that is the issue; and I am ready to have the Senate vote.

Mr. AIKEN. Mr. President, I thank the Senator from Louisiana for so clearly defining the issue; he did so much better than I could have done.

However, I wish to make clear that in speaking on this issue, I am not speaking of Mr. Ellis. Sometimes I agree with him; sometimes I do not.

But I am speaking of the 5 million rural families who are members of the REA cooperatives. I earnestly hope the Senate will not approve any section of the pending bill which would put them in a very unfortunate position.

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Mr. GORE. Mr. President, I shall take only 1 minute.

I wish to call attention to the fact that the principal utilities here involved are the telephone and the electric utilities. All of the long-distance interstate rates are subject to Federal regulation and the interstate electric utilities are subject to Federal regulation. This provision does not touch the intrastate ones; but it does touch, in a very inadvisable way, the operations of the Federal Communications Commission in this case and the operations of the Federal Power Commission in the other case, because it would not leave the Commissions free to exercise their responsibility to establish rates which are fair, equitable, and reasonable to the consumer and to provide a fair and reasonable return upon the investment. Instead, this part of the pending bill would fix, legislatively, an arbitrary standard for the determination to be made with respect to the investment credit—a very large and very specific benefit.

So this issue involves the principle of legislative injection into the functions of a regulatory agency specifically charged, under laws enacted by Congress, with arriving at and regulating rates fair to the consumers and providing a fair return on the investment.

Mr. PROXMIRE. Mr. President, on the question of agreeing to the first branch of my amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MORTON. Mr. President, I cannot see anything wrong with having Congress tell the regulatory agencies what Congress meant 2 years ago when it passed the 1962 bill. That is what the language of the committee's version of the bill would do. So I hope the pending amendment will be rejected.

Mr. MILLER. Mr. President, will the Senator from Louisiana yield for a question?

Mr. LONG of Louisiana. I yield.

Mr. MILLER. In Iowa there are a large number of rural electric cooperatives, and I am concerned with having them take a proper part in the economy. I think they have been doing a good job.

The Senator from Vermont [Mr. AIKEN] has raised the point that this provision is, somehow or other, directed at the REA's. I cannot find in it any provision which relates either directly or indirectly to the REA's.

Does the Senator from Louisiana interpret this provision in the way the Senator from Vermont does?

Mr. LONG of Louisiana. Insofar as the 1-percent tax credit—which is all the net a power company would make—this might constitute an incentive for the construction of a new generating plant. I do not believe the REA is involved.

On the other hand, if the investment credit does what it is designed to do; namely, provide more incentive for investments in plant construction—and if such investments are made in electric generating plants, to that extent that would be in conflict with the interest of the REA's.

Mr. MILLER. If that is the case, when Congress enacted the 3 percent tax credit, Congress must have been "taking a crack" at the REA's; to be consistent, we would have to interpret that measure in that way.

Mr. LONG of Louisiana. If the tax credit were passed back immediately, perhaps the effect would be that they would not receive any benefit.

Mr. MILLER. But Congress did not decide that, in that connection.

Mr. LONG of Louisiana. Some say it is obvious that the purpose was left obscure. It is on that point that at this time we are seeking the enactment of legislation.

The PRESIDING OFFICER. The question is on agreeing to the first branch of the amendment offered by the Senator from Wisconsin [Mr. PROXMIRE]. On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished minority leader the Senator from Illinois [Mr. DIRKSEN]. If he were present and voting, he would vote "nay." If I were permitted to vote I would vote "yea." I withdraw my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Nevada [Mr. CANNON], the Senator from Louisiana [Mr. ELLENDER], the Senator from Indiana [Mr. HARTKE], the Senator from Arizona [Mr. HAYDEN], the Senator from Alabama [Mr. HILL], and the Senator from Texas [Mr. YARBOROUGH] are absent on official business.

I further announce that, if present and voting, the Senator from Arizona [Mr. HAYDEN] would vote "nay."

On this vote, the Senator from Nevada [Mr. CANNON] is paired with the Senator from Louisiana [Mr. ELLENDER]. If present and voting, the Senator from Nevada would vote "yea," and the Senator from Louisiana would vote "nay."

Mr. KUCHEL. I announce that the Senator from Illinois [Mr. DIRKSEN] and the Senator from Arizona [Mr. GOLD-

WATER] are necessarily absent.

The pair of the Senator from Illinois [Mr. DIRKSEN] has been previously announced.

If present and voting, the Senator from Arizona [Mr. GOLDWATER] would vote "nay."

The result was announced—yeas 43, nays 48, as follows:

[No. 24 Leg.]

YEAS—43

Aiken	Johnston	Nelson
Bartlett	Keating	Neuberger
Bayh	Kennedy	Pell
Burdick	Kuchel	Prouty
Byrd, Va.	Lausche	Proxmire
Case	Magnuson	Ribicoff
Church	McGee	Robertson
Clark	McGovern	Scott
Douglas	McIntyre	Smith
Gore	McNamara	Williams, N.J.
Gruening	Metcalf	Williams, Del.
Hart	Morse	Young, N. Dak.
Humphrey	Moss	Young, Ohio
Jackson	Mundt	
Javits	Muskie	

NAYS—48

Allott	Engle	Monroney
Anderson	Ervin	Morton
Beall	Fong	Pastore
Bennett	Fulbright	Pearson
Bible	Hickenlooper	Randolph
Boggs	Holland	Russell
Brewster	Hruska	Saltonstall
Byrd, W. Va.	Inouye	Simpson
Carlson	Jordan, N.C.	Smathers
Cooper	Jordan, Idaho	Sparkman
Cotton	Long, Mo.	Stennis
Curtis	Long, La.	Symington
Dodd	McCarthy	Talmadge
Dominick	McClellan	Thurmond
Eastland	Mechem	Tower
Edmondson	Miller	Walters

NOT VOTING—9

Cannon	Goldwater	Hill
Dirksen	Hartke	Mansfield
Ellender	Hayden	Yarborough

So the first branch of Mr. PROXMIRE'S amendment was rejected.

Mr. LONG of Louisiana. Mr. President, we now proceed to consider the second branch of the amendment, which I should like to explain briefly. The Senate has agreed—and I think quite correctly—to do what it tried to do initially when the Senate attempted to make clear to the regulatory agencies what it had in mind when it passed the bill pertaining to tax credit. If we do not tell the regulatory agencies what we are trying to do, the regulatory agencies themselves will be divided. The Federal Power Commission is divided. I understand that there is a division in the Interstate Commerce Commission. We should instruct them as to what we meant. If we instruct the regulatory agencies that we meant either that the utilities should have the advantage of the tax credit or should not have the advantage of the tax credit, they will understand what Congress intended. The utilities will either keep the benefit of the credit or they will flow it through.

I should like to explain what is involved in the second branch of the amendment now before the Senate. Congress voted 2 years ago that the regulated carriers, whether they be the railroads, the airlines, the bargelines, the pipelines, or the trucking lines—the entire transportation industry—would all be treated alike, in that they would all have the benefit of the 7-percent credit.

At present the Interstate Commerce Commission does not take away the benefits of the tax credit from the railroads, the bargelines, or carriers which compete directly with the pipelines, nor does it propose to do so. No one is proposing that the benefit of the tax credit be taken away from the shipping lines which carry residual fuel oil to the eastern coast. They are able to provide a cheaper service on a B.t.u. basis than their competitors, the pipelines and the railroads, provide.

The proposal would treat all carriers alike. They would all receive the benefit of the 7-percent tax credit.

There is a legislative history on the subject in the House and in the Senate. It might be subject to dispute, but if Congress does not adopt the amendment, lawsuits will be filed. The question will be in litigation for years, and when it finally reaches the Supreme Court of the

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United States, the question will still be as follows: Did the Congress intend that the regulated carriers—the railroads, the bargelines, the pipelines, and the shipping lines—should have the full benefit of the credit as an incentive to modernize their equipment; or did Congress intend that they should be required to give it back as a reduction in rates? That is the question.

As the matter stands now, if we do not adopt the committee recommendation, the FPC may proceed against the pipelines. If they should win that lawsuit, the Interstate Commerce Commission might well be under the burden of proceeding against the railroads, the bargelines, and other carriers.

The argument of those of us who support the House bill—and the section to which I refer was sent to us from the House—is that the provision was intended as an incentive to modernize the railroads and the other carriers. The railroads have accomplished a great deal of modernization, depending upon that provision of the law. It was our intent that the same benefits should be available to the pipelines which are competing with them, to enable them to mod-

ernize and obtain new equipment, and that the bargelines should have the same incentive to modernize. The shipping lines with which they are competing should have the same incentive, on the same basis. If we desire a space age manufacturing industry, we must remember that one quarter of our gross product is the transportation industry, and we should not attempt to achieve full modernization of the manufacturing industries without having a space age transportation industry to go along with it.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. McCLELLAN. I do not understand why the provision does not apply equally now.

Mr. LONG of Louisiana. The reason is that on the commission level the question is asked, Does Congress intend that the carriers should be permitted to have the tax credit that was voted as an incentive to encourage them to make a profit by building more pipelines, modernizing the railroads, and building more facilities, or did Congress intend that the incentive should be passed on through as a reduction in rates?

It can be argued—and I contend it to be true—that if the transportation industry is modernized, the competition factor will bring rates down. On the other hand, if we consider the position of the opponents and the position of the majority of 3 to 2 on the Federal Power Commission, we would argue that the purpose intended was to make the carriers reduce their rates by the amount of the benefit from the investment credit.

The Senator from Louisiana contends that 2 years ago, when the Senate approved the tax credit provision, we deliberately made it more profitable for business if it would do what we wanted it to do—which was to modernize, to improve, and to expand its services; and we intended that business should make a profit if it did something we thought was in the national interest; namely, to modernize, improve, and expand facilities.

If that is what we desire to do, is what we do for all the rest of industry—making it profitable for all to modernize—we should permit the transportation industry to have the same incentive as the others. On the other hand, it can be contended—and those who take the opposing point of view contend—that we intended it, for example, an industry should receive a $70,000 tax credit, it should be immediately required to reduce rates by $70,000, thereby eliminating the profit motive to modernize or to put in new facilities.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. McCLELLAN. Do I correctly understand, then, that if the pending amendment is adopted, it would take away from transportation and utilities all profit and incentive for them to make the investment to begin with?

Mr. LONG of Louisiana. They would still be permitted to make the same profit that they were permitted to make before. But the point is that, so far as the pipelines are concerned, they would be required to flow the tax advantages of the tax credit through. So we would be discriminating between these and other carriers not having to flow the benefit through.

Mr. McCLELLAN. Do those who support the amendment agree that discrimination would result between various carriers.

Mr. LONG of Louisiana. The Senator from Louisiana is opposed to the Proxmire amendment.

Mr. McCLELLAN. I understand that. The subject is complicated. Senators who are members of the Committee on Finance have been devoting many weeks and months to the bill, and they understand it. It is somewhat difficult for me. Perhaps it is not for others, but it is for me. I should like to see all the utilities treated alike. At the same time, I would not wish to take away the incentive that I believe Congress had in mind when it first granted the credit.

Mr. LONG of Louisiana. The Senator would vote to take away the incentive if he should vote to agree to the Proxmire amendment. He would be permitting them the incentive that we intended for all industry if the Senator votes down the Proxmire amendment and stays with the House bill.

So if the Senator wants to treat them all alike and see that they get enough credit and benefit from it as a means of modernizing and expanding their investment, he will vote against the amendment.

Mr. McCLELLAN. What is the argument against treating them all alike? The Senator says this provision would treat them all alike. I would like to hear the argument on the other side of the question.

Mr. LONG of Louisiana. Then I will yield the floor.

Mr. GORE. Mr. President, the senior Senator from Arkansas has asked a question. I think I am prepared to answer. There is some question about the legislative intent in 1962. I participated in the debate at that time as a member of the committee. The late and beloved

Senator Kerr made it perfectly plain, when the bill was before the Senate, that if the 7-percent investment credit were given to the gasline utilities, the benefit would be passed through to the consumers.

Mr. McCLELLAN. Mr. President, will the Senator yield at that point?

Mr. GORE. I yield.

Mr. McCLELLAN. But the law does not require it to be done. Was that merely the statement of a Senator that it would be done? I am trying to get the facts.

Mr. GORE. So far as the law is concerned, the bill did not require it. It was a revenue measure. But what we have in the present bill is a legislative measure in a revenue bill. This provision in the pending bill, which the Proxmire amendment now seeks to strike out, prohibits the Federal Power Commission from taking into consideration the vast benefits of investment credit in arriving at fair and reasonable rates for consumers to pay or a fair and reasonable return on investment.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. McCLELLAN. Let me see if I understand. The law gives them the 7-percent credit.

Mr. GORE. The tax law.

Mr. McCLELLAN. As it is now.

Mr. GORE. Yes.

Mr. McCLELLAN. Am I to understand that the bill now before the Senate, as it passed the House, would prevent the Federal Power Commission, or whatever other utility commission had jurisdiction, from taking into account the extra profits and benefits that accrued to the investor, in fixing the rates?

Mr. GORE. That is correct.

Mr. McCLELLAN. I thought all of those factors were properly taken into account.

Mr. GORE. So did I. I do not know why this provision is in the bill. This is a legislative proposal inserted in a revenue measure. It has no place in the bill.

Mr. McCLELLAN. The point I am trying to make is why the regulatory agency which has the ratemaking authority should not be permitted to take into account the investment which has been made in fixing reasonable rates and also whether or not some of the benefits of that should be passed on to the consumers.

Mr. GORE. I know of no reason why they should not.

Mr. McCLELLAN. That is the fair way to do it. We leave it to the regulatory body to make the decision.

Am I to understand that the language in the bill would take away from the regulatory body the right to take into account the benefits and profits that accrued in making the rate structure? Would that right be entirely elminated?

Mr. GORE. That is correct.

Mr. McCLELLAN. Is that correct?

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Mr. GORE. That is the provision in the bill which the Proxmire amendment seeks to strike out.

Mr. ANDERSON. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. ANDERSON. The Senator from Tennessee quoted what the Senator from Oklahoma said when the bill was on the floor of the Senate. Will the Senator quote what the Senator from Oklahoma said when it came back, which completely reversed that statement?

Mr. GORE. It is not within the power of this body to determine the legislative intent of Congress in 1962. Various independent agencies have already reached decisions with respect to the investment credit. The ICC, the Federal Power Commission, and the Federal Communications Commission have done so. Now it is proposed that Congress legislatively inject itself into the functions of these regulatory agencies, which, as the Senator knows, are quasi-judicial in nature, and prohibit the consideration of hundreds of millions of dollars in benefits which Congress has voted, in reaching, as the Senator has said, fair and reasonable rates for the consumer to pay and a fair and reasonable return on investment.

Let me go one step further. This flowthrough is not automatic. If as a result of these benefits the return on investment should go above a ceiling which the regulatory agency considers fair and reasonable, it would operate to reduce the rates. But in the case of a utility that was not in a very strong profit position and for which this investment credit did not provide a profit in excess of what was considered to be a fair and reasonable return on investment, the flowthrough would not occur.

But what the present law permits, and indeed what the statute requires, is that the Federal Power Commission take into consideration all the operating costs and operating revenues and determine what is a fair rate of return on investment on the one hand, and, in consequence thereof, what is a fair and reasonable rate for consumers to pay, on the other.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. McCLELLAN. As of now, are not the regulatory agencies which have supervision of rate fixing required to take into account the basic investment involved, together with operating costs, in fixing a rate that will yield a fair return on the basis of that investment?

Mr. GORE. That is true.

Mr. McCLELLAN. How would this provision change that? They are the ones to look into each case. Congress cannot do it. I do not want to change that rule. That is what I am talking about.

Mr. GORE. To answer the Senator's question, let me answer it, not in my words but in the words of the bill:

> Accordingly, Congress does not intend that any agency or instrumentality of the United States having jurisdiction with respect to a taxpayer shall, without the consent of the taxpayer, use—
>
> (2) in the case of any other property, any credit against tax allowed by section 38 of such Code, to reduce such taxpayer's Federal income taxes for the purpose of establishing the cost of service of the taxpayer or to accomplish a similar result by any other method.

That means the regulatory agencies are prohibited from taking into consideration the tax benefits from the investment credit in arriving at what is a reasonable and fair return on investment or what are fair and reasonable rates for consumers to pay.

Mr. McCLELLAN. I merely wished to make the observation that I do not want to change the present practice, the present rules, the present standards of measurement.

Mr. GORE. Nor do I.

Mr. McCLELLAN. I believe they are right as they are. If the bill seeks to change them, if it seeks to change that practice, I would have to look with disfavor upon it.

Mr. GORE. The Senator reaches the same conclusion that I have reached.

Mr. McCLELLAN. I do not want to see discrimination practiced. If the commissions now are favoring one by granting relief, and not to the other, I am opposed to it. I want to correct that situation.

Mr. GORE. I thank the Senator.

Mr. ANDERSON. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. ANDERSON. The Senator from Arkansas is asking what the law is. The legislative history is clearly established. The House wrote the legislative intent in its report. The Senator from Oklahoma, Mr. Kerr, presented the situation to the Senate and the Senate affirmed it. However, the regulatory agencies said, "We do not care what Congress said. We are going to do it our way."

If Senators wish to have it the way the law provides, they should stand with the bill. If they want to stand with the bureaucrats, they should vote for the amendment.

Mr. GORE. Mr. President, I apologize to the Senate for taking so much time. However, this is a very important measure. It involves hundreds of millions of dollars annually. This provision in the bill would deny benefits to consumers. That is why I take some time. I hold in my hand a decision of the Federal Communications Commission. Let me read what the decision says:

> 7. The comments have dwelt at some length on the so-called legislative intent behind the investment tax credit and many of them have implied that the Commission is precluded by such legislative intent from judging the appropriate accounting on the merits in accordance with sound public utility regulatory principles. We do not agree with this implication. It appears to us on the contrary that Congress fully intended that the tax legislation here involved should fit into the normal regulatory scheme.

Mr. ANDERSON. Mr. President, will the Senator yield?

Mr. GORE. Not just now. I shall yield presently. I read further from point 10:

> 10. The question may well be asked as to how Congress intended the tax credit to be an investment incentive to utilities if the entire amount is to be passed along to consumers in the form of lower rates. The answer, of course, is that in most cases it will not all be passed on even under the "flowthrough" principle. Only in the case of a utility which has already reached the upper limits of a reasonable rate of return is such a result possible, and even then rates cannot be reduced to give immediate effect to the reduction in taxes. In the case of marginal utilities, such as some railroads, for example, it may well be that none of the amount will be passed on to the consumer. It is this factor, present to some degree in the case of most utilities, of providing the means of increasing earnings and making it easier to obtain capital, both directly through retained earnings and indirectly through rendering its securities more attractive to investors, that constitutes the real incentive.

I will read one further point, and then I shall read the conclusion:

> It is our view that the investment tax credit represents a reduction of income taxes and should be so recorded in the accounts. The Revenue Act of 1962 specifically provides that the Federal income tax liability shall be reduced by the amount of the investment tax credit. The amount of the tax due the Government is determined after deductions of the credit.

Now I come to the conclusion:

We conclude that the proper accounting with respect to the investment tax credit arising from both owned and leased property is to account for it as a reduction in income taxes and let such reduction flowthrough to operating income. As stated in the Notice of Proposed Rule Making in this proceeding, we have interpreted all of our uniform systems of accounts as presently requiring "flowthrough" accounting. Consequently, no amendments to our systems of accounts will be ordered herein.

Mr. McCLELLAN. From what is the Senator reading?

Mr. GORE. From a decision of the Federal Communications Commission. I could read from a decision of the ICC or the Federal Power Commission. The Chairman of the Federal Power Commission has asked Congress not to inject itself into ratemaking cases, many of which are pending now before this quasi-judicial body.

Mr. ANDERSON. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. ANDERSON. What the Senator has said bears out what I have been trying to say. The Federal Communications Commission knew clearly what Congress intended. It said, "We do not care what Congress intended. We will do it the way we want to do it."

They do not pay any attention to the clear evidence. The House report was amply clear. The statement of the Senator from Oklahoma on the floor of the Senate admits of no misunderstanding. That is what is in the bill. The bureaucratic agencies went ahead and did what they wanted to do. Therefore, the House slapped them with this language. It is the only way in which it can hold them in line when they violate the clear intent of Congress.

Mr. GORE. I respect the opinion of the senior Senator from New Mexico. I must say, however, that his statement is entirely incorrect. There is room for argument as to what the legislative intent

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was. The Senator has made one argument. Not only did the Senator in charge of the bill in colloquy with me make the intent perfectly plain that the benefits—which, incidentally, I thought never should have gone to regulated utilities anyway—would be passed through to the consumers. Moreover, the late Senator Kerr made it perfectly plain that the benefits would be passed through to the consumers.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. DOUGLAS. I wish to corroborate what the Senator from Tennessee has said. I refer Senators to the CONGRESSIONAL RECORD for August 28 and September 4 of 1962, when the Senator from Wisconsin was raising the very same question about these very points, and was about to offer an amendment to strike out this language. The Senator from Oklahoma rose and said that the amendment was not necessary, because, of course, in the case of these utilities, the utilities would of course pass the benefits through.

It was on that assurance that the Senator from Wisconsin did not press the amendment which he is now pressing.

Then the bill went to conference. The language was continued. Then the Senator from Oklahoma came back with exactly the opposite statement, when it was too late for us to change this provision, because the Senate had either to accept or reject the revenue bill as a whole.

We could not amend it. But when the issue had been before the Senate, we had been given assurances that it was not necessary, because the savings would be passed on. After the provision was firmly embodied in the bill, we were then told exactly the opposite. So to the degree that we want to give weight to the legislative history, the legislative history on the floor of the Senate is at least as important, so far as the Senate is concerned, as the statement of the managers as they returned from conference.

Mr. ANDERSON. Mr. President, will the Senator yield for 1 minute?

Mr. GORE. If the Senator does not mind, I should like to read what was said on August 27, 1962, by Senator Kerr.

Mr. ANDERSON. While the Senator is looking for that statement, I should like to make a brief comment.

Mr. GORE. I will not yield just now. Senator Kerr said:

With reference to that section, I say to the Senator from Tennesse that the benefits would go to the consumers, not the gas pipelines. If the Senator from Tennessee were aware of the facts in the case, the rules and regulations of the Federal Power Commission, and the applicable law, he would have known that. The interstate gas pipeline carriers are a regulated utility, and under the operations of the Federal Power Commission, any saving effected by them reduces their rate base.

That was said to me, standing here, by the distinguished and late beloved Senator Kerr, standing over there.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. DOUGLAS. Senator Kerr repeated the same statement to the Sena-

tor from Wisconsin [Mr. PROXMIRE] on the following day, August 28, and on September 4 he said it again. So we had three assurances that the saving would be passed on.

It was only when the bill came back from conference that a contrary statement was made.

Mr. ANDERSON. The statement made by the Senator from Illinois is exactly correct. I agree with him completely. I have no quarrel with it. I have no quarrel with what the Senator from Tennessee is saying. I regret that there is confusion on the subject. But I wish to explain the reason why I think the House inserted language which it was felt clearly set forth its history, which is somewhat different from ours. The House requires written reports, and the Senate does not. It was felt that the House language was somewhat binding, and that Senator Kerr's statement on the floor of the Senate, after the conference had agreed that this meant a certain thing, was binding also. I admit that there is a difference between them. The Senator from Illinois, so far as this question is concerned, stated the situation exactly as it was.

Mr. DOUGLAS. I thank the Senator from New Mexico.

Mr. GORE. Permit a lawyer from Tennessee, of very limited learning, to express the view that a colloquy on the floor of Congress does not take precedence over a statutory provision of law. Neither does a committee report. Where is the residual grant of power? Where do we find the statutory authority—indeed, the statutory responsibility—for taking into consideration the position of the utilities in arriving at rates fair and reasonable for the consumer and a fair and reasonable return on the investment? We find it in the statutes enacted by Congress before this colloquy occurred; and this colloquy did not repeal any of those laws. All that Congress did in 1962 was to pass a law providing tax benefits called investment credit.

Now another tax bill is before Congress. It contains a legislative measure which would prohibit the Federal Power Commission from taking these benefits into consideration for the purposes of fixing rates for consumers or determining a fair rate of return on investment.

Mr. McCLELLAN. Mr. President, will the Senator yield at this point?

Mr. GORE. I yield.

Mr. McCLELLAN. It strikes me that possibly everyone has about the same objective in mind with respect to this proposal. I should think that no one would want to deny to regulatory bodies the right to take into account the investment involved, the cost of operating, and so forth, to arrive at a fair rate of charge to the consumer or user. Since statements have been made on the floor that caused some confusion, I should think, since possibly regulatory agencies have made some interpretations of their own, and the House feels the agencies are not carrying out the intent of Congress and the intent of law, that it might be well for this matter to go to conference, and let Senators who have the responsibility and the knowledge, after conferring with the House conferees, work out some language on which agreement would be possible. My thought is that a vote for the amendment of the Senator from Wisconsin by the Senate would throw the question into conference.

Mr. GORE. That is correct.

Mr. McCLELLAN. I do not know what the outcome would be; I am not prepared to say. I have reached no conclusion about it. But it occurs to me that it should be possible in conference to work out language that would prescribe what should be done, what I think Congress intends should be done, and at the same time not permit regulatory agencies to ignore or disregard the intent of Congress. I think something could be written into the conference version to get the job done. I do not know any other way to do it. If this language is not satisfactory, or if there is some real objection to it, let us get the matter into conference and see if something can be worked out.

Mr. GORE. I thank the Senator from Arkansas.

Mr. PROXMIRE. The senior Senator from Arkansas has put his finger on the crux of the amendment and has made the strongest argument for it. He does not want to vote for a change in the present situation; or if there is to be a change, he feels that, at least, the conferees ought to have an opportunity to discuss it. The way to accomplish that is to vote "yea" on the amendment.

Under the present bill, regulatory agencies have no discretion. They are compelled, forced, required, mandated, to prohibit or prevent a passthrough. They cannot pass through 1 percent, 2 percent, 3 percent—or any investment credit. They are compelled by law. This is direct dictation by Congress to the Federal Power Commission and to the other Federal agencies and, I think inferentially, to the State agencies.

I should like to make one or two other points. The Senator from Louisiana has argued that the gas pipelines and oil

pipelines do not really have an opportunity to take advantage of the investment credit. He said their competition can get it, but they cannot get it. Oil and gas pipelines are regulated. Why are they regulated? Why did Congress decide to place oil and gas pipelines under regulation? Because they are vested, to some extent, with a character of monopoly. If it were not for the fact that they are regulated by the Federal Power Commission, they would be in a position, on the basis of the judgment of Congress—not of Members of Congress, but the judgment of Congress—to charge rates that would be excessive. Competition alone is not enough to keep the rates charged by oil and gas pipelines within reason.

Mr. MONRONEY. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

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Mr. MONRONEY. It is true that this provision was passed to make certain that independent producers would have pipelines available to carry their oil to market. But the real purpose was to protect carriers owning pipelines, so that every producer in the field, whether the line was owned by the producer or not, would have the same right on a percentage basis to pipe his oil to market. That is, it was a common carrier.

Later, it was provided that the Federal Power Commission should maintain a reasonable rate for the fuel. The pipeline had nothing to do with the rate.

That is why I feel that the Senator's amendment would deny to carriers or transportation facilities, which are in competition, an opportunity to provide service on a basis that would be profitable to them and also to furnish service at a reasonable rate.

Mr. PROXMIRE. Let me say to the Senator from Oklahoma that existing law and this amendment do not deny the oil pipelines and the gas pipelines anything, but merely provide that they must make their case before the regulatory body; and a majority of them have not been able to convince the Commission.

Mr. MONRONEY. But they have already decided this question. We are not talking about letting the regulatory body do that. Two have agreed and three have opposed doing what I thought the Senate had in mind when it previously dealt with the tax credit—namely, provide it as an incentive for the construction of additional lines and for improvement of their plants.

If none of the investment credit is to be retained, I do not believe it can properly be called an incentive. If it is properly called an incentive tax credit, then all who wish to invest more money will be able to deduct the 7 percent as a tax credit. I do not think one minor group should be the only one to be compelled to proceed without the benefit of the tax credit.

Mr. PROXMIRE. But these companies do not regard it as an adequate incentive or as a sufficient amount to really constitute such an incentive.

Mr. MONRONEY. Who determines that question? These companies are in competition, and the rates they charge must be competitive rates, regardless of the views of the commissions as to what rates should be established for the pipelines, the truck lines, or the railroads. These companies have to meet the lowest rate that one of their competitors quotes; and today most of the rate cases taken before the Interstate Commerce Commission are based on attempts to set rates too low, so low that the companies cannot even continue to operate, much less obtain a reasonable return on their investments.

Mr. PROXMIRE. But absolutely nothing in either existing law or the amendment would require that the tax credit be passed through and not be retained by the companies if the rates established by the regulatory commissions were not adequate and sufficient to provide a reasonable or fair return on the investment and were not sufficient to enable the companies to continue to operate.

Mr. DOUGLAS. Mr. President, will the Senator from Wisconsin yield?

Mr. PROXMIRE. I yield.

Mr. DOUGLAS. I believe this question has been before Congress ever since the Moore bill was under consideration—in other words, for approximately 17 years. It has also been before the Federal Power Commission and before the Supreme Court.

It is true that one of the purposes of regulating the pipelines was to give them a common-carrier status. But according to the Supreme Court, that was not the only purpose. In the Phillips case, the Supreme Court held it was also a proper function of the regulatory body to consider what was a reasonable rate of return; and behind that reasoning there was a solid base of economic fast; namely, that once a pipeline is hitched up to the original source of supply and once it connects with the distributing company at the other end, it is, in effect, a monopoly—in other words, that there is no possibility of building a competing line.

We fought out this issue on the floor of the Senate. The late Senator Kerr was so strong that we were unable to

overpower him here. But the Supreme Court clearly stated, in connection with this matter, that this is a proper function of regulation.

So regardless of the action taken by the Senate or the action taken by the Commission—which had some very strange things happen to it, it is clear that the Supreme Court determined, as the law of the land, that that function is included in the provision of this regulatory function.

Mr. MONRONEY. But a pipeline which, in Oklahoma, obtains its gas for approximately 12½ cents, charges 15 cents for it when it turns it over to the distributing company in Washington, D.C., or in Rockville, Md.; and the distributing company charges the consumers about $1.50 for it. At least, that is about what I pay for the gas used in my home. The result is that the large profits are made by the distributing companies; the pipeline companies make a very small amount.

This bill would not affect the Public Utilities Commission of the District of Columbia; and the Senator from Minnesota says there is no corresponding commission in Minnesota.

I do not know whether there is one in Wisconsin.

So, when natural gas passes through the lines of the pipeline company and is delivered to the local utility, the distributing company, it is clear that no provision of this law would require that the tax credit be passed on to the consumers. Certainly I do not want the result of this measure to be the further enrichment of the distributing companies, which now are charging for the gas they deliver to the consumers 10 times the price the pipeline companies charge when they sell the gas to the distributing companies in the cities.

Mr. PROXMIRE. I assure the Senator that the Wisconsin Commission will require them to pass it on. The pipeline companies are allowed a fair return, and they will be required to pass on this tax credit.

Mr. MONRONEY. This law has been in effect since 1962. What have been the rulings of the Wisconsin Public Service Commission as to the passthrough of the tax credit, as an incentive for increased investments in plant and facilities? Certainly that was the purpose; and I feel sure that the members of the commissions are smart enough to have realized that and, therefore, to have set the rates high enough to enable the companies to do that, or else not have required the passthrough to be made.

Mr. PROXMIRE. Only a few of them have required the passthrough to be made, but some of them have.

Mr. MONRONEY. So there is no assurance that if this measure is enacted—although at present it affects only the Federal Power Commission and only the long-line transmission facilities—the Commission will say, "We will require the transmission companies to reduce their rate by 1 cent, but we will not require the local distribution companies to reduce the $1.50 rate they charge the consumers in the cities"—with the result that the transmission companies get only about 7 cents of the total. A great deal more is charged to distribute the gas from Rockville, Md., to the Senator's home or to my home, or even to distant parts of Bethesda, than the charge made for transporting the gas from distant parts of Oklahoma or Texas to the city gate of Rockville, where the pipeline hooks up to the local distribution line.

Mr. PROXMIRE. But the experience in Wisconsin—and I hope the Senator will agree that others have had the same experience—is that the regulation by the State commissions is at least as strict, and generally is stronger, than that by the Federal Power Commission, in seeing to it that the companies are allowed to earn a fair return.

Mr. SYMINGTON. Mr. President, will the Senator from Wisconsin yield?

Mr. PROXMIRE. I yield.

Mr. SYMINGTON. I thank the Senator from Wisconsin for yielding. He always impresses with his clarity.

Tonight much is being said about pipelines. I ask whether this amendment also embraces other transportation, including railroads.

Mr. PROXMIRE. It will embrace them and also the bargelines and the buslines and the oil pipelines and the gas pipelines and the interstate transmission lines—depending, of course, on what the Commission does.

Mr. SYMINGTON. I ask about railroads at the moment.

There are many railroads which have been in bankruptcy.

Some for many years were in bad financial condition. Many need additional, or improved, rolling stock and maintenance of way.

As I understand it, this measure is designed to be tax incentive legislation. Suppose the railroads—understanding the view of economists about the importance to the overall economy of hard capital investment, and believing that the Government was sincere when it said the purpose of this legislation is to

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present this form of investment incentive—decided they would spend a large amount of money to improve their roll-

ing stock, or improve their maintenance of way?

If they first expended this money, accepted what the Government said, used their needed money to improve the economy through this hard line investment; then after they had risked, despite their relatively poor capital structure, to improve the road, the Government under the amendment could come in and say, "We are sorry. You cannot maintain this tax advantage we said we gave you even though you had the courage and the wisdom to make the investment. We must now take that money and give it back to your customers."

Mr. PROXMIRE. Does the Senator have faith in regulatory bodies or not?

Mr. SYMINGTON. I do not believe that is the answer at all. I have seen regulatory bodies consistently criticized at times by the utilities for being against the utilities; and regulatory bodies where the opposite criticism was expressed.

Therefore why leave it up to the regulatory body, to a point where that body can nullify the Government promise which originally was the reason for the investment.

I do not know some of those industries. But in the case of the railroad industry, where one might be operating on a thin line, the regulatory body would have the right to say, "Despite what the law says, we are not going to allow you to keep this money. You must give it back to the consumer."

Mr. PROXMIRE. That is the heart and soul of the argument made by the Senator from Louisiana, which is exactly opposite. The railroads are getting the benefit of that operation.

Mr. SYMINGTON. The Senator from Louisiana was talking about pipeline conditions in his own State. I am talking about a different industry.

Mr. PROXMIRE. He is talking about the national situation, that railroads are enjoying the benefit of the investment credit although the gas and pipeline industries are not. They do not use investment credit.

I believe the Senator from Louisiana has a good point, but what the ICC is doing perhaps is wise. It recognizes that the railroads, as the Senator from Missouri has indicated, have not been doing very well, and therefore it is perfectly proper and permissible and morally right under the circumstances to see that they get full and complete benefit of the investment credit.

As the Senator has said, profitable industries can take advantage of monopolistic power. They may be able to use the power to extort a relatively high price. But the regulatory body can prevent this and see that the benefit is passed on to the consumer. This is the best way by far to see that the investment credit does what it is designed to do; because lowering the rates stimulates business, and of course the utility has reason to buy equipment; and this is the only basis on which the utility will do so.

Mr. SYMINGTON. The Senator from Wisconsin says, "Of course the utility," or "Of course somebody will buy the equipment." I have had experience in deciding whether to buy equipment——

Mr. PROXMIRE. That is because the Senator's market was assured.

Mr. SYMINGTON. It was seldom as clear cut as the Senator from Wisconsin would make it.

Mr. PROXMIRE. The Senator has had great experience in business. Of course, it is right to say that people will do it. All I was trying to say is, if there is an assured market, under these circumstances, if you lower the rate in a utility situation, we can usually get some elasticity to sell more.

Under these circumstances if you do not sell more you are not going to be able to provide additional service.

Mr. SYMINGTON. We might find people believing the Government was sincere in calling this a tax credit, would be rewarded for the risk of additional investment by the regulatory body saying in effect, "We were only fooling, you shall pass it on to the consumer."

Mr. PROXMIRE. The Senator from Missouri is a fairminded person. Would he not agree that, just as there are some circumstances in which the investment credit should not be passed on, there are also other circumstances, in which the investment credit should be passed on?

Mr. SYMINGTON. It would depend upon the premise of the agreement offered by the Government.

Mr. PROXMIRE. It should be left within the discretion of the regulatory body so that it can permit the pass-on as circumstances seem appropriate or right.

Mr. SYMINGTON. I understand the position of the Senator from Wisconsin. There is no Member of this body generally more logical. As I gather it, the Government goes to these corporations, many of whom have a relatively difficult tax structure, and says, "We believe the best place to pick the economy up is by investing in hard line units, construction, and so forth. If you will do that, we will give you a reward. That reward will be a tax credit, an incentive."

My worry is that, based on some people I have seen in these regulatory bodies, they would later say, "We do not care what the Government said to you previously. We are now saying to you, pass it on to the consumer. There is no law to prevent that being done."

If I were a member of the board of directors of a railroad, and was worried about my capital structure, then decided nevertheless, because of this tax incentive, to take a risk in order to have a better railroad—say more freight cars—I do not believe it would be fair for any regulatory board, after I had done that, to take my tax credit away. That is the thrust of my presentation.

Mr. PROXMIRE. Is it not also true that there are two incentives, really, for purchasing equipment? One might be the investment credit. If we pay out $100,000 for the best equipment, we can take $7,000 off our taxes. That might be an incentive; but only provided the equipment was necessary.

Mr. SYMINGTON. It would be.

Mr. PROXMIRE. That would be an incentive for buying equipment. The second incentive, however, is certain. If through the passthrough, rates are lowered, expanded markets will make it desirable, profitable, and necessary to buy equipment to make it possible to perform better service.

Mr. SYMINGTON. But that was not a part of the deal. The regulatory body says, "We did not really mean what we said about that tax credit. What we really did was to trick you into having a finer railroad than before. You have a finer railroad. Everyone is happy. Pass the tax credits on."

Mr. PROXMIRE. Let me say to the distinguished Senator from Missouri that the law has been on the books now since 1962 and has been interpreted by Federal regulatory agencies. The situation is settled. Unless Congress fools around with a change, as the present bill would provide, they will be able to predict what the situation will be in the future. That will be a certainty; and they would be able to act.

Mr. SYMINGTON. I say with respect for the able Senator from Wisconsin, who in the fiscal and monetary fields has no superior in the Senate, that I was in the railroad business in the depression. There was hardly a railroad in the United States not in serious financial condition, if not already in bankruptcy. One of the reasons they stayed so long in that condition was that they could not find any incentive to improve their equipment. Let the Government carry out its agreement. That makes for good government.

Therefore, as I have said, they are now facing other problems. There is active competition between trucking lines and barge lines. The more competition the better. If those companies make investments because they are told by their Government that if they make them they will receive tax credits, I do not believe that any regulatory body should have the right arbitrarily to take away and, in effect, therefore, nullify the agreement that was made when they originally invested as a result of the promise of a tax credit.

Mr. PROXMIRE. Does the Senator from Missouri accept the statement made by the Senator from Louisiana that railroads have been taking advantage of the investment credit under present law to modernize to a substantial extent, to expand, and to invest in a wholesome way? If that be true under present law, why change it?

Mr. SYMINGTON. The answer to that question would be, first, that if the Senator should hold some of the various layers of stock of the railroads, even though they are doing better, he will have observed that they have a long way to go before there will be true reimbursement for investment, especially as against some of the other industries we both know about. I am glad the railroads are doing better.

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Mr. PROXMIRE. So am I.

Mr. SYMINGTON. I hope that all business does better.

On the other hand, a deal is a deal. If the offer is made to a railroad to the effect that, "We will give you a tax deduction if you make a fixed investment in rolling stock or maintenance of way," the Government ought not to let some ideological position of a member of a regulatory body nullify the agreement, made prior to the commitment of cash by the corporation in question.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield to the Senator from Ohio.

Mr. LAUSCHE. Is it or is it not a fact that existing law, which requires a movement through to the consumer of benefits, would preclude a utility from getting a fair return on its capital structure?

Mr. PROXMIRE. The Senator is absolutely correct. Furthermore, there is no compulsion in the present law or in the Proxmire amendment which would require the investment credit to be passed through. The subject is left within the discretion of the regulatory body, and the regulatory body has the duty and the responsibility to see that there is a fair return, as the Senator from Ohio has said.

Mr. LAUSCHE. If the theory of those who oppose the position taken by the Senator from Wisconsin were accepted, would it not mean that, regardless of the liberality of the return, under no circumstances would there be allowed to pass through to the consumer the benefits of the largess that we have given?

Mr. PROXMIRE. I believe the argument implicit in the question of the Senator from Ohio is devastating. Regardless of the largess, regardless of how excessive it may be, regardless of the advantage that the semimonopolies may have, the regulatory body would have no power at all, no discretion, to pass it on to the consumer.

Mr. LAUSCHE. Until it is first shown that there has been a fair return to the utility.

Mr. PROXMIRE. Under the committee bill it could never be passed on.

Mr. LAUSCHE. That is what I mean.

Mr. PROXMIRE. Fair return or not. There must be a fair return on top of that. There is an extra or excessive return.

Mr. LAUSCHE. Under the theory of the opponents of the amendment of the Senator from Wisconsin, the utility would be guaranteed a fair return and, in addition, the concession which the Congress made to them by way of investment credit.

Mr. PROXMIRE. Absolutely. Mr. President, I shall take my seat and yield the floor in a moment, so that other Senators can discuss the question on their own time. But the contrast between the amendment pending and the previous amendment, which was rejected by a close vote, is very sharp.

On the previous amendment, a credit investment of only 3 percent was involved. On the pending amendment a 7-percent credit is involved. Under the previous amendment the regulatory body could spread out the benefit to the consumer over the life of the asset. Under the pending amendment, the regulatory body would be prohibited from giving any of the 7-percent credit to the consumer. Regardless of the return, by law, by congressional dictation and declaration, it must all go to the utility stockholders.

Mr. President, the hour is late. I shall yield very briefly to the Senator from Oklahoma, and then I shall yield the floor.

Mr. MONRONEY. If I correctly understand the distinguished Senator, the Interstate Commerce Commission and other regulatory bodies could pass on cases or not. The ICC could require the railroads to pass through reduced rates the 7-percent credit on the investment that the railroads had made. Is that correct?

Mr. PROXMIRE. As the Senator very well knows, far better than the Senator from Wisconsin, the regulatory sit-railroads than in relation to public utilities. But in general it would be impossible under the committee bill for the ICC to decide whether or not the investment credit should be passed on, whether part of it should be passed on, or whether it should be spread over the life of the asset. They have that discretion under present law.

Mr. DOUGLAS. I do not wish to interrupt the Senator from Oklahoma——

Mr. MONRONEY. I appreciate the interruption of the Senator from Illinois.

Mr. DOUGLAS. Is it not true that in the case of railroads which have very low earnings that there would not be the slightest reduction in rates?

Mr. PROXMIRE. Yes, indeed.

Mr. DOUGLAS. The ICC would not require that the credit be passed on. The ICC has never been accused of being hostile to the railroads. Quite to the contrary, it has often been called the agent of the railroads. I do not think there is any chance whatsoever that the earnings of a railway which has a low rate of earnings would be taken away from them and passed on to the users. On the contrary, I think in this case the investment credit would be used to increase the earnings of the railroad.

Mr. PROXMIRE. The Senator from Illinois is absolutely correct. The Senator from Louisiana indicated as much earlier when he pointed out the difference, in his judgment, between the friendly regulation of the ICC and the less than friendly regulation of the FPC.

Mr. MONRONEY. The Senator has said that the amendment would permit the ICC, the FPC, and the CAB to pass through the investment tax credits. It seems to me that if such be the intent of the amendment of the Senator from Wisconsin, the long-range investments in railroads that we hope to bring about will be in jeopardy, because 10 years would elapse before an appeal would be completed in the courts.

I do not think the ICC would make such a ruling, but there would always be a question of whether they would ever recapture the 7 percent which was enacted as a so-called tax incentive.

Mr. PROXMIRE. I read from the Finance Committee report of February 1963. The ICC feels that the law will be interpreted as it has always been interpreted. They will view Federal taxes, as they have in the past, as a part of the Federal taxation system. As the Senator from Illinois pointed out, the problem of the railroads is that in many

cases they are not making an adequate return. In that case there is no chance that the investment credit will be passed on. Furthermore, in many cases the railroads wish to lower their rates.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. PASTORE. For the benefit of Senators who voted against the previous amendment of the distinguished Senator from Wisconsin—and this includes the Senator from Rhode Island, who, however, now intends to vote for the amendment that is being proposed by the Senator from Wisconsin—I believe that for purposes of clarity of record, we should show the distinction between the two amendments.

Mr. PROXMIRE. Yes, indeed.

Mr. PASTORE. As I understand the proposal, in instances in which the 3 percent was allowed to public utilities, there was a requirement to pass through the tax credits, but for no period shorter than the useful life of the property involved. Is that correct?

Mr. PROXMIRE. The Senator is correct.

Mr. PASTORE. But when it came to the second part, which has to do with the 7-percent investment credit, in that instance, in the way in which the committee reported the bill, there is an absolute prohibition against it.

Mr. PROXMIRE. Absolutely. That is the distinction.

Mr. PASTORE. Therefore, it is fair for the Senator from Rhode Island to assume that preferential treatment is being given to the pipelines?

Mr. PROXMIRE. The Senator is correct.

Mr. PASTORE. Which was not the case in the first part of the amendment, no matter how we argue. There is a distinction between the two.

Mr. PROXMIRE. That is correct. So far as general business is concerned, it is in vigorous and complete competition. The competition is going to result in a substantial pass-through. There is no question about it. It is bound to. But with the oil and gas pipelines, where competition is at best imperfect, there will be very little, if any, pass-through, and pass-through is explicitly prohibited in the committee bill.

Mr. MONRONEY. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. MONRONEY. This affects not only the pipelines, but oil, gas, railroads, trucks, and all the rest. By removing any requirement for passing through, we leave in jeopardy the 7 percent tax credit. I think it would be more honest, if we want to do it, to amend the bill

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and do away with the 7 percent credit as it affects these industries, because they are going to be in jeopardy.

Mr. PASTORE. I think it is probable that it might affect the railroads or trucklines, but I feel whoever invented this amendment was not thinking about the railroads or the trucklines. I will venture a guess that he was thinking of pipelines.

Mr. President, I ask for the yeas and nays on the amendment.

The yeas were ordered.

Mr. LONG of Louisiana. Mr. President, it seems to me that Senators who voted against the investment credit proceed with poor grace when they undertake to tell us what Congress intended by the investment credit. If those Senators had their way, there would be no investment credit, so there would be no problem. Those who fought against investment credit undertake to tell us what Bob Kerr, RUSSELL LONG, and others meant when they voted for investment credit.

I think I have some idea what was meant. The legislative history in the House is clear. The House intended all industry to get it. The bill so provided when it was reported on the House side. Senator Kerr, having made a contrary statement on the floor of the Senate with regard to the transportation industry and utilities, undertook to conform his legislative declarations to those of the House conferees when he brought the bill back from conference and they had agreed to what they meant. That is what I thought they meant.

Now we hear the argument that we should not tell a regulatory agency what to do. This question need not be that complicated. We provided for all industry, except the 3 percent regulated utilities—and we have taken care of that problem—that if one company made an investment of $1 million in new equipment, it was entitled to the exact credit of $70,000, which is 7 percent of $1 million. We said it was an incentive for industry to modernize plant and equipment and—since there was doubt as to the regulated industries—they could keep it.

Suppose we take the attitude of the Senator from Wisconsin. He advocates leaving it up to each regulatory agency. A railroad is competing with a pipeline, one hauling coal and oil, and the other transporting gas. The agency regulating the pipeline says it wants to make the pipeline give back the credit it was given for making a $1 million investment in equipment, amounting to $70,000. The agency that regulates the railroad states

that it is clear to it that the intention of Congress was to have the railroad modernize, and it should keep the credit.

I call attention to page 7 of the Wall Street Journal. The headline reads: "The First of 160 Freight Cars Ordered by Southern Pacific Came Off the Production Line Last Week."

There is the incentive to modernize the railroads. Why do the railroads want this section agreed to? They have a doubt about what would happen in the event the Federal Power Commission went to court with the pipelines and won the lawsuit against the pipelines and made the pipelines give up the investment credit, not for the past, but for all time to come in the future. They think the ICC could be under pressure to do the same thing with regard to the railroads. So the railroads are worried. They would be glad to see their competitors taxed, and themselves go free, but they fear that they, too, may be taxed. So it is having a tremendous effect. This backward industry is modernizing. In an effort to see that the same thing does not happen to them, they would like to see the intention made clear.

President Johnson made clear in his state of the Union message that there is nothing that is worse than to keep someone in doubt. If a man is going to invest his money, and wants to ask a bank to finance him to the extent of $10 or $15 million, he would like to know whether he is going to be allowed to keep the investment credit, or whether he will have to give it back.

So far as the Senator from Wisconsin is concerned, he would leave him in doubt. In effect he says, "I do not think the ICC will do it in the case of the railroads." How does the Senator know? All that would be necessary would be to have a President liberal enough to implement a liberal program and have the ICC do it.

It is up to the Congress to say, "When we passed the investment credit, we meant for you to keep the credit." One can complicate the question all he wishes, but the question boils down to this: When we gave him the tax cut did we mean to put it in his pocket or to give it to somebody else? That is all the question involves so far as the investment credit is concerned.

I believe I have made it clear that, in my judgment, when Congress passes a law that has a tax consequence, Congress having previously established regulatory commissions which are arms of the Congress, positive standards are established which set the general pattern that is expected to be followed; and we expect the agencies to take the situation from there.

From time to time Congress has found it necessary to pass additional laws telling them what to do. Clearly we would leave them in contention if we failed to act one way or the other.

To my mind, the worst thing about the amendment of the Senator from Wisconsin is that it would not settle the question one way or the other. If the Senator does not think there ought to be an investment credit, let him offer an amendment making it clear that the regulated industries will not get it. If he thinks they should have an investment credit, let us say so, as we did 2 years ago.

Mr. SIMPSON. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. SIMPSON. In the order of the Federal Power Commission of January 23, 1964, the dissenting opinion, as the Senator will recall, asked that they wait until Congress made the decision.

As I understand the bill before Congress, the purpose of it is to stimulate industry and business transactions throughout America. The consumer is being thought of in the bill by virtue of the fact that he will receive tax credit in the tax deductions. The purpose of the 7-percent tax credit is to stimulate industry into putting money back into various businesses.

Mr. LONG of Louisiana. The Senator is correct. More than twice as much gas can be carried in a 36-inch pipeline as can be carried in a 24-inch pipeline, and the difference in cost of construction is slight, because both require the same right-of-way and the same investment in many instances. The cost of building the larger pipeline would be about 10 percent more than the cost of the small pipeline, and it would carry 100 percent more gas, which, on a unit cost basis, would benefit the company more.

If a pipeline already exists, the company can do what is called "looping the line." Another pipeline is laid alongside the old one. In that case, the second pipeline is only about half as expensive as the first, with the result that the unit cost is greatly decreased.

Let us take the case of two companies seeking to sell competing products. One wants to build a pipeline. Another wants to build a new tanker. Some of them cost $28 million in American shipyards. Bigger tankers built in foreign shipyards would cost even more if built here. Is it fair that a tanker laying down residual fuel oil out of Venezuela should have a tax credit while the com-

petitor that brings the product to market by rail or pipeline should be denied a tax credit? It seems to me that both should be treated the same way. We are trying to put them on the same competitive basis. We think the public can be served better by having the public determine which of the competing companies gives them a product at the best price. That is the way to do it, rather than to lay the heavy hand of Government on them. Someone is always trying to squeeze profits out of industry, rather than letting industries compete with one another.

I am sure Senators will find that competitive conditions have done much more to reduce prices than almost any other factor. When the natural gas bill was being debated on the floor of the Senate, Senator Kerr made the prediction that if the bill failed to pass the price of gas would go up. At that time the price of gas was 8 or 9 cents. Today it is 23 cents. The price of oil, meanwhile, has gone down. That has happened through competitive conditions. When we encourage competition between competitors, the public gets lower prices by virtue of the competition. Competition, after all, is the great leveler. The public has had far more price reductions as the result of competition than as the result of anything else.

Competition, after all, is the only justification for our whole system of competitive, capitalistic system. We have gained more from competition and incentive than from the Federal regulatory hand. I submit that we should let

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all industries have the benefit, and not give an advantage to one and refuse to give it to another. Looking down the road for 20 years or so, as I have said, what we expect to have is a space age transportation industry and a space age manufacturing industry. If we give an advantage to one and not to the other, one will fall behind.

The PRESIDING OFFICER. The question is on agreeing to the second branch of the Proxmire amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the distinguished minority leader, the Senator from Illinois [Mr. DIRKSEN]. If he were present and voting he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withhold my vote.

Mr. KUCHEL (after having voted in the affirmative). On this vote I have a pair with the distinguished senior Senator from Nebraska [Mr. HRUSKA]. If he were present and voting he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. HUMPHREY. I announce that the Senator from Nevada [Mr. CANNON], the Senator from Arizona [Mr. HAYDEN], the Senator from Alabama [Mr. HILL], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Texas [Mr. YARBOROUGH] are absent on official business.

I further announce that, if present and voting, the Senator from Arizona [Mr. HAYDEN] would vote "nay."

On this vote, the Senator from Massachusetts [Mr. KENNEDY] is paired with the Senator from Nevada [Mr. CANNON]. If present and voting, the Senator from Massachusetts would vote "yea" and the Senator from Nevada would vote "nay."

Mr. KUCHEL. I announce that the Senator from Illinois [Mr. DIRKSEN], the Senator from Arizona [Mr. GOLDWATER] and the Senators from Nebraska [Mr. HRUSKA and Mr. CURTIS] are necessarily absent.

The Senator from North Dakota [Mr. YOUNG] is detained on official business.

The respective pairs of the Senator from Illinois [Mr. DIRKSEN], and that of the Senator from Nebraska [Mr. HRUSKA] have been previously anounced.

If present and voting the Senator from Nebraska [Mr. CURTIS] and the Senator from Arizona [Mr. GOLDWATER] would each vote "nay."

The result was announced—yeas 42, nays 46, as follows:

[No. 25 Leg.]

YEAS—42

Aiken	Jackson	Muskie
Bartlett	Javits	Nelson
Bayh	Johnston	Neuberger
Burdick	Keating	Pastore
Byrd, Va.	Lausche	Pell
Case	McCarthy	Proxmire
Church	McClellan	Ribicoff
Clark	McGovern	Robertson
Douglas	McIntyre	Russell
Engle	McNamara	Scott
Gore	Metcalf	Smith
Gruening	Miller	Talmadge
Hart	Morse	Williams, Del.
Humphrey	Moss	Young, Ohio

NAYS—46

Allott	Ervin	Mundt
Anderson	Fong	Pearson
Beall	Fulbright	Prouty
Bennett	Hartke	Randolph
Bible	Hickenlooper	Saltonstall
Boggs	Holland	Simpson
Brewster	Inouye	Smathers
Byrd, W. Va.	Jordan, N.C.	Sparkman
Carlson	Jordan, Idaho	Stennis
Cooper	Long, Mo.	Symington
Cotton	Long, La.	Thurmond
Dodd	Magnuson	Tower
Dominick	McGee	Walters
Eastland	Mechem	Williams, N.J.
Edmondson	Monroney	
Ellender	Morton	

69-108 O—66—pt. 3——47

NOT VOTING—12

Cannon	Hayden	Kuchel
Curtis	Hill	Mansfield
Dirksen	Hruska	Yarborough
Goldwater	Kennedy	Young, N. Dak.

So the second branch of Mr. PROXMIRE'S amendment was rejected.

Mr. LONG of Louisiana. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HICKENLOOPER obtained the floor.

Mr. CARLSON. Mr. President, will the Senator yield?

Mr. HICKENLOOPER. Mr. President, I yield to the Senator from Kansas, provided I do not lose the floor.

DOUBLE TAXATION OF DIVIDENDS

Mr. CARLSON. Mr. President, yesterday the Senate by a close vote of yeas 44 and nays 47 defeated an amendment which would have had the effect of retaining in the tax law in modified form a portion of the relief granted against the double taxation of dividend income. This amendment offered by the distinguished junior Senator from Kentucky [Mr. MORTON] on behalf of himself and our esteemed and able minority leader [Mr. DIRKSEN] would have limited the amount of the present 4-percent dividend received credit to a $300 ceiling.

It will be recalled that present law does not contain such a ceiling, but the offering of the proposed ceiling represented a determined attempt to provide some compromise solution to the action of the Committee on Finance in repealing the credit outright. It was believed that in this way we could at least retain in the Federal tax structure a modest recognition of the need to alleviate, to a partial extent, the wrong done to American taxpayers who are willing to invest their savings for the betterment and growth of our American free enterprise system.

It was my privilege to join the Senator from Kentucky [Mr. MORTON] in speaking in behalf of this amendment. While the amendment was defeated, the closeness of the vote encourages me to hope that possibly at some future time Congress will recognize again the inequity inherent in the double taxation of dividend income and again adopt remedial provisions in some form.

Regrettably, it is too often concluded that dividend income is derived only by the so-called rich and that, therefore, the granting of tax relief against double taxation is preferential treatment for the rich. The truth of the matter is that the stake of the so-called rich man in the dividend received credit is really less than the millions of Americans of more modest means who have saved and made equity investments in American private enterprise. The rich man has a flexibility in the conduct of his financial affairs that for a practical matter is not available to the vast majority of American taxpayers who own shares in American business.

At the time the dividend received credit was first made a part of our Federal tax structure in 1954, I supported the provision on the grounds of tax fairness to alleviate the impact of double taxation, on the ground that the provision would encourage individuals to make equity investments in our free enterprise system, and on the ground that by encouraging both thrift and industrial modernization we would be taking a significant step in the creation of better job opportunities and the avoidance of inflationary pressures. In supporting the provision in 1954, it was my hope that we would succeed in subsequent years in achieving a further liberalization of this credit so that it would be more adequate. Instead of a liberalization, the experience has been a persistent attack on the provision, particularly in this body, so that today we find ourselves faced with the likely situation that the provision will be removed from our tax law—at least temporarily.

Treasury officials have been very diligent in their efforts to have not only the dividend received credit removed from the law, but also to have the dividend exclusion removed from the law as well. In my judgment, the Treasury arguments substantiating this unwise position are erroneous at best and to a large extent even spurious.

The Wall Street Journal for today, February 5, 1964, contains an excellent analysis of the Treasury arguments, written by Dr. Harley L. Lutz. Dr. Lutz is a distinguished economist who is highly respected for his sound views on tax policy and on the operation of our free enterprise system. So that Dr. Lutz' comments may be made a part of the record of this tax debate, I ask unanimous consent that this perceptive article to which I have referred be printed as a part of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TREASURY'S ARGUMENTS AGAINST DIVIDEND TAX RELIEF SUGGEST CONTINUING EMPHASIS ON EQUALIZING INCOMES

(By Harley L. Lutz)

Repeal of the dividend credit and exclusion, recommended by the President in his

1963 tax program and included, as to the credit, in the bill passed by the House of Representatives, was supported by unconvincing, inconsistent, and even emotional arguments. The case advanced in favor of these provisions when they were under consideration in the 1954 revision of the Internal Revenue Code has now been repudiated by both the Treasury and the Ways

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and Means Committee. The official defense of the present proposed action limps badly and it suggests the persistence of a concept of income taxation which views this tax as an instrument for the equalization of incomes.

The dividend credit is a credit against the individual tax equal to the smallest of three criteria. These are: (a) 4 percent of dividends less the exclusion of $50, or $100 in a joint return if both spouses have dividend income; or (b) the income tax as computed with standard or itemized deductions; or (c) 4 percent of taxable income.

Two major points of justification were made in 1954. These were first, that the allowances were a recognition of, and a first step toward, elimination of double taxation of income earned by corporations and distributed to stockholders as dividends; and second, that such easing of the double tax burden would promote investment in equity capital. Secretary Dillon rejected these contentions in his testimony before the Ways and Means Committee and added some further points of attack. His statement included the following assertions:

"1. The dividend provisions are not an effective remedy for 'double taxation.'" There is no consensus among economists and businessmen on the issue of where the burden of the corporation income tax really falls. It is paid, initially, by the corporation out of its income, but there is controversy, unfortunately, over whether it is recouped from consumers in higher prices, from workers in lower wages, or from stockholders in smaller dividends.

The ramifications of the theorizing that has been engaged in on this subject cannot be explored here. It is pertinent to say, however, by way of brief summary, that much of the labor force is protected from shifting of the corporation income tax by ironclad wage contracts, and that wages are increased, not lowered, in each successive round of wage negotiations. Consumers are protected against such shifting by their freedom of choice in the market, where they are not obliged to buy any particular article, or brand of article, unless in their opinion the price is right. They are further protected by the competition among producers who tend to charge what the traffic will bear regardless of taxes or other costs, and who are further kept in line by the competition of the nonprofit companies that comprise, at any given time, about one-quarter of all business corporations and sell upward of the same proportion of the total goods marketed. The stockholder has no defense against reduction of dividends or against their failure to rise. He seems to be the most likely candidate as bearer of the corporation income tax burden.

Just what is meant by an "effective remedy" is not made clear in Mr. Dillon's statement. It has never been claimed that the 4-percent dividend credit was a complete remedy. In 1954, the House bill carried a credit of 10 percent and it was suggested that this rate might later be advanced to 15 percent. The Canadian allowance at the time was 20 percent. The conference bill set the credit at 4 percent.

"2. Whatever double taxation exists is relatively more burdensome to low-income taxpayers than to high-income taxpayers." This is a curious reason for denying to low-income taxpayers such relief as the credit might provide. Mr. Dillon argued that the reduction of the corporation tax rate from 52 percent to 47 percent (the House bill provides 48 percent) would give as much or more relief to low-income taxpayers as they would get from the dividend credit. The argument misses the point entirely. Regardless of the rate of individual or corporation income tax, taxpayers with dividend income are still bearing whatever double taxation may exist as long as there are two taxes, whatever the rates may be. This burden cannot be swept under the rug by trading tax rate reduction for a denial of the credit.

"3. The existing 4-percent dividend credit removes much more of the extra burden of double taxation for high-income stockholders than for low-income stockholders." Again it may be asked why, even if this be the case, should the low-income stockholders be refused such relief as the credit would give? This argument says, in effect, that nothing should be done for the little stockholder because it would do so much more for the big stockholder. More than once in the history of tax legislation, proposals that would benefit the low-income people have run aground on the snag of "the man with a million dollar income." Bigness of income is always relative and a given income is big or little depending on whether we are looking up from the bottom or down from the top.

It is enlightening to note the number and distribution of returns with tax reductions from dividend provisions in 1960. The data are given in the accompanying table.

The revealing thing about the figures is not that 23,150 taxpayers in the adjusted gross income classes of $100,000 and above had total tax reductions of almost $59 million in 1960 by reason of the dividend provisions, but rather that way down at the bottom of the income scale more than 1,100,000 persons had tax reductions by reason of these provisions. The amount was small for so large a number, only $28,864,000, but when total income is under $5,000 there can't be much in the way of dividends. The Treasury argument is that we must not give these little fellows their bite because that would give the big fellows their supper.

"4. The 4-percent dividend credit has had no appreciable effect in stimulating the supply of equity funds to corporations." To begin with, no one, rich or poor, can supply equity funds to a corporation unless it invites that kind of money by offering stock for sale. Since World War II corporations have consistently relied on internal financing for some three-fourths of their capital requirements, and for various reasons they

have given preference to debt rather than equity capital in their external financing.

At this point the Treasury testimony does not square with all of the facts. It accepts the estimate of the New York Stock Exchange that the number of shareholders rose from 6.5 million in 1952 to 17 million in 1962. Data are presented which show that corporations, excluding banks and insurance companies, issued a total of $15.2 billion in stocks in the 8-year period 1946–53, which compares with a total of $26.3 billion in the 8-year period 1954–61. Obviously, the savings from the tax provisions were not sufficient, even if the entire amount had been invested every year, to supply this huge total of equity capital. It is true, as the testimony states, that other sources of savings were drawn upon. It had to be for a boy can't do a man's work. However, there is no justification for arguing that the tax credit had little or no influence on the decisions of investors. It is impossible to ascertain how much of the tax saving was invested; but considering that the dividend credit was realized by persons who obviously had an investment bias toward stocks, it would be more reasonable to assume a substantial, rather than a negligible, reinvestment of the tax savings.

The Ways and Means Committee did not accept the Treasury argument against the dividend exclusion although it was to the same effect as that against the credit, namely, that an exclusion of $50—or $100—would mean a larger tax saving for the high than the low income. On the contrary, the House bill carries an increase of the exclusion to $100—$200 for joint returns. The committee report quotes with approval the Treasury line that the dividend credit has not promoted equity financing, and it extolls the increased exclusion on the ground that it "will tend to encourage a broader stock ownership among those with relatively small incomes." The table above shows that for the adjusted gross income classes under $5,000, the dividend credit accounted for more of the tax saving than the dividend exclusion.

The Ways and Means Committee report explains that repeal of the credit and doubling of the exclusion will provide $300 million in 1965 and thereafter and that this gain was used to reduce income tax at other points. The minimum standard deduction of $300, plus $100 for each dependent, is estimated to cost $320 million. The new deduction device was advocated on the ground that persons with very low income ought not to pay income tax. The level at which individuals should begin to pay income tax is not involved here, but it would appear from the coincidence of the above estimates that we have here a minor case of equalization of incomes rather than tax relief across the board.

"5. The 4-percent dividend credit is a dead end approach." The thought here is that a 4-percent credit does very little, but that a larger percentage credit, such as 15 or 20 percent, would remove a still larger part of the burden of double taxation for high-income than for low-income stockholders. It has been said above that, assuming the existence of double taxation, as the Treasury argument does, there is double taxation as long as two taxes are levied on the same dollar of corporate income, regardless of the specific rates. A credit of 100 percent to the stockholder would correct the difficulty, or an exemption to the corporation of dividends paid would do it. It may be that a remedy applicable at the stockholder level is not the best method. The fact is that we have chosen this method and there is nothing in the Treasury statement to indicate an intention to seek other solutions. If equity requires a full and satisfactory solution we are moving backward in seeking to eliminate even the first limited step that has been taken toward fairer treatment.

If the Congress and the Treasury are really worried about the tax break that the dividend credit gives to the high-income people, a crude remedy could be provided by setting a dollar limit on the credit. The tax law abounds with arbitrary limits and one more would not violate the precedents. Senator Dirksen has proposed a $5,000 limit, but a lower limit, say $3,000 or even $1,000, would make possible retention of the present inadequate relief for persons in the low and middle income groups. A limit of $1,000 would be equal to a 4-percent credit on a dividend income of $25,000.

Finally, it is clear that the case which the Treasury has sought to make against the dividend credit and exclusion is another of the many examples that prove tax rate progression to be the great source of complexity and inequity. Elimination of progression would not get rid of double taxation but it would remove the incentive, and the opportunity, to pit the poor against the rich in a kind of fiscal class war which benefits neither the taxpayers nor the country.

HOW DIVIDEND CREDIT AND EXCLUSION WORKED IN 1960

The table below shows the number and distribution of 1960 tax returns which showed reductions in tax because of the dividend credit and the dividend exclusion:

Adjusted gross income classes	Returns with dividend tax reductions	Reductions because of—		Total
		Dividend credit	Dividend exclusion	
		Thousands	*Thousands*	*Thousands*
Under $5,000	1,137,724	$16,664	$12,200	$28,864
$5,000 to $10,000	2,020,378	38,083	25,030	63,113
$10,000 to $20,000	1,526,727	61,778	28,729	90,507
Subtotal	4,684,829	116,525	65,959	182,484
$20,000 to $50,000	552,547	81,393	19,173	100,566
$50,000 to $100,000	88,986	46,404	4,660	51,064
Subtotal	641,533	127,797	23,833	151,630
$100,000 to $200,000	17,543	26,198	1,135	27,333
$200,000 to $500,000	4,619	17,669	331	18,000
$500,000 to $1,000,000	703	5,805	54	5,869
Over $1,000,000	285	7,678	21	7,689
Subtotal	23,150	57,350	1,541	58,891
Total	5,349,512	301,672	91,333	393,005

Mr. KUCHEL. Mr. President, will the Senator from Iowa yield?

Mr. HICKENLOOPER. Mr. President, I ask unanimous consent that I may yield to the Senator from California without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. KUCHEL. Mr. President, while Senators are in the Chamber, and for their information, I should like to ask the distinguished majority leader what plans he has for the Senate for the remainder of the evening. I assume that the Senate will proceed to a yea-and-nay vote on the amendment which the able Senator from Iowa desires now to call up. May I inquire what the plans of the leadership are thereafter for the remainder of the evening and for tomorrow?

Mr. MANSFIELD. It is my understanding that the distinguished senior Senator from Iowa intends to ask for a yea-and-nay vote on his amendment. I understand that following that vote a conference report will be called up by the distinguished Senator from Alabama [Mr. SPARKMAN]. If my understanding is correct, that will take only 2 or 3 minutes.

Then an amendment is intended to be offered by the distinguished Senator from Minnesota [Mr. MCCARTHY], which may well call for a yea-and-nay vote, and which may also call for a motion to table. I think I should notify Senators ahead of time in that connection.

Mr. McCARTHY. It should not take long to present the case. It is a clear case. Senators should know that. It should not require the long explanation that was made on the last issue.

Mr. MANSFIELD. I hope that other amendments may be forthcoming, because with the consent of the Senate the leadership would like to have the Senate remain in session until 10 o'clock, or thereabouts, to expedite action on the bill as much as possible.

As of now, I cannot say what time the Senate will convene tomorrow. I wish to consult with the minority leadership to discuss the time of convening tomorrow. But it will not be later than 10 o'clock, and it may be earlier.

Mr. McCARTHY. The majority leader might announce that I am more or less committed to calling up tomorrow the so-called sick pay amendment, which has received some attention around the edges of the Capitol.

Mr. MANSFIELD. I understand that there will also be ready for consideration the amendment of the Senator from Delaware [Mr. WILLIAMS] on oil depletion allowances, and also the Douglas amendment, which is another oil depletion amendment, and other amendments.

Mr. CARLSON. Mr. President, will the Senator from Iowa yield?

Mr. HICKENLOOPER. I yield.

Mr. CARLSON. The Senator from Illinois [Mr. DIRKSEN] has left with me an amendment dealing with excise taxes on used automobile parts. He presented the amendment to the committee; and I wish to bring it up in the Senate, before final action is taken on the bill.

Mr. MANSFIELD. Mr. President, if the Senator from Iowa will yield further to me, let me say that I think the Senate is to be complimented on the cooperation it has shown in expediting to this extent up to this time, the action of the Senate on the bill.

Mr. McCLELLAN. Mr. President, will the Senator from Iowa yield briefly to me?

Mr. HICKENLOOPER. I yield.

Mr. McCLELLAN. Let me ask whether the Senator from Montana thinks the Senate will still be working on the bill on Friday.

Mr. MANSFIELD. My guess is that the Senate will pass the bill by tomorrow night; but if not by then, on Friday; or, if not on Friday, on Saturday; or, if not on Saturday, on Monday, or perhaps on Tuesday.

But certainly we face the prospect of completing our action on the bill at some time.

AMENDMENT NO. 408

Mr. HICKENLOOPER. Mr. President, I offer the amendment which I send to the desk. It is amendment No. 408, and I offer it on behalf of myself and the Senator from Illinois [Mr. DIRKSEN]. I ask that the amendment be stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. At the proper place, it is proposed to insert the following new section:

SEC. . REPEAL OF MANUFACTURERS EXCISE TAX ON MECHANICAL PENCILS AND PENS.

(a) REPEAL.—Section 4201 (relating to imposition of tax on pens and mechanical pencils, etc.) is amended by striking out subsection (a).

(b) TECHNICAL AMENDMENTS.—

(1) The table of parts for subchapter E of chapter 32 is amended by striking out

"Part II. Pens and mechanical pencils and lighters."

and inserting in lieu thereof

"Part II. Mechanical lighters."

(2) The heading for part II of subchapter E of chapter 32 is amended by striking out "PENS AND MECHANICAL PENCILS AND LIGHTERS" and inserting in lieu thereof "MECHANICAL LIGHTERS".

(3) Section 4221 (relating to certain tax-free sales) is amended by striking out subsection (f).

(4) Section 4222(b) (relating to exceptions from requirement of registration) is amended by striking out paragraph (4).

(5) Section 6416(d) (relating to certain items taxable as jewelry) is amended by striking out "MECHANICAL PENCILS" in the heading and inserting in lieu thereof "CERTAIN ARTICLES".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles sold on or after the first day of the first month which begins after the date of the enactment of this Act.

Mr. HICKENLOOPER. Mr. President, on the question of agreeing to this amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HICKENLOOPER. Mr. President, for the information of Senators, let me say now, before some Senators leave the Chamber, to attend to various and sundry other duties, that this amendment proposes that Congress abolish the manufacturer's excise tax on mechanical writing devices, approximately 60 percent of which are used for the development of literacy among the schoolchildren in the United States.

I expect to take about 15 minutes to explain the amendment. I believe there will be a few questions about it; but I think the debate on the amendment can be concluded in approximately 15 minutes.

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REVENUE ACT OF 1964

The Senate resumed the consideration of the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes.

Mr. HUMPHREY. Mr. President, will the Senator from Iowa yield to me?

Mr. HICKENLOOPER. For what purpose does the Senator request me to yield?

Mr. HUMPHREY. To enable me to ask a question.

Mr. HICKENLOOPER. I yield to the Senator from Minnesota, for a question.

Mr. HUMPHREY. Does the Senator from Iowa consider his rather erudite and scientific explanation of his amendment to be such as to indicate that a proper definition of the amendment would be that it relates to ballpoint pens?

Mr. HICKENLOOPER. I have not yet come to a definition—erudite or otherwise—of that sort. If the definition is such as to be interpreted as relating to ballpoint pens, I shall leave that to the Senator from Minnesota.

However, Mr. President, the amendment does relate to devices available for use by the youth of our country in writing.

Mr. HUMPHREY. Will the Senator from Iowa say that this amendment relates to the excise tax on ballpoint pens?

Mr. HICKENLOOPER. Oh, yes, indeed; it does.

Mr. HUMPHREY. In other words, the amendment goes right to the point of the ballpoint; is that correct?

Mr. HICKENLOOPER. Indeed it does.

Mr. SCOTT. Mr. President, will the Senator from Iowa yield briefly to me?

Mr. HICKENLOOPER. I yield.

Mr. SCOTT. The other day, I sat at the dinner table beside a gentleman who introduced himself to me, and told me

that his name was Milton J. Reynolds. He said he was the inventor of the ballpoint pen. I understand that he has traveled quite extensively, and that he still holds the record for an around-the-world trip by air. However, all that is aside from the point, which is that the ballpoint pen is properly defined, so I am informed, as a device for writing clearly and permanently, but which does not require the direct fluid flow of ink. But for which the ink is compressed and isolated in a cylinder, and operates for the life of the cylinder, which is readily replaceable. [Laughter.]

Mr. HUMPHREY. Mr. President, I thank the learned and erudite Senator from Pennsylvania.

Mr. HICKENLOOPER. I understand the ballpoint pen was invented approximately 14 or 15 years ago by a citizen of Argentina, and was not developed in this country until the patents expired.

Mr. MANSFIELD. Mr. President, will the Senator from Iowa yield briefly to me?

Mr. HICKENLOOPER. I yield.

Mr. MANSFIELD. I supposed the Senator was answering the question which had been asked by the Senator from Minnesota. In that connection, let me say that I recall purchasing, approximately 15 years ago, one of the the Reynolds pens, and paying about $12.50 for it—and it did not work.

Mr. SCOTT. Mr. President, recently I was sent a newspaper which contained an advertisement of ballpoint pens, and the date of the newspaper was in the 1880's.

Not until I met Mr. Reynolds recently, had I heard of him; but I understand that he still takes great pride in claiming that he is the inventor of the ballpoint pen.

Mr. HUMPHREY. Perhaps he has relatives in Pennsylvania.

Mr. BENNETT. Mr. President, will the Senator from Iowa yield?

Mr. HICKENLOOPER. Mr. President, first let me say that I do not mind being challenged in regard to legal points or technical points in connection with proposed legislation, but I do not like to be laughted at.

At this time I yield to the Senator from Utah.

Mr. BENNETT. Let me ask whether the Senator from Iowa is being challenged by some who bought ballpoint pens which did not work?

Mr. HICKENLOOPER. I am afraid I cannot say as to that.

Mr. RIBICOFF. Mr. President, will the Senator from Iowa yield briefly to me?

Mr. HICKENLOOPER. I yield.

Mr. RIBICOFF. Those of us who have been proposing amendments have met with so little success, even though we have presented our amendments on the basis of logic and reason, that perhaps it now appears that the only chance of success for an amendment is to have its presentation based on humor.

Mr. AIKEN. Mr. President, will the Senator from Iowa yield briefly to me?

Mr. HICKENLOOPER. I yield.

Mr. AIKEN. Let me ask whether the amendment is based on French lighters which are imported, and which sell for approximately 89 cents?

Mr. HICKENLOOPER. No.

Mr. President, I shall quickly explain the amendment. I have already stated that the explanation will take only a short time.

The amendment relates to a serious situation. At present there is a manufacturers excise tax of some 10 percent on manufactured writing instruments—such as pens and pencils, and including ballpoint pens. The evidence and the testimony are to the effect that more than 60 percent of all instruments of this sort are used by students, and that less than 40 percent are used by the general public.

Writing instruments are of great importance; and in these days when orders and records must be made out in duplicate or in triplicate, the ballpoint pen seems to be indispensable and clearly a necessity.

I am told that the total loss of tax revenue to the Treasury, if the amendment is enacted into law, will be—according to the facts and the testimony which has been adduced—approximately $5 million, relatively a small amount. On the other hand, this tax is in some ways a nuisance tax on devices which are substantially a necessity in our society and in our educational system.

I presume statistics could be produced that would vary the figures somewhat, but not much. I am told that the average price of fountain pens at the wholesale level, when all qualities are taken into account, is approximately 64 cents. The average price for a mechanical pencil, some cheap and some better, is approximately 33 cents. They are certainly not luxuries; they are a necessity. Accordingly, this comes under the classification of a wartime revenue measure.

Since the close of World War II, I have consistently voted for either reduction or abolition of wartime emergency excise taxes. I believe they are unjustified in peacetime. In various ways, they contribute to confusion, to difficulty, and to a

substantial amount of unusual and undue expense for those who have to collect the taxes and also to those who have to pay them.

It is as simple as that, Mr. President. It is a question of whether we wish to continue the 10 percent manufacturers' excise tax on a basic necessity used overwhelmingly by students in this country to advance their literacy—and I hope all Senators are interested in advancing literacy in this country—they are used in the educational process, in necessary business operations all over the country, and otherwise.

Mr. RIBICOFF. Mr. President, will the Senator from Iowa yield?

The PRESIDING OFFICER (Mr. HART in the chair). Does the Senator from Iowa yield to the Senator from Connecticut?

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Mr. HICKENLOOPER. I yield.

Mr. RIBICOFF. I have listened with great interest to the figures given by the distinguished Senator; and although there was much banter about ballpoint pens, which have become such widely used writing instruments, the average cost of a ballpoint pen is 11 cents. Basically, as the Senator indicated, 60 percent of these items are used by schoolchildren, and when we consider that we are placing this tax on an item purchased mainly by schoolchildren, I think it is unjustifiable.

The manufacturers of this particular type of instrument have to meet competition from abroad, from countries like Japan and Germany, which sell the pencils in large numbers.

I commend the distinguished Senator for bringing up this amendment which would cost, as I recall, between $5 and $6 million. I want to let the Senator know that I shall support his amendment.

Mr. HICKENLOOPER. I thank the Senator from Connecticut. I do not mean to be facetious and I am sure no one needs to be facetious about the basic issue involved. It is serious to some extent. It is a small thing, but it is important. This tax applies directly—and unwarrantedly, in my judgment—to a basic necessity not only to the educational system of the country, but also to the business world.

Mr. CARLSON. Mr. President, will the Senator from Iowa yield?

Mr. HICKENLOOPER. I am glad to yield.

Mr. CARLSON. We all remember that some years ago the post offices around the country used penholders with penpoints inserted in them, and a bottle of ink. We particularly remember that the point never worked. They are now being replaced in large numbers by ballpoint pens. I believe it is another good sign of what the Post Office Department has done, so I believe the amendment has a great deal of merit.

Mr. HICKENLOOPER. I thank the Senator from Kansas.

Mr. President, as far as I am concerned, I have nothing more to add. I do not know whether any other Senator wishes to be heard on this question.

Mr. SPARKMAN. Mr. President, will the Senator from Iowa yield for a question?

Mr. HICKENLOOPER. I am glad to yield.

Mr. SPARKMAN. I am very much interested in the Senator's proposal. Because the Senator from Connecticut has said that the average price of a ballpoint pen was 11 cents, I am curious to know what the tax is on an individual pen. Is it 1 cent?

Mr. HICKENLOOPER. The tax is 10 percent.

Mr. SMATHERS. The average tax, as I understand, according to the figures, is actually 1 percent, which will amount to $6 million.

Mr. SPARKMAN. Yes. Over the years, the Senate Small Business Committee has been urging the repeal of the wartime excise taxes. We have had this saving clause, as the fiscal situation might justify. These days get so long I forget about time—I suppose it was yesterday when we voted on the excise tax?

Mr. SMATHERS. It was today. This morning. The first vote of the day.

Mr. SPARKMAN. I thank the Senator. I had a hard time voting on that question. I voted against it. But I did it largely upon the assurance, and I understand it has been given both by the House Ways and Means Committee and by the Senate Finance Committee, that a study will be made on the whole problem, across the board, of excise taxes. It seems to me that when we get to a small item like this, involving such a small amount, in the nature of a tax on something that by no stretch of the imagination could be called a luxury but a necessity, it might be well to repeal it.

On two or three different occasions, I supported the amendments offered by the Senator from Florida to repeal the transportation tax and various other excise taxes that have been offered on the floor of the Senate. Little by little, we have taken off the excise taxes, and I feel rather inclined to support the amendment of the Senator from Iowa, even in the face of the premise by two committees to make a thorough study.

Mr. HICKENLOOPER. I thank the Senator from Alabama for his encouragement.

Mr. President, I invite attention to the fact that the Senator from Alabama and I, ever since the end of World War II, have been studying the excise tax problem. We continue to study it. It so happens that this is a small tax. But it is a good start, and it is a completely worthy area in which to eliminate excise taxes. No one can claim that this item is a luxury. No one can claim that it is only for the rich to purchase. This is for "kids" in the main; this is for their education. The amount of money involved is not much. But in the aggregate, it will amount to something. It will amount to something on the basis of the price of the pens and pencils, and when sold in quantities will amount to a substantial sum of money.

Mr. President, I yield the floor.

Mr. SMATHERS. Mr. President, I shall be brief. When proposals for little repeals such as this were considered in committee, we finally reached the point where a Senator such as the able Senator from Connecticut [Mr. RIBICOFF] and others would offer an amendment of this character and would state that it would not cost much—only $6 million. The end result is a cost of $10 billion, for the reason that if we wish to take off the excise tax on a ballpoint pen used by a child, it does no good if he cannot see in his room to write with that ballpoint pen if there is an excise tax on the light bulbs. It does no good to have a ballpoint pen if he cannot get to school because there is an excise tax on tires, or an excise tax on automobiles, and other items.

The proposal has some merit, and we recognize it, but instead of costing $6 million, the cost is $10 billion, because if we take this amendment the Senator from Indiana [Mr. HARTKE] will talk to us until he brings tears to our eyes and we agree to remove the tax on musical instruments. He described a young child going to school wishing to play a musical instrument, who must pay an excise tax if the school does not provide the instrument. So once we begin taking off excises, we are in deep trouble in determining where to stop.

Then there is the telephone tax, and the excise tax on safes in business, and so on. The total amounts to a vast sum of money.

Mr. HICKENLOOPER. I might suggest, in regard to the Senator's reference to electric lights, that it is necessary for a child to see so he can write with his ballpoint pen, and he must have the tires so he can go to school, but many Members of this Chamber obtained their early education by the light of a kerosene lamp, and they also walked to school.

The Senator referred to the electric light, which is necessary for the child so that he may see to write with his ballpoint pen. He referred also to the tires which he needed for his car in order to go to school. I point out that a great many Senators got their early education by kerosene light, and they walked to school. They did not have to have automobile tires. But they did have to have pencils and pens in those days.

Mr. SMATHERS. But they did not have to have ballpoint pens.

Mr. HICKENLOOPER. No. The amendment applies to other types of pens in addition to ballpoint pens.

Mr. SMATHERS. They used a lead pencil similar to the one which I hold in my hand, on which there is no excise tax, rather than mechanical pencils or ballpoint or fountain pens.

I do not disagree with the motive of the able Senator from Iowa. I merely say that what we would be doing would be to open a Pandora's box. The Senator from Alabama has said that he is inclined to vote for the amendment, even though we have assurance that excise taxes will be considered later. We must consider excise taxes before June 30, because over $1.5 billion of excise taxes will otherwise expire. If we are to keep the revenue coming, we shall have to consider them. We would like at that time to consider all the excise taxes. Perhaps the tax related to ballpoint pens should be the first to come before the committee. But at least we would have the benefit of the views of the House Committee on Ways and Means and the Senate Committee on Finance on the question. I hope the Senate will reject the amendment.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. SMATHERS. I am happy to yield.

Mr. MANSFIELD. Is it not true that we have assurances in writing from WILBUR MILLS, the chairman of the House Ways and Means Committee, and at least the oral assurance of the Senator from Virginia [Mr. BYRD], that hearings will be held on the entire excise tax bill, probably in April or May?

Mr. SMATHERS. The majority leader is absolutely correct.

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Mr. ANDERSON. Mr. President, a small amount of money might seem to be involved. But what happened the other day? The Finance Committee was

meeting. A Senator suggested, "Why not take the tax off of old ladies' pocketbooks?"

Surely, an old lady's pocketbook is something that we do not wish to tax. We took off the tax, and $550 million later we began to slow up a little.

If we remove the tax, how would we stop the Senator from Michigan [Mr. HART], who is the present occupant of the Chair, from proposing that we take the tax off automobiles? Surely if a child is going to have a ballpoint pen in school, he ought to be able to get to his school in an automobile. Then someone would suggest, "Why do you not take the tax off the tires on his automobile?" On and on it would go.

Mr. President, there is only one way to handle the problem, and that is the manner in which the committee has proposed. The House Ways and Means Committee came forth with a suggestion. The Senate Finance Committee has accepted the suggestion.

If Senators observe that the tax is removed from ballpoint pens, proposals will be made to remove the tax from other commodities.

I know the people the Senator from Iowa represents in this Senate are fine people. They are good folks. This amendment would be a fine thing for many business firms across the country. But I suggest that if we should start to pick out places to remove excise taxes, it would be dangerous. I hope the Senator can be patient and wait until the House acts upon the measure next June, and we shall then act on it accordingly. I hope that at the present time the amendment will be rejected. I believe next June it may be adopted.

Mr. HICKENLOOPER. Mr. President, it is no excuse whatsoever to refuse to do a good thing because we are continuing to do a bad thing. If the amendment to take a manufacturer's excise tax off pencils is a meritorious amendment, what difference would it make in relation to other taxes? We consider them one at a time, and it is no excuse whatsoever to say that we would open up Pandora's box. It is our responsibility if we open Pandora's box. We are dealing with one amendment that would affect schoolchildren in respect to their pens and pencils. It is an inexcusable maintenance of a tax that probably never should have been imposed in the first place.

The amendment is not my original amendment, and I am not here representing anyone in particular. I filed the amendment for the Senator from Illinois [Mr. DIRKSEN], who originated it and filed it in the Senate. The Senator from Connecticut filed it in the committee. I am not representing any particular individual. The so-called person that the Senator from New Mexico attempts to allege that I am representing has not contacted me on the subject.

Mr. ANDERSON. Mr. President, will the Senator yield at that point?

Mr. HICKENLOOPER. I yield.

Mr. ANDERSON. The Senator knows that I did not mean he was representing the Sheaffer fountain pen people. There are good industries in his State as there are good industries in the State of Connecticut.

Mr. HICKENLOOPER. I will let the RECORD stand in respect to what the Senator stated. In my judgment, he did not quite make that statement. I am not representing anyone. I am happy to represent any industry in my State that is suffering from the tax. I am proud to represent the Sheaffer Pen Co., if they need representation, or any other pen company. Actually we have a great many distributors in our State that handle these things—a great number of them. They are hurt by this tax.

There are pen manufacturers in Illinois. There are distributors. There are manufacturers and distributors in Michigan, Minnesota, and a number of other States. It is no excuse to say that we should destroy a good amendment merely because some bad ones are standing up.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Iowa. On that question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). Mr. President, I have a live pair with the distinguished minority leader [Mr. DIRKSEN]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. BYRD], the Senator from Nevada [Mr. CANNON], the Senator from Pennsylvania [Mr. CLARK], the Senator from North Carolina [Mr. ERVIN], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Arizona [Mr. HAYDEN], the Senator from Alabama [Mr. HILL], the Senator from North Carolina [Mr. JORDAN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Ohio [Mr. LAUSCHE], the Senator from Oregon [Mrs. NEUBERGER], and the Senator from Texas [Mr. YARBOROUGH] are absent on official business.

I further announce that the Senator from California [Mr. ENGLE] is necessarily absent.

I further announce that, if present and voting, the Senator from Nevada [Mr. CANNON], the Senator from Pennsylvania [Mr. CLARK], the Senator from California [Mr. ENGLE], the Senator from Arizona [Mr. HAYDEN], the Senator from Alabama [Mr. HILL], and the Senator from North Carolina [Mr. JORDAN] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Illinois [Mr. DIRKSEN], the Senator from Arizona [Mr. GOLDWATER], and the Senators from Nebraska [Mr. HRUSKA and Mr. CURTIS] are necessarily absent.

The Senator from North Dakota [Mr. YOUNG], and the Senator from Massachusetts [Mr. SALTONSTALL] are detained on official business.

If present and voting, the Senator from Massachusetts [Mr. SALTONSTALL], the Senator from Arizona [Mr. GOLDWATER], and the Senators from Nebraska [Mr. HRUSKA and Mr. CURTIS] would each vote "yea."

The result was announced—yeas 36, nays 44, as follows:

[No. 26 Leg.]

YEAS—36

Aiken	Gruening	Nelson
Allott	Hickenlooper	Pastore
Beall	Jackson	Pearson
Boggs	Javits	Pell
Carlson	Jordan, Idaho	Prouty
Cooper	Keating	Proxmire
Cotton	Kuchel	Ribicoff
Dodd	Mechem	Scott
Dominick	Miller	Simpson
Douglas	Morse	Sparkman
Fong	Morton	Tower
Gore	Mundt	Young, Ohio

NAYS—44

Anderson	Holland	Moss
Bartlett	Humphrey	Muskie
Bayh	Inouye	Randolph
Bennett	Johnston	Robertson
Bible	Long, Mo.	Russell
Brewster	Long, La.	Smathers
Burdick	Magnuson	Smith
Byrd, W. Va.	McCarthy	Stennis
Case	McClellan	Symington
Church	McGee	Talmadge
Eastland	McGovern	Thurmond
Edmondson	McIntyre	Walters
Ellender	McNamara	Williams, N.J.
Hart	Metcalf	Williams, Del.
Hartke	Monroney	

NOT VOTING—20

Byrd, Va.	Fulbright	Lausche
Cannon	Goldwater	Mansfield
Clark	Hayden	Neuberger
Curtis	Hill	Saltonstall
Dirksen	Hruska	Yarborough
Engle	Jordan, N.C.	Young, N. Dak.
Ervin	Kennedy	

So Mr. HICKENLOOPER'S amendment was rejected.

Mr. SMATHERS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARTKE. Mr. President, I call up my amendment No. 276, and ask that it be stated. It deals with excise tax changes.

The legislative clerk proceeded to read the amendment.

Mr. HARTKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, but that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment offered by Mr. HARTKE is as follows:

At the end of the bill insert the following new title:

TITLE IV—EXCISE TAX CHANGES

SEC. 401. Musical Instruments Sold to Students for Educational use.

(a) EXEMPTION FROM TAX.—Part II of subchapter C of chapter 32 (relating to tax on musical instruments) is amended by adding at the end thereof the following new section:

"SEC. 4152. Exemption for Educational Use.

"The tax imposed by section 4151 shall not apply to any musical instrument sold to an individual who is a student in an educational institution if such instrument is to be used by such student in an orchestra, band, or similar organization sponsored by, or a course of instruction offered by, such institution. For purposes of this section, the term 'educational institution' means an edu-

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cational institution (1) which is a nonprofit educational organization (as defined in section 4221(d)(5)) or (2) which is an agency or instrumentality of any government or any political subdivision thereof, or is owned or operated by a government or any political subdivision thereof or by any agency or instrumentality of one or more governments or political subdivisions. The right to exemption under this section shall be evidenced in such manner as the Secretary or his delegate may prescribe by regulations."

(b) CLERICAL AMENDMENT.—The table of sections for such part is amended by adding at the end thereof the following new item:

"Sec. 4152. Exemption for educational use."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of musical instruments made after December 31, 1963, to students of an educational institution (as defined in section 4152 of the Internal Revenue Code of 1954, as added by subsection (a)).

Mr. HARTKE. Mr. President, I should like to have made clear in my mind what is to be done about excise taxes. My present amendment would exclude excise taxes from any musical instrument purchased for use for educational purposes for use in a school band or an orchestra. Such an excise tax would be exempt.

It relates to a very small group. I should like to know what will happen with respect to excise taxes before the end of the fiscal year.

Mr. SMATHERS. Mr. President, when the Senator brought up the amendment in committee at one time it was agreed to.

Mr. HARTKE. By unanimous vote.

Mr. SMATHERS. The amendment has a great deal of merit. There is involved a type of discrimination, because when a school buys a musical instrument, it can get it without paying the excise tax; whereas if a pupil buys one in a small school, for himself, he must pay the tax.

Therefore, I ask the Senator not to press the amendment at this time. There will be hearings on the whole excise tax problem. Mr. MILLS, the chairman of the Ways and Means Committee of the House, has already written a letter to that effect, and the chairman of the Finance Committee, the distinguished senior Senator from Virginia [Mr. BYRD], has assured us that there will be a hearing on the whole excise tax problem. We must do that before June 30, because if we do not do it by then, a billion and a half dollars in excise taxes which are now in existence will go off the rolls.

The Senator can be certain that his amendment will receive thorough and full consideration in the Finance Committee.

Mr. HARTKE. I thank my distinguished friend from Florida. On the basis of his assurance, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. MANSFIELD. Mr. President, has the amendment of the Senator from Minnesota been stated?

Mr. McCARTHY. Mr. President, I call up my amendment which is a printed amendment, No. 377.

The PRESIDING OFFICER. The clerk will state the amendment.

The LEGISLATIVE CLERK. At the proper place in the bill it is proposed to add the following new section:

SEC. .

That (a) section 1(b) of the Internal Revenue Code of 1954 (relating to definition of head of household) is amended—

(1) by striking out ", or" at the end of subparagraph (A) and inserting in lieu thereof a semicolon;

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon;

(3) by inserting after subparagraph (B) the following new subparagraphs:

"(C) is a widow or widower; or

"(D) has attained the age of 35 before the close of the taxable year, and either—

"(i) has never been married, or

"(ii) has been previously married and has been legally separated from his spouse under a decree of divorce or of separate maintenance for a period of not less than 3 years before the close of the taxable year."; and

(4) by adding at the end thereof the following new sentence: "In the case of an individual who has been married more than once, the status of such individual for purposes of applying subparagraph (C) or (D) (ii), shall be determined only with reference to his last marriage."

(b) The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1962.

Mr. MANSFIELD. Mr. President, it is my intention to move that the pending amendment be tabled. I believe the Senate should be informed to that effect.

Mr. McCARTHY. Mr. President, I ask unanimous consent to request the yeas and nays on the motion to table, even though the motion has not yet been made.

The PRESIDING OFFICER. Without objection, it is so ordered.

The yeas and nays were ordered.

Mr. McCARTHY. Mr. President, the amendment relates to a problem which I believe is becoming more serious in America from year to year. It is one which I discussed on the floor of the Senate last year, and it incorporates a recommendation which I made to the Treasury Department in January of last year, when the tax bill, on which we are acting today, was first being drafted.

Whereas I approve generally of what the Treasury has done with the pending tax bill, and also approve of the action of the Ways and Means Committee, and of the action of the Finance Committee, and undoubtedly will approve generally of what the Senate will do with the tax bill, I believe that at the very beginning of the effort in connection with the tax bill, some attention should have been given to the recommendations which I sent to the Treasury Department in January, and to the proposals which are incorporated in the pending amendment.

Under existing law and under the present bill there are two tables of tax rates, one for single taxpayers and another for taxpayers who are listed under the category of heads of households.

Under existing law and under the pending bill some unmarried persons are considered heads of households for tax purposes if certain conditions are met. They get this tax advantage if they meet a number of rather complicated conditions. I suggest that Senators who are interested look at the explanation that is contained in the instructions accom-

panying the Federal income tax form. There are three columns of instructions or computations covering the special conditions which must be met if a person is to qualify as the unmarried head of a household.

I will not read all the special conditions, but I would like to read two or three for the RECORD. The special computation in the instruction sheet states:

Only the following persons may qualify: (a) One who is unmarried (or legally separated) at the end of the taxable year, or (b) one who is married at the end of the year to an individual who was a nonresident alien at any time during the taxable year.

Under certain conditions, one might have to find a nonresident alien to marry in order to qualify for this tax benefit.

The instructions continue:

In addition, you must have furnished one-half of the cost of maintaining as your home a household which during the entire year, except for temporary absence, was occupied as the principal place of abode and as a member of such household by (1) any related person other than your child or stepchild (See those listed under line 2, paragraph 5 on page 6 of these instructions)—

And so forth.

I ask unanimous consent that these special computations or instructions on what a person must do to meet these special conditions in order to qualify as the head of a household be printed in the RECORD at this point in my remarks.

There being no objection, the instructions were ordered to be printed in the RECORD, as follows:

SPECIAL COMPUTATIONS

UNMARRIED HEAD OF HOUSEHOLD

The law provides a special tax rate for any individual who qualifies as a "head of household." Only the following persons may qualify: (a) One who is unmarried (or legally separated) at the end of the taxable year, or (b) one who is married at the end of the year to an individual who was a nonresident alien at any time during the taxable year. In addition, you must have furnished over half of the cost of maintaining as your home a household which during the entire year, except for temporary absence, was occupied as the principal place of abode and as a member of such household by (1) any related person other than your child or stepchild (see those listed under "line 2," par. 5 on p. 6 of these instructions) for whom you are entitled to a deduction for an exemption, unless the deduction arises from a multiple-support agreement, (2) your unmarried child, grandchild, or stepchild, even though such child is not a dependent, or (3) your married child, grandchild, or stepchild for whom you are entitled to a deduction for an exemption.

If you qualify under (a) or (b) above, you are entitled to the special tax rate if you pay more than half the cost of maintaining a household (not necessarily your home) which is the principal place of abode of your father or mother and who qualifies as your dependent.

The rates for head of household are found in "Tax Rate Schedule III" on page 9 of these instructions.

WIDOWS AND WIDOWERS

Under certain conditions a taxpayer whose husband (or wife) has died during either of her 2 preceding taxable years may compute her tax by including only her income, exemptions, and deductions, but otherwise

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computing the tax as if a joint return had been filed. However, the exemption for the decedent may be claimed only for the year of death.

The conditions are that the taxpayer (a) must not have remarried, (b) must maintain as her home a household which is the principal place of abode of her child or stepchild for whom she is entitled to a deduction for an exemption, and (c) must have been entitled to file a joint return with her husband (or wife) for the year of death.

Mr. McCARTHY. Mr. President, at the present time there are about 18 million single persons in the United States who are 35 years of age and older. Thirteen million of these are women. We are speaking, particularly this year, about the changed status of women. I suggest that the Treasury Department is not giving much thought to this changed status.

I hope that consideration by the committee of the amendment, and its implication with regard to the changing structure of American society, may somehow or other get through to the Treasury Department. I know it is getting through to some Members of the Senate. I propose that any single person or any unmarried person in the United States who is 35 years of age be treated as the head of a household for tax purposes.

This would give such persons a tax advantage somewhat better than they would get if they were treated as single persons. It does not come close to the kind of treatment they would receive if they were married and filing a joint return. They would carry a tax burden about halfway between that carried by a single person and that carried by a person who files a joint return.

The adoption of my amendment would serve the cause of equity and justice. It would take into account the important social changes which have taken place and are now taking place in the United States.

I have no further statement to make.

Mr. ANDERSON. Mr. President, I understand the Senator from Montana

will make a motion to table the amendment. Before he does so, I wish to say that this is another matter for the Finance Committee to look into very carefully. To adopt the amendment at this time would disturb the balance that exists in the tax structure. There are many arguments that the Senator from Minnesota could advance. I realize that he has not advanced many, and I appreciate his graciousness.

Once we start to change the basic system of taxation, we get into many arguments. I would like to have an opportunity to consider this matter in a separate bill. I do not know what action the Senate or the House would take on it. I do know that it would be dangerous to accept the amendment tonight. I hope it will be defeated if it is voted on. It would amount to a loss to the Treasury of $300 million.

I appreciate the fact that the able Senator from Minnesota, with his usual graciousness, has not detained the Senate a long time. Therefore I shall try to be as gracious and not take much time. I merely wish to say that this is a good time to vote down the amendment. It is a bad amendment, and it should be voted down.

Mr. SMATHERS. Is it not a fact that the amendment would cost $350 million, in addition to the other reductions?

Mr. ANDERSON. I said $300 million, because I tried to be kind to the Senator from Minnesota. If the Senator from Florida insists on getting the last dollar, I shall be glad to make it $350 million. I hope the amendment will be voted down.

Mr. McCARTHY. I did not wish to get into the argument between my friends as to whether the sum is $300 million or $350 million. However, the estimate of the Treasury is $300 million.

Mr. ANDERSON. I am happy to have the Senator from Minnesota sustain me and rule against the Senator from Florida. But whatever it is, it is still too much. I hope we may sustain the majority leader in his motion to table the amendment.

Mr. McCARTHY. Mr. President, I ask unanimous consent to have printed at this point in the RECORD three articles dealing with this particular proposal.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

TAX BILL DISCRIMINATES AGAINST SINGLE WOMEN

Senator EUGENE McCARTHY, Democrat, of Minnesota, has urged revision of tax laws to end discrimination against single persons.

Senator McCARTHY complained that the Federal income tax code provision of special tax rates for heads of households, aimed at assisting single women, carry qualifications "so demanding that they exclude many more women than they include."

One qualification, he noted in the current issue of McCall's magazine, requires payment of "over half the cost of maintaining a household for the entire year for at least one relative." Another holds that "if a single woman supports a father or mother, one or both must live in a home the daughter maintains for her parents."

Senator McCARTHY points out that "a parent in a nursing home or in a home for the aged does not entitle the woman to claim to be head of the household, even though she is financially entirely responsible. Unmarried children, grandchildren, or stepchildren must live in the same household with the head of the household."

These qualifications fail to consider "that practically any unmarried woman over 35 has actually founded a household," he charged, noting that more than half the 11 million unmarried working women in America are over 35.

HOW PRESENT LAW PENALIZES THEM

(By Sylvia Porter)

NEW YORK.—Are our tax laws discriminating against the not-married working woman, particularly the single woman over 35? Yes.

Are our tax laws also unfair to the working mother, particularly the mother of young children who must go out to work for pressing financial reasons but who can do so only if she pays someone to take care of her children while she is away from home? Yes.

For the first time in many years, there is basis for belief that at the next session of Congress, such injustices to women as I pinpointed above will be thoroughly probed by an informed and sympathetic Congress.

A group of aroused Senators, led by EUGENE J. McCARTHY, Minnesota, Democrat, introduced a bill at this year's session to end the tax discrimination against the mature not-married woman.

A committee of the President's Commission on the Status of Women headed by Senator MAURINE NEUBERGER, Oregon, Democrat, is investigating right now the adequacy of the child care tax deduction provided for working mothers and its conclusion already is a loud "inadequate."

The President's hard-working Commission on the Status of Women, headed by Mrs. Eleanor Roosevelt and consisting of nationally respected men and women, has been directed to submit a report to the White House by this time next year on inequities of this type—and the Commission's committees surely will issue interim reports which will spur action.

These are not insignificant matters. There are more than 24 million women working at jobs in the United States today. Almost 6 million are unmarried women over 35 years of age.

Huge numbers are working mothers who are paying for child care which is essential to their being able to earn the paychecks on which they pay taxes to the Federal Government.

The discrimination against the not-married woman over 35—including women who have never married or are widowed, divorced

or legally separated—arises from the fact that while they may be heads of households, they cannot meet the rigid requirements for this classification under the tax law and thus are denied the tax benefits.

For instance, to be eligible for the head-of-household tax rate, a not-married woman must furnish over half the cost of maintaining a household for a whole year for at least one relative—and if she supports her father, mother, or both, one or both must live in a home she maintains.

Dependent children also must live in the same house as the head of household. She might be supporting an aged parent in a nursing home but she couldn't qualify under this; she might be contributing heavily to dependent children living elsewhere, but again she wouldn't be eligible.

The tax differential is substantial.

As McCarthy emphasizes, a not-married woman earning $8,000 of taxable income would pay an income tax of $1,960, a head of household would pay $1,820 tax on the same income, a married taxpayer filing a joint return would pay $1,680.

McCarthy's bill would extend head-of-household tax benefits to all not-married women over 35, among others.

The bill received considerable favorable response, will come up again.

The injustice to the young working mother arises from the fact that the $600 deduction for child care expenses offered to working wives and widowers is so limited by qualifications that few can get the relief.

To obtain this deduction, a working wife must file a joint return with her husband and for every dollar of joint income over $4,500, $1 of the $600 deduction must be eliminated.

In effect, therefore, the child care deduction now is available only to working mothers in families with a combined income of under $5,100. There is no similar income limit for widowers, though.

The limit was too low to begin with. Now with average family incomes running at $5,700 and with minimal nonprofessional care amounting to $10 to $15 per child a week, the limit is obviously obsolete.

The stage is set for across-the-board, top-to-bottom tax cuts and for tax reform in 1963.

If only a tiny percentage of the over 24 million women working in our country today would get behind efforts already underway to correct these clear discriminations, the stage would be set for their elimination, too.

TAXES AND THE NOT MARRIED WOMAN

(Most single women, widows, and divorcees are paying a heavy penalty in income taxes. Here, a plea on their behalf from a legis-

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lator whose bill to remedy the situation comes before the Congress this month—EUGENE J. McCARTHY, U.S. Senator from Minnesota.)

There are, unfortunately, a good many inequities in the tax laws of the United States. Some of them result from the passage of laws that benefit one group, but exclude another. Some come about because the economic and social picture changes and laws that were formerly more or less fair to everyone become discriminatory to a particular group. But however it is that they have come about, they can and should be corrected.

In recent years, both types of change have affected the financial situation of what I have chosen to call the not-married woman—that is, the woman who has never married or who is presently widowed, divorced, or legally separated.

Under Federal law, individual income-tax payers are grouped in three broad categories: single taxpayers, married taxpayers, and those who, while not currently married, qualify as "head of household." The amount of taxes they pay varies substantially. For example, consider three people, each with a taxable income of $8,000 a year. The married taxpayer, filing a joint return for himself and his wife, would pay $1,680 in tax. The person classified as head of household would pay $1,820 in tax. But the single person's tax would amount to $1,960. In the higher income brackets, the differences are even greater.

Although the single person has always paid a higher percentage of tax, the discrimination was intensified in 1948, when income splitting for married couples was first provided in the Federal code, making a significant reduction in their tax. Then, in 1951, the tax code was again modified, to provide special tax rates for those who meet the qualifications of head of household.

The trouble is that these qualifications are so demanding that they exclude many more women than they include. For example, to be eligible, one must furnish over half the cost of maintaining a household for the entire year for at least one relative. If a single woman supports a father or mother, one or both must live in a home the daughter maintains for her parents. A parent in a nursing home or in a home for the aged does not entitle the woman to claim to be the head of household, even though she is financially entirely responsible. Unmarried children, grandchildren, or stepchildren must live in the same house with the head of household. And these are just a few of the restricting qualifications for head of household. There are many more.

Now, it is a fact that practically any not-married woman over 35 has actually founded a household. Hundreds of thousands of them are supporting minor children; millions are contributing to the support of aged parents. Single women are making large and often disproportionate contributions to most insurance programs, to social security, and to other systems that provide retirement income.

Today, 11 million not-married women are working in this country; more than half of them are over 35. These women need both privacy and permanence, and there is no valid reason they should pay a disproportionate price for either.

In the interest of both justice and equity, the Federal income tax law should recognize their position.

Mr. McCARTHY. Mr. President, in closing, although this is not a compelling argument, I hope that Senators may reflect and recall whether they were cosponsors of this particular measure.

Mr. SMATHERS. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a statement prepared by the Treasury with respect to the cost—$350 million.

Mr. EASTLAND. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. Mr. President, it is with deep regret that I shall make the motion I am about to make. However, I am assured by the statement of the distinguished senior Senator from New Mexico [Mr. ANDERSON] that this meritorious amendment will, hopefully, be given consideration by the House Committee on Ways and Means and the Senate Committee on Finance. I would hope that that half promise may become full blown. I now move to lay the amendment offered by the Senator from Minnesota [Mr. McCARTHY] on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLOTT (when his name was called). On this question I have a pair with the minority leader [Mr. DIRKSEN]. If he were present, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Virginia [Mr. BYRD], the Senator from Nevada [Mr. CANNON], the Senator from Pennsylvania [Mr. CLARK], the Senator from North Carolina [Mr. ERVIN], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Arizona [Mr. HAYDEN], the Senator from Alabama [Mr. HILL], the Senator from North Carolina [Mr. JORDAN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Ohio [Mr. LAUSCHE], the Senator from Oregon [Mrs. NEUBERGER], and the Senator from Texas [Mr. YARBOROUGH] are absent on official business.

I further announce that the Senator from California [Mr. ENGLE] is necessarily absent.

I further announce that, if present and voting, the Senator from Nevada [Mr. CANNON], the Senator from Pennsylvania [Mr. CLARK], the Senator from California [Mr. ENGLE], the Senator from North Carolina [Mr. ERVIN], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from North Carolina [Mr. JORDAN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Oregon [Mrs. NEUBERGER], and the Senator from Texas [Mr. YARBOROUGH] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Illinois [Mr. DIRKSEN], the Senator from Arizona [Mr. GOLDWATER], and the Senators from Nebraska [Mr. HRUSKA and Mr. CURTIS] are necessarily absent.

The Senator from North Dakota [Mr. YOUNG], the Senator from Massachusetts [Mr. SALTONSTALL], and the Senator from Pennsylvania [Mr. SCOTT] are detained on official business.

If present and voting, the Senators from Nebraska [Mr. HRUSKA and Mr. CURTIS] would each vote "nay."

The pair of the Senator from Illinois [Mr. DIRKSEN] has been previously announced.

The result was announced—yeas 33, nays 46, as follows:

[No. 27 Leg.]

YEAS—33

Aiken	Hickenlooper	Miller
Anderson	Holland	Morton
Bayh	Johnston	Mundt
Brewster	Long, Mo.	Pastore
Burdick	Long, La.	Pearson
Byrd, W. Va.	Magnuson	Pell
Church	Mansfield	Robertson
Cooper	McClellan	Smathers
Eastland	McGee	Stennis
Edmondson	McGovern	Talmadge
Ellender	McNamara	Williams, Del.

NAYS—46

Bartlett	Humphrey	Prouty
Beall	Inouye	Proxmire
Bennett	Jackson	Randolph
Bible	Javits	Ribicoff
Boggs	Jordan, Idaho	Russell
Carlson	Keating	Simpson
Case	Kuchel	Smith
Cotton	McCarthy	Sparkman
Dodd	McIntyre	Symington
Dominick	Mechem	Thurmond
Douglas	Metcalf	Tower
Fong	Monroney	Walters
Gore	Morse	Williams, N.J.
Gruening	Moss	Young, Ohio
Hart	Muskie	
Hartke	Nelson	

NOT VOTING—21

Allott	Ervin	Kennedy
Byrd, Va.	Fulbright	Lausche
Cannon	Goldwater	Neuberger
Clark	Hayden	Saltonstall
Curtis	Hill	Scott
Dirksen	Hruska	Yarborough
Engle	Jordan, N.C.	Young, N. Dak.

So Mr. MANSFIELD's motion to lay Mr. McCARTHY's amendment on the table was rejected.

Mr. SMATHERS. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a statement by the Treasury Department on the subject "Extension of 'Head of Household' Definition to Single Persons Over 35 Years".

There being no objection, the state-

ment was ordered to be printed in the RECORD, as follows:

EXTENSION OF "HEAD OF HOUSEHOLD" DEFINITION TO SINGLE PERSONS OVER 35 YEARS

It is proposed to extend the definition of "head of household" to include widows and widowers and also any taxpayer over 35 who has never been married or who has been divorced or separated for at least 3 years. Thus, almost every unmarried person over 35 will be treated as a head of household although he does not maintain a household for himself or for anyone else.

It is estimated that the revenue cost of the proposal at the rates contained in the bill reported by the Senate Finance Committee would be $350 million.

The proposal is undesirable for the following reasons:

1. Further tax reduction for single persons over 35 is unwarranted: A tax reduction for single persons over 35 on the order of $350 million, in addition to the reductions already embodied in the bill, is not warranted. The reduction in tax rates and the minimum standard deduction wil substantially reduce the tax burden of those single persons who maintain households for themselves, but not for dependents. Moreover, an additional revenue loss of $350 million would require reexamination of the rate scales in the bill.

2. Proposal is not in accord with intent of the Congress: Extension of the definition of "head of household" to provide additional tax reduction to single persons who do not maintain households for dependents would not be in accord with the congressional in-

[P. 2012]

tent in establishing the special "head of household" rates. The special "head of household" rates were added to the Code in 1951 as an extension of the split-income benefit previously granted to married persons filing a joint return. Both the House and Senate committee reports are clear that the rationale of the "head of household" provision was to give a portion of the split-income benefit to taxpayers who maintain households for dependents. In such cases Congress believed that the head of household, in effect, shares his income with the person for whom he is maintaining a household in a manner similar to the way a husband shares his income with his wife. Thus, the House committee report stated:

"It is believed that taxpayers, not having spouses but nevertheless required to maintain a household for the benefit of other individuals, are in a somewhat similar position to married couples who, because they may share their income, are treated under present law substantially as if they were two single individuals each with half of the total income of the couple. The income of a head of household who must maintain a home for a child, for example, is likely to be shared with the child to the extent necessary to maintain the home, and raise and educate the child. This, it is believed, justifies the extension of some of the benefits of income splitting."

This general rationale was not changed when, in 1954, the definition of "head of household" was extended to cover taxpayers maintaining a household for a dependent parent, even though the household was not the taxpayer's household.

3. No rational justification for the proposal: It has been argued that expansion of the definition of "head of household" is necessary to provide relief in the cases of a taxpayer supporting a parent who lives alone and of a taxpayer supporting a child who spends part of the year away at school. No change in the law is required for the taxpayer to obtain "head of household" rates in either of these cases. The present Treasury regulations make clear that a taxpayer may be a head of household if he maintains a home for his dependent parent even if the taxpayer does not live there. Similarly, the fact that a child of the taxpayer is temporarily absent from home because he is away at school does not disqualify his parent as a head of household.

Thus, this proposal would not give new relief in the cases of single persons who do maintain a household for dependents. It would, however, reduce the taxes of single persons who maintain a household only for themselves and of single persons who do not maintain households even for themselves; for example, older persons living with their relatives or single persons over 35 living with their parents. The taxpayers to whom Congress has granted relief under the "head of household" provisions are only those who not only maintain a household but incur the additional expenses inherent in maintaining a household for a dependent. There is no justification for extending this special treatment to taxpayers who maintain a household only for themselves, much less those who maintain no household at all.

[P. A542]

Tax Relief for College Education

EXTENSION OF REMARKS

OF

HON. FRANK T. BOW

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, January 27, 1964

Mr. BOW. Mr. Speaker, as I was driving home last night, I heard Edward Morgan announce that the administration had won a narrow victory in the other body, and so I listened to learn the nature of that victory, and I found that the other body had decided, 48 to 45, to deny a tax deduction for colleges expenses proposed by the junior Senator from Connecticut.

The administration had won a victory against higher education.

An administration devoted to education, or so we were led to believe in the state of the Union message, had strained every resource to deny college students

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and their parents the modest encouragement and assistance that could stem from deducting college expenses.

And the AFL-CIO commentator said that opponents of this relief believed it would help those who need help least.

Need help least? Who are they talking about?

I have many case histories in my files. Consider the parents of three above-average students, all of college age, who have put a new mortgage on their home, drive a 10-year-old car, deny themselves new clothing and all entertainment, work at two jobs to try to keep these youngsters in school, and the children are working too. Need it least? I cannot think of anyone who needs the modest relief this amendment would have offered more than a couple like this one, and there are millions of them.

How about the working widow with a college son who is also working, risking the loss of a scholarship because he cannot keep up his grades while working full time? Who thinks these people do not need tax relief?

For that matter, how about the young man working his way through college, or perhaps with a wife who is working, while trying to rear little children. The senior Senator from New Hampshire proposed an exemption for this young couple. It was rejected as well. The administration said "No."

No relief. No help for higher education unless it is through Federal Government controlled scholarships and loans. Federal control, Federal handouts, Federal subsidies, Federal programs—but not one bit of relief from Federal taxaation.

Mr. Speaker, no matter what the administration may say hereafter about higher education, no matter what promises or programs may be offered, all will have a hollow ring of hypocrisy because this administration strong armed the members of its party into defeating the most simple, effective, easily administered and readily available kind of assistance that the Federal Government has it in its power to offer.

I am the author of a House bill far more generous, I believe, than the proposed Senate amendment. I propose a tax deduction covering all expenses of a college education, and I propose that it be available to any parent or student or any benefactor who may wish to pay the expenses of a student. If we truly wish to encourage higher education, let us do so. College expenses, like most everything else, are a burden because the Federal Government takes too large a share of everyone's earnings. The administration proposes tax relief to encourage spending and investment. The administration proposes tax relief to spur the economy. How can the administration oppose tax relief to encourage education?

I am sorely distressed and I think I speak for millions of American parents and students when I say that no more cruel blow has been struck against the ambitions, the aspirations, the hopes, and the futures of those young Americans to whom this small concession might mean the difference between going to college and staying at home to join the ranks of the undereducated unemployed about whom this administration so hypocritically pretends to be concerned.

[*P. A551*]

The Tax Cut Bill

EXTENSION OF REMARKS

OF

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 5, 1964

Mr. DULSKI. Mr. Speaker, the Senate will soon act on one of the most important bills that has been before this Congress—the tax cut bill.

Based on income levels estimated for 1963, the bill as passed by the House last September is calculated to reduce tax liabilities by about $11.1 billion—$2.3 billion in corporate income taxes and $8.8 billion in individual income taxes over a 2-year period (1964-65). For the individual, the tax rate would be reduced from the present range of 20 to 91 percent to rates ranging from 14 to 70 percent. For the year 1964, the rates would range between 16 and 77 percent, and the full reduction would be effective in 1965. The maximum tax rate for corporations would be reduced from 52 to 50 percent in 1964, and to 48 percent in 1965. Small businesses would receive relief by a reduction in the rate applicable to the first $25,000 of corporate income from the present 30 to 22 percent.

A number of structural changes are contained in the bill which either limit or exclude certain deductions the taxpayer has been allowed under present law.

There has been a great deal of public discussion on the subject of tax reduction, and while there is an area of general agreement on the need for a cut to allow the economy of our Nation to oper-

ate at a higher level, we have a number of differing opinions as to how this should be accomplished.

It has been my theory that the best way to accomplish a realistic tax cut for the American taxpayer is through an increase in personal exemptions. To me, this is a more sound and by far the most fair method of effecting a tax cut which will really benefit the little taxpayer who needs it the most. It is true that this method would result in less revenue for the Federal Government than under the House-passed tax cut bill. But to offset this loss, all we have to do is to abolish the highly preferential legislation we now have for the vast oil interests. By reducing the 27½-percent oil depletion allowance so generously provided by Uncle Sam over the years to 15 percent, it is estimated that this would add millions and millions of dollars annually to our Treasury.

These amounts, in the hands of a relatively few oil millionnaires, will not boost our national economy. But, in the hands of the little taxpayer, it can mean a great deal in bolstering our lagging economy.

Even though there has been much discussion of the tax cut bill, I still feel that too few people are aware of its provisions and just what it will mean to them individually. Many who are supposed to be in the know have been shadowboxing. Our labor unions have heralded the House-passed tax measure and urged swift passage. Business, too, has been on the bandwagon for the tax cut bill. John Q. Public, by and large, favors relief from our heavy tax burden and has indicated support for this bill.

But just what does the tax cut, as proposed in the pending legislation, really mean to the man in the street? To quote from a recent AFL–CIO publication—

> In terms of hard money, the average worker would receive a tax cut equivalent to 7½ cents an hour added to purchasing power.

The 7½ cents an hour is $3 a week, or about $150 a year. Some will even gain less under the proposed bill, but the more prosperous couple with a taxable income of $300,000 will gain $42,660. Percentagewise, this would mean an extra 6.3 percent to a couple earning $3,000 a year, but an extra 55.9 percent to the couple earning $300,000 a year. For those with even higher incomes, the gain could be more than 100 percent in take-home pay.

I am pleased to note that the U.A.W. has shown an awakening, and I quote from its Washington Report, dated January 20, 1964:

> While the labor movement and liberals generally support the $11 billion tax cut, they are alarmed by the fantastic special privileges still in the tax laws and additional privileges which slick tax lawyers in Washington have managed to slip into the already sorry situation.

This is exactly why I am not satisfied with this legislation. The small wage earners of this country, who provide 87½ percent of the income tax revenue, are the ones who need relief the most, and who will spur our economy the most. As has been true of previous tax reduction measures, enacted during other administrations, the wealthy taxpayer gets the most relief and the special privileges apply to him alone.

Last year, after considerable research work on the subject, I was astonished to find how the giant oil industry has thrived on the 27½-percent oil depletion allowance that has been so generously provided by the American public for years, and which continues to flourish. Under this depletion allowance and the fact that from 70 to 90 percent of costs under the intangible drilling and development cost provision can be written off in the first year, plus the capital gains provisions for oil and gas, and the loss carryover provisions, along with other loopholes in our tax structure, we find millionaire oil operators paying little or no taxes. Is this not fantastic? And every effort to decrease or to do away

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with the depletion allowance has been in vain.

When the tax bill, passed by the House last September, was first proposed by the administration, it contained a recommendation to reduce the 27½-percent rate. But this recommendation was quickly buried in committee. It is no secret that the tax-writing committees of Congress have eye-winking friendships with this special interest group. If it were not so, this depletion allowance would no longer be in existence today, or at least substantially reduced.

Certainly the oil industry is entitled to various tax deductions. It is given a deduction for operating expenses, and rightfully so. But, in addition, it can write off the cost of dry holes against the income from successful drillings. It gets another advantage not enjoyed by other industries by being able to write off 75 to 90 percent of the exploration, drilling, and development costs—tangible and intangible—in the first year. I understand this item alone amounts to about $2 billion. Then they can get credit of 27½ percent of gross income, up to 50 percent of net income, which is completely free from taxation.

These special tax benefits are among the most gaping loopholes in our tax structure today. Big oil companies are allowed to take tax deductions far above their operating costs. As a consequence, some of these ultrarich oil companies are taxed at a lower rate than a family man with a $5,000 taxable income. A big Oklahoma company paid less than 5-percent tax for many years while other firms not engaged in the oil industry paid taxes at the rate of 52 percent. I find that this same Oklahoma company paid no taxes at all on a profit of $5,378,973 in 1958. Another oil operation had an income in excess of $23 million in 1960, on which it paid nothing in income tax to our Federal Government, whereas a man with a $100 a week salary, having a wife and two children, would pay approximately $400. This is ridiculous and a fraud on the American taxpayer.

As I have pointed out before in the pages of this RECORD, the total tax deductions in 1957 for U.S. corporations under depletion provisions was $3 billion, of which the oil and gas industry alone accounted for $2 billion. The oil industry spent approximately $5 billion annually for exploration and development, with $1 billion lost down dry holes each year. Thus, our Government provided $1 billion or more annually in tax relief to the oil industry under the heading of depletion allowances—for no other reason except pure unadulterated favoritism.

I laud the efforts of those Senators in the Senate Finance Committee who have been hitting hard at these tax loopholes which help the rich and hurt the poor. But once again, a proposal to raise $420 million in revenue by putting steeper taxes on gas and oil producers was defeated in the committee by a vote of 13 to 4. Only an irate and completely aroused nation can change the picture as it has emerged over the years. Those who hail from Texas, Oklahoma, and Louisiana, will continue to guard zealously the tax bonanza that our country has bestowed upon the oil interests. They may allow a slight tap on the wrist, but nothing like the trouncing this deserves. But I appeal to them, in fairness to all Americans, to consider the welfare of our country first rather than the special interest groups that no longer need these preferential tax benefits except to fatten their own pocketbooks.

As the Representative of a highly industrialized area, which has suffered and continues to suffer from critical unemployment, I must agree with my constituents who tell me they foresee little that they will be able to add to our national economy on the basis of the tax break they will receive on their weekly wages running from a low of $40 to a high of $125 a week.

Mr. Speaker, I have sponsored legislation to increase the personal income tax exemption, and also to reduce the percentage depletion rate for oil and gas wells from 27½ to 12½ percent. This depletion allowance is one of the greatest sources of privilege in our entire tax structure. Not only the oil interests but some of the most power-laden economic groups in the country, including those who own shares and stock in oil properties, are opposed to reducing the rate. They are most powerful, and indeed, well entrenched.

I intend to continue, with every means at my command, to focus attention on this oil tax loophole in an effort to arouse the American public. If enough taxpayers sound the alarm, we will succeed in eliminating one of the worst abuses that exists in our tax structure.

[*February 6, 1964*]

[*P. 2043*]

REVENUE ACT OF 1964

Mr. GORE. Mr. President, in order that the Senate may be advised, I now state that whenever it is appropriate for me to obtain recognition to offer an amendment, I shall offer an amendment on the utility flowthrough provision—an amendment which will not, I believe, be divisible, and which will rewrite the section, so it will read precisely as it does in the prefatory language and then apply the treatment set out in subparagraph (1) of the bill—which deals with the electric and telephone utilities—to all regulated industries, whether they receive 3 percent or 7 percent investment credit. In other words, all regulated utilities would receive the same treatment—that which the bill now would accord electric and telephone companies.

Mr. CARLSON. Mr. President, will the Senator from Tennessee yield?

Mr. GORE. I yield.

Mr. CARLSON. Let me ask whether the amendment would then reduce the 7 percent to 3 percent, for all utilities?

Mr. GORE. I thank the Senator from Kansas for his question. The answer is that it would not. It would not change the 7 percent; but my amendment would leave to the regulatory agencies some direction in determining whether they would require partial flowthrough, but if flowthrough were to be required, it could be required only on a proportional

basis, and spread over the life of the capital additions involved—the same treatment now set out in subparagraph (1), applicable to the electric and telephone utilities.

Mr. CARLSON. I thank the Senator from Tennessee.

Mr. GORE. Mr. President, I think it is reasonable to conclude—from the three votes taken yesterday with respect to this part of the bill—that the Senate has not yet reached a satisfactory conclusion. Many Members think part (1) is acceptable, but that part (2) is unconscionable. But having approved part (1), many Members do not want to strike out entirely part (2). So my amendment would treat all in exactly the same way.

Mr. SMATHERS. Mr. President, will the Senator from Tennessee yield for a question?

Mr. GORE. I yield.

Mr. SMATHERS. In other words, to rephrase it, what the Senator from Tennessee wants, by means of his amendment, is to give to the Federal Power Commission the same authority which section 1 now gives the Interstate Commerce Commission, the Civil Aeronautics Board, and all the other regulatory agencies involved—in other words, put the regulatory agencies exactly on the same basis with respect to their power to regulate?

Mr. GORE. Insofar as this provision deals with that power, yes.

Mr. MORTON. Mr. President, will the Senator from Tennessee yield to me?

Mr. GORE. I yield.

Mr. MORTON. But section No. 1 does not give the power to the Interstate Commerce Commission, and so forth. Part 1 deals with the so-called monopoly utilities; is not that correct?

Mr. GORE. Neither section grants power. The whole measure is, rather, a restriction upon power.

Mr. MORTON. Yes.

Mr. GORE. My amendment—which now is being typed, and which has been prepared with some care—would treat all exactly the same.

I do not think the amendment will require a great deal of debate—certainly not by me. As soon as copies of the amendment are prepared, I shall give one to each member of the committee.

Mr. MORTON. Does the amendment deal with all the 7-percent group—the whole transportation industry—or only the pipelines?

Mr. GORE. It would deal with all those now dealt with in the entire subsection 203(e).

Mr. SMATHERS. Which is all of them, is it not?

Mr. GORE. As I understand, that is all of them.

But I say to the Senator from Kentucky that I seek to add no power, but to apply the same rule with respect to both categories of utilities; but I would not change the 7-percent credit to 3 percent. That is a decision which Congress has previously made.

Mr. MORTON. Yes; but what is the difference between what the Senator from Tennessee is attempting to accomplish and what the Senator from Wisconsin [Mr. PROXMIRE] was attempting to

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accomplish last night, by means of his second amendment?

Mr. GORE. The provision with respect to the 7 percent investment utilities—if I may so describe them—is to prohibit the Federal Power Commission from taking the investment credit into consideration at all in arriving at fair and reasonable rates or fair and reasonable returns on capital. The last amendment of the Senator from Wisconsin would have stricken that out entirely.

My amendment would place the 7-percent utilities in the same position as the 3-percent utilities, insofar as the regulatory agencies may grant or require a passthrough.

Mr. MORTON. I thank the Senator from Tennessee; but I disagree as to the effect of the second amendment of the Senator from Wisconsin. I interpret it as requiring the Federal Power Commission to leave it to the intent of Congress, as expressed in the 1962 act.

Mr. GORE. Mr. President, I say to the distinguished majority leader that I have taken this brief period, following the morning hour, in order to put the Senate on notice that I will propose this amendment.

Perhaps this procedure will lessen the requirement for debate later.

Mr. MANSFIELD. Mr. President, I appreciate the courtesy and the explanation which has been made by the distinguished senior Senator from Tennessee.

REVENUE ACT OF 1964

Mr. MANSFIELD. Mr. President, I move that the Senate resume consideration of the unfinished business, and that it be laid before the Senate.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to and the Senate resumed the consideration of the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Minnesota [Mr. McCarthy].

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Ribicoff in the chair). Without objection, it is so ordered.

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REVENUE ACT OF 1964

The Senate resumed the consideration of the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota [Mr. McCarthy].

Mr. SMATHERS. Mr. President, am I in a position to suggest the absence of a quorum?

Mr. MORTON. Mr. President, will the Senator withhold the request?

Mr. President, I ask unanimous consent that I may address the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

[P. 2048]

DOUBTS OVER THE TAX CUT

Mr. JORDAN of Idaho. Mr. President, I ask unanimous consent that I may address the Senate for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JORDAN of Idaho. Mr. President, in the New York Times of February 3, that newspaper's distinguished financial and business columnist, Murray J. Rossant, has set forth some of the doubts about the administration's economic program that are being felt among a wide variety of observers. There is considerable feeling that the administration is packing too much of a fiscal stimulus into 1964 and that this is likely to lead to renewed inflationary pressures and difficulty in maintaining sustainable and balanced economic growth in a later year. As the First National City Bank has commented, the administration may be borrowing business from 1965.

Because of the crucial issues involving our economic stability and the prospect of employment opportunities for our people, I ask unanimous consent that the column by Mr. Rossant be included in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Doubts Over Tax Cut: Some Misgivings Are Being Aired by Both Liberal and Conservative Camps

(By M. J. Rossant)

Some of the most fervent supporters of tax reductions are expressing concern that the Texas-size package proposed by President Johnson may be too much of a good thing. Their fear is based on the extra punch in purchasing power that would result from the President's request to immediately reduce the individual withholding rate to 14 percent.

President Kennedy had sought a two-stage reduction, with a 15-percent rate for 1964 and a further cut, to 14 percent, next year.

According to those economists having second thoughts, packing most of the proposed tax relief into the current year can provide too great a stimulus now, making it more difficult to maintain economic stability later.

The growing uneasiness concerning the reductions in taxes and spending sought by the administration was not quelled by Secretary of the Treasury Douglas Dillon's statement made last week before the Congress' Joint Economic Committee, that the program is designed to mesh, so that there is a proper mixture of stimulus and restraint over the next 2 years.

SOME DOUBT EXPRESSED

Economists hope that this is the case, but they are not at all sure. This doubt is shared by both liberals and conservatives who achieved a surprising degree of unanimity in agreeing on the need for tax reductions. They are now airing similar misgivings, although they disagree over what policies are required to cope with potential trouble.

Prof. Paul A. Samuelson of MIT, who serves as consultant to the President's Council of Economic Advisers, is a leading worrier among those tax supporters in the liberal ranks.

In a recent article, Professor Samuelson stated that he had "stepped upward rather

than downward my estimates for this calendar year" because of the additional income that would be released by the proposed change in the tax rate, adding that "it will take a burst of private consumption and investment spending next year to offset the destabilizing effect of the withholding tax change."

The February issue of the economic letter published by the First National City Bank of New York makes plain that conservatives favoring tax reductions have taken to biting their fingernails. Commenting on the President's tax plan, the bank's letter noted that it "should insure a vigorous and prosperous 1964," but runs the risk of adding "too much stimulus too soon to an already healthy expansion."

Anxiety in both liberal and conservative camps may well increase when the final size of the reductions are known. Like Topsy, it has been growing.

ESTIMATE BASED ON 1963

The administration estimate, which most economists have used in their own forecasts, puts the total amount of tax reduction at $11.1 billion. But this figure is based on an estimate of 1963 incomes, which were bigger than expected. In addition, it does not take into account Congress refusal to approve some $500 million revenue-raising reforms contained in the administration's package.

Congress is not expected to give its approval to the bill as quickly as the President had assumed. This means that the stimulus will be deferred a month or even two. There is little question, though, that the amount of the stimulant will be a lot bigger than the estimate of $11.6 billion in the bill passed by the Senate Finance Committee.

The increased amount of reductions reinforces National City's belief that "the im-

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petus of the tax cut is likely to push production and distribution closer to capacity," which could lead to mounting inflationary pressure. In its view, some restraint is required this year. It warns that, "If we are not to develop an unsustainable rate of expansion and borrow business from 1965, a monetary policy of judicious restraint may well be needed to create a climate in which price stability can be achieved."

This is where Professor Samuelson and liberals in general part company with the conservative bloc. He is more concerned about the brake exerted by a decline in Government spending once the stimulus of taxation fades. He argues for "planning a mix of budget deficits and easy money sufficiently expansionary to prevent development of a deflationary gap."

There can be no certainty about the outlook because it is impossible to measure how consumers and businessmen will react to the stimulus of tax reductions. Nor is it certain that Government spending will turn down in the coming fiscal year.

The difficulty in assessing the impact of shifts in policy was emphasized by Fortune magazine's business roundup almost a year ago. It stressed "the importance but uncertainty of timing in economic affairs," and went on to suggest that the outlook contained "risks both of too much stimulation and too much restraint."

These observations are now being applied by both liberals and conservatives in reappraising the present business outlook. They are obviously hoping that the expansion continues on a smooth upward course, but they recognize that if tax reductions prove stimulating it will be difficult to avoid resort to a policy of overrestraint.

But at this late stage, with the tax cut that they have sought just about to be made effective, there is little that they can do aside from crossing the fingers of one hand while biting the nails of the other.

REVENUE ACT OF 1964

The Senate resumed the consideration of the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes.

Mr. KUCHEL. Mr. President, I desire to ask the able leader of the majority what, in his judgment, will be the working hours of the Senate today; and does he contemplate proceeding into the evening hours tonight?

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished acting minority leader, I would hope the Senate would follow the procedure today that it has followed for the past several days; and that the Senate will be prepared to remain in session until 10 o'clock tonight or thereabouts. It is my understanding that there are at least 10 amendments to be considered. The distinguished Senator from Tennessee recently informed us that there would be another amendment by him.

So I hope all Senators will take to heart this situation and do what they can to continue to do what they have been doing in the past several days; namely, to expedite the business of the Senate, which is the consideration of a very important tax bill.

Mr. KUCHEL. I thank the Senator. A number of Senators have heard there has been some slight suggestion that it might be within the realm of possibility for the Senate to conclude action on the tax bill today. I wonder if there would be an opportunity for a unanimous-consent agreement on time.

Mr. MANSFIELD. No; I would have to object.

Mr. KUCHEL. Then I am filled with regret, because I thought the business of the Senate might be expedited.

I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amend-

ment of the Senator from Minnesota [Mr. McCARTHY].

Mr. LONG of Louisiana. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG of Louisiana. Mr. President, this amendment would result in a loss of $350 million in revenue to the Government. It would give head-of-a-household treatment to single people who are not required to maintain a household.

Let us look for a moment at what the purpose of the head-of-a-household provision is. The head-of-a-household provision was an effort by Congress to try to recognize the problems that exist for a widow or a widower left with a child to support, and who must maintain a home for that child, or who is left with an old mother and father to care for and who must maintain a home for them. It provides tax rates midway between the tax rates for a single person and the tax rates for a married couple filing a joint return. As a result this recognizes that a person maintaining a home for a child, or for his parents, or for someone for whom he is obligated, is to some extent in a similar position to that of the husband who must maintain a home for his wife and children.

This amendment would provide that same advantage for bachelors, single women, or divorced women, as well as widows and widowers, who have no such responsibility, merely if they are 35 years of age or over. Those people are not required to maintain a home; they are not required to support a child; they are not required to provide a home for a child or to support an old mother or father, or some other relative whom no one else in the family will care for. They are the people who have only themselves to support. What sort of sense does it make that they should receive preferential tax treatment merely because they are single and over 35 years of age?

This amendment would cause single people to receive better tax treatment than married couples, if they are 35 years of age and over. It would place a premium on a single man remaining a bachelor.

Senators know that many countries actually subsidize marriage and pay a man a premium if he is married, and provide him with an additional family benefit for each child.

This amendment would go in the opposite direction and place a premium on bachelorhood, or a premium on a woman remaining single, even though she might have a number of suitors proposing marriage.

Mr. SMATHERS. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. SMATHERS. I totally agree with the Senator from Louisiana. I have an illustration of what the Senator from Louisiana is now saying.

Take the lowest rate under the tax schedule of present law, of $2,000, on which a 20-percent rate is now applied. Under the law, we allow the filing of a joint return, which means that the couple would have $4,000 taxed at the 20-percent rate.

The McCarthy amendment gives head-of-household treatment to all single people over the age of 35. As a result in the case of two single people, they both have $3,000 subject to the 20-percent rate.

Adoption of the McCarthy amendment would mean that if two single people, neither of whom had any dependents, happened to be sharing the same apartment, they would be subject to tax at a 20-percent rate on $6,000—$3,000 for each.

When we consider the social implications of this particular proposal, it is something to think about.

The amendment clearly would discourage matrimony.

It seems to me this is a question to which the Senate should give careful consideration before it goes forward with this type of provision. It runs contrary to the whole method of taxing community property and the manner in which income splitting is provided by present law, since it in effect gives single people over age 35 one-half the advantage of income splitting.

The amendment certainly is not so good as it sounds. It does have appeal, but when we look at it on its practical side, I do not believe the Senate would wish to adopt it.

Mr. LONG of Louisiana. Mr. President, if I may go a step further, in some States common-law marriage is recognized. It is not recognized in the State of Louisiana. Common-law marriage consists of a man and woman living together as if they were married. In some States they come to be recognized as a married couple, even though they did not go through any formal ceremony before a justice of the peace or a minister. In my State, such a relationship is not rec-

ognized as a marriage. The State of Louisiana does not recognize a common-law marriage. In my State that kind of relationship is recognized as a situation in which two people have "took up." They have merely started to live to-

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gether. The pending amendment would give better tax treatment for those who have just "took up" than married people would receive under the law.

Mr. McCARTHY. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. The Senator from Minnesota would give any person over 35 years of age a special tax advantage. Such persons can get that advantage if they can meet the head-of-household provision. All they have to do is to maintain a home for their old mother, for example. She does not even have to live with them. All they have to do is to maintain a home for their old "pappy." He does not even have to live with them. Or, if they cannot do either of these, all they have to do is to maintain, perhaps, a home for simple-minded Uncle Jim. However, to give that advantage to a couple who "just took up," rather than getting married, does not make sense to me.

Furthermore, it places a premium on a bachelor or a woman who does not want to get married. I know that these are unintended consequences. At the same time, the Senator's amendment would give a "consolation prize" to some woman who has never had a proposal of marriage from a man, or to a bachelor who has not been able to convince a woman that she should marry him. Of course, these are unintended results, but they are results.

Furthermore, Mr. President, the committee did not go into these situations. The Senator did not seriously press it before the committee. These are questions that should be studied by the committee.

I hope the Senate will reject the amendment and will give the committee an opportunity to study these questions. If we want to provide a premium for a woman who cannot get a man to marry her, or for a man who cannot get a woman to marry him, that is something else. However, all these matters should be studied. We must beware of these unintended benefits, and see to it that they do not accrue.

Mr. McCARTHY. Mr. President, I say to the Senator from Louisiana that I have given consistent and serious support to him on the tax bill. I do not have the reputation of offering capricious amendments on this or any other bill before the Senate. I consider this to be a very serious matter, relating to a social change that is taking place in American society.

If the Senator from Louisiana wishes to treat the amendment as though it were a joke, and cite extreme examples, he can do so. However, the kind of situation he cites could also occur under present law. Two persons could go through the form of marriage, and get the benefit of split income.

I might cite the example of the hypothetical widow who was figuratively trotted around the floor yesterday. Now the Senator is trotting around a hypothetical person who is living in sin.

I am trying to meet a basic social problem. There are 18 million unmarried people in the United States who are 35 years of age and over; 13 million of them are women. Most of these people must maintain a household of some kind. The amendment seeks to give recognition to that basic fact. It would provide equity and serve the cause of a sound social structure if it were adopted. That is its purpose. I suggest to Members of the Senate who are making speeches about their concern over the status of women in this country that they give some consideration to the amendment. Soon Democrats will go throughout the country and say, "We have promoted 50 women in the departments of Government." The amendment shows regard for the changing status of women in America. If Senators are concerned about the status of women in America, they ought to be concerned about the pending amendment.

This is the kind of problem involving taxation to which the Senate should address itself.

Yesterday Senators talked about removing excise taxes on pens and pencils. Do Senators suggest that that is as serious a subject to discuss in the Senate as the status of women? Here we propose an amendment which, I believe, reaches out to try to do something about a basic social change in America. It is certainly something with which the Senate ought to concern itself. The amendment should be adopted and taken to conference, and perhaps some adjustment will be made in conference.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. PASTORE. First of all, I regret that I was not present at the time the amendment was discussed. I am somewhat puzzled as to precisely what the amendment would accomplish. I know the Senator well enough to believe that he is one of the best balanced men in the Senate, and that he does not indulge in anything that can be passed off as a joke, as he fears.

I should like to have the Senator from Minnesota tell me precisely what the amendment would do. Could he give a capsule explanation of his amendment?

Mr. McCARTHY. Under existing tax law, there are two tables of income tax rates, one applying to single persons and the other applying to those who are heads of households.

The tax that applies to single persons is the tax which is used as the basis for the split-income-tax rate that married people can use in filing their income tax return.

There is a second table which applies to heads of households. "Head of household" is a term which involves rather complicated conditions under which one can qualify.

A person who supports a parent in his home can qualify. If he supports the parent in a home for the aged, he cannot qualify. There are complicated conditions, also, regarding relationship, such as whether a spouse is a resident alien or a nonresident alien.

Mr. PASTORE. Let us take the case of a schoolteacher who is 35 years of age and who is caring for a mother in a nursing home.

Mr. McCARTHY. Under existing law she would not qualify.

Mr. PASTORE. If an unmarried schoolteacher, 35 years of age, cares for a mother in a nursing home, she does not qualify as the head of a household?

Mr. McCARTHY. The Senator is correct.

Mr. PASTORE. Even though she supports her mother in the nursing home?

Mr. McCARTHY. The Senator is correct.

Mr. PASTORE. Is that a situation the Senator is trying to correct?

Mr. McCARTHY. That is because of the complexity of law. There are people 35 years of age, women especially, who must maintain their own households. This is not an age when Aunt Molly can be kept in a little room in the house or in the back bedroom. These people must live in society. Take the case of widows who live for several years after becoming widows. They have a house to maintain as the head of a household. The amendment I propose would permit them to have the advantage of qualifying under the category of "head of household."

Mr. PASTORE. What about the argument that the amendment would encourage bachelorhood and spinsterhood, and that sort of nonsense?

Mr. McCARTHY. That is what the opponents have prophesied. I do not know why they should prophesy it. The amendment states that its provisions would go into effect at age 35, when people are more or less settled. I do not think it is fair to say that it would encourage people to live in sin. If we are going to talk about morality, perhaps the amendment might help some people not to be tempted. My amendment could very well encourage morality, instead of what Senators on the other side of the question have prophesied.

Mr. PASTORE. Any person over the age of 35 who has the responsibility of a married person and who has the same burden would be placed by your amendment in the same category as a person who is married. Is that correct?

Mr. McCARTHY. We do not go quite that far. People who are married still have a big advantage over a head of a household.

Mr. PASTORE. This covers only the case of an individual who independently maintains a home or abode of his or her own. Is that correct?

Mr. McCARTHY. If a person is unmarried and over 35 he is assumed to be the head of a household for tax purposes.

It is like eliminating the means test for old-age assistance.

Mr. PASTORE. Let us assume a person is over 35 years of age, is living with his parents, and is filing an independent or separate tax return. He could not take advantage of what the Senator is suggesting now, could he?

Mr. McCARTHY. If that is the way he lives, and if he files an independent return, and if it meets the test, he could.

Mr. PASTORE. Does the Senator think that is fair? Let us assume a family of five persons, among whom are two daughters, each teaching school, and each filing a separate return of her own. In that particular case, would they come under the classification of a head of family, when they are living within the

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home of a head of a family? I do not think that would be right.

Mr. McCARTHY. If one did not want to bother with the details of administration and did not want to be technical he could say that a father and mother and a son and his wife, living in the same household, were one household, but could be treated as though they were two married couples maintaining separate households.

But considering the realities of American life today, the chances of living under such circumstances are so small that it might be compared to medical care for the aged, in which aid is provided at age 65, rather than under a means test, and other details. It is in the same category.

Mr. CARLSON. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. CARLSON. I voted against tabling the Senator's amendment last night. I know there are some problems involved. A large sum of money is involved. But I do not like to have such an amendment kicked around with levity. A serious problem confronts us, and it ought to have the serious concern of every Member of the Senate as we consider it.

A single person is always at a disadvantage in paying taxes. I think the distinguished Senator from Louisiana [Mr. LONG] was incorrect this morning when he said that a single person could receive tax benefits for taking care of children of relatives of any type, except children of the father and mother, unless they were in a home. As I recall, the Internal Revenue Service has ruled that one may take care of his father and mother but cannot go further than that.

It seems to me that there are many people in the Nation who are trying to be helpful and are helpful.

As I said earlier, I have not been completely carried away with this proposal. However, when the tax law was rewritten in 1948 and provided for a split income, a single person was at a disadvantage. In 1951, when the code was rewritten, provisions were included to adopt rules and regulations for a household. That, again, tightened up the tax exemption for a single person. This is the only reason why I raise the question today. The proposal does have merit.

I know it is said that the cost will be $350 million, but the proposal ought to have some consideration because single persons are at a great disadvantage in their personal income tax payments at this time. Let Senators talk to some of the girls in their offices. They will say that they find the present schedule a real problem.

I appreciate the work the Senator from Minnesota has done on this problem. I shall support him.

Mr. PASTORE. Mr. President, will the Senator yield for another question?

Mr. McCARTHY. I yield.

Mr. PASTORE. Why could not the Senator amend or modify his amendment to exclude persons who are already living within a household, when the head of that household is already taking advantage of that status? If such a modification were made, I could perhaps support the Senator's amendment.

Mr. McCARTHY. I should be glad to accept the Senator's proposal as a modification of my amendment.

Mr. PASTORE. I am not prepared to write the amendment, because I have not been as conversant with the subject as has the Senator from Minnesota. But if the Senator, who has been studying the subject for a year and half, could make such a modification, I could support him.

If an individual has to maintain a home, as a married couple does, he could be placed in that classification. But if he or she were living in a house where the parents were living and taking advantage of the household status, I do not think it would be fair to grant such an exemption.

Mr. McCARTHY. Mr. President, I ask unanimous consent that I may modify my amendment by providing that the exemption may be allowed for only one head of a household; that the deduction be allowed for any household, and that if the split income privilege is exercised for that particular household, anyone else living in the household shall not have the advantage.

Mr. PASTORE. That would be a wise provision, and I could support it.

Mr. SMATHERS. Did the Senator ask unanimous consent to modify his amendment?

Mr. PASTORE. He does not need to do so.

Mr. SMATHERS. So that we may know what we are doing, and because some incorrect statements have been made with respect to what the present law is, I think there should be a further clarification. I believe the able Senator from Minnesota, if he will check with the staff, will be told—and I should like to have the Senator from Rhode Island hear this—that one may still get the classification of head of household if he furnishes more than one-half of the cost of maintaining his mother or father in a nursing home.

Mr. McCARTHY. No.

Mr. SMATHERS. Let me ask about that. We might as well have it cleared up. In the meantime, let me try to straighten out one thing. Suppose one family of five people—father, mother, and three children over 35 years of age, live in the father's house. The father receives an income; so do the children. Would all the children receive an exemption because they happened to be over 35 years of age?

Mr. PASTORE. No; I do not think the Senator from Minnesota intends that they should.

Mr. SMATHERS. I do not think so, either. But that is a situation which needs more precise study.

Mr. PASTORE. Under the circumstances, it is rather complicated, but it could be worked out. Why could not the amendment temporarily be withdrawn, let us consult with the staff, have

the amendment rewritten properly, and then submitted again?

Mr. McCARTHY. I think the general principle has been cleared up. I appreciate the fact that this particular limitation is one that could easily be drafted. I will offer it as an amendment. But so far as offering technical amendments is concerned, I think the proposal to put those people in the category of a household is a simple and clear one and that the cause of equity would be generally served, even with the modification proposed by the Senator from Rhode Island, because only a few such persons would be affected. It is not a complicated amendment. It could be accepted if he offered it as an amendemnt to my amendment. On that basis it could go to conference. This entire bill will be in conference. There is no reason why the conference has to finish its work in a day or a week. It will probably be the last basic revision in the tax law for 5 or 10 years.

The PRESIDING OFFICER (Mr. RIBICOFF in the chair). It will be necessary for the Senator to send his proposed modification to the desk; otherwise, the clerk will have nothing at the desk to read. The amendment would be out of order unless the precise amendment were at the desk.

Mr. PASTORE. That is why I suggested consultation with the staff. I am not prepared to write such an amendment; it was merely my suggestion.

Mr. CLARK. Mr. President, will the Senator from Minnesota yield?

Mr. McCARTHY. I yield.

Mr. CLARK. I should like to address a question to the Senator from Minnesota. I have read in the CONGRESSIONAL RECORD the very brief debate on the Senator's amendment last night. Unfortunately, I could not be present. I find myself completely incapable of understanding the present administrative regulations dealing with the tax status of bachelors, spinsters, widows, and widowers. I wonder whether the Senator from Minnesota shares my confusion, or whether he can give us in some understandable form an explanation of what the Internal Revenue Service is doing with respect to the tax status of those individuals who have been quite inequitably treated for many years.

Mr. McCARTHY. It is extremely difficult to do that. Evidently, from what was said by members of the staff, the Internal Revenue Service has changed the ruling that was in effect last year. It keeps moving the game around. It is almost impossible to understand or clarify the regulations as they are written in some of the instructions.

Mr. CLARK. Would it not be wise procedure to adopt an amendment which would simplify and clarify the present jungle of unintelligible administrative regulations and at least take some substantial step forward in remedying the inequities which now exist with respect to the tax treatment of single individuals?

Mr. McCARTHY. It would be my opinion that if the Senate adopted this amendment and took it to conference, in a very short time a great deal of improvement and simplification could be made in the regulations which are now applied under the household provisions of the income tax law.

Mr. CLARK. Can the Senator enlighten me as to just how much relief—

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in general terms—his amendment would give single people? I understand he does not intend to have a single person have the same tax status that a married couple would have, but that he does intend to remove to some extent the heavy taxes now imposed on single persons. Can he explain how far his amendment would go?

Mr. McCARTHY. By examining the tables as to the various income levels, the Senator from Pennsylvania can obtain some indication as to that. For example, in the tables it is shown that a single man with a taxable income of $6,000 would pay a tax of $1,130.

Mr. CLARK. That would be the tax under the bill as it now stands. What would be the tax of that person under the Senator's amendment?

Mr. McCARTHY. Under the amendment, the head of a household would pay a tax of $1,060—or $70 less.

At the level of a taxable income of $12,000, under the bill as it now stands a single man in 1965 would pay a tax of $2,830. The head of a household would pay a tax of $2,540—or a saving of approximately $300.

Mr. CLARK. Compared to those figures, what would a married man in the same income bracket pay? He would pay a great deal less, would he not?

Mr. McCARTHY. He could use the split-income principle. For 1965 a married man in the $12,000 bracket would pay $2,260.

Mr. CLARK. I know the Senator from Minnesota does not intend to have a single person receive as much of a tax "break" as a married couple would receive—certainly not as much as would be received by a married couple with dependents, but that, on the other hand, the Senator intends to have a single person placed in a somewhat better sit-

uation—one roughly comparable to that of the head of a household who is not married—and thus significantly reduce his tax burden. Is that correct?

Mr. McCARTHY. Yes. In addition, a married couple is able to take many deductions which a single person would not be able to take.

Mr. CLARK. Is it not the opinion of the Senator from Minnesota that the tax burden placed on a single person, as compared to that placed on others, is quite unfair and inequitable?

Mr. McCARTHY. I believe so—not only in view of the amount of the tax itself, but also in view of the contributions of many sorts to the social welfare. For example, consider the payments made under the social security program. Both groups pay the same, but both do not receive the same benefits from the social security program. However, the contributions to the social security program by single persons and by married persons are the same, although the married persons receive much greater benefits—for example, the benefits for their dependents—whereas the single person receives benefits only for himself.

Mr. CLARK. Yesterday, there was some debate in regard to the cost estimates received from the Treasury.

I take it that the best estimate the Senator from Minnesota has been able to receive from the Treasury, in regard to the cost of his amendment, is around $300 million.

Mr. McCARTHY. That is correct.

Mr. CLARK. Mr. President, I shall be happy to support the amendment of the Senator from Minnesota. I think it is fair and equitable.

It seems to me that the Treasury Department might have been more courteous to the Senator from Minnesota than I understand it was when he proposed this change to the Finance Committee—well over a year ago, as I understand. Is that correct?

Mr. McCARTHY. That is correct.

Mr. CLARK. Has the Treasury Department stated why it has suggested the amount of loss of revenue which it has suggested in connection with the amendment of the Senator from Minnesota?

Mr. McCARTHY. It has filed one statement in regard to the loss of revenue, and it has also submitted figures in connection with the status of the head of a household—figures which, as the Senator from Pennsylvania has said, are difficult to understand and would make the administration extremely difficult. The Treasury protested and objected to this amendment, on the ground that it would create inequities—which is true; but they will be less than the inequities are now.

Mr. CLARK. As the Senator from Minnesota knows, I attempted to square my conscience with the position taken by the administration on this bill all the way through, and on occasion I have supported provisions even when I had considerable doubt as to their validity. However, I find it impossible to go along entirely in that connection; and I shall support the amendment of the Senator from Minnesota.

Mr. McCARTHY. I thank the Senator from Pennsylvania.

Mr. ANDERSON. Mr. President, will the Senator from Minnesota yield?

The PRESIDING OFFICER (Mr. INOUYE in the chair). Does the Senator from Minnesota yield to the Senator from New Mexico?

Mr. McCARTHY. I yield.

Mr. ANDERSON. I realize that the Senator from Pennsylvania said the Treasury Department was not very courteous to the Senator from Minnesota, in connection with the efforts to obtain data in regard to the effect of the amendment on the internal revenue laws.

However, I point out that more than the internal revenue laws are involved in the case of this amendment, for it would place a very high premium on divorce. If a married couple were not getting along very well, and if in their minds there was a question as to whether to obtain a divorce, under this amendment all they would have to do would be to get a divorce, and then they would be able to get the tax "break" the Senator from Minnesota is discussing. In short, many other things enter into this situation, in addition to the internal revenue laws; and I do not think the amendment is quite as simple as one would judge if he considered only the casual words of the Senator from Rhode Island, and thus favored the hurried adoption of such an amendment on the floor of the Senate.

These provisions are very complicated, and amendments to them should be studied very carefully.

So I hope Senators will give thoughtful consideration to all the other problems involved in the situation the Senator from Minnesota is discussing in connection with his amendment.

Mr. McCARTHY. However, even if the decision as to whether to obtain or not to obtain a divorce depended partly on the question of whether those involved would be able to increase their income after taxes by $100 or $200, as a result of such a tax change, I think they probably would get a divorce anyway. They might hesitate a little bit before doing so; but I do not think the tax advantages which would accrue to the head of a household as a result this amendment would be a great incentive

to divorce. In fact, the amendment might result in discouraging hasty marriages, and in that way the divorce rate would level off over the long run.

Mr. ANDERSON. But very often the amount of the budget is the controlling factor in connection with the decision to get married.

Mr. McCARTHY. It would be more advantageous financially for them to get married, so as to have the benefits of the split-income provisions for tax purposes.

Mr. ANDERSON. Oh, no; oh, no.

Mr. McCARTHY. On the other hand, it would be more advantageous for them to stay married, so as to be able to have the advantage, under ordinary circumstances, of being able to file a joint return.

Mr. ANDERSON. I wish the Senator from Minnesota would check with the Treasury Department on that situation. If he does, he will find it is not more advantageous. It would be more advantageous for one who was contemplating marriage to stay single and be able to take these two deductions as the head of a household.

Mrs. NEUBERGER. Mr. President, will the Senator from Minnesota yield?

The PRESIDING OFFICER (Mr. RIBICOFF in the chair). Does the Senator from Minnesota yield to the Senator from Oregon?

Mr. McCARTHY. I yield.

Mrs. NEUBERGER. The Senator has pointed out one of the things to which I wish to call attention—namely, that, historically, the single man has had the raw end of this tax "deal."

Two years ago, the late President Kennedy called together the President's Commission on the Status of Women. I would say that two things impelled the appointment of that Commission, on which I was proud to serve as a member: One is the complaint of many workingwomen that they are not allowed to deduct their child-care costs when they calculate the taxes they must pay. The other is the plight of the single woman.

And all of us who worked diligently for 2 years on the President's Commission noted the amount of mail we received from single women—many of whom work in the offices of Senators, and many work elsewhere in the Capital City.

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So the Senator from Kansas has hit on a very important part of this whole debate.

Furthermore, I also take issue with the closing comment of the Senator from Louisiana [Mr. LONG], in his historic comments of a little while ago, when he said many women cannot get a man to marry them.

When women stay single, it is always implied that they cannot get a man; but I never have heard it said that when a man chooses to remain single, he cannot get a woman.

Mr. LONG of Louisiana. Mr. President, I said it.

Mrs. NEUBERGER. I think it quite important to note that in the government, for example, there are many single women who prefer to remain single. There are many advantages in not being married.

Next month we are going to award citations to a number of women who, while in the Government service, have devoted their lives to working in astronomy, science, and many other fields; and they chose not to have a man in the house—a man to get in the way.

So I think it adds insult to injury if these women, who choose to be single, do not get the same consideration that men do. A matter of equality is involved.

Mr. LONG of Louisiana. I am quite aware of the fact that there are many men who cannot get women to marry them. I made that statement. At the same time, I mentioned the problem of a women who would like to be married and yet does not have a proposal from a good man. I realize that it works both ways. I also realize that some people prefer not to be married. There are many bachelors who take great pride in bachelorhood, as the distinguished Senator from Oregon so well knows. I am sure that the Senator is correct in her statement that many women would rather be single than be married. That is why they are single. I quite agree.

I would like to make it clear that the amendment raises all kinds of problems for which we on the committee have not yet found answers, for which our staff has not found answers, and for which the Treasury has not found answers.

For example, under the amendment, if two married people agree to disagree, under the amendment they might receive better tax treatment than they would have if they had remained in matrimony. I believe that would be an unintended benefit, but it nevertheless would be true.

All sorts of unintended consequences would flow from the proposal. Also the problem would be raised as to whether better tax treatment would be given to a person who actually is maintaining a household for his father, his mother, and a child, or whether the same tax treatment would be accorded a person who has no such responsibility.

Mrs. NEUBERGER. May I interrupt the Senator to say that there seems to be a contradiction. The Senator from Louisiana has said that they would receive better tax treatment if they should separate. I thought the Senator from Minnesota pointed out that it would be advantageous to split income and remain married.

Mr. LONG of Louisiana. Yes; but a married couple in the lowest tax bracket, with the advantage of income spltting, might divide $2,000 for one and $2,000 for the other, or a total of $4,000 for the lowest tax bracket.

Under the proposed amendment, if those two people agreed to disagree and merely had a friendly divorce, they would then have the advantage of a $3,000 income for one in the lowest bracket and $3,000 income for the other in the lowest bracket, or a total of $6,000 income for the two of them in the lowest bracket, because they were no longer married.

A number of questions are raised as to why it should be so. Furthermore, the adoption of the amendment would create an additional problem. The head-of-household provision would be designed, in the event of divorce, to give favorable tax treatment to the spouse who provided a home for the child. On the other hand, the amendment would require the same tax treatment for the spouse who did not maintain a home for the child. That would seem to be an inequity.

Furthermore, a number of Senators who voted against the motion to table last night did so under the impression that the amendment was for the benefit of women. The benefits of the amendment would include men as well as women. Frankly, some Senators voted for the proposal on the theory that chivalry is not yet dead, but they are now finding they were actually voting a tax benefit for themselves that they had not intended.

That is another question that should be studied with regard to this very difficult and complicated problem. Some of the items I have mentioned sound ludicrous, I know, but nevertheless they are problems which would be raised by the amendment. Those are the reasons why the proposal deserves study. It deserves the best thought the Treasury can give us.

After all, there are many more people on the staff of the Treasury Department who study these things than there are on our committee staff. The subject also deserves the best study of our joint committee staff, and the committee staffs of the House Committee on Ways and Means and the Senate Finance Committee. I would be willing to concede that a problem is involved. The Senate, by voting not to table the amendment last night, has indicated that there is a problem. I believe that the sponsors of the amendment realize that there are a number of questions they are not in a position to answer as the amendment now stands.

Mrs. NEUBERGER. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mrs. NEUBERGER. For the 2 years I worked on the Commission on the Status of Women, my own committee, which had to do with taxation and insurance affecting women, had representatives of the Treasury sit in at every meeting. Those representatives did not wish to change a single provision related to that subject. They never looked into the right or wrong or the inequity of any proposal. If the proposal would cost the Treasury 5 cents, they were opposed to it.

When our committee finally insisted that there was an inequity and we wanted to recommend a change in the child-care deduction and the single woman provision, they reluctantly went along.

But merely because the Treasury was opposed I do not accept as an argument. It is wrong. It seems to me that we must consider that a single woman is a person in her own right, as is the single man also.

As the Senator from Kansas pointed out much better than I have been able to do, it is an insult. That is a point which has never been considered. I believe Senators would find that it is a situation which faces single women all over America. They feel that they are getting the "short end."

Perhaps with the adjustment suggested by the Senator from Rhode Island the amendment could be modified. But it is not merely a laughing matter. It is not something for the Congress to moralize about whether people "took up," "divorced," "took down," or anything else. When we on the Commission accepted the premise that we would take women where we found them, it was not for us to decide whether they ought to work or ought not to work and stay home with the children. I think that is the approach that we have made.

The story is that many women work and many are responsible for child care. They are the heads of households, and I suggest that we give them a break.

Mr. LONG of Louisiana. The Senator well knows that the committee agreed to the amendment proposed by the distinguished Senator from Oregon with

regard to working women. As the Senator well knows also, her amendment expanded upon the House provision that the problem of a working woman is treated the same, whether she is a wife who finds it necessary to work or whether she is a widow who finds it necessary to work. In that respect, I believe the committee made a very substantial improvement in the bill toward forward-looking and constructive legislation to meet a problem that has troubled many people for a long period of time.

So far as I am concerned, I should like to help meet that problem, but I would not like to extend the benefit to the solution of other problems. For example, my reaction is that the problem is substantially different with regard to a working woman than it is with regard to a single man. It might not be, but that is the impression which I gain from it. I hope that we can find a way to afford some sort of equitable relief, but I feel that to impose the amendment on the committee to take to conference would leave us in a position in which we would not be able to find the answer in the brief period in which we would be in conference on the amendment.

However, I would be happy to study the subject and contribute the best efforts I can to try to find something that we can do about the problem. But

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the conference is not the place to make that study. The place to do it is in the committees. There should be hearings to develop what we can do about the situation. The Senator from Louisiana hopes very much that the Senator from Minnesota will help us to solve the problem in the committee. He is a member of the committee. He serves with great distinction on the committee. I hope very much that the Senator will not insist upon his amendment at the present time in order that we may be able to have a further look at it. I am of the opinion that there is a problem involved.

Mr. McCARTHY. I appreciate the comment of the Senator from Louisiana. I do not know whether we have impressed the Treasury Department with the fact that there is a problem involved, since they gave very little attention to it over the year during which they were considering revision of the Income Tax Code. It seems to me that when we are dealing with a proposed $11.5 billion reduction in taxes, that is the time in which we should give some thought to basic changes which are taking place in the social structure of the country. Only about every 10 years do we have an opportunity such as we now have. To pass it up would seem to be a grave mistake. I believe that the Senate should be more concerned than the House, since we are supposed to think in terms of at least 6 years. I do not know whether we do. But we are supposed to take the long view.

We are taking a long look back, and it shows that we have not been responsive to the particular needs of women in society, although I do not propose to make a distinction between the sexes in the tax bill. We ought to take a look ahead, as the junior Senator from Oregon [Mrs. NEUBERGER] has described today, and take into account what she sees and has seen. The record we make on the floor, if the amendment does not pass, ought to be a warning to those concerned. If it is approved, I hope the conferees who study it will treat this problem properly in conference.

Mr. GRUENING. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. GRUENING. I want to commend the Senator from Minnesota. I hope he will not withdraw his amendment. I hope he will press for it, whatever may be the vote. I highly commend the junior Senator from Oregon [Mrs. NEUBERGER] for her remarks. She is perhaps as well qualified as, if not better qualified than, any other Member of this body to speak on this subject. A question of justice and the principle of equal treatment are involved.

It is a highly desirable amendment. I hope it will be adopted. I commend the Senator from Minnesota.

Mr. McCARTHY. Mr. President, I ask that the clerk read the modification of my amendment.

The PRESIDING OFFICER. The clerk will read the modification.

The legislative clerk read as follows:

At the end of the subsection add the following:

"This section shall not apply where there is more than one head of household in each household or where split income is claimed by a member of the same household."

Mr. McCARTHY. Mr. President, the effect of this provision would be that the advantage of head of household could be taken only once in any one household. In a household where joint returns were filed, the advantage could not be taken.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield to the Senator from West Virginia.

The PRESIDING OFFICER. Does the Senator from Minnesota desire that his amendment be modified?

Mr. McCARTHY. Yes; this is the modification I would like to have accepted.

I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I support the amendment as modified. I have discussed the proposal with the scholarly Senator from Minnesota [Mr. McCARTHY] on several occasions. On prior periods the general objective has had my endorsement. It was so in 1962 and 1963 when he advanced the plan.

The debate today has clarified the issue. I commend my colleague for pursuing this matter to a possible favorable solution. Whether he will be sustained by an affirmative vote of the Senate on a rollcall, I cannot say; but, if there is not to be an opportunity to be recorded, I state for the RECORD that I believe there is equity involved in the amendment. I believe a bona fide case has been made for its approval.

Mr. McCARTHY. Mr. President, I have no further remarks. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. LONG of Louisiana. Mr. President, I send to the desk an amendment to the amendment. It includes both sheets that I am sending forth.

The PRESIDING OFFICER. The amendment offered by the Senator from Louisiana to the amendment of the Senator from Minnesota, as modified, will be stated.

The legislative clerk read the amendment of Mr. LONG of Louisiana as follows:

At end of title II add the following new section:

"SEC. . HEADS OF HOUSEHOLDS.

"(a) Section 1(b) (relating to definition of head of household) is amended—

"(1) by striking out the word 'either' in the first sentence of paragraph (2) and subparagraph (A) and subparagraph (B) of paragraph (2) of subsection (b) and inserting in lieu thereof: 'maintains a household which constitutes for such taxable year the principal place of abode of any person who is a dependent of the taxpayer if the taxpayer is entitled to a deduction for the taxable year for such person under section 151.'

"(b) The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1963."

Mr. MILLER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MILLER. Was the McCarthy amendment modified, and was the modification accepted by the Senator from Minnesota?

The PRESIDING OFFICER. The modification was accepted.

Mr. MILLER. So the question is on the McCarthy amendment as modified, to which the Senator from Louisiana has offered an amendment. Is that correct?

The PRESIDING OFFICER. The question now is on the Long amendment to the McCarthy amendment as modified.

Mr. LONG of Louisiana. Mr. President, the Senator from Louisiana has asked the staff to try to find something that the staff could suggest to meet this problem so that we could take it to conference.

The amendment to the amendment would provide that a person could claim head-of-household treatment if such person were maintaining a household for any dependent.

The way the law stands now, if the person is maintaining a mother or a father in a nursing home, for example—and that was the illustration given—that person could claim the head-of-household treatment. But it might well be that that person was the only relative being looked after.

A working man or woman can claim credit for a dependent if he contributes 50 percent or more to the support of the dependent, whether it be an uncle, aunt, grandchild, or nephew. This provision would still maintain the concept that a taxpayer, in order to qualify for the head-of-household treatment, must satisfy some of the same conditions that the head-of-household provisions were intended to apply to. The provision would protect us against the kind of situation that Congress did not intend to be covered, namely, that if two people were divorced, by their own decision, they would have much better tax treatment than if they had remained married.

This proposal would give better treatment to the person who is helping to maintain a dependent who has these kind of problems, than it would give to someone who has only himself to support.

While there is sympathy for those who have a relative or some loved one to care for, the case for bachelors, for example, is extremely weak. Bachelors do not expect and are not asking for it. If there is any case for it, is is a very weak case.

If the Senator wants to have us study the problem, it would seem to me that those of us on the committee would be happy to go into it, and recommend something to the House conferees.

I hope the Senator will accept the amendment, to show that we are interested in this problem, that we want to help with it, and that we would like to make some progress in this direction.

Mr. McCARTHY. Mr. President, my feeling is that the objective which the Senator seeks is one which the Treasury could reach by directive, if it wished to do so. I think there is existing law to cover the people described by the Sen-

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ator from Louisiana. The Treasury does not think in social terms, but in purely economic terms. Take the instance of the nursing home I understand that I was in error earlier with regard to the statement that nursing home support of a parent did not qualify for head-of-household treatment. That is the way

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the situation was until someone went to court and forced the Treasury to accept those who supported someone in a nursing home as qualified for head-of-household treatment.

This question is really peripheral. I am trying to get at the basic reality of the American social structure today, in which I think there is great inequity and injustice operating against single people. I regret, therefore, that I cannot accept the amendment.

Mr. PASTORE. Mr. President, will the Senator from Minnesota yield, before he makes up his mind?

Mr. McCARTHY. I yield.

Mr. PASTORE. I hope that the Senator from Minnesota will not be too hasty in his decision. He may not advocate retreat or compromise, but I beg him to be practical and realistic.

Some meritorious amendments have been lost on the floor of the Senate in the past few days by a handful of votes. I believe the Senator from Minnesota has made a very good case. What is lacking is that it has never been brought to the attention of the other body. If we could only establish that contact, even though it is watered down considerably—and I grant him that I stand for his amendment as he has proposed it, and I shall vote for it—but looking at what might happen, I ask him to look at the two choices presented today—whether he will face the fact that a better amendment might be defeated on the floor and he would lose all contact, or whether a more watered-down amendment which has already received the sympathy of the Senator in charge of the bill will be brought to the House for further discussion.

In conference, because this is a matter that did not appear in the House bill, the conferees would have the right to modify it in conference to carry out precisely what the Senator from Minnesota is striving for.

What I am advocating, before the Senator makes up his mind, is that he give serious thought to trying to establish this contact, which I believe must be made at this juncture.

Mr. McCARTHY. I appreciate the helpful suggestion of the Senator from Rhode Island.

Mr. PASTORE. In other words, let us think about it first rather than try to gamble all, thus running the risk of losing all.

Mr. McCARTHY. I believe that the Treasury Department could reach this very objective without any change in the law which has been described by the Senator from Louisiana, if it wishes to do so under existing law; in effect, I would receive nothing in return for receding, since I believe the Treasury can now do what the Senator from Louisiana proposes to do by amendment.

Mr. PASTORE. But has not done?

Mr. McCARTHY. But has not done. Now that the court has ruled on nursing care and has established the basis for the claim of head of a household, it seems to me that additional court action could extend head-of-a-household privileges to cover almost anyone supporting a child or parent almost anywhere.

I would prefer to have the committee go to conference with what I am proposing. Then if they feel they must retreat, I would hope they would not go back as far as the suggestion made by the Senator from Louisiana.

Mr. ANDERSON. Mr. President, will the Senator from Minnesota yield?

Mr. McCARTHY. I yield.

Mr. ANDERSON. The Senator has said that this provision might be amended by administrative action?

Mr. McCARTHY. Yes, but not what I am proposing.

Mr. ANDERSON. No, no——

Mr. McCARTHY. The Senator from Louisiana is proposing an amendment.

Mr. ANDERSON. If something of that nature were adopted, that would be an easy step in the right direction. As the Senator from Rhode Island has pointed out, this might be a step that would be somewhat longer.

Mr. McCARTHY. It would be an improvement over what we have, but it would be a minor improvement compared to what I am proposing. I believe the case I am making is much more important in the area in which the Senate should act.

Therefore, very reluctantly, I must decline the kind offer of the Senator from Louisiana.

Mr. ROBERTSON. Mr. President, will the Senator from Louisiana yield to me?

Mr. LONG of Louisiana. I yield.

Mr. ROBERTSON. I was interested in listening to the comments of the distinguished Senator from Louisiana as to married couples, who, if they should be divorced, would be better off financially than while married if we gave them this special tax treatment.

Do I correctly understand that with the alarming divorce rate; now exceeding

more than one out of every four marriages, that this proposal would be calculated to increase the divorce rate?

Mr. LONG of Louisiana. It is impossible to predict what effect it might have. Under present law, a married couple is entitled to have a total of $4,000 taxed at the 20-percent rate. But under this amendment there is no doubt that if they agreed to disagree, and obtained a legal divorce, each would be entitled to $3,000 of taxable income in the 20-percent bracket, for a total of $6,000 taxable at a 20-percent rate.

In view of the graduated income brackets, they would be entitled to a proportionate additional tax benefit by being separated instead of being married. That would be one of the consequences of this proposal.

I know the distinguished Senator from Minnesota does not propose to encourage divorce with his amendment, but the effect of it would be that under this amendment as it stands, if a married couple in a high-income tax bracket decided that they were not getting along very well, they would obtain a substantial tax advantage if they were divorced.

Mr. ROBERTSON. Perhaps I do not correctly understand the requirements which the Senator has cited for the relief of genuine hardship cases, in which an unmarried girl over 35 is really contributing and should have some tax concession. What is the plan to broaden that definition of head of a household?

Mr. LONG of Louisiana. My proposed amendment, if the Senator from Minnesota wishes, can consider it as an amendment in the nature of a substitute, would broaden the head-of-a-household provision of present law so that a person who has any dependents whom he is supporting—it need not be his father in his home; it could be an aunt or an orphan—but if he has any dependents that he is supporting, or to whose support he is contributing more than 50 percent, he could claim the advantage of head-of-a-household treatment. But this proposal seeks to maintain the principle that to have head-of-a-household treatment, he would have to be, at least in some respect, the head of a household, maintaining a home for someone else.

That is as broad as we can make the principle. It is much broader than the Treasury can make it by regulation.

When the Senator from Minnesota inferred that this was what the Treasury was about to suggest, he was in error. This was done by our own staff.

Mr. ROBERTSON. I wish to commend the Senator. I believe his suggestion is logical and fair. I agree with the Senator from Rhode Island that the distinguished chairman of the committee might be well advised to accept it because, frankly, as far as I am willing to go, whether it is $300 million or $350 million, I believe when Senators take a quick look at the bill and what it will do, and the possible inflationary effect, I do not know what the spending will be, but they will not wish to go beyond it.

Let us remember that President Kennedy requested $3 billion of new revenue; and President Kennedy asked that the full effect be postponed until next year.

We will make $800 million of new spending available immediately. Therefore, we cannot afford to put another $300 or $350 million spending back into the bill. However, I believe the Senator is off to a very fair compromise.

Mr. LONG of Louisiana. Mr. President, let me point out one obvious advantage of the substitute that I am offering over the amendment offered by the Senator from Minnesota. The proposal of the Senator from Minnesota provides that a single person, whether a single man or woman, or a divorced man or woman, if he or she is 35 years of age, would be treated as though he were maintaining a home for a dependent mother or for a dependent father, and were thus burdened with the expense of maintaining a home for someone else, even though that were not the case.

Under the Senator's amendment, a single person 32 years of age actually maintaining a separate home, for another person—for example, a niece or nephew—that person, 32 years of age, who was actually providing a home for another person, would be denied the benefit of the head-of-household treatment.

Mr. McCARTHY. Mr. President, will the Senator yield? That is not a correct statement.

Mr. LONG of Louisiana. Take the case of two people, one of whom is caring

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for his uncle or aunt or niece or nephew. That person if under 35 years could be denied the head-of-household treatment; whereas the other person, even though not burdened with that obligation, would receive the favored treatment if over 35 years of age.

Mr. McCARTHY. Mr. President, that would not be the effect of my amendment. People who are under 35 would continue to be treated under existing law if they were supporting parents or children. Those people would receive the head-of-household treatment, just as they are receiving it now.

At age 35 those tests would be eliminated; they would not apply.

Mr. LONG of Louisiana. As the law now stands, the head-of-household treatment is available at the present time only in the event that a person has a dependent living in his home, or in the event he is supporting a father or mother who is living in another house. It is not available for the support of nieces or nephews and other dependents who are not living in the person's home; or for the support of an orphaned niece, or for an uncle, not living in the person's home.

There are all sorts of situations in which a person could be burdened with that obligation, but not receive the treatment the Senator would extend to other persons.

There are all kinds of situations under which a person may be burdened with the obligation of maintaining someone else, perhaps a child who is not mentally competent. There are many situations which would not receive relief under the Senator's proposal. The original McCarthy proposal would give relief to a great number of people who do not have any real problem from the standpoint of dependents.

Mr. MORTON. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. MORTON. I believe the Senator in charge of the bill has been very considerate in proposing his substitute amendment. We are confronted with a real problem, and he has offered a fair and equitable approach towards solving it. I agree with the Senator from Rhode Island that if the amendment goes to conference, it will be given consideration in conference, even though the House has not considered it. The proposal should be considered. I hope that the substitute will be accepted. Speaking for myself—and I believe also for many Members on my side of the aisle—I am aware that this is an important matter and that we should do something about it.

For reasons that have been outlined, many Senators cannot accept the proposal as originally offered by the Senator from Minnesota.

Mr. SMATHERS. Mr. President, I should like to join Senators who are importuning the Senator from Minnesota to accept this particular compromise. It was evident from the very beginning that there was considerable confusion as to what the original amendment would do. It became rather evident as soon as the debate started that we could be faced with a situation in which six men were living in one apartment. All of them could be over 35 years of age, and each one could claim to be the head of the household and receive the benefit under the McCarthy amendment.

The Senator from Minnesota, realizing that he did not want to do that, offered a modification on the floor, which provided that there could be only one head of the household.

Those same six men could live in the same apartment, and they would have to decide which one would get the benefit of the head-of-the-household tax treatment.

There might be the situation of a mother and father and two sons living together. They could say, "We ought to do something to improve our tax situation. Why don't you, Joe, move next door, where you can become the head of the household and have your taxes reduced?"

Mr. ROBERTSON. Mr. President, having been a member of the Ways and Means Committee for many years, I could not forget the admonition that it is not possible to write a tax bill on the floor.

Mr. SMATHERS. I thank the able Senator. I agree with him.

Mr. ANDERSON. Mr. President, I appreciate what the Senator from Virginia has said. As a former member of the Ways and Means Committee, I agree with him completely. There is great danger in writing a tax bill on the floor.

Mr. SMATHERS. The Senator from Mississippi also was a member of that committee. The point is that we really do not know, and he does not know, and no one knows, at this point where this amendment will lead.

There has been an expression on it from the acting minority leader and from the Senator in charge of the bill, and from members of the Finance Committee. I am certain, as a result of the colloquy today, that the Treasury will be impressed with the fact that something should be done about the situation. The able junior Senator from Oregon [Mrs. NEUBERGER] made a very appealing case. I hope the junior Senator from Minnesota [Mr. MCCARTHY] will agree to let the substitute go to conference. Let us have the Treasury work on it. Let us have the staff work on it also. Let us see if we cannot resolve the differences in a fashion that will be useful and helpful to everyone.

The whole proposal could be lost. The Senator from Minnesota could lose it all. A benefit is already being given to everyone by the bill, whether he is over 35 years of age or not. Single persons who are over 35 would receive some benefit from the bill. It does not totally leave them out. The bill would give tax benefits to the extent of $9.3 billion. It would

reach every individual who pays taxes. The Senator has said that he wants to put persons 35 years of age and over in a better category. We agree that that should be done, if those persons can qualify as heads of households. They should receive special treatment if they can qualify as genuinely supporting someone while maintaining an individual household.

I add my voice to the voices of other Senators who have asked the Senator from Minnesota to accept our suggestion.

Mr. McCARTHY. I am not sure that it is not possible to write changes into a tax bill on the floor of the Senate, especially when Senators who are on the committee and who are opposed to a provision will not write them into the bill in committee.

Mr. JAVITS. Mr. President, I have been a conferee on many occasions. It is important that we understand what conferees will or will not do. With the Long substitute in the bill, the conferees could not return to the McCarthy original. That does not mean that the original is what we wanted, either. Therefore, I should like to ask the Senator whether he is seeking to introduce into the McCarthy idea one additional factor; namely, the factor of dependency; in other words, that there must be some basis, not only the maintenance of a separate physical establishment, which is the basis of the McCarthy idea, plus the age limit, but also the additional factor of some kind of dependency. Is that correct?

Mr. LONG of Louisiana. Yes; the proposed amendment to the McCarthy amendment would take care of the best cases that the McCarthy amendment would aid.

Mr. JAVITS. One other question: Does the Senator's substitute maintain the age limit or discard it?

Mr. LONG of Louisiana. It does not maintain the age limit.

Mr. JAVITS. I thank the Senator. Now we understand exactly what the amendment provides.

Mr. KEATING. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. KEATING. I wonder if the Senator from Minnesota heard the answers to the queries propounded by my colleague from New York [Mr. JAVITS] and whether he agrees with the answers given by the Senator from Louisiana.

Mr. McCARTHY. I believe most of the cases which the Senator from Louisiana said would be covered by his amendment could really be covered by a proper interpretation of existing law. It would certainly force the Treasury to take care of the worst cases, but it would not take care of the injustices and inequities that are involved.

Mr. KEATING. If the Treasury were so disposed, it could take care of any cases involving a dependency, could it not?

Mr. McCARTHY. Until quite recently, the Treasury had been refusing to grant a head-of-household exemption if a person was maintaining a parent in a nursing home. If he had the parent in his own home or maintained a separate home for the parent, he could claim the head-of-household exemption.

Eventually, a case was taken to court, and as a result the Treasury has ruled that if a person maintains a parent in a nursing home, he may claim the head-of-household exemption. However, that

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does not reach out to the basic social problem and inequity that are involved.

Mr. LONG of Louisiana. Under existing law, the Treasury does not have power to issue regulations to accord relief to a working single person to help a niece, a nephew, uncle, an aunt, or an orphaned child, who is living in a separate home. This amendment would cover all those situations which the Treasury at present has no statutory power to reach at all. It would also take care of cases in which the Senator from Minnesota [Mr. McCARTHY] thinks there should be relief, but to which the Treasury does not have power to extend relief.

So this amendment would, in the broadest sense, extend the head-of-a-household treatment to a taxpayer who was supporting a dependent who might not be living in his home.

But it leaves one problem, which I think we should not go into at this point. Should we try to extend to persons who have no dependents to help the special tax benefit which is intended for those who do? The amendment also would prevent what could become a serious discrimination. If we started at age 35 with special tax treatment for single persons, it is likely that new problems would develop, and we would have to start all over again. So if the tax relief sought by the McCarthy amendment is to be accorded, it seems to me that what is proposed in my amendment would be a good starting point. It would be something to take to conference. As a Senate conferee, I would use my best efforts to urge the House to agree with us to begin relief in this direction.

I hope the amendment to the amendment may be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amend-

ment of the Senator from Louisiana [Mr. LONG] to the amendment offered by the Senator from Minnesota [Mr. McCARTHY].

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Minnesota, as amended.

Mr. LONG of Louisiana. Mr. President, now that the amendment to the amendment has been agreed to and includes my proposal, I shall gladly take the amendment to conference. I ask unanimous consent that the order for the yeas and nays be vacated, so that the amendment may be taken to conference.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question now is on agreeing to the McCarthy amendment as amended.

The amendment as amended was agreed to.

Mr. GORE. Mr. President, I understand from the distinguished Senator from Florida [Mr. SMATHERS] that there is an understanding that the senior Senator from Delaware [Mr. WILLIAMS] will be recognized to call up his amendment. Therefore, I shall withhold the amendment I had intended to offer.

Mr. WILLIAMS of Delaware. Mr. President, on behalf of Senators SMITH, AIKEN, and PROXMIRE and myself, I call up amendment No. 400 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. At the proper place in title II of the bill it is proposed to insert the following new section:

SEC. . PERCENTAGE DEPLETION RATES FOR OIL AND GAS WELLS, ETC.

(a) Section 613(b) of the Internal Revenue Code of 1954, relating to percentage depletion rates is amended—

(1) 1964.—With respect to taxable years beginning in 1964, by striking out "27½ percent—oil and gas wells" in paragraph (1) thereof and inserting "25 percent—oil and gas wells".

(2) 1965.—With respect to taxable years beginning in 1965—

(A) by striking out "25 percent—oil and gas wells" in paragraph (1) thereof and inserting "22½ percent—oil and gas wells", and

(B) by striking out "23 percent—" in paragraph (2) thereof (relating to sulfur and uranium and certain minerals from deposits in the United States) and inserting "22½ percent—".

(3) 1966 AND SUBSEQUENT YEARS.—In the case of taxable years beginning after December 31, 1965—

(A) by striking out "22½ percent—oil and gas wells" in paragraph (1) thereof and inserting "20 percent—oil and gas wells", and

(B) by striking out "22½ percent—" in paragraph (2) thereof (relating to sulfur and uranium and certain minerals from deposits in the United States) and inserting "20 percent—".

Mr. WILLIAMS of Delaware. Mr. President, perhaps the Senator in charge of the bill is willing to accept the amendment. If he is, much discussion could be eliminated.

Mr. LONG of Louisiana. The Senator from Delaware knows that I oppose his amendment. I shall be glad to hear him. I hope other Senators will also remain in the Chamber and hear both arguments, so that the Senate may pass fairly on the proposal.

Mr. WILLIAMS of Delaware. Mr. President, this amendment provides for a progressive three-step reduction in certain percentage depletion rates. When this amendment is fully effective in 1966, all those percentage depletion rates which now are above 20 percent would be reduced to 20 percent.

The minerals affected by this amendment include oil and gas which presently enjoy a percentage depletion rate of 27½ percent and sulfur, uranium, and certain other minerals which are extracted from deposits within the United States which are entitled to percentage depletion of 23 percent.

Under its first step, the amendment would reduce the percentage depletion allowance for oil and gas from 27½ to 25 percent. This would be the percentage depletion applicable to oil and gas income in 1964. This change for 1964 would produce $75 million in new revenues for the Treasury and would help offset the cost of the first stage of the income tax reductions.

As its second step, effective in 1965, the amendment would further reduce the percentage depletion allowance for oil and gas to 22½ percent. At the same time, it would have its first impact on the minerals in the 23-percent category. As in the case of oil and gas, the allowance for these minerals in 1965 would be 22½ percent, an initial reduction of only one-half of 1 percent. These changes made by this second step in 1965 would produce an additional $75 million in new revenues for the Government, offsetting part of the cost of the second-step reduction in income taxes.

The third and final step of my amendment would apply in 1966 and subsequent years. It would reduce the percentage allowance to 20 percent for oil and gas and for minerals now in the 23-percent category. In 1966 and thereafter there will be no percentage depletion allowance above 20 percent. This last step, in 1966, would produce additional revenues of $100 million for

the Federal Treasury, making the total revenue gain for a full year of operation of the amendment approximately $250 million.

Mr. President, I ask that the yeas and nays be ordered on the amendment.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, will the Senator from Delaware yield?

Mr. WILLIAMS of Delaware. I yield.

Mr. JAVITS. As the Senator knows, there is a large amount of business of this character in our State and our city. New York is the headquarters of probably most of the major oil companies in the United States. They are always concerned about changes in definitions, in terms of the law, in the way in which foreign income is treated, depending upon its sources, and so forth. To some extent, those factors are affected in the bill. The companies operate under a very complicated set of tax laws.

Can the Senator assure us that, other than with respect to strict rates of depletion, his amendment would not change either existing law or what is contained in the bill with respect to depletion income from mineral sources, and so forth?

Mr. WILLIAMS of Delaware. That is correct.

Mr. JAVITS. Only the rates?

Mr. WILLIAMS of Delaware. Only the rates.

Mr. JAVITS. And if there were to be any question about that—if the Senate adopts the Senator's amendment, and if the opposite proved to be the case——

Mr. WILLIAMS of Delaware. Then I would help correct that.

Mr. JAVITS. The Senator from Delaware would help correct it?

Mr. WILLIAMS of Delaware. Yes.

Mr. JAVITS. I thank the Senator from Delaware.

Mr. WILLIAMS of Delaware. Yes, because the amendment is drafted with the sole intent of changing only the rate, not changing any other part of the formula.

If it were found—although I do not think it will be because the staff has carefully prepared this amendment—that the amendment would do otherwise. I shall be ready to change it, in conference or elsewhere.

Mr. JAVITS. I thank the Senator from Delaware, because everyone knows

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that I am devoted to the struggle to have the private enterprise system really do its proper job in the world. I think the question before the tax collector is always how he can do his job without drawing blood.

So in deciding whether this rate should be 22 percent or 21 percent or 26 percent, our decision will depend on the answer to the question, Will this inhibit the exploration for oil, on which the rate is based.

It is my judgment that this amendment will not inhibit the exploration for oil, any more than the 27½ percent has done; and I thank the Senator from Delaware.

Mr. WILLIAMS of Delaware. I thank the Senator from New York.

There is no industry for which I have more respect than the oil industry. This industry makes a great contribution to our Government; and in submitting the amendment I have no thought of punitive action against the industry or anyone else. I have respect for this industry, but I expect it to pay its proportionate share of the total tax burden, the same as all other citizens.

There is no magic in the 27½-percent figure. It was a compromise between the position taken by the two Houses—one of which proposed a rate of 25 percent, and the other proposed 30 percent. At that time the corporate rate was around 20 percent, and the top individual rate was around 25 percent. Therefore, the 27½-percent rate did not result in the same advantages and benefits for this industry as those which now result for it under the existing law or those which it will enjoy under the new rates now in this bill. I feel that in an era in which we must raise about $100 billion a year to support our Government, and when approximately one-half of that goes to support the national defense it is only right that this industry be called upon to pay a fair proportion of the tax load required in order to operate the Government and protect the country. It is for that reason that I am proposing this change in this rate structure; and I feel that this change will not disrupt at all the exploration activities and development of the industry.

Mr. JAVITS. Mr. President, will the Senator from Delaware yield further to me?

Mr. WILLIAMS of Delaware. I yield.

Mr. JAVITS. As a practical citizen and a campaigner of longstanding, I know of no particular area in the tax bill which sticks more in the public mind as some kind of gimmick and some sort of way by which the rich avoid heavy taxes than this one. However, as a matter of fact, that is not true; as a matter of fact, there are no particular iniquities involved in this depletion allowance. It has a great deal of basis and soundness in the national interest; and I have been pleased to find that the Senator from Delaware takes that position, too, because after studying that situation, he

has submitted his amendment, which would bring the rate down, not sensationally, but to 20 percent over a period of years.

So I submit that if we show that this particular rate is not a sacred cow and that—at long last—it can now be reformed, and that no lobby or power group will prevent us from reforming it, that will be one of the finest demonstrations of the strength of the tax system that we could possibly have; and I think the oil companies will benefit from it, in terms of the public esteem which they will receive, and which I believe they deserve to receive.

I agree with the Senator from Delaware that the oil companies have done a fine job in the public interest, and that they have done many fine things in that connection, in a forward-looking way.

But somehow the American people have come to feel that these oil companies have an inside drag, and that their tax rates cannot be changed—that other rates can be changed either up or down or across the board, but that this rate is the sacred cow of all sacred cows. I think that attitude is bad for the country and for the tax system; and I hope that—at long last—the Senate will support the Senator from Delaware, in connection with his amendment.

Mr. WILLIAMS of Delaware. I thank the Senator from New York. I agree with the principle of depletion, and I am not trying to abolish the principle itself.

On the other hand, since 1926 Congress has made many changes in the tax rates—in most cases, raising them—with the result that the individual rates have been increased from around 11 percent until today they are as high as 91 percent, and the corporate rates have been increased from 20 to 52 percent. During the war the excess profits tax resulted in raising the rates even higher. However, during this entire period, this 27½-percent rate has been considered sacred and as one which could not be touched.

I think the oil industry—for which I have the greatest respect—can pay its proportionate part of the cost of the defense of the country.

Fifty billion dollars of the annual expenditures, for which Congress appropriates, are made for the Nation's defense programs. Those expenditures are made in order to defend the lives of all American citizens and the defense of the property of America. The oil industry represents a substantial amount of property which is being defended by means of the congressional appropriations for the national defense and certainly this industry should pay its proportionate share of that cost. Why should it do otherwise?

I think it is also fair that it do so, and I believe the American people will have a much higher regard for this industry than if Congress insists that this special tax privilege is sacred and cannot be touched.

Mr. JAVITS. Mr. President, will the Senator from Delaware yield further to me?

Mr. WILLIAMS of Delaware. I yield.

Mr. JAVITS. My remarks will be brief, and I appreciate very much the courtesy of the Senator from Delaware in yielding to me.

I wish to refer to one other point: The oil industry often suffers severely from strange and unjustified constructions in regard to provisions of the tax law, from the point of view of the income of the industry; and it has complained about that and about the considerable insensibility on the part of those who complain about the effect which the depletion allowance has, and the programs taken under it, and the demands for corrective action in that connection, as compared to other parts of the tax system.

Therefore, I believe that by means of this amendment the oil companies will be able to do even better than they can do today, because, in the absence of this amendment, the attitude of Congress and of the people of the country toward that industry is an unhealthy one; and I believe it is time for a change to be made.

Mr. WILLIAMS of Delaware. I thank the Senator from New York, and I agree with him.

Mr. SIMPSON. Mr. President, will the Senator from Delaware yield briefly to me?

Mr. WILLIAMS of Delaware. I yield.

Mr. SIMPSON. I have great respect for the Senator from Delaware, as he knows; and he is one whom I should like to have on my side in connection with any controversy.

I agree with what he has said about the oil industry and its part in the defense of the country and its participation in it.

I wish to point out that the oil industry has been the minuteman of America, during all our country's conflicts. In World War I, in World War II, and in World War III the oil industry provided tremendous impulse to the motivation of our Armed Forces—both those on the land, those on the sea, and those in the air.

I point out that any diminution of the 27½-percent depletion allowance would

wreak havoc in this industry, which in recent years has been suffering a decline.

I believe that the economic shock wave which would result from any change in the depletion allowance would not only adversely affect the oil industry, but also would adversely affect the oil users, and also—and principally—the U.S. Government itself. The Government is the biggest user in the United States of the production of this industry. For instance, I believe our Armed Forces use about 446,000 barrels a day of oil products; and jet fuel is used in similar proportions.

I call the attention of the Senate and the attention of the Senator from Delaware to the fact that the oil industry will spend $2 for every $1 it receives from the depletion allowance; the industry will spend that for further exploration and for the discovery of the hidden sources of oil.

I also call attention to the fact that the industry itself has spent an average of $5.1 billion and has made approximately 15,000 explorations, including both the large ones and the small ones. That has been the average over the years; and if Congress were to reduce the depletion allowance, the resulting

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increased cost would be inflicted upon the consumers.

I know how honorable the Senator from Delaware is in his intentions. I know how he must feel with respect to the great job that the oil industry has done. Coming from the eighth largest oil State in the Union from the standpoint of production, I know what it means. Furthermore, I know that the oil industry itself is far below the norm in corporate receipts in the United States by virtue of the industry itself. I call to the attention of the Senator from Delaware the fact that that great industry would be irreparably injured if there were any reduction in the 27½-percent depletion allowance which has been in existence for 35 years. The oil industry expected to use it. It has been given a promise by the U.S. Government that it could depend upon that type of thing and could work out its destiny in the future. As much as I should like to be for the amendment of the Senator from Delaware, knowing the repercussions that it would have on the oil industry, I sincerely hope that Senators will vote against it.

Mr. WILLIAMS of Delaware. I appreciate the remarks of my good friend the Senator from Wyoming, for whom I have the greatest respect. He has no higher regard for the oil industry than I do. I certainly recognize the great contribution that the industry made to our war effort, and I am willing to accept the industry as a minuteman that always stood by when our country was in need. But by the same token we have not merely one minuteman; we have many. What the Senator has said could be said also of the American farmer.

The oil would be of no use if we did not have food for America. So, therefore, one could say that the farmer is most important. Neither the farmer nor the oil industry would be of great importance if it did not have the great productive capacity of America to provide the implements. We can speak of no segment of America in itself as all-important. It takes all of them working together as a unit—as a group of minutemen—to make our country successful in its defense. I would not for one moment, in making that statement, detract from the part which the oil industry has played, but they are not all-important. If we had all the oil in the world but did not have all these other things to go with it, it would be of no use.

Mr. SIMPSON. Mr. President, will the Senator yield?

Mr. WILLIAMS of Delaware. I shall yield in a moment. The Senator mentioned the fact that the oil industry has been led to expect that they could keep the 27½-percent depletion allowance. I cannot say that I agree with that conclusion. The fact that 35 years ago the rate was fixed at 27½ percent does not give the industry any right to believe that it has an inherent right always to maintain that allowance, any more than do the American taxpayers who were paying around 20 percent to 25 percent rates at that time have any right to say that the Congress and the Government doublecrossed them as they raised the rates to higher levels in succeeding years.

Nothing is fixed in our tax structure. Every American taxpayer recognizes that rates can be raised or lowered at the discretion of the Congress as it sees the need. Sure, this change will have some effect on the consumers. I recognize that it will have some effect on the cost to the Government, which is a large purchaser of the oil products. I recognize that as we increase taxes the addition becomes part of the built-in costs. But, by the same token, the same statement is true with respect to all corporate rates. All taxes are a part of the built-in cost of operations. It is true of all industries, not merely the oil industry. It is one of those factors which we must take into consideration. The alternative

would be to abolish all taxes on all corporations, so that the Government could buy at lower costs.

The reason I am offering the amendment is that I strongly feel that this segment of our American industry, which is an important segment and one of the most respected segments of American industry, is not paying its proportionate part of maintaining the cost of operating our Government today. For that reason I am proposing what I think is not only in the interest of the taxpayer but in the interest of the oil industry itself—that they accept some modification of the depletion allowance.

As the Senator knows, under this 27½-percent depletion allowance they can recover not just the original cost but in some instances, many times over their investment.

There is no limit.

I have suggested what I believe would be a reasonable adjustment. I admit that there is no magic in the figures I have suggested, nor is there any magic in the 27½-percent figure. Congress should recognize that. Personally I feel that the oil industry itself would be better off if it accepted a modification of the depletion allowance in order to remove the stigma we sometimes hear that they are trying to enjoy a special privilege. I accept the industry as a respected part of our American system. Let them accept their responsibility as a respected part of that system.

Mr. SIMPSON. Mr. President, will the Senator yield?

Mr. WILLIAMS of Delaware. I yield.

Mr. SIMPSON. I am sure that the Senator from Delaware is not contending that the depletion allowance is a tax loophole for the benefit of the oil industry.

Mr. WILLIAMS of Delaware. No.

Mr. SIMPSON. Some responsible people do.

Mr. WILLIAMS of Delaware. I have always looked upon a loophole as an unintended benefit that creeps into our Internal Revenue Code. As we act upon a bill, such as we are considering today, consisting of 380 pages, occasionally we will find that we have extended a benefit to some group or to some individual which we did not intend. We later correct them. To me those are loopholes.

The reason I make that statement is that I do not consider the allowance a loophole in that Congress, with its eyes wide open, established the depletion allowance at 27½ percent. On numerous occasions the Congress has refused to change it. If I were a part of the oil industry today and were operating an oil well, I would take the 27½-percent depletion allowance the same as every one else in the industry does. I do not make any charges of impropriety when anyone in the industry utilizes the benefits which are acorded to them under the revenue code.

I shall state another example. I shall vote against the proposed tax reduction of $11.5 billion, not because I believe that the tax rates are low enough already, but, as I have previously explained, I believe we should postpone a tax reduction until after we have actually reduced Government expenditures to the point at which we can afford a tax cut. But if the bill should pass and tax rates are reduced, even though I vote against it, when I compute my tax return at the end of the year, I shall compute it on the same lower formula as every other taxpayer will. That does not mean that I would be taking advantage of a loophole.

That is the law. If the tax rate is raised over my objections I shall pay the increased rate. If it is lowered over my objections I shall take the benefit. So I certainly do not cast any reflection on the oil industry because it has utilized the 27½-percent rate which is provided in existing law.

I frankly believe that any segment of the oil industry which did not utilize the allowance would be subject to severe criticism on the part of the company's stockholders. They must take advantage of the law. I certainly am not attacking from that angle. I do say that it is up to Congress to change the provision.

Mr. SIMPSON. Mr. President, will the Senator yield?

Mr. WILLIAMS of Delaware. I yield.

Mr. SIMPSON. It is the evidence of the integrity of the Senator from Delaware that makes me very friendly toward him, as he knows. The Senator has been very fair and convincing with respect to the matter of tax loopholes, which so many irresponsible people refer to when they speak about the oil depletion allowance for the oil industry. I should like to point out to the Senator that, since I come from a State which has large oil capacity, and participate in an independent company known as the Husky Oil & Refining Co., I can assure the Senator from Delaware, as well as other Senators, that the job of the oil industry is not all sunshine and roses. Approximately 1 out of every 12 wells drilled is a good producer. Many of the wells are marginal wells or even submarginal wells that do not pay their expenses.

The path of the oil industry is a very severe one. The job is becoming more difficult by virtue of the importations of oil from abroad. In all of my experience in the oil industry I have never

found any stinkers in that industry with the exception of one or two, and the oil industry itself took care of those right off the bat.

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This great industry is doing a great service for America. The repercussions of the proposal on the economics of the country would be most severe, not only to the oil industry, but to other industries that utilize the oil.

I agree with what the Senator has said about the farmers being minutemen, but it is the propulsion provided in many instances to the farmer and to other forms of transportation and in the other areas of industry that is provided by the oil industry that makes them competent to be minutemen.

Mr. WILLIAMS of Delaware. What the Senator has said is true. As I stated, I am not trying to minimize the contribution which the oil industry makes to the American economy—not for one moment. I have great respect for the industry. Some of my best friends are engaged in it. They understand my position, and I understand theirs. On many occasions I have agreed with them and fought for what I thought was fair for the industry, and I shall do so again.

This is not a personal grudge I have against them. I have supported measures relating to the industry which I felt were justified, as has the Senator from New York, and I shall probably do so again in the future.

Several Senators addressed the Chair.

Mr. WILLIAMS of Delaware. Mr. President, I promised to yield to the Senator from Ohio [Mr. YOUNG] first.

The PRESIDING OFFICER (Mr. KENNEDY in the chair). The Senator from Ohio is recognized.

Mr. YOUNG of Ohio. Mr. President, I compliment the distinguished senior Senator from Delaware [Mr. WILLIAMS] on the moderate amendment he has offered today. The Senator from Delaware is rendering a real and needful public service in offering the amendment. I am sure it will be debated fully.

I think I know something about this matter for the reason that, while a member of the Committee on Ways and Means of the House of Representatives, I heard a great deal of testimony on the 27½-percent oil depletion allowance in the tax writing of 1949 and 1950. At that time in committee, based upon the testimony that had been heard, and upon my judgment, I voted to reduce the 27½-percent depletion allowance to 15 percent. I would have voted to reduce it further. I also know something about it because in recent months I have received letters, accompanied with dividend checks, from the Atlantic Refining Co. and the Sinclair Oil Co., telling me to write my Representative to insist upon the retention of the 27½-percent depletion allowance.

I am not writing my Representative on that subject, but for many years I have been happy to have been a stockholder in the Sinclair Oil Co., the Getty Oil Co., the Tidewater Oil Co., the Mission Development Co., the Atlantic Refining Co., and the Monsanto Co.

The estate I have accumulated over the years has been added to somewhat by reason of the fact that I had the good judgment many years ago, when I was practicing law in Cleveland, to purchase oil stocks. I am retraining them. I am happy to have them. I am still in favor of reducing the oil depletion allowance.

When it is said that there would be a great economic shock if this moderate amendment were to be adopted today, I cannot "buy" that argument. It might require some mild adjustments in the oil industry, but I am certain there would be nothing shocking about it.

Evidently the distinguished Senator from Delaware has studied this subject very thoroughly. In the graduated reduction that is here proposed, I am certain the oil producing companies will not suffer whatever.

They have been beneficiaries of this high allowance over the years. We have been glad to give them these benefits, and this amendment will continue to give them a more than reasonable and fair depletion allowance.

It is true that at the present time the oil industry is making a great contribution for the defense of our country. I am aware of the great contributions that were made by the industry to defend the free world, and to win the war against Hitler. However, the time has now come for a careful and thorough reappraisal of its tax benefits, which are not sacred at all. Congress provided them back in 1926, in the era just preceding the period of the great depression. Since 1926, oil and gas producers have been permitted to deduct 27½ percent annually as a depletion allowance regardless of the actual depletion involved. There is nothing in our tax laws so inequitable as the excessive depletion exemptions now enjoyed by oil and gas corporate interests. If this depletion allowance were reduced from 27½ percent to 15 percent, $800 million would be added to our annual revenue, and in my judgment, no corporation would be dealt with unjustly. I commend the Senator from Delaware for his amendment which is a big step in that direction.

In that connection, may I add that a great President, the late great John F. Kennedy, who 50 years from now will

be regarded, in my opinion, as one of our very, very great Presidents, recommended to the Congress that the depletion allowance of 27½ percent be reviewed and reduced. That is our opportunity here today.

Mr. WILLIAMS of Delaware. I thank the Senator from Ohio for his support of the amendment. I, too, have seen the letters sent out by the oil companies to the stockholders, urging that they write Members of Congress. As a stockholder I have received some of them. I find no fault with those companies sending out such letters. Under our form of government they have that right, and I would defend their right to do what they can to keep the 27½-percent depletion allowance. At the same time, I defend my right to put the allowance in proper perspective. In my opinion, it should be lowered.

I have often listened to the argument that the industry would be completely demoralized if it had to pay more taxes, and I am not at all convinced.

I yield now to the senior Senator from Ohio [Mr. LAUSCHE].

The PRESIDING OFFICER. The senior Senator from Ohio.

Mr. LAUSCHE. Mr. President, I merely wanted to express my concurrence with the fine remarks made by my colleague from Ohio [Mr. YOUNG]. I think he ably stated the case, and I subscribe to all the thoughts he expressed.

Mr. WILLIAMS of Delaware. I thank the Senator from Ohio.

I now yield to the Senator from Iowa [Mr. MILLER].

Mr. MILLER. Mr. President, the Senator from Delaware knows in what great esteem I hold him. He also knows that he and I share the same tax and economic philosophy. I venture to say that the record of the yea-and-nay votes will show that we voted very closely together on tax questions. Accordingly, I hope he will understand why I feel unhappy about the fact that I must differ with him.

The Senator from Iowa has this approach to the problem: If an adjustment is made in what is really a built-in factor in the cost, either of two things will happen. Either the oil companies will cut down on the amount of their exploration activities, or there will be an increase in the cost of the end product.

I do not believe the oil companies will cut down on their exploration activities, because this is a matter of life and death, a matter of survival of the oil industry, in view of the international competitive situation. There will be an increase in the cost of the end product, in the price of gas and oil and heating fuel.

The Senator from Delaware said that, if we use this argument, perhaps it is an argument that we ought to reduce the taxes of other corporations.

I do not believe that is quite the point. The point would more likely be that we should not increase the taxes of other corporations, and we are not about to do that. The essence of the bill pending before the Senate is that we will reduce taxes on corporations rather than increase them. The amendment of the Senator from Delaware goes contrary to that philosophy by increasing the taxes of one industry. I suggest to the Senator from Delaware that the result will be an increase in the cost of gas and oil and heating fuel.

Mr. WILLIAMS of Delaware. Will the Senator from Iowa yield at that point?

Mr. MILLER. I should like to tie in one other point first——

Mr. WILLIAMS of Delaware. I should like to reply at that particular point, if the Senator will yield to me.

Mr. MILLER. I yield.

Mr. WILLIAMS of Delaware. I recognize that if we increase taxes, surely of it does flow through and pass on to the consumer. But by the same token, so, too, would this a tax reduction represent lower prices, should the reduction all be passed on to the consumer. But changes in tax rates are not always reflected at the consumer level. If that were true, mathematically they would be just a well off as they were before, so why all the argument?

Mr. MILLER. That is just the point. The products of the oil industry are in a competitive situation, not only with respect to other types of products in the United States—coal, for example—but with respect to international competition as well. The Senator from Delaware well

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knows that in the American economic competitive system, the general approach has been to reduce rather than to increase the cost of products to consumers. But the Senator from Delaware recognizes that there will be some increase in cost to the consumers.

With the percentage depletion, the oil industry is not paying as much in taxes as it would if the amendment of the Senator from Delaware were adopted. So who is going to be paying the difference? As of now, the general taxpayer will be paying it. Mainly, the income-tax payer will be making up the difference. But he will be doing this on the basis of relative ability to pay. Those with high incomes are filling more of the gap than those with lower incomes, because that is the essence of our tax system. That is our philosophy.

If certain industries do not have to pay as much tax as they otherwise would, with the change in the structure, the general taxpayers, on the basis of relative ability, will make up the difference. But if we close the gap, and the extra cost is passed on to the consumer, the consumer will not be paying according to relative ability to pay.

Those who buy gas and oil and heating fuel do not pay according to their ability to pay. The very lowest income groups may well drive their automobiles as much as, if not more than, those in the highest income bracket, but they will pay the extra cost just the same. So from the economic standpoint, it seems to me that if we are going to pass on extra costs to the consumers, we shall have a more regressive situation by far than at the present time.

My argument would break down if the Senator from Delaware could show that the extra taxload would not be passed on to the consumer as extra cost of the end product.

Mr. WILLIAMS of Delaware. I thank the Senator from Iowa. At that point I should like to reply, because perhaps I can convince the Senator.

Even though the Senator from Iowa and I may differ on this point, it does not in any way diminish my respect for him. Men can differ honestly on views, and I most certainly respect his views and the views of other Senators on this question, but by the same token I hope that they in turn will respect mine.

Mr. MILLER. I thank the Senator. The Senator well knows that the respect is mutual.

Mr. WILLIAMS of Delaware. I should like to quote an example that was given demonstrating how the oil depletion allowance works. I quote from a speech which was delivered by none other than former President of the United States Harry S. Truman, in one of his messages to Congress, at which time he was asking Congress to change the depletion allowance. This was back in 1950—on January 23. It appears in the CONGRESSIONAL RECORD, volume 96, page 771 of that year. I should like to quote one example to which President Truman invited our attention as a glaring example of what exists and can exist under the 27½-percent depletion.

I quote:

> For example, during the 5 years 1943 to 1947, during which it was necessary to collect an income tax from people earning less than $20 a week, one oil operator was able, because of these loopholes, to develop properties yielding nearly $5 million, in a single year without payment of any income tax. In addition to escaping the payment of tax on his large income from oil operations, he was also able through the use of his oil tax exemptions to escape payment of tax on most of his income from other sources. For the 5 years his income taxes totaled less than $100,000, although his income from nonoil sources alone averaged almost $1 million each year.

I remain unconvinced that slightly raising the taxes of one who has an income of $1 million a year, as this amendment would do, would place him in a position in which he could not afford to pay his taxes. I venture to say that some of the tax increase should come out of his pocket rather than the consumer's. Yes, if we increase taxes some of it does siphon down to the consumer, but not all of it.

It is these glaring examples which are holding up the oil industry to criticism, a situation which I believe is unfortunate. The adoption of my amendment would correct that situation. It would not be a punitive action against them. But how can we justify the action indicated at that time; namely, a tax of 20 percent in the case of a man making $40 or $50 a week and not taking at least some taxes out of the incomes of others who are making a million? Cases have come to our attention involving individuals and companies with large incomes paying little or no taxes whatever toward the support for the defense of America. They are a part of America. I recognize them as an important part of the American economy. I have great respect for them; so great is my respect that I believe they have the ability at least to pay a part of the operating costs of their Government.

Mr. MILLER. Mr. President, will the Senator from Delaware yield at that point?

Mr. WILLIAMS of Delaware. I would be glad to yield but first, Mr. President, I should like to ask unanimous consent that the entire message of President Truman to which I have referred may be printed in the RECORD.

There being no objection, the message was ordered to be printed in the RECORD, as follows:

> I know of no loophole in the tax laws so inequitable as the excessive depletion exemptions now enjoyed by oil and mining interests.
>
> Under these exemptions, large percentages of the income from oil and mining properties escape taxation year after year. Owners of mines and oil wells are permitted, after deducting all costs of doing business, to exclude from taxation on account of depletion as much as half of their net income. In the case of ordinary businesses, investment in physical assets is recovered tax free through depreciation deductions. When the original investment has been recovered, a depreciation deduction is no longer allowed under the tax laws. In the case of oil and mining businesses, however, the depleted exemp-

tion goes on and on, year after year, even though the original investment in the property has already been recovered tax free not once but many times over.

Originally introduced as a moderate measuse to stimulate essential production in the First World War, this special treatment has been extended during later years. At the present time these exemptions, together with another preferential provision which permits oil-well investment costs to be immediately deducted from income regardless of source, are allowing individuals to build up vast fortunes, with little more than token contributions to tax revenues.

For example, during the 5 years 1943 to 1947, during which it was necessary to collect an income tax from people earning less than $20 a week, one oil operator was able, because of these loopholes, to develop properties yielding nearly $5 million in a single year without payment of any income tax. In addition to escaping the payment of tax on his large income from oil operations, he was also able through the use of his oil tax exemptions to escape payment of tax on most of his income from other sources. For the 5 years his income taxes totaled less than $100,000, although his income from nonoil sources alone averaged almost $1 million each year.

This is a shocking example of how present tax loopholes permit a few to gain enormous wealth without paying their fair share of taxes.

I am well aware that these tax privileges are sometimes defended on the grounds that they encourage the production of strategic minerals. It is true that we wish to encourage such production. But the tax bounties distributed under present law bear only a haphazard relationship to our real need for proper incentives to encourage the exploration, development, and conservation of our mineral resources. A forward-looking resources program does not require that we give hundreds of millions of dollars annually in tax exemptions to a favored few at the expense of the many.

Mr. MILLER subsequently said: Mr. President, will the Senator from Delaware yield?

Mr. WILLIAMS of Delaware. I yield.

Mr. MILLER. If the Senator would permit me to do so, I should like to continue our earlier colloquy with regard to the example the Senator gave of $1 million income over a 5-year period, and a tax liability of only $100,000.

I wish to emphasize that I am still of the opinion that these examples are not properly given in a debate on percentage depletion. I repeat that percentage depletion can in no event exceed 50 percent of net income.

The Senator has cited an example of a corporation having $1 million net income over 5 years—let us say 1958, 1959, 1960, 1961, and 1962—$200,000 a year. The maximum percentage depletion would be $100,000 a year, leaving taxable income of $100,000 in each of those years, and a tax of $46,500 in each of those years, or a total tax liability of $225,000.

I ask unanimous consent that this example be printed at this point in the RECORD. The Senator makes the point that this is merely an example. But if the example is different from the one that President Truman gave, perhaps we can clarify it to show that other factors are involved. But I suggest that more than percentage depletion is involved in these examples.

Mr. WILLIAMS of Delaware. I would appreciate having the Senator incorporate that table in the RECORD, but I ask

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that it appear in the RECORD immediately following my insertion of the statement by President Truman, and thus let the RECORD show that the Senator from Iowa and President Truman differ in their conclusions.

Mr. MILLER. The Senator from Iowa wholly endorses that statement. Let the RECORD show that this is not the only point on which the Senator from Iowa and President Truman differ.

Mr. WILLIAMS of Delaware. On most of the other points, the Senator and I would be in agreement.

Mr. MILLER. That is correct.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Corporation with $1 million of net income over 5-year period with percentage depletion of 27½ percent (limited to 50 percent of net income):

	1958	1959	1960	1961	1962
Net income	$200,000	$200,000	$200,000	$200,000	$200,000
Less percentage depletion	100,000	100,000	100,000	100,000	100,000
Taxable income	100,000	100,000	100,000	100,000	100,000
Tax	46,500	46,500	46,500	46,500	46,500

Total $225,000.

Mr. MILLER. I wish to emphasize that other factors are involved in these examples, factors such as intangible drilling and development costs; factors such as net operating loss, carryovers, and carrybacks, which are applicable to other corporations, as well.

If there are other abuses that have

arisen, they relate to net operating loss, carryovers, or to intangible drilling development costs, or to percentage depletion, or to combinations of them, perhaps this is something for the Treasury and for Congress to focus attention upon.

But I deplore the giving of such examples. The Senator from Illinois [Mr. DOUGLAS] well knows this situation, because he and I have had many a scuffle on this matter. I do not like to see a debate start on the percentage depletion allowance by referring to other examples of deductions for tax purposes, because I do not think it is proper for the percentage depletion allowance to take a beating when intangible development and drilling costs may be the basis for the fact that very little income tax is paid.

Furthermore, a net loss carryover may be the basis for the fact that very little income tax is paid; a person with an income of $1 million may pay no income tax because he has a net loss carryover of $1 million, as a deduction.

So I believe it should be pointed out, in connection with such a situation that he did not pay an income tax that year because he was allowed to make a deduction of $1 million, because of a net loss carryover of $1 million from the previous year.

So, Mr. President, in such cases the cause of the failure to pay an income tax is, not the oil depletion allowance, but the deductions allowed because of net loss carryover.

I am not enchanted by the rates now on the statute books; and it may be that the depletion rate can be improved upon. However, I point out that if the rate is decreased, the result will be to increase the industry's operating costs, and then it would be necessary to change the rate in order to make it possible for the industry to pay those increased costs.

Therefore, Mr. President, Congress should be careful not to take action, by way of changing the deduction allowed, which would prevent the industry from paying for its increased costs.

The example which the Senator just read from President Truman sounds very much like some of the examples that the distinguished Senator from Illinois [Mr. DOUGLAS] presented to the Senate not long ago. I point out that these examples are meaningless unless we get down to specifics.

The Senator from Delaware read an example that President Truman gave of someone with an income of $1 million paying only $100,000 in taxes.

Mr. WILLIAMS of Delaware. That is over a 5-year period.

Mr. MILLER. Over a 5-year period, yes.

Mr. WILLIAMS of Delaware. He was earning a million dollars a year for 5 years.

Mr. MILLER. I do not know what relevance the example has to a debate on percentage depletion, because the Senator knows as well as anyone that percentage depletion cannot possible exceed 50 percent of net income to the 27½ percent with a limit of not more than 50 percent of net income. So this individual would have had to have at least $500,000 of that $1 million subject to tax if the percentage depletion was the only factor involved. However, my guess is that it was not, because if it were, I am sure the officials of the company, or the taxpayer himself, would probably be doing a little time in the Federal penitentiary for tax evasion.

The point is that in these examples of the Senator from Illinois and others, they always talk about using percentage depletion, but never point out that other factors are involved—for example a factor like intangible drilling and development costs which are currently deductible, and the fact that the net operating loss carryover is applicable to all taxpayers.

For an example to mean something, it is necessary to take other things into account. I recognize that in any group of taxpayers there may be some who will have a tendency to abuse a situation. Some oil companies might pass on to taxpayers undue costs for a period of time, until competition catches up with them. We are talking about an industry. The Senator from Iowa will be the first to join the Senator from Illinois and the Senator from Deleware in revising our tax laws so as to stop abuses. However, we are attempting to use a meat ax approach if we follow the suggestion of the Senator from Delaware and the approach of the Senator from Illinois, by merely dropping down, across the board, the percentage depletion allowance.

Mr. WILLIAMS of Delaware. I regret that I must disagree with the Senator from Iowa. I have checked with the staff member who sits beside me, and he says I am correct in saying that it is possible for a man to have had a $1 million a year income and to escape all income taxes by living off the 27½-percent depletion allowance, which is not taxable, by piling all his other income into intangible investments.

Mr. MILLER. Intangible development costs; yes.

Mr. WILLIAMS of Delaware. It is possible according to the figures which were furnished to us by the Department of the Treasury. These are many specific cases that have been furnished to us.

What we propose would not correct the situation completely. In the case I cited the man was abiding by the law, of course. If we do not like the law, we have an opportunity to change it. We must recognize that these conditions do exist. Several such cases were furnished to our committee. Only the names of the men were withheld. As the Senator from Illinois has pointed out, there are many examples of piling up an estate without paying any taxes. The Senator is aware of that possibility. I do not say that that can be done in all instances. Of course there is the 50-percent ceiling. At the same time there are ways of maneuvering around that ceiling.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. WILLIAMS of Delaware. I shall be glad to yield again in a moment. However, first I yield to the Senator from Kansas.

Mr. PEARSON. Mr. President, the statement of the Senator from Delaware with respect to the 27½-percent depletion allowance is correct, when he says it was enacted in 1926. It is interesting to note that prior to that year, the law pertaining to this subject matter required the owner or lessor of a property having mineral resources to estimate the value of the resources or reserves, and then to amortize them over a given period of time.

That was not possible. There are reserves today on which it is impossible to estimate. Because of this, and consistent with tax principles and with principles involved in the business—geological principles and accounting principles, for example—it was the judgment of Congress at that time that somewhere between 25 and 30 percent would be a fair depletion allowance for a capital asset, consistent with the depreciation principle.

It is interesting to note, in going back and checking on this matter, that the figure of 27½ percent was arrived at between those two figures. One House wanted 30 percent, and the other House wanted 25 percent. The point I am making is that this determination was made after study at that time.

My attention has been directed at the fact that the petroleum industry must

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use about $5 billion annually for purposes of exploration and discovery; that, furthermore, possibly $1 billion of that amount is derived from the depletion allowance.

My attention has also been directed to the fact that under today's market circumstances and the import situation, a producer is caught in the familiar squeeze of our economy, with costs going up and income going down.

I hope that the tax bill can be amended on this phase of it, on the basis of something beyond the conviction of some person that a given taxpayer is not paying enough; or that we would amend it on the basis of something beyond the desire of the Senator from New York to create flexibility, to assert the independence of Congress, and to promote the character of our work, as I understand his statement. I believe it ought to be based on something besides the great service the oil industry performed for our country in periods of national emergency; as well as beyond the relationship that it might have had in 1926 to the corporate tax structure.

Although I do not fully understand what the charts and tables in the rear of the Chamber mean, I believe that some of the facts which exist today touch upon and deal with cold, hard facts of the industry's situation today which leads us to support the 27½-percent depreciation allowance.

I conclude by stating to the Senator from Delaware that on investigation I have been advised by the independent oil producers of Kansas that a lowering of the depletion allowance would mean that possibly something like 3,000 wells in Kansas would become marginal. The Senator from Wyoming, on the basis of my knowledge, is correct; with reference to marginal and unprofitable wells, we could have a ratio of 1 to 40.

Mr. WILLIAMS of Delaware. I appreciate the remarks of my friend from Kansas. I do not believe that the change in the rate from 27½ percent to 20 percent, graduated over a 3-year period, will stop oil flowing from any well. Of course, there will be wells that will not be productive. In 1926, when the depletion allowance rate was fixed at 27½ percent, the figure was a compromise between the two Houses. One suggested 25 percent, and the other suggested 30 percent. Suggestions were also made as to the corporate rate and as to the individual rates. The compromise came back with a figure for the corporate rate of around 20 percent, individual rates of 20 to 25 percent, and a depletion allowance of 27½ percent. There was no magic in any of these figures. The 27½-percent depletion allowance is the only one which over a 35-year period has been held too sacred to change. There is nothing sacred about it. The 27½ percent might have been perfectly proper at that time. However, as the tax rates go up I believe the depletion rate should be adjusted downward, and vice versa.

I respect the opinions of the Senator from Kansas. I certainly have great respect for him. However, I do not believe that it would create chaos in the industry if we were to cut the depletion allowance as proposed under this amendment.

Mr. PEARSON. Mr. President, will the Senator yield once more?

Mr. WILLIAMS of Delaware. I yield.

Mr. PEARSON. The Senator cited an example from a letter written by former President Truman. Does the Senator, in support of his amendment, have any factual information, other than the sincere conviction he has expressed? Does he have any factual information which indicates that the oil and gas industry is in such a state of high profits that it is not paying its fair share of taxes?

Mr. WILLIAMS of Delaware. In my opinion, yes. Such evidence has been presented to our committee. We have studied it over the years. I believe the oil industry is a prosperous industry and fully capable of sustaining such an adjustment. I disagree completely that it is a depressed industry, as it was referred to the other day.

I do not say it is the most profitable or the least profitable industry; but the oil industry, over a period of years, has been profitable. I am not quarreling with that situation. I merely say that if we want to change the law we can. We certainly have the right to change it. Nor do I think the oil industry is in such dire circumstances that it is about to go on relief. I have not seen any evidence of the oil industry having to pass the hat. The oil industry is well able to support itself and to pay its proportionate share toward the cost of operating the Government. That is all I am trying to have it do. I have as much respect for the oil industry as for any other industry, but I do not have any more respect for it than I have for any other industry.

Mr. PEARSON. I am sure that is so.

Mr. President, if the Senator from Delaware will permit me to do so, I ask unanimous consent that I may have a statement printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR JAMES B. PEARSON ON OIL DEPLETION ALLOWANCE

The amendment before the Senate would reduce the 27½-percent depletion rate for oil and gas. I hope my colleagues will bear in mind the origin and the reasons for this tax provision that has been a part of our basic tax law for more than 37 years. The percentage method for computing mineral depletion was written into our tax laws in 1926. It grew out of the highly complicated and difficult-to-administer provisions which had been a part of our income tax laws beginning with the original Income Tax Act of 1913.

Congress recognized that capital assets were used up in the production of petroleum, and as a result Congress initiated a provision in the original Income Tax Act to allow for the depletion of resources. In 1926, Congress replaced the earlier method of computing depletion by establishing a depletion deduction of 27½ percent of the gross sum received from sale of crude petroleum.

In applying this 27½-percent depletion rate, Congress intended, among other things, that it approximate the diminution of the value of the capital asset used up each time a barrel of oil is removed from the ground.

The decision the Senate must make today is whether we are writing a tax law which represents good, reasonable, and accepted business practice, or whether we are writing a tax law to satisfy someone's political philosophy.

The depletion allowance on minerals is an accepted substitute for an impractical method of computing the using up of mineral resources. Originally, the owner or lessor of property having mineral resources was required to estimate those resources and then amortize them over a given period of time. This was found to be impractical. Some major gas and oil fields still have reserves which cannot be computed.

As a result, a study of experience, based on accounting, tax and geological reports produced the agreement that a depletion allowance of between 25 and 30 percent would reflect with reasonable accuracy that achieved by the original system. Congress agreed on 27½ percent for oil and gas.

There is no evidence to justify a change from 27½ percent. There is only a political philosophy which seeks to reallocate income.

Without such recognition in the tax laws of the capital value being depleted by production, taxes would be devouring the capital of mineral producers and depriving them of the funds needed to replenish reserves in order to stay in business and to continue to supply the oil and gas and other minerals needed for our very existence.

All who have studied the oil business know that the search for and production of petroleum is indeed a unique business. Due to the circumstances involved in exploration and development, the investment process in petroleum production is quite different from that encountered in manufacturing enterprises and trade. Normally, an investor can estimate with reasonable accuracy the assets and producing capacity that will result from a specific expenditure of money. Not so in the search for oil however. The investor who is searching for oil has no way of determining what results will come from his investment. Even if he were to assume the average results of the recent past, that is, that one discovery out of every nine wildcat wells will continue to be realized in the search for oil, he cannot know to what extent his experience will differ from the average. While oil is found in one out of every nine wildcat wells drilled, if the marginal and unprofitable discoveries are excluded, the chance ratio would drop from one in nine to about one in 40 wells drilled.

This risk factor has been fairly constant for many years. Even so, an oil operator cannot know in advance to what extent his experience will vary from this highly risky enterprise. It may be more favorable or it may be less favorable. The only thing that the petroleum explorer knows for sure is that a great deal of the money he spends in the search for oil and the drilling of wells will probably yield no results. Thus, it can be quickly seen that the cost of a particular well is not a true measure of the owner's true economic position. For example, if an operator spent $800,000 on eight dry holes and then spend another $100,000 on a producing well, the actual economic cost of the producing well involves both outlays and one producing well cost him $900,000.

Thus, it is this cost rather than the amount spent on the lone producing well which he must take into account in determining the true economic income. In contrast, if a taxpayer purchases a truck in his business, he acquires that truck for immediate use. He does not have to purchase eight other trucks which will not run in order to have one truck that will run and which he can use for productive purposes in his business. Herein lies one basic difference in investing in the oil and gas-producing industry and that of normal manufacturing or trade.

Thus one can see that the wide variations in the relative success, including the many complete failures that represent a loss of

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capital, mean that some producing properties must recover enough to pay for its cost and also help to pay the cost of the losers if the taxpayer is to continue in business.

When one looks at these facts, it must be concluded that the petroleum producing industry is indeed a unique industry and that this fact must continue to be recognized in our tax laws. The petroleum producing industry must generate approximately $5 billion annually to be used in the search for and development of new mineral reserves. Through the operation of percentage depletion, the petroleum producing industry retains approximately $1 billion each year to be used in this activity. Thus, each year for every dollar generated through percentage depletion, the petroleum producing industry must acquire through retained earnings, borrowing, or other sources, about $4 billion or $4 for every depletion dollar in order to carry on the all-important task of searching for and producing new petroleum reserves.

In the foreseeable future, these capital costs will no doubt continue to exceed the value of percentage depletion because on the one hand the cost of locating and developing new oil and gas reserves in the United States are increasing rapidly while on the other hand the price of domestic crude oil is constantly subject to pressures from excessive imports of oil and competition from other energy sources. Thus, it can be expected that percentage depletion will probably cover a steadily declining share of the cost of new crude oil reserves.

In my own State, the result of a decrease in the depletion allowance could mean that as many as 3,000 wells would become submarginal, depending upon the rate agreed upon. The depletion allowance is so intricately woven into oil finance, along with restrictions on well spacing, daily allowables and other conditions, that hurried manipulation of the tax structures could create depressed conditions and poverty such as we are now asked to appropriate large sums to help overcome.

In view of these factors, certainly this is no time to be making adverse changes in this vital tax provision.

Mr. DOMINICK. Mr. President, will the Senator from Delaware yield?

Mr. WILLIAMS of Delaware. I yield.

Mr. DOMINICK. I have been listening with much interest to the debate. I wonder whether, in determining whether the oil industry is paying its fair share of taxes, the Senator from Delaware has taken State taxes into account. I should like to cite an example. Of all the industries that I know of in Colorado, the oil industry bears the heaviest tax load. It is not permitted, as are other industries, to deduct Federal taxes in order to determine its State taxes. So the oil industry in Colorado pays the Federal income tax, pays the usual property tax, and pays the State income tax. In addition, the State of Colorado, under a Democratic administration, imposed a gross-severance tax at the wellhead, so it is paying more taxes than any other industry in Colorado at present. These are largely not the big major companies we hear so much about; they are the independents, the companies which are trying to get for themselves a profitable business in a field which they know.

As a result, ever since this law went into effect, oil development in Colorado, which was fairly substantial up to about 1956, has been dropping off. I have just received from the oil industry in Colorado—this has nothing to do with the Senator's amendment; I simply wish to report a factual statement—a report showing the results of last year's explorations in comparison with explorations of previous years. The report shows that, once again, the industry is dropping off.

In addition to the Senator's amendment having an effect on the oil people, it also contains a provision which affects sulfur and uranium producers. Of course, when we speak about uranium, the uranium producers have been hit right in the heart. This is an industry which has been progressively cut off by governmental action since its peak in about 1956.

I presume the Senator from Delaware is trying to say that uranium should receive no greater depletion allowance than oil. That is why he proposes to change the rate. But the net effect is to create

one more difficulty in trying to sustain an industry which was at one time vital to the Nation, and which may again be vital in a few years. I read that a person prominent in the administration advocated that there should be more uranium exploration and production because we shall need more uranium by 1970. Yet in the meantime all the Government does is to continue to chop back. The Senator's amendment would affect the possibility of uranium producers who are still in business remaining in business.

Having made that prefatory statement, I ask the Senator whether the committee took any evidence as to the effect his type of amendment would have on uranium producers this year.

Mr. WILLIAMS of Delaware. I do not recall that uranium producers appeared before the committee, although they were on notice that the amendment would be offered, and that if they felt it would in any way disturb them they had the opportunity to present their views. I do not recall that they did so.

Mr. DOMINICK. There may not have been enough of them left to make a statement.

Mr. WILLIAMS of Delaware. I fully recognize that the Government has recently cut back on uranium production. I am sure that that has disturbed uranium producers somewhat. But that may be due to the fact that the uranium industry itself exists as a result of Government expansion; and that which the Government expands, the Government can contract. Sometimes it is painful when it does so, but any industry that is dependent almost solely on sales to the Government can and does expect that.

I have high respect for the uranium industry and the contribution it has made to the Government, but the uranium industry has done extremely well under the Government procurement and stockpiling program. What is proposed by the amendment is a modest rollback—no change this year, one-half of 1 percent next year, and a 2½-percent reduction thereafter.

As to the point that the State of Colorado has in recent years imposed what the Senator feels are rather punitive taxes against the oil industry, he realizes, I am sure, that Congress has no control over what a State government does. I wondered, however, as I listened to the Senator outline the situation, whether the increased tax in Colorado, which is an important oil-producing State, is a result of the people who control the State government feeling that they could afford to pay these extra taxes. Perhaps they may have felt that since the Federal Government was not taking its proportionate part they could afford to expand somewhat at the State level. But those are questions I shall not go into. It is none of the business of Congress what taxes the State of Colorado imposes. I feel that Congress should vote whatever changes in the Federal income tax it feels are best.

With all due respect to the position of the Senator from Colorado, I do not feel that what is proposed by the amendment would disrupt the normal development of the oil industry. It will be more healthy and can hold its head up because it will then be paying its proportionate part of financing the country. I should like to see a solution of this problem, which arises every year on the floor of the Senate.

Mr. DOMINICK. Again, I remind the Senate that the State tax increase occurred when we Republicans were in the minority in the government of the State. It occurred largely, I feel, because, somehow or other, the State was trying to get more revenue to finance the services which it felt were needed.

If the Senator's amendment should be adopted, it would have a cumulative effect, because the Federal tax is not deductible from the Colorado State income tax, so far as the oil industry is concerned. So to the extent that there would be an additional tax imposed by Congress, it would automatically make an additional tax so far as the State is concerned, because this tax would apply in Colorado. So the Senator's amendment would have an effect so far as Colorado and every other State is concerned on the overall tax burden. I do not believe, therefore, that we can divorce ourselves from the overall effect that this amendment, if adopted, would have on the oil industry.

I appreciate having the Senator from Delaware yield to me.

Mr. ALLOTT. Mr. President, I reached the floor only a few moments ago, having been required to attend a committee hearing.

I desire to join in the remarks the Senator from Colorado has made.

Mr. President, in discussing this amendment, I wish to say, first, that the effect of the depletion allowance is one of the most complicated matters which could come before Congress. I have not been able to ascertain whether any testimony was taken this year in regard to the depletion allowance for the oil and gas industry. If testimony was taken this year, I know it could not have been extensive. On the other hand, I know that the effect of this amendment

would be so extensive that it is clear that this matter deserves long and careful hearings, and I know that no long, careful hearings have been held recently.

Second, the Senator from Delaware has stated that if this depletion rate is lowered this year, we can avoid having

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this matter brought up on the floor of the Senate every year.

In discussing that point, I wish to say that there is no justification for raising the tax rate on this industry; and I cannot avoid feeling that the amendment is brought up only because of a fixation in the minds of certain Senators that the tax rate on this industry should be raised.

On the other hand, I do not believe for a moment that any comments I might make would result in removing that fixation from the minds of anyone.

Mr. President, we have heard much debate on the imports of oil and the imports of residual oil. This amendment would affect that situation. Strangely enough, some of the loudest protests about those imports have come from the great consuming areas in the country which want more oil and cheaper oil imported.

Mr. President, let us consider what the effect of this amendment would be. If the depletion allowance were to be altered, the exploration for oil and gas in this country would be decreased by just that much. Let us make no mistake about that. Oil is becoming harder to find and more expensive to find.

I only wish I could get some Senators to focus their attention on the great reserves of oil which are present in Colorado, Utah, and Wyoming, in the oil shale deposits there. For some strange reason, all the requests that Congress make a depletion allowance for this great potential industry seem to fall on deaf ears.

I wish to speak further about the exploration costs, and the effect of this amendment, if adopted. Let us make no mistake about the effect of the amendment. One of the first effects of the amendment would be to put out of business many of the independent oil operators, explorers, and wildcatters, who have contributed so much to the development of the oil reserves in the United States.

Mr. SIMPSON. Mr. President, on this point, will the Senator from Colorado yield to me?

Mr. ALLOTT. I yield.

Mr. SIMPSON. The Senator from Colorado already knows that over 80 percent of the exploration is done by the independents, not by the majors. The impression that the greatest amount is done by the majors certainly is not founded on fact; and I think the Senator from Colorado will bear out the accuracy of my statement on that point.

Mr. ALLOTT. Yes, Mr. President, the Senator from Wyoming is entirely correct.

In the past, although not recently, I haxe examined the books of independent oil operators, who had contended that they could not continue to operate without the depletion allowance. I have not done that in an official capacity, but I have done it because they were trying to demonstrate their contention to me, and I was attempting to ascertain how valid it was.

There is no question that the change in the depletion allowance advocated by the distinguished Senator from Delaware would only increase the cost of oil and gas to the consumer. It would greatly lower the already diminishing discovery of new oil and gas. If we are to progress in that area and not be dependent upon the whim and will of other countries for our supplies of oil and gas, we must continue its development in our country.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. ALLOTT. I yield.

Mr. AIKEN. I dislike to disagree with the Senator from Colorado, but I cannot agree that support of the amendment offered by the Senator from Delaware [Mr. WILLIAMS] would slow down the exploration for oil in our country.

Only a few years ago I joined the Senator from Delaware in introducing a bill relating to the depletion allowance. As soon as the bill was before the Senate, oil rigs came into Vermont and drilled here, there, and everywhere. We were told that a great deal of petroleum was "just around the corner. The State will get rich." I was supposed to withdraw from sponsorship of the depletion allowance bill, even though geologists said that oil would not be found under granite. I do not know whether the geologists are correct or not. However, the drillers continued to drill, and I think they eventually found, near the Canadian border, a small pocket of gas.

I do not believe that the drilling for oil ceases when it is suggested that we reduce the depletion allowance.

Mr. ALLOTT. I do not see the application of what the Senator has said to what I have said. My point may be verified from records, no matter from what source they are obtained, whether they are obtained from the Finance Committee, from the oil and gas producers,

or from public records. The cost of drilling is going up every year. It is becoming more difficult to find oil and gas. Companies are drilling to depths of 17,000, 20,000, and 23,000 feet in order to find oil and gas. That kind of drilling cannot be done cheaply. It costs real money.

Mr. SIMPSON. Mr. President, will the Senator yield?

Mr. ALLOTT. I yield.

Mr. SIMPSON. I point out to the Senator from Vermont that his State reaped a great harvest if all that drilling which he stated was done there. I point out to the Senator that the records show that one out of every nine wells drilled in wildcatting results in production. Those wells cost an average of $100,000 each. So if nine wells were drilled in the State of Vermont, even if the result was a dry hole, the people of the State received the benefit of all that drilling.

I point out that production of oil has been decreasing materially. In 1962 exploratory drilling showed a reduction of over 4,000 wells, or 30 percent, from the 1956 level, which may have been the level to which the Senator from Vermont referred.

Mr. AIKEN. I merely wished to point out that the proposal to change the depletion allowance spurred the exploration.

Mr. ALLOTT. The Senator's assumption is wholly fallacious. I will have to disagree with him. How long ago did the drilling in Vermont take place?

Mr. AIKEN. Seven or eight years ago.

Mr. SIMPSON. Seven or eight years ago the oil industry was at its peak. It has declined since. The oil industry is now a sick industry.

Mr. AIKEN. The depletion allowance cannot be accused of being responsible for the reduction in exploration.

Mr. ALLOTT. There has been no contention that the allowance has been responsible for the reduction. I merely say that if the amendment is agreed to, there will be an even more violent reduction in exploration, because it will be too expensive. The independent operators are the ones who do most of the exploration and would be hit heaviest by the change. The decrease in the allowance would shove them out of the field.

Mr. President, I should like to make a remark or two about the uranium industry. We in Colorado have a little knowledge of the uranium industry. We have learned it the hard way. Uranium was found in a great area including the States of New Mexico, Wyoming, Utah, and Colorado. Some of the greatest deposits in our country are in that area.

One point which should be considered with respect to the uranium industry is that to couple uranium with any other depletion item would be completely invalid. With respect to uranium we have only a "one-person" market, and that is the Federal Government.

A few years ago the famous announcement of November 16 was made, and uranium production and contracts in this country were cut back. People were then engaged in uranium mining in Colorado. Prospectors had gone out and spent years looking for it and living literally on sour dough—I am not trying to be dramatic—in order to find uranium for the Government when the Government needed it. Those miners found themselves cut back to the point at which they could do nothing.

Today uranium is a sick industry, not only in my State, but throughout the West. I do not criticize too much the decisions of the Government which brought about the cutback at that particular point. We had done so well for the Government in discovering uranium that we had uranium literally running out of our ears. We had also made long-term contracts, particularly with Canada, for the delivery of uranium to the United States, which cut Americans out of the production of uranium.

Many people believe—and I am not an authority with respect to future uses—that the demand will rise, as my colleague has pointed out, and that in the 1970's we shall again be hunting for uranium. But we cannot apply the usual principles of depletion to a product which can be marketed only through the Government and which can be produced only for the Government, and is subject to the will and whim of a Government commission. Even on that basis alone I think the amendment of the distinguished Senator from Delaware should be rejected.

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I yield the floor.

Mr. MONRONEY. Mr. President, I believe it is exceedingly unfortunate that a bill designed to stimulate production, employment, and the creation of new wealth would have offered as an amendment to it the one offered by the Senator from Delaware [Mr. WILLIAMS]. The bill is designed to grant certain tax concessions, to continue other tax concessions to stimulate manufacturing, and to create new wealth in the United States. Yet the Senator's amendment would be regressive. It would have the effect of cutting the historic oil and gas depletion allowance back from the 27½-percent rate that has given us oil and

mineral resources and resources of petrochemicals that have been sufficient to take us satisfactorily through two World Wars and through a postwar development of great magnitude.

I believe the reduction would be crippling to an industry that has not asked for a Government subsidy and has spent its own money for research and development, an industry which has proved in all cases that it is willing not only to bear its own load of taxation, which has practically equaled the taxation of the manufacturing industry, but has also borne a heavy load of excise taxes which have resulted in huge amounts of income to our Government.

Furthermore, I believe it is rather strange that, without any large-scale hearings, it is proposed to cut back the depletion allowance on oil, a great natural resource and source of energy on which we depend, to the same depletion allowance as applies to sulfur. I did not think that sulfur was as hard to find as oil or as quickly exhaustible once found. Those are generally the tests of what a depletion allowance should be. I know little about uranium, but I feel that cutting the depletion allowance for uranium back from its present rate of 23 to 20 percent might be unwise in the light of what we might need.

It may be that sulfur does not need the present 23-percent depletion allowance and could be cut back to 20 percent, but I am doubtful about the uranium. I am not prepared to say, because I do not know what these minerals look like, and I wonder if the Senator knows, whether we should cut back the depletion allowance on anorthosite. I do not know whether the depletion allowance should go from 23 to 20 percent, under the Senator's amendment. It is not set out in the language of the bill but there are several other minerals that are put on the same category as oil in the depletion allowance.

I do not believe the history of the search for, discovery of, or production of such products will show that they are as difficult to find or as quickly exhaustible over a period of years as oil is.

The amendment refers to the following minerals: asbestos, bauxite, beryl, celestite, chromite, corundum, fluorspar, graphite, ilmenite, kyanite, mica, olivine, quartz crystals—radio grade—rutile block steatite talc, and zircon, and ores of the following metals: antimony, bismuth, cadmium, cobalt, columbium, lead, lithium, manganese, mercury, nickel, platinum and platinum group metals, tantalum, thorium, tin, titanium, tungsten, vanadium, and zinc.

This is quite a list. Anyone familiar with these metals will know that the supply of them is generally found within a few feet of the surface of the ground, and not thousands of feet down. The ore yields generally continue over a long period of time. So it is difficult for me to see how the Williams amendment is any more sound in its approach to oil than it is to titanium, tin, lead, or zinc, or some of the exotic metals the names of which it is difficult for me even to pronounce.

So I say it is a poor time, when we are considering a bill to stimulate industry, to tax one of the greatest industries at a time when there is an increasing demand for oil.

Mr. President, the percentage depletion allowance on oil and gas is being attacked this year, as it has been almost every year during the 25 years I have served in the Congress. I shall defend it again this year, and I shall continue to do so every year I am permitted to remain in this body.

The opponents of depletion charge that it is an inequitable feature of our tax structure. They consider it only in its relation to other provisions of our tax law. This is the inherent fallacy in their reasoning, their argument, and their proposals.

The depletion allowance is part of our basic national policy on natural resources—

A policy responsible for the development of the most powerful industrial nation on the face of the earth.

A policy which has enabled this Nation to win two major world wars and remain a bulwark against aggression and the builder and protector of the free world during the past 19 years.

A policy which has afforded to the citizens and industrial concerns of this country a cheap and abundant source of energy.

Throughout our history the importance of our natural resources has been recognized. We have consistently pursued a policy designed to develop and conserve these vast riches. We have realized the necessity for maintaining self-sufficiency in the minerals which provide the energy that is the life blood of any strong country. Petroleum products provide 75 percent of the energy required in this Nation today.

The success of this policy cannot be challenged. The benefits received by the people of this country cannot be disputed. Nor do I believe the method by which success has been achieved can be honestly or rightfully subjected to scorn or ridicule or the charge of vested interest. For the method has been good old American private enterprise and the incentive has been the reward of profits. The instrument through which the incentive is generated is, in the case of the petroleum industry, the depletion

allowance. And the reason why the percentage allowed on oil and gas is higher than that allowed on other minerals is that the probability of failure is greater and the costs of infinitely higher.

Mr. President, if the oil industry were making the exorbitant profits alleged by the opponents of the depletion allowance, if the need for oil and gas as the basic source of energy in the United States had declined, if the capital investments required to find and develop new reservoirs were less, or if any of the basic reasons for providing an incentive to discover new oil and gas were no longer relevant, then I could understand why the percentage depletion allowance is being attacked. But the facts, Mr. President, tell another story.

The need to find new reservoirs, both in this country and abroad, is even more imperative today. The tremendous amount of capital required to do that job is staggering. The oil industry is no more profitable than other industries; and, in fact, during the last few years has made less return on its investment than most companies in the manufacturing industry.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD two tables which compare the rate of return of the petroleum industry and all manufacturing, and the rate of return on net worth.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

Rate of return on invested capital

[In percent]

Year	All manufacturing	Domestic petroleum
1955	12.6	10.2
1956	12.3	10.5
1957	11.0	10.1
1958	8.6	7.2
1959	10.4	8.5
1960	9.2	8.8
1961	8.8	8.6

Source: Testimony presented by president, Independent Petroleum Association of America, before House Committee on Ways and Means, Mar. 26, 1963.

Rate of return on net worth for petroleum, manufacturing, and all industry in the United States, 1958–62

[In percent]

Year	Petroleum industry	All manufacturing industry	All industry
1962	10.5	10.9	9.1
1961	10.4	9.9	8.7
1960	[1] 10.3	[1] 10.6	9.1
1959	10.0	11.7	9.8
1958	[1] 9.9	9.8	[1] 8.9

[1] Revised.

Authority: First National City Bank of New York.

Mr. MONRONEY. The first table shows that for all manufacturing the rate of return on invested capital in 1961 was 8.8 percent, while that for the domestic petroleum industry was 8.6 percent.

Those were the figures presented to the House Ways and Means Committee by the Independent Petroleum Association of America.

The second table shows that the rate of return on net worth for the petroleum industry in 1962 was 10.5 percent, for all manufacturing industry it was 10.9 percent, and for all industry grouped together it was 9.1 percent.

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Mr. AIKEN. Mr. President, will the Senator yield for a question?

Mr. MONRONEY. I am happy to yield.

Mr. AIKEN. In determining the earnings of the petroleum companies, was the excise tax considered as an expense of the company?

Mr. MONRONEY. No; it was not. Excise taxes were kept separately.

Mr. AIKEN. What is the excise tax?

Mr. MONRONEY. There are many of them. The State and Federal excise taxes on gasoline amount to about 10 cents a gallon. The oil companies collect them for the Government. They get nothing for it.

Mr. AIKEN. On the chart in the back of the Senate Chamber there is listed as an expense of the oil companies $6 billion in excise taxes, and $2 billion for all other taxes.

Mr. MONRONEY. That exhibit shows that since 1919 the petroleum, or the fuel, industry has been responsible for and has collected for the Federal Government, not from the industry itself, but from consumers, excise taxes amounting to more than $76 billion. For last year, 1962, the oil and gas industry collected as excise taxes on fuel alone, motor fuel, $6,136 million. I am not saying the oil companies paid it.

Mr. AIKEN. I thought I, as a consumer, helped to pay it.

Mr. MONRONEY. For that reason alone, because of consumer resistance, and because of the 10 cents a gallon tax on gasoline——

Mr. AIKEN. The consumer pays the tax; does he not?

Mr. MONRONEY. The consumer pays the tax; but in order not to have diminishing consumption, the industry has managed to keep the price low. The price of gasoline today without the tax is less than it was in 1926.

The increase in price has been the result of the excise tax.

Mr. AIKEN. Has the highway program caused this increase?

Mr. TOWER. Mr. President, will the Senator from Oklahoma yield?

Mr. MONRONEY. I yield.

Mr. TOWER. The industry does pay a severance tax.

Mr. MONRONEY. A severance tax is paid to the State on the barrel charge, or some other way, but I am talking about——

Mr. TOWER. I wished to impress upon the Senator from Vermont the fact that the industry does pay taxes, which are highly important to his State as well as to mine.

Mr. MONRONEY. The Federal tax plus State severance taxes paid by the company will compare favorably with taxes paid by the total of all industries.

Mr. AIKEN. Does the Senator from Oklahoma know how many States have a severance tax?

Mr. MONRONEY. Practically every State which produces oil has a severance tax.

Mr. AIKEN. What does it amount to? Is it a gallonage tax?

Mr. MONRONEY. It is a barrel tax.

Mr. AIKEN. A barrel tax.

Mr. MONRONEY. A barrel tax on the oil.

Mr. AIKEN. On the oil.

Mr. MONRONEY. Yes. It is approximately 3 percent, as I recall; at least in my own State.

Mr. AIKEN. Three percent.

Mr. MONRONEY. Yes—on the gross production of oil or gas. Every barrel produced is subject to a 3 percent of gross production tax. I do not know what it is in the State of Texas.

Mr. AIKEN. And that tax is then passed on to the consumer?

Mr. MONRONEY. I do not know, but——

Mr. AIKEN. Is it absorbed by the companies?

Mr. MONRONEY. This is the price added to the barrel of oil and the byproducts which are made from it, but this does not reflect itself in any consumer tax. The price would be higher if this tax were raised; but in spite of the increase in the cost of production, the price of a barrel of oil or a gallon of gasoline is less today than it was in 1920.

Mr. AIKEN. Does the Senator know how many States limit the production of oil?

Mr. MONRONEY. Almost all of the oil-producing States, except, perhaps, one or two which have a proration based on conservation results. We could open up those wells and produce much more oil today, tomorrow, or next month, perhaps, but we would destroy the long-range production of oil by doing so. We found that out when America opened its wells up to the free world when the Suez Canal was closed, and with irreparable damage. The oil which we thought we might have in productive capacity could not be produced without impinging on State conservation practices.

Mr. AIKEN. The limit on imports is an instrument to maintain a reasonably profitable price for domestic production of oil; is that correct?

Mr. MONRONEY. The same as it would be on agricultural products or other products. We import oil to the United States; there is no tariff, which would raise the price so high that foreign oil could not come over profitably. Therefore, the tariff is no good, and an effort has been made to limit imports to about 12½ percent, which I believe is the figure of our domestic production. That seems to still deny adequate production in many States. But I believe that is probably a ratio that the industry can live with.

Mr. AIKEN. Does the Senator know that American agriculture is probably the largest customer the oil industry has?

Mr. MONRONEY. That is probably so.

Mr. AIKEN. I believe it is—I am not quite sure about it.

Mr. MONRONEY. Agriculture is dependent on oil, for its motive power, to move a great quantity of oats and other feed grains.

Mr. AIKEN. I do not wish to deprive the oil industry of the opportunity of making a reasonable profit. I know how involved the industry is all over the world today, and how it all adds together when it pays dividends.

Mr. MONRONEY. The Senator is thinking of the giant majors, the big, integrated companies, with refineries and manufacturing facilities operating in the United States, in Latin America, and in the Middle East. The oil industry is a many-sided industry. The majors could, I believe, get along very well without some of the allowances that are contained in the tax laws, because they operate overseas where they do not require a depletion allowance to come out whole.

Mr. AIKEN. I know.

Mr. MONRONEY. We do not wish to favor that operation to the exclusion of always keeping in this country an adequate supply of petroleum.

Mr. AIKEN. The Senator is correct. It seems to me the difference between the 27½-percent and the 20-percent depletion allowance would not necessarily mean that we would exhaust our oil supply. It would mean we would not have to find new supplies.

Mr. MONRONEY. I shall furnish statistics on that point later on in my speech. The 27½-percent depletion al-

lowance has still not encouraged enough drilling to replace that which we use each year. So we are going down hill in our known reserves of oil. If we do not reverse this treatment, we shall find ourselves more dependent on sources of oil from abroad.

American efforts, even in our domestic economy, seem to be going down hill. To cut depletion by 25 percent, as the Senator proposes, would prevent us from developing the new sources to replace that which is consumed each year as reserves become less. This is the money that finds new oil—we could not find it, if it were not for this allowance.

Mr. EDMONDSON. Mr. President, will my colleague yield?

Mr. MONRONEY. I yield.

Mr. EDMONDSON. With reference to the statement made by the Senator from Vermont when he brought up conservation practices of States, insofar as allowables are concerned. I believe this is a material factor in the consideration of a possible reduction of the depletion allowance, as when an oil company, independent or otherwise, has to deal or operate under a restricted allowable because of the conservation purposes, not price purposes, but conservation purposes. As an example, the State of Oklahoma allowable now is 14 barrels a day.

Mr. AIKEN. Fourteen barrels a day?

Mr. EDMONDSON. Fourteen barrels a day limit on the production of oil in Oklahoma.

Mr. AIKEN. Fourteen barrels a day for the State?

Mr. EDMONDSON. Fourteen barrels per well per day.

Mr. AIKEN. Of oil per day. I understand.

Mr. EDMONDSON. It must be realized that, as a result of that self-imposed limitation of local government, this limit is definitely vital insofar as incentive for future explorations also is concerned.

Mr. AIKEN. Does the State of Oklahoma produce that limitation of 14 barrels per day per well?

Mr. EDMONDSON. That is the allowable. We cannot go over that except in exceptional circumstances.

Mr. AIKEN. Suppose there were two wells and one produced 7 barrels a day

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and the other 21 barrels a day; could that be marketed?

Mr. EDMONDSON. Certainly. The per well limitation is based upon the conservation needs of the State insofar as the future is concerned.

Mr. AIKEN. Then there would be no particular incentive to find more oil than one would be permitted to extract and sell.

Mr. EDMONDSON. It is a question of how long it will take to extract and sell. Still wells extract and sell all of it because of the length of time required to get the money back from the investment from the well.

Mr. TOWER. Mr. President, will the Senator from Oklahoma yield at that point?

Mr. MONRONEY. I yield.

Mr. TOWER. Regarding the allowable we had to pay, as the former Governor of Oklahoma [Mr. EDMONDSON] well knows, it is difficult for a man to amortize his investment. As a matter of fact, he is hardly breaking even.

Mr. AIKEN. I was about to compare the oil situation and the maximum amount which would be produced today with the situation which prevailed in New England in the late thirties with reference to the production of milk, when we tried the allotment program which the Department of Agriculture is now so insistent on imposing on us again. Each farmer had a maximum allotment which he could bring into market, and every farmer produced his marketable allotment each day, even if the cows were dry. Are the maximum allotments in oil produced? Do the dry wells figure in this computation?

Mr. TOWER. With the kind of maximum we have, we still have to produce to stay alive.

Mr. MONRONEY. Production is not transferable from one well to another.

Mr. CARLSON. Mr. President, will the Senator from Oklahoma yield?

Mr. MONRONEY. I yield.

Mr. CARLSON. As to the pending amendment, as I read it and understand it, I am wondering if the Senator from Oklahoma would agree with me that if it were approved it would considerably affect domestic production, while it would have practically no effect on foreign producers or foreign importers. In other words, the amendment is so drawn up that if we approved it, it could vitally affect our domestic production, and would have no effect on importers of foreign oil. Is that what we are talking about?

Mr. MONRONEY. The Senator is correct. While it would withdraw and cut the depletion alowance by 25 percent, reduce it from 27½ percent to 20 percent over a period of years, the oversea producers, who have an arrangement to pay 50 percent of the gross income from their production of oil in the Middle East to those foreign countries, are able to de-

duct that 50 percent of gross income as a tax credit from the taxes that would be paid in the United States. Therefore, the 27½-percent depletion does not enter into their operations. While we would be cutting the depreciation allowance here, their production would not be impinged upon in any way by this deduction.

Therefore, we would see our domestic producers at a disadvantage. The oil industry has never made the exorbitant profits which are given as one reason for reducing the depletion allowance. And, because the need is greater, the costs are higher, and the profits are average, every reason justifying the original policy of the depletion allowance remains and is even stronger today.

The proved reserves of crude oil in the United States declined by 369.3 million barrels in 1962. This amounted to a decrease of 6 percent in the ratio of reserves to consumption. It represented the 10th year in a row in which more oil was consumed than was found. At the present time we have a reserve supply which would last for only 11 or 12 years if no new oil were found. Additions to crude oil reserves each year must exceed our consumption by 20 percent if we are to maintain a constant ratio of reserves to consumption. In 1962, we found little more than one-half as much as we consumed, and not since 1949 have we found enough new oil to stop this decline in the reserves to consumption ratio. A report by the Chase Manhattan Bank of New York issued last year stated that:

> Our domestic requirements for all petroleum hydrocarbons seem likely to increase at an average rate of 4 percent a year between 1960 and 1970. To meet these requirements, and prevent any further erosion of the reserves to consumption ratio, the industry would have to find 50 percent more crude oil than it discovered in the preceding decade. And the same is true for natural gas.

The report concluded with these words:

> This Nation can ill afford to discourage in any manner the continuing search for petroleum anywhere in the free world. There is abundant evidence that we will need for ourselves and our friends abroad all that we now have and can reasonably hope to find.

Mr. President, this would not only definitely deter the discovery of new sources, as has been said by the distinguished Senator from Kansas and other Senators from oil States but it would also result in closing down and capping and losing forever oil from many of the stripper and submarginal wells which must depend on depletion to succeed—to make possible secondary recovery from them. By this ill-advised proposal to cut the depletion allowance, we would force abandonment of the small marginal wells and would shut them down, because it would no longer be profitable to produce from them without the full 27½-percent depletion allowance. Thus, under such abandonment, 50 percent of the oil that these wells are capable of producing would be lost for our own and future generations.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point statistics contained in the January 27, 1964, issue of the Oil and Gas Journal which show that our domestic crude oil reserves declined by another 139.9 million barrels in 1963, that the total number of wells drilled in 1963 was 2,526 less than in 1962, and that the number of wildcat wells drilled was 396 less in 1963 than in 1962.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

Estimated proved recoverable reserves of crude

[Thousands of barrels—primary recovery]

State	Proved reserves Jan. 1, 1963	1963 discoveries	1963 revisions and extensions	1963 production	Proved reserves		
					As of Jan. 1, 1964	Year's change	Percent of U.S.
Alabama	[1] 67,150	0	3,257	9,257	61,150	−6,000	0.2
Alaska	282,500	24,737	0	10,737	296,500	14,000	.9
Arkansas	325,500	1,680	9,848	27,528	309,500	−16,000	.9
California, total	3,945,456	15,034	116,399	301,390	3,775,499	−169,957	10.9
San Joaquin	2,268,433	10,034	68,097	131,434	2,215,130	−53,303	
Coastal	769,546	5,000	15,802	68,186	722,162	−47,384	
Los Angeles	907,477	0	32,500	101,770	838,207	−69,270	
Colorado	333,800	1,250	6,250	38,500	302,800	−31,000	.9
Illinois	557,000	2,200	25,345	74,545	510,000	−47,000	1.5
Indiana	70,400	600	2,782	11,782	62,000	−8,400	.2
Kansas	913,500	27,000	65,718	109,718	896,500	−17,000	2.6
Kentucky	194,500	2,000	10,147	19,147	187,500	−7,000	.5
Louisiana, total	6,121,500	315,330	1,151,025	450,355	7,137,500	1,016,000	20.6
North	810,000	4,330	51,330	46,660	819,000	9,000	
South	3,411,500	286,000	873,613	278,613	4,292,500	881,000	
Offshore	1,900,000	25,000	226,082	125,082	2,026,000	126,000	

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State	Proved reserves Jan. 1, 1963	1963 discoveries	1963 revisions and extensions	1963 production	As of Jan. 1, 1964	Year's change	Percent of U.S.
Michigan	122,500	600	10,210	17,210	116,100	−6,400	0.3
Mississippi	555,000	11,132	27,400	57,532	536,000	−19,000	1.6
Montana	378,000	3,000	6,000	31,000	356,000	−22,000	1.0
Nebraska	167,000	1,300	5,500	21,800	152,000	−15,000	.3
New Mexico	1,061,000	19,400	50,499	105,899	1,025,000	−36,000	3.0
New York	[1] 33,252	25	0	1,888	31,389	−1,863	.1
North Dakota	404,000	4,358	10,500	24,858	394,000	−10,000	1.1
Ohio	73,500	7,000	6,800	5,500	81,800	8,300	.2
Oklahoma	2,243,000	10,500	45,020	200,520	2,098,000	−145,000	6.1
Pennsylvania	101,750	500	1,026	5,026	98,250	−3,500	.3
Texas, total	14,717,250	99,427	304,006	914,933	14,205,750	−511,500	41.1
East (districts 5 and 6)	2,692,750	3,000	15,873	94,873	2,616,750	−76,000	
Gulf coast (districts 2 and 3)	3,123,000	10,497	77,400	165,897	3,045,000	−78,000	
North (districts 7-B and 9)	981,000	19,500	60,165	111,665	949,000	−32,000	
Panhandle (district 10)	672,500	750	29,256	36,506	666,000	−6,500	
Southwest (districts 1 and 4)	1,231,000	35,500	31,112	86,612	1,211,000	−20,000	
West (districts 7-C and 8)	6,017,000	30,180	90,200	419,380	5,718,000	−299,000	
Utah	642,000	1,750	8,300	33,300	618,750	−23,250	1.8
West Virginia	46,850	1,750	1,795	3,295	47,100	250	.1
Wyoming	1,342,500	22,500	40,400	144,900	1,260,500	−82,000	3.7
Others [2]	33,716	250	75	875	33,166	−550	.1
Total United States	34,732,624	573,323	1,908,302	2,621,495	34,592,754	−139,870	100.0

[1] Adjusted.
[2] Arizona, Florida, Maryland, Missouri, Nevada, South Dakota, Tennessee, and Virginia.

Total completions by States, 1963 and 1962

	Total	Crude	Gas	Dry	Service	Total footage	Average footage	Completions, 1962
Alabama	95	71	0	24	0	1, 006, 230	10, 592	40
Alaska	25	8	5	12	0	227, 625	9, 105	40
Arizona	16	1	2	13	0	48, 236	3, 015	54
Arkansas	463	207	43	204	9	1, 762, 544	3, 807	377
California	2, 445	1, 707	118	566	54	9, 415, 169	3, 851	2, 533
Colorado	600	96	93	409	2	3, 065, 508	5, 109	758
Florida	2	1	0	1	0	15, 847	7, 923	4
Idaho	2	0	0	2	0	4, 129	2, 015	0
Illinois	1, 801	746	12	764	279	3, 834, 138	2, 120	1, 716
Indiana	741	271	8	450	12	1, 059, 235	1, 429	685
Iowa	13	1	0	12	0	14, 277	1, 098	0
Kansas	4, 125	2, 017	227	1, 590	291	12, 236, 799	2, 966	3, 961
Kentucky	1, 794	653	162	825	154	2, 564, 411	1, 429	1, 982
Louisiana	5, 282	2, 545	614	2, 115	8	33, 868, 939	6, 412	4, 988
North	2, 861	1, 482	339	1, 036	4	9, 370, 037	3, 275	2, 411
South	1, 731	751	204	772	4	17, 146, 033	9, 905	1, 869
Offshore	690	312	71	307	0	7, 352, 869	10, 656	708
Maryland	1	0	0	1	0	7, 195	7, 195	0
Michigan	652	143	84	382	43	1, 870, 720	2, 869	755
Mississippi	726	254	22	448	2	6, 152, 090	8, 474	603
Missouri	9	0	0	9	0	12, 155	1, 351	11
Montana	382	155	15	212	0	2, 078, 873	5, 442	422
Nebraska	523	153	1	366	3	2, 636, 313	5, 041	691
Nevada	2	0	0	2	0	1, 571	786	7
New Jersey	1	0	0	1	0	6, 407	6, 407	0
New Mexico	1, 282	592	281	386	23	6, 794, 849	5, 300	1, 666
West	476	112	239	119	6	2, 058, 241	4, 324	650
East	806	480	42	267	17	4, 736, 608	5, 877	1, 016
New York	450	246	22	40	142	594, 840	1, 322	316
North Dakota	182	84	0	98	0	1, 092, 865	6, 005	229
Ohio	1, 111	475	217	357	62	3, 033, 274	2, 730	1, 210
Oklahoma	4, 492	2, 273	430	1, 260	529	17, 360, 099	3, 865	5, 203
Oregon	1	0	0	1	0	6, 337	6, 337	6
Pennsylvania	575	250	220	73	32	1, 513, 236	2, 632	691
South Dakota	10	1	0	9	0	55, 633	5, 563	11
Tennessee	29	3	0	26	0	21, 929	756	43
Texas	13, 468	6, 682	1, 308	4, 910	568	62, 936, 870	4, 673	14, 736
District 1	931	400	40	445	46	2, 290, 463	2, 460	1, 024
District 2	767	206	198	358	5	5, 113, 948	6, 667	929
District 3	1, 318	604	185	524	5	8, 835, 593	6, 704	1, 245
District 4	1, 392	478	292	593	29	8, 233, 275	5, 915	1, 348
East (districts 5 and 6)	723	307	91	321	4	4, 197, 228	5, 805	1, 096
District 7-B	1, 763	717	68	875	103	4, 799, 800	2, 723	1, 752
West (districts 7-C and 8)	3, 171	2, 080	162	799	129	18, 033, 498	5, 687	3, 620
District 9	2, 543	1, 362	99	845	237	7, 186, 621	2, 825	2, 678
District 10	860	528	172	150	10	4, 246, 444	4, 938	1, 044

Utah	210	67	21	121	1	1,135,092	5,405	284
Virginia	3	0	2	1	0	8,240	2,747	17
Washington	7	0	0	7	0	29,704	4,243	8
West Virginia	1,248	257	791	151	49	3,291,288	2,637	1,309
Wyoming	885	329	53	499	4	4,594,563	5,192	819
Total 1963	43,653	20,288	4,751	16,347	2,267	184,357,230	4.223	[1] 46,179
Total 1962	46,179	21,249	5,848	16,682	2,400	198,558,641	4,300	----------

[1] Includes North Carolina 3, Georgia 1.

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Wildcat completions—1952 through 1963

	1963	1962	1961	1960	1959	1958	1957	1956	1955	1954	1953	1952
Alabama	20	12	----------	7	23	30	28	30	40	56	75	40
Arkansas	100	104	114	145	146	163	25	190	210	157	140	97
California	332	332	280	302	402	368	527	527	530	572	666	597
Colorado	287	382	303	358	456	485	550	675	811	657	364	245
Florida	1	3	8	5	7	7	9	13	29	30	30	10
Illinois	338	324	474	502	391	449	628	772	635	461	425	656
Indiana	173	226	210	366	300	307	155	145	261	224	373	424
Kansas	812	791	886	1,056	1,066	844	849	1,073	1,018	811	887	845
Kentucky	258	142	125	223	389	176	310	440	399	173	213	306
Louisiana	834	776	700	552	513	531	679	778	695	570	513	401
North	357	342	364	268	244	243	211	265	242	214	177	195
South	477	434	336	284	269	288	468	513	453	356	336	206
Michigan	233	283	307	246	180	145	152	168	212	243	279	277
Mississippi	285	237	209	267	283	174	194	220	182	178	207	182
Montana	144	156	184	168	121	136	185	195	172	123	126	98
Nebraska	271	414	529	392	410	348	474	451	415	185	161	168
New Mexico	318	295	292	250	260	266	267	278	158	156	168	165
North Dakota	63	92	74	82	84	135	149	78	69	117	91	36
Ohio	156	100	53	55	39	23	15	13	27	22	22	41
Oklahoma	416	433	529	700	827	854	747	867	832	859	742	730
Pennsylvania	46	58	47	20	21	26	18	19	16	46	20	20
South Dakota	9	11	6	11	10	15	44	9	16	22	20	14
Texas	2,936	3,124	3,139	3,166	3,525	3,636	5,004	5,610	5,124	5,190	5,245	4,851
North central (district 9)	357	306	295	484	573	573	1,089	1,115	975	1,131	1,058	1,048
West central (district 7-B)	517	488	488	631	694	699	973	1,075	1,035	971	1,062	1,035
West (district 7-C and 8)	714	754	704	632	747	706	872	898	839	938	876	870
Panhandle (district 10)	44	100	123	57	108	126	113	125	65	94	26	80
East (district 5 and 6)	216	234	288	273	252	332	387	431	367	334	300	252
Gulf coast (district 2)	238	286	249	184	232	196	255	308	344	312	369	336
Gulf coast (district 3)	229	289	251	218	234	286	440	562	517	526	519	390
Southwest (district 1)	271	266	376	385	329	367	431	498	481	385	432	348
Southwest (district 4)	350	401	365	302	356	351	444	598	501	499	603	492
Utah	90	110	120	96	101	84	121	86	71	65	42	50
West Virginia	31	16	8	11	29	22	33	27	30	51	23	14
Wyoming	326	379	391	435	375	259	310	289	262	271	189	173
Miscellaneous	128	203	203	220	115	105	266	81	57	41	41	112
Total United States	8,607	9,003	9,191	9,635	10,073	9,588	11,739	13,034	12,271	11,280	11,062	10,552

Total completions—1952 through 1963

	1963	1962	1961	1960	1959	1958	1957	1956	1955	1954	1953	1952
Alabama	95	40	44	45	95	76	78	91	41	63	103	72
Arkansas	463	377	553	615	842	836	1,114	1,002	804	665	573	427
California	2,445	2,533	2,023	1,709	1,530	1,476	2,238	2,306	2,465	2,353	2,578	2,433
Colorado	600	758	662	706	809	836	855	1,222	1,509	1,358	734	486
Florida	2	4	8	5	7	7	9	13	30	31	30	10
Illinois	1,801	1,716	2,198	2,373	2,357	2,419	2,686	3,808	3,892	3,135	2,165	2,149
Indiana	741	685	800	1,069	880	877	754	741	706	887	1,280	1,277
Kansas	4,125	3,961	4,723	4,288	3,959	4,022	4,232	4,941	4,958	4,722	4,783	4,571
Kentucky	1,794	1,982	1,749	2,180	3,365	2,137	1,495	1,936	1,592	1,188	1,164	1,300
Louisiana	5,282	4,988	4,040	3,707	3,781	3,523	3,856	3,875	4,019	3,611	2,828	2,385
Michigan	652	755	821	897	656	436	455	437	512	567	623	707
Mississippi	726	603	575	695	645	398	386	441	448	441	397	348
Missouri	9	11	38	29	2	6	8	34	1	39	10	18
Montana	382	422	408	353	348	338	433	495	411	343	451	345
Nebraska	523	691	1,005	896	910	728	886	918	891	472	320	291
New Mexico	1,282	1,666	1,820	1,850	2,077	1,910	2,129	1,904	1,663	1,126	1,418	1,053
New York	450	316	426	300	259	544	443	512	378	435	696	767
North Dakota	182	229	258	283	436	442	316	263	250	312	270	122
Ohio	1,111	1,210	1,131	1,099	1,133	1,049	1,115	1,086	1,259	1,182	1,080	1,052
Oklahoma	4,492	5,203	5,845	4,802	6,230	7,282	7,421	8,056	8,411	8,786	7,593	5,781
Pennsylvania	575	691	682	860	648	652	833	748	717	1,331	1,507	1,884
South Dakota	10	11	6	22	23	15	44	9	16	23	20	14
Texas	13,468	14,736	14,597	15,581	18,526	18,065	21,352	21,519	19,981	18,865	17,019	16,845
Utah	210	284	253	243	318	383	267	141	92	91	70	79
West Virginia	1,248	1,309	1,120	884	806	756	680	693	640	614	618	606
Wyoming	885	819	995	1,074	990	762	863	930	915	1,221	917	700
Miscellaneous	100	179	182	186	132	64	76	39	81	69	32	99
Total United States	43,653	46,179	46,962	46,751	51,764	50,039	55,024	58,160	56,682	53,930	49,279	45,821

Mr. MONRONEY. Mr. President, the increase in gasoline consumption and the total number of motor vehicles alone demonstrate the tremendous need for finding new oil and gas to satisfy and quench this Nation's thirst for oil products. During the period from 1958 to 1962, motor vehicle registrations increased by almost 11 million, and gasoline consumption in the United States alone increased from 59 billion to 66 billion gallons a year. The United States needs oil and gas more than any country in the world since this Nation accounts for almost half the total world consumption.

How much has it cost the petroleum industry to find today's reservoirs and how much will it cost the industry to locate and develop the new reservoirs needed for the future? The Chase Manhattan Bank tells us that between 1950 and 1960 the petroleum industry spent $44 billion for the purpose of finding and developing petroleum hydrocarbon reserves in this country alone. During that same period of time, it spent $38 billion to find reserves in other countries. And the task of finding enough new domestic reserves to halt the frightening erosion of reserves which has occurred since 1949 will probably cost as much as $70 billion during the period between 1960 and 1970. Over the years, the industry has spent an average of $4.6 billion every year searching for new reserves and developing them. An annual total of $2.2 billion has been spent for exploration alone, and an additional $2.4 billion a year has been spent for development.

The cost of drilling and equipping wells in 1961 was 8 percent higher than the cost in 1957, and there was an increase of 13 percent in the average hourly wage paid to employees engaged in oil and gas production. Yet, during this same period of time, the price of crude oil actually declined by 7 percent. The average price per barrel of crude at the well was $3.01 in 1958, but was only $2.90 in 1962.

Despite the increase in need, despite the incentives in existing law, and despite the large amounts of money which

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have been spent in exploration and development, the activity of the producing industry has declined. By 1962, the total crew-months of geophysical work had declined by 50 percent since 1955.

These geophysical experts are the men who find the oil fields. If the crews are not out searching for new supplies, it means that in 3 or 4 years from now there will not be any new discoveries or any new drilling. These are the people who look ahead.

We had better watch this situation, particularly from the standpoint of incentive, when the number of crew months has steadily fallen by 50 percent since 1955.

The number of active rotary drilling rigs has declined by 40 percent since 1955. And the amount of exploratory drilling showed a reduction of more than 4,000 wells, or 30 percent, from the 1956 level. The total drilling activity—including producing wells, dry holes, and service wells—decreased almost 12,000 wells from 1956 to 1962—a 20 percent drop. The number of employees engaged in the producing branch of the industry has dropped by 40,000 employees since 1957.

If the situation were as good as is claimed by those who would cut the depletion allowance from 27½ percent to 20 percent or 15 percent, this decline in employment would not occur. There would be a much larger employment and much more geophysical work, and much more effort to find new fields.

I ask unanimous consent to have printed in the RECORD at this point statistical tables which reflect the decline in exploration and development activities of the oil industry; the number of employees engaged in oil and gas production; a comparison between the price of crude oil and the cost of producing it, which shows a decrease in price and an increase in cost; and an index of U.S. retail gasoline prices compared with the consumer price index.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

Decline in exploration and development activity, 1955 through 1962

Year	Geophysical activity	Active rotary drilling rigs	Exploratory wells drilled	Total wells drilled
	Crew months	*Number*	*Number*	*Number*
1955	8,240	2,688	12,271	56,682
1956	7,846	2,618	13,034	58,160
1957	7,242	2,429	11,739	55,024
1958	5,731	1,923	9,588	50,039
1959	5,696	2,074	10,073	51,764
1960	5,207	1,747	9,635	46,751
1961	5,024	1,760	9,191	46,962
1962	4,231	1,641	9,003	46,179

Source: Testimony presented by president, Independent Petroleum Association of America, before House Committee on Ways and Means, Mar. 26, 1963.

Employment oil and gas production industry

	Number
1957	344,000
1958	327,500
1959	330,900
1960	313,900
1961	308,800
1962	304,000

Source: Testimony presented by president, Independent Petroleum Association of America before House Committee on Ways and Means, Mar. 26, 1963.

Comparison of crude oil prices to cost of production

[Index numbers, 1957-59=100]

Year	Crude oil prices	Cost of drilling and equipping wells	Hourly wages paid
1957	103.0	100.4	96.7
1958	100.3	97.2	99.5
1959	96.7	102.4	103.8
1960	96.0	105.6	105.0
1961	96.3	108.1	108.9

Source: Testimony presented by president, Independent Petroleum Association of America, before House Committee on Ways and Means, Mar. 26, 1963.

Index of U.S. retail gasoline prices compared with the Consumer Price Index, 1958-62

[1957-59=100]

Year	Gasoline		Food	Housing	Apparel	Transportation	All items
	Excluding taxes	Including taxes					
1962	94.3	100.1	103.6	104.8	103.2	107.2	105.4
1961	95.1	100.5	102.6	103.9	102.8	105.0	104.2
1960	97.2	101.7	101.4	103.1	102.1	103.8	103.1
1959	98.1	99.6	100.3	101.3	100.7	103.8	101.5
1958	99.4	99.3	101.9	100.2	99.8	99.7	100.7

Authority: Bureau of Labor Statistics; American Petroleum Institute.

Mr. MONRONEY. Mr. President, the need for oil and the cost of obtaining it have increased greatly and will continue to do so. The prospects of failure have become greater, too. A study containing a 6-year analysis of the more than 8,000 new-field wildcat wells drilled in 1956 shows that less than 2 percent of the wells had oil or natural gas in commercial quantities. This figure is down from the 3 percent figure which previous studies had shown. This geologists' study found that, out of the 8,436 new-field wildcats drilled in 1956, only 159, or 1.88 percent proved to be profitable discoveries. This is a ratio of one 1 profitable well to 53 drilled. The remaing 8,277 new-field wildcats, or 98.12 percent, were either abandoned as dry holes, or found too little oil or gas to be profitable. For the 12-year period 1945 through 1956, the ratio was 1 profitable well to every 38 new-field wildcats drilled. The average cost of an exploratory well is roughly $90,000. It should be evident to even the opponents of the depletion allowance that the producer must recover not only the capital expended in developing a profitable well, but also the vast sums poured into dry holes and nonprofitable wells from which no income or recoupment of capital is derived.

Mr. RANDOLPH. Mr. President, will the Senator from Oklahoma yield?

Mr. MONRONEY. I yield to the Senator from West Virginia.

Mr. RANDOLPH. I appreciate the Senator's yielding at this particular point in his most informative presentation. The Senator [Mr. MONRONEY] is most knowledgeable on this subject.

In connection with the West Virginia situation, the RECORD can very properly disclose information from constituent correspondence received, and from which I read, in part:

> During the taxable year 1962, we produced 141 wells in West Virginia. Only one of these had sufficient profit for us to receive the full 27½-percent depletion allowance. On all of the others, we took one-half of the net profit. The actual depletion allowance for our seventh-eighths working interest wells amounted to 12.36 percent.

In West Virginia, where production is not large-field operation, where the drilling is for relatively lesser amounts of oil and gas, there is a need, among our smaller independent domestic searchers for oil, for this incentive in the present tax law.

In West Virginia last year, when 1,400 wells were drilled, a very small percentage of those wells would have been drilled had the present depletion allowance not been included as an incentive in a hazardous venture capital program for hoped for production.

Mr. MONRONEY. The Senator from West Virginia is exactly correct. Without a depletion allowance, some marginal fields, fields that do not have the great,

lush production, would never be developed.

Some Oklahoma drillers are now going to West Virginia, because there has been enough depletion allowance to start a discovery of wells. But certainly it is the smaller wells that would sustain the greatest destruction if the amendment of the Senator from Delaware were adopted.

Mr. RANDOLPH. I so understand.

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Mr. SIMPSON. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. SIMPSON. Does the Senator from West Virginia have information as to the number of wells that were dry holes?

Mr. RANDOLPH. Our producing sands in West Virginia are at levels of 1,000 to 12,000 feet below the earth's suface. Our average depth for production is 3,500 feet. The average cost for a producing well in our State is $49,000. Most of our wells are drilled in proven fields, rather than in wildcatting. In 1962 there were 1,171 wells drilled in West Virginia and 200 of them were dry holes.

Mr. SIMPSON. The national average is 1 out of 12. It used to be 1 out of 9. The industry has been drilling fewer and fewer wells. There were 4,000 fewer in 1962 than in 1956. It would be interesting to have the Senator provide information as to the number of dry holes that were drilled in West Virginia and the cost per well, because the average cost is about $90,400.

Mr. RANDOLPH. There is a very real risk in drilling for oil and gas in West Virginia, and we need this incentive in the law in the interest of developing a sound industry.

Mr. MONRONEY. Mr. President, who has benefited from the profit incentives contained in our tax laws and in our inherent policy on all natural resources? The petroleum industry has received a reasonable profit, without which there would have been no reason under our system of free enterprise for them to risk the capital they have. The employees of the oil companies have benefited from the wages they have received. In 1962, the crude petroleum and natural gas portion of the industry itself employed 254,760 people, with an annual payroll of over $1½ billion. But the greatest beneficiaries have been the people of the United States who have had available to them a constant and adequate supply of cheap and easily available sources of energy provided by oil and gas. The retail price of gasoline at service stations, excluding sales and excise taxes, was one-half cent per gallon less in 1962 than in 1926. In 1926, 1 hour's average wage would buy less than 3 gallons of gasoline, but in 1962 it bought almost 12 gallons of gasoline. The price of U.S. petroleum products is lower than in any other industrial country. A brief look at some of the prices which citizens of other countries have to pay for a gallon of gasoline illustrates only one of the benefits which the citizens of this country have. As of January 1, 1962, a gallon of gasoline in the United States, including all taxes and duties, cost 30.6 cents. In Belgium the price was 56.5 cents; in Denmark, 55.9 cents; in Finland, 60.3 cents; in France, 75.6 cents; in West Germany, 54.4 cents; and in Israel, 71.4 cents per gallon.

This has been the result of applying the depletion allowance to production, so that new supplies of oil could be found in increasing quantities, thus maintaining the benefit to the consumer.

If the amount that is necessary for exploration were taken away under the amendment of the Senator from Delaware, the only way the cost of finding and producing oil could be financed would be to put the burden on the backs of automobile drivers. The cost would have to be multiplied many times as the oil passed through the industrial process before it reached the consumer.

Mr. President, in 1960 President Kennedy stated the fundamental consideration involved in the principle of depletion when he said:

> The depletion allowances which affect over 100 items should be considered primarily as a matter of resources policy and only secondarily as a tax issue.

This principle is fundamental and must be kept foremost in mind in any discussion of the depletion allowance. Mr. Kennedy went on to say:

> Its purpose and its value are first of all to provide a rate of exploration, development, and production adequate to our national security and the requirements of our economy. * * * The oil depletion allowance has served us well by this test.

The role of the depletion allowance in the maintenance of our defense and national security has become particularly acute throughout the years of the cold war. Mr. Khrushchev declared economic war on the United States and the free world and the major instrument which he has utilized in this economic war has been the vast oil resources which exist within the boundaries of the Soviet Union. This part of the economic war, which has been described as the Soviet oil offensive, is a part which I am not sure we are winning.

There is no question that the Soviet Union has the reserves to draw upon to

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wage and win that war. Russia is second only to the United States in average daily oil production; and, in 1962, Russian production equaled one-half of the U.S. production. In 1950, Russian production amounted to only one-seventh of U.S. production. Soviet bloc oil exports to the free world and Cuba increased from 116,000 barrels per day in 1955 to 740,000 barrels per day in 1963. This was an increase of 10 percent over the 670,000 barrels a day exported in 1962. Their estimated export potential in 1965 is 1 million barrels per day. The export of soviet oil accounted for one-fourth of Russia's earnings of free world currencies in 1962. Russia's proved oil reserves are estimated to be 28.5 billion barrels, compared to U.S. reserves of 35.5 billion. Some estimates of potential Russian reserves have run as high as 200 billion barrels; and, in 1960, the Soviets announced that new oil deposits discovered in the Central Asian republics have a potential capacity expected to equal the total output of the Middle East oilfields. The discovery of new oil and gas in the Soviet Union has top priority and, in recent years, Russia has had more geophysical crews in operation than the entire free world.

The objectives of the Soviet oil offensive are threefold: economic, political, and strategic. From an economic standpoint, the Soviet Union is attempting to regain the share of the world oil market which it formerly held, in order to acquire foreign exchange needed to finance imports required by other sectors of the Soviet economy. Politically, the Soviets are attempting to undermine the position of western oil companies and western governments by building a dependence on Soviet oil supplies, and by building dependence on Soviet markets for surplus local products and commodities for which the Soviet Union barters its oil. Strategically, the intrusion of Soviet oil on the world market and the peculiar terms and prices at which it is offered have dislocated the market and have contributed to sluggishness of price and disruption of established distribution patterns.

All Soviet oil is channeled through a monopoly owned and operated by the state, thus eliminating all competition in the sale of oil and resulting in a monopolistic bloc policy. This policy enables the Soviets to make planned adjustments in the utilization of various engineering sources and in its allocation of external and internal demand. It permits a greater flexibility in viewing the direction of bloc trade for purely political and strategic reasons; for example, the cancellation of deliveries to Israel after the Suez incident and the diversion of its oil to Europe.

The Soviet pricing policy is extremely flexible since it is not restricted by normal profit and loss considerations, and the cost of production is considerably less because there is no obligation to pay royalties to producing countries at the prevailing rate of 50 percent of the posted world price, which the U.S. companies engaged in foreign operations must now pay. In 1957, the Soviets exported oil to the free world at an average price of $2.06 per barrel, when the price of Middle East oil was $2.79, and Venezuelan oil was $2.92. In 1958, the Soviets sold oil to Argentina for $1.60 per barrel, but charged Poland $2,87 per barrel. In 1960, Russia exported crude oil to its satellites at an average price of $3.01 per barrel, but charged free world nations only $1.56 per barrel. In 1960, the Soviets entered into a barter arrangement with Italian refineries for long-term supplies of Soviet oil at a price of about $1 per barrel. In 1963, the Soviets concluded another agreement with Italy under which Italy will take about 180 million barrels of Soviet oil between 1964 and 1970 at a price of only $1.10 per barrel in exchange for Italian synthetic rubber, fertilizer, man-made fibers, and machinery and equipment so vitally needed in the Soviet economy.

The trend of increased Soviet oil exports will continue, and is demonstrated by the new system of pipelines which the Russians are building to the markets of Western Europe and its ports on the Black Sea and the expansion of its tanker fleet, which has been going on for a number of years. This will make Soviet oil even more accessible and available.

This is an economic war, which we cannot afford to lose. For reasons of defense, national security, and the well-being of our own economy, we must win. We do not want to adopt or use the methods applied by the Soviet Union. We must continue to provide other alternatives and incentives, such as the deple-

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tion allowance and other incentives in our tax and trade laws, which will enable the petroleum industry of the United States to compete effectively with the influx of low-priced Soviet oil and to continue to outproduce the Soviet Union. Any reduction in the existing incentives would be disastrous.

It would be most unwise and inappropriate, in a tax bill designed to bring about necessary production for our own needs in peace or war, to cut the depletion allowance by 25 percent.

The advocates of reduction argue that the 27½-percent depletion allowance on oil and gas is excessive, that it creates an inequality in our tax structure, that oil companies and oil men derive exorbitant profits solely because of the depletion allowance, and that the result has been an overinvestment of our total capital resources in the petroleum industry. None of the arguments is sound.

I have already pointed out that the oil industry is no more profitable than other industries in this country, and that its rate of return on investment is about the same as it is for manufacturing companies. Considering the unique risk involved in oil and gas exploration, and the tremendous benefits which the opponents of depletion say the oil industry derives from the "truck hole" in our tax laws, it would seem that the rate of return for the oil industry would therefore be much higher than that for other industries. The 27½-percent rate is not excessive and it is not inequitable to allow the oil industry 27½-percent and the sulfur industry only 23 percent. The comparative risks involved have, I think, been wisely recognized by the Congress. The amendment would reduce the depletion allowance on oil and sulfur to the same amount. Sulfur is not found 5,000 to 25,000 feet below the earth's surface, and it does not require the drilling of a well costing anywhere from $100,000 to almost $2 million even to find out if there is sulfur at a particular location.

The percentage depletion allowance is not the cause for oil producers or oil companies paying no Federal income taxes, as has been insinuated, since the depletion deduction cannot exceed 50 percent of net taxable income. It cannot reduce taxes to zero; it can only reduce the tax on oil production to approximately the capital gains rate available to all taxpayers and all industries. The main reason why some oil producers pay only a small amount of tax is they are reinvesting the money available through the depletion allowance in the exploration and development of new oil and gas reserves. These costs for exploration are obviously a deductible item.

In fact, the petroleum industry has consistently expended for domestic exploration and development alone over 2½ times the total amount of depletion taken on both domestic and foreign production.

When the percentage method of computing depletion is compared with the original principle of discovery value depletion, which was carried over in the percentage depletion formula, the amount of depletion currently allowed is lower than the amount which would have been allowed under the original formula. Under discovery value depletion, a producer was entitled to recover tax free the value of the mineral deposit at the time of discovery. Congress recognized the economic principle that a mineral producer's capital is not restricted to the actual cost of finding a mineral deposit. Today, the cost of finding and producing a barrel of oil in the United States is about $3.38. Excluding development and production costs, the current value of new oil in place in the reservoir averages a little more than $1 per barrel. Based on an average selling price of $2.90 per barrel, the absolute maximum depletion deduction would be only 79 cents. The discovery value of about $1 per barrel thus exceeds the maximum depletion deduction today by over 20 cents per barrel. The result is that under the 27½-percent rate the Government actually taxes a portion of the producer's capital value as income.

Instead of being excessive, as its opponents charge, the depletion rate for oil and gas is in reality insufficient to carry out the principle intended by the Congress when the provision was enacted in 1926.

It is true that the oil and gas producing industry pays less Federal income tax than U.S. industry in general. This is what causes its opponents to scream "inequity." But when the total tax burden borne by the oil and gas producing industry, exclusive of excise and sales taxes, is computed, the rate of domestic taxes on gross income is about 5 percent both for the oil industry and for almost all other industries. When the total tax impact is considered, the oil industry pays essentially the same tax rate per dollar of gross income as is paid by all mining and manufacturing industries.

When it is pointed out that the profits of the oil industry are reasonable as compared to the profits of other industries, despite all of the alleged tax havens which are attributed to the industry, the opponents charge that the reason for that is an overinvestment in the oil industry which has resulted in a misallocation of the capital resources of the country. It is difficult for me to understand how we can be overinvesting in an industry so extremely vital to the strength and security of this country, particularly in view of the fact that our domestic reserves have declined steadily for 15 years and our energy requirements have almost quadrupled since 1926. It seems to me that we have not been investing enough money for the exploration and development of oil and gas resources, especially for domestic oil and gas reserves.

U.S. petroleum requirements by 1970 are expected to be at least 13 million barrels a day. Our current production is only about 7.5 million barrels a day, and the requirements for 1970 will be about 2 million barrels a day greater than our present productive capacity, which in 1963 was, at the most, 3 million barrels a day greater than actual production. With respect to excess productive capacity which the advocates of reduction say results from overinvestment, our domestic production now would be at least 1,800,000 barrels a day greater if it were not for foreign imports of oil. If these imports were cut off in an emergency, our present productive capacity would exceed our current requirements by very little. This does not take into consideration the increased consumption of our military establishment which, in an emergency, has been estimated to be as much as an additional million barrels a day. Thus, if an emergency should arise, and in today's world it is highly likely that it will, we would have no reserve productive capacity.

I am grateful that we are a Nation blessed with many natural resources and a Nation competent to invent the methods by which such resources are readily and easily producible and deliverable. I am glad that we have a surplus in productive capacity to fall back upon in times of crisis. We have excess productive capacity in almost all of our manufacturing and mining industries today. One of the reasons for the tax bill we are debating is to provide more money through tax reduction for investment in new plant facilities and to provide more disposable income to increase the demand for the products of industry. It is incomprehensible to me that a proposal should be made to increase the taxes of the oil industry on the grounds of excess productive capacity and at the same time propose a reduction in taxes to solve the problems of other industries which have excess productive capacity.

Mr. President, I am firmly convinced that the adoption of any of the proposals to reduce the depletion allowance will result in an increase in the price of petroleum products to the consumer and a drastic reduction in the capital funds expended in the search for new reserves. This would be contrary to our historic policy on natural resources, which has provided cheap and abundant sources of energy to the citizens of this Nation. The strength of this Nation has been built on that policy. Unless our resources are taken out of the ground, they have no value to us, and unless we find new deposits of resources and make them available at low cost, our strength will decline. Our natural resources policy has served us well in peacetime and in war. The proposals to amend the depletion allowance represent a fundamental change in that policy, and if adopted, would be detrimental to the national interest and the individual interest of every citizen of the United States. It is a tribute to the Congress that it has rejected these proposals in the past. I am confident that it will do so again.

I feel that it would be most unwise for us to make such a drastic cut as is proposed by the amendment of the Senator from Delaware. That would be enough to freeze or disrupt the industry during the 3 years the depletion allowance was being reduced. Make no mistake about that, because as the cut became effective, it would freeze the financing of wells and freeze the willingness, the energy, and the efforts that ordinarily go into providing the Nation with its adequate supply of new-found oil.

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I ask that the amendment be rejected.

I yield the floor.

Mr. SIMPSON. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from Oklahoma [Mr. MONRONEY].

In light of the statements made during the debate in regard to the taxes imposed on the oil and gas industry, I wish to state that the taxes paid in Wyoming—and Wyoming has grown to be the sixth largest producer, among all the States, of oil and gas; and Wyoming is an export State—are based to the extent of 46 percent on the production of the oil industry in Wyoming.

I wish to present, very briefly, certain basic facts that I believe should be kept in mind in considering Federal tax policies as to oil and natural gas production.

Even critics of petroleum tax provisions recognize that these provisions result in more investment in petroleum development and more oil and gas at lower prices. Proved reserves of oil in the United States have increased from 8 billion barrels in 1926 to 38 billion. Oil production has been expanded from less than 1 billion barrels per year to 3 billion in 1962. The retail price of gasoline at service stations—excluding sales taxes—the distinguished Senator from Oklahoma has already stated this information, which is gathered from the same source—was one-half cent per gallon less in 1962 than in 1926. The greater value to the consumer is illustrated by the fact that 1 hour's average wage will now buy almost 12 gallons of gasoline in contrast to less than 3 gallons in 1926.

In short, more oil and more gas have been made available to the consuming

public at relatively low prices under the tax treatment than has been established and maintained by Congress for more than a third of a century.

Exploratory activity is the necessary forerunner to oil and gas drilling. Advance exploration, as measured by the crew-months of geophysical activity, has been declining steadily. In 1962, the total crew-months of geophysical work showed a decline of 50 percent in the search for new oil and gas reserves since 1955.

This is only one indicator of deteriorating conditions in the domestic producing industry. Any adverse change in petroleum tax policies unquestionably would accelerate this decline and threaten the adequacy of future oil and gas supplies.

Following the decline in exploration there has been a sharp decrease in the number of drilling rigs in operation. The number of active rotary drilling rigs has declined by 40 percent since 1955.

Despite continuing advances in scientific techniques, new oil and gas reserves can be found only by drilling. Less drilling means fewer wells and less oil and gas for the future.

Let us turn now to the record of wells completed in the United States.

In 1962, exploratory drilling showed a reduction of more than 4,000 wells, or 30 percent from the 1956 level. Clearly, the funds and incentives for oil and gas exploration have been deteriorating, even under existing tax provisions.

Looking at total drilling activity, there has been a decrease of almost 12,000 wells from 1956 to 1962. This is a 20-percent drop. These wells include producing oil wells, producing gas wells, dry holes, and service wells.

Again, it is clear from the decline in total drilling activity that the domestic industry is being forced to curtail its operations. At the same time, national oil requirements are expanding.

I would like to point out that independent oil and gas producers account for about 80 percent of the wells drilled in the United States. The funds for drilling activities are generated primarily within the industry. Many wells are joint ventures, with the funds provided by both independents and larger companies. Producers depend heavily on existing tax provisions to carry on drilling activities which would be directly and adversely affected by the proposed changes in these provisions.

The decreases in geophysical activity, drilling rigs, exploratory wells and total well completions result from the cost-price squeeze on the domestic producing industry.

The price of crude oil has declined by 7 percent since 1957 in the face of increasing wages and higher costs of steel and other materials. The cost of drilling and equipping wells in 1961 was 8 percent higher than 1957, with an increase of 13 percent in the average hourly wages paid to employees in oil and gas production.

The domestic petroleum industry has a lower rate of return on invested capital than the average for all manufacturing industries.

For the 7 years from 1955 through 1961, petroleum earnings averaged 9.1 percent on invested capital as compared with 10.4 percent for industry generally. The petroleum industry was lower, not only for the entire period, but also for each of the 7 years.

The relatively low rate of return in the petroleum industry provides evidence that increased taxes, unless compensated for by increased prices, could be paid only at the expense of further curtailment of industry operations.

Huge investments are required each year to find and develop domestic oil and gas reserves. The latest and most complete surveys show that an average of $4.6 billion is spent each year in searching for new reserves and developing these reserves so they will be available to meet consumer requirements. An annual total of $2.2 billion is spent for exploration alone, with an additional $2.4 billion expended for development.

Federal tax provisions have enabled the petroleum industry to make investments on the tremendous scale required by expanding national consumption. In fact, as previously shown by declining exploration and development activities, funds and incentives have become inadequate for the necessary expansion of these activities.

The proposals to impose large additional taxes on domestic oil and gas production are, in effect, proposals to curtail investments in oil and gas exploration and development.

The huge investments in petroleum exploration and development are made in the face of unusual risks and great uncertainty.

On the average, there is only one chance in nine of finding any oil or gas, at an average cost of approximately $90,000 for each exploratory venture. Even if oil or gas is discovered, it is often a marginal or unprofitable operation. The chances of finding a substantial oil or gas deposit are slim indeed. In fact, if the marginal and unprofitable discoveries were excluded, the chance ratio would drop from 1 in 9 to 1 in about 40.

There is little doubt that this Nation will require more, rather than less oil and gas. More, rather than less, exploration and development for new reserves is needed.

Here, Mr. President, let me say that the U.S. Government itself is the greatest customer—using approximately 426,000 barrels a day, and using an average of more than 356,000 barrels of jet fuel alone a day. In a year's time, that amounts to billions of barrels. So, as I have said, there is little doubt that this Nation will require more, rather less, oil and gas, and that more, rather than less, exploration and development for new reserves is needed.

Under such policies, domestic oil and gas supplies can continue to expand at reasonable prices to the consuming public. The potentials for future discovery are vast, with a relatively small proportion of favorable areas in the 50 States having been explored to date. National tax policies should serve to increase, rather than decrease, exploration and development activities.

Furthermore, we know that the purpose of the pending bill is to expand the economy.

There is an additional factor that should be considered before taking any action that would further discourage domestic producing activities.

Since 1956, domestic crude oil production has increased by less than 200,000 barrels daily or only 2 percent. Total output of the producing nations of the free world outside the United States has increased by more than 5 million barrels daily, or 68 percent, with 90 percent of this increase resulting from the rapidly expanding use of oil abroad.

During the same period, Russia has expanded its oil production by more than 2 million barrels daily or more than 100 percent. With oil the primary weapon in the Soviet economic offensive, it would seem foolhardy indeed to depress the development of United States oil supplies and weaken the Nation's strength as to its energy resources.

This brings us to perhaps the matter of overriding concern: our national security and our ability to preserve world peace.

The value of U.S. oil to national security has been demonstrated over a period of 45 years of meeting various types of emergencies.

We all recall that the Allies floated to victory on a sea of oil in World War I. In World War II, the U.S. oil again was indispensable to victory with 6 of every

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7 barrels used by the United States and our allies supplied from domestic sources.

More recently, and of perhaps more significance as a deterrent to world war III, a number of political crises have emphasized the essentiality of maintaining adequate oil supplies within the United States. In 1951, the production of oil in Iran was shut down and 600,000 barrels daily were cut off as a source of supply to the free world. Five years later, in 1956, the closing of the Suez Canal posed a grave threat to world peace. The availability of reserve supplies from the United States and, to a lesser extent, from other Western Hemisphere sources averted this threat of war. Today, Communist activities in Cuba again threaten the availability of oil supplies from foreign sources through sabotage activities in South America.

In conclusion, I respectfully but emphatically urge the Senate to take no action that would weaken the Nation's strength as to its supplies of oil and natural gas. The value of a vigorous and expanding development of petroleum resources to our standards of living and our national security is a matter of basic natural resource policy and goes beyond the more limited consideration of tax revenues.

In the short run, the proposed changes in petroleum tax provisions could result in additional tax revenues. In the long run, they could mean a lower rate of economic growth and less tax revenue. Beyond question, they would result in less oil and gas. In the public interest, we cannot afford to exchange the hope of additional tax dollars for the certainty of oil and gas supplies.

Mr. MECHEM. Mr. President, speaking, as a former member of the executive committee of the Interstate Oil Compact Commission and as former chairman of the New Mexico Oil Conservation Commission, I oppose the amendment.

A reduction in the petroleum depletion allowance from the existing 27½ percent of gross petroleum sales receipts would be a serious blow to the economy of New Mexico, as well as to that of her neighboring States.

We must continue developing our petroleum reserves in this country. We are already drawing heavily on known reserves and we are not developing new reserves as rapidly as we should. Exploratory drilling carries a high degree of risk, but it is absolutely essential to the security and future well-being of the United States.

It is simple for those not familiar with the facts about the petroleum industry to

single out a few millionaires as causes for attacking the depletion allowance as a supposed loophole in our tax structure. The hard truth is that many a dry hole is drilled for every successful producer.

Without this tax incentive, the exploratory drilling so necessary for the continued operation of the oil industry may well taper off. If that happens, it can only mean future danger to the Nation's security and its economy.

I urge that the Senate reject this amendment.

Mr. EDMONDSON. Mr. President, I believe it fundamentally important in our consideration of proposals which would amend the Internal Revenue Code to reduce the percentage depletion allowance to consider both the need which exists for an adequate and readily accessible supply of petroleum and the fundamental nature of our American oil industry.

Few can argue that an adequate supply of petroleum and petroleum products is essential in order to have a continued increase in industrial progress and in our already high standard of living.

Many can remember well those days when the citizens of our country gladly and cheerfully went without fuel for their automobiles in order that our fighting forces would have the means to carry the war to its successful conclusion. Today effective military action in anything less than all-out conflict still depends on adequate supplies of petroleum. These facts are self-evident and need not be endlessly repeated.

Another fact equally clear is that we do not have an oversupply of oil. While the oil industry spends large amounts of money each year—about $5 billion—to maintain an adequate supply of oil, costs are increasing and the risks in exploring for oil are growing every day. Today, only 1 out of 32 exploratory wells results in the discovery of a field large enough to be profitable, and only 1 out of 600 such wells finds a field large enough to supply this Nation's needs for a week.

In spite of these great risks oil and gas companies receive about the same rate of return on their investment as do manufacturing companies. From 1955 through 1962 domestic petroleum earnings averaged 9.1 percent on invested capital as compared to 10.3 for industry in general.

As Governor of a great oil-producing State and as former chairman of the Interstate Oil Compact Commission, I have been aware for a number of years of the effect of a reduction in the percentage depletion allowance upon the oil industry and upon the 33 States which produce petroleum. Without doubt the broad base now existing in the oil and gas-producing industry would shrink greatly if percentage depletion were to be adversely changed.

We can foresee adjustment in the industry financial processes which would result in sellouts and mergers among smaller industry units with a resulting increase in corporate concentration in the production and control of petroleum. This would have a severe effect upon the economies of thousands of oil communities throughout producing States, and there would follow a reduction in the overall base for local, State, and Federal tax revenues.

Governmental policies should be designed to encourage the continuation of the present broad base in the petroleum industry. Eight companies presently control only 32 percent of crude oil production, compared with the 70 percent of steel production controlled by eight companies, and the 80 percent of motor vehicle production controlled by eight companies. Retention of the present depletion provision of our tax laws will maintain a broad based domestic petroleum industry, a goal which should be the policy of this Congress.

In recent years the health of the domestic petroleum industry has been declining. Crude oil prices are down, gasoline prices are down, employment in the industry is down, and fewer exploratory wells are being drilled.

Considering these facts and considering the close relationship of economic progress and the availability of low-cost energy primarily supplied by oil and gas, I earnestly submit that a tax change such as proposed in this amendment would impede the economic advancement this country has made in the last 3 years and would be extremely detrimental to the maintenance of the security of the free world.

Mr. CARLSON. Mr. President, today we are again witnessing what has come to be almost a perennial attack on the longstanding tax policy—percentage depletion.

These attacks come each year almost as consistent as the weeds that return each year to torment the farmers back in my State of Kansas.

While I do not question any Senator's motives or right to offer amendments to reduce or eliminate the effectiveness of this vital tax provision, it must be recognized that over the 38 years that percentage depletion has been in the law, it has repeatedly stood the test of thorough review and study by Congress and its committees. In fact, I know of no other national policy which has been subject to as much examination as has percentage depletion.

As in past years, this amendment offered here today during floor consideration of this important tax bill was given full and considered study by the Finance Committee and rejected by a substantial bipartisan vote.

Nonetheless, the foes of percentage depletion continue to hammer away, which, of course, is their privilege.

Mr. President, I deem it important, each time this subject is discussed on the Senate floor, that the matter be put in proper focus and considered in light of the intended purpose of this tax policy, as well as a look at how just this policy has met its intended goal. A look at the record shows that, back in 1926, when Congress first wrote percentage depletion into law it had two things in mind; namely, a simplified method for computing depletion which would recognize that first, percentage depletion would partially compensate for the using up of a producer's capital as is the case in mineral extraction; and, second, provide the necessary encouragement to men willing to spend their money, time, and energy in the search for and development of mineral resources.

This minerals tax policy has served well in the case of more than a hundred different minerals which this Nation must have in large quantities if it is to remain strong and self-sufficient.

However, Mr. President, since these amendments appear to only affect petroleum production, I will confine my remarks to that portion of the minerals industry.

Petroleum provides more than 70 percent of the energy requirements of this Nation, so there remains little doubt that we must have adequate supplies of this

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vital commodity at reasonable prices for both our military and civilian requirements. What is the picture as of today?

Percentage depletion and the other mineral tax policies have helped to provide adequate petroleum at very reasonable prices. For example, U.S. petroleum reserves in 1963 were five times as great as when percentage depletion was adopted in 1926. What is more, excluding excise taxes, a much better gasoline is being sold at the gas station pump today for less than it sold for in 1926—the year percentage depletion came into law. Thus, there can be no doubt that one of the original congressional goals, plentiful supplies at reasonable prices, is being met. As a matter of fact, Mr. President, I know of no other commodity which is being sold today for less than it was in 1926. If the price of gasoline had increased since 1926—the year percentage depletion came into the law—in proportion to the increase in the consumer price index, gasoline would cost today 65 percent more than it did in 1926. Another test is that today an hour's average earnings will purchase about 10 gallons of gasoline in contrast to about 2.5 gallons of an inferior product in 1926.

Stated simply, for more than 37 years, percentage depletion has helped the petroleum producing industry to make available to the American people the vital energy required to make more and better things for more people at reasonable prices. What more can you ask?

Mr. President, there are endless reasons which I could cite as to why an adverse change in the percentage depletion rate for oil and gas production would not be in the best public interest. However, I do not wish to burden the Senate with a long discourse and use up valuable time in our efforts to expedite this very important measure.

Before I conclude, however, I feel I must discuss the important role percentage depletion has made and is making toward helping to encourage the investment in the oil and gas search needed to meet our growing energy demands for national security.

In the two World Wars, the Korean conflict and the numerous peacetime incidents such as the Suez crisis, U.S. oil has made the difference between victory and defeat; between sufficiency and shortage. Already at serious competitive disadvantage in both domestic and world markets, U.S. crude oil production has risen only 2 percent since 1956, while free world foreign output has risen 68 percent and Soviet Russian production has increased 115 percent.

Mr. President, in view of the uncertainties on the international scene, we must do nothing to weaken this important industry and its ability to remain strong and to have this nation continue in its position of energy supremacy.

We must continue the national policies that will encourage men to invest their resources in the important endeavor of searching for and developing new petroleum reserves.

Mr. President, now is no time to further aggravate an already bad situation existing in the domestic petroleum industry. I find that in my own State of Kansas as well as the Nation as a whole, our petroleum-producing industry has been going down hill consistently since 1955.

For instance, in my State of Kansas, drilling activity reached a peak of 4,958 completions in 1955. During last year,

1962, only 3,961 wells were drilled in Kansas. This is a decline of nearly 1,000 wells, or of 20 percent. Exploratory crew activity is down approximately 30 percent over the same period. This is indicative of fewer discoveries in the years ahead for actual exploratory drilling is only undertaken after a search for subsurface conditions favorable to the accumulation of oil and gas.

These facts foretell fewer wildcat wells in the future, a further decrease in development drilling, less employment, dwindling county, State and Federal taxes, and declining development of this vital and basic resource.

It is disheartening to one from an oil state to be aware of the depressed condition of an essential industry and to witness its gradual deterioration in so brief a number of years. It is disillusioning to now be faced with a proposition, as proposed in this adverse amendment, that would further suppress the normal and natural progress of a great industry.

Then, too, Mr. President, unfortunately this situation is not confined to my State of Kansas. These deteriorating conditions exist in each of the 31 oil producing States of this Nation.

I was delighted when the former Governor of Oklahoma [Mr. EDMONDSON] and the former Governor of New Mexico [Mr. MECHEM], who both served on the Interstate Oil Compact Commission, told of the effect the provision would have on their States. It was also my privilege to serve not only as a member of the commission, but as chairman. Kansas is the fifth largest oil-producing State.

I have learned from the recent Finance Committee hearings that economic conditions in the domestic petroleum industry have deteriorated steadily while the U.S. economy in general has experienced continuing upward trends. Each factor measuring the health of the oil- and gas-producing industry has been declining. Each factor for the general economy shows advances. Yet these depressed conditions persist despite an expanding national economy.

The declining trends in prices, employment and activity reflect the increasingly unfavorable atmosphere for capital investments in oil and gas production. It is significant that the domestic petroleum industry has a lower rate of return on invested capital than the average for all manufacturing industries.

For the latest 8-year period from 1955 through 1962, domestic petroleum earnings averaged 9.1 percent on invested capital as compared with 10.3 percent for industry generally. The rate of return for petroleum companies was lower not only for the entire period, but also for each of the latest 8 years.

With relatively low rates of return on investment, declining prices, shrinking employment and progressively sharp curtailment of oil exploration and development activities, adverse changes in oil and gas percentage depletion and related tax provisions would widen the growing disparity between economic trends in the domestic petroleum industry and the general economy. Surely we in Congress do not wish to aggravate this disturbing situation.

Mr. President, I do not wish to be unduly alarming. But I must state that in view of the economic plight of the U.S. petroleum producing industry, this body should be considering ways and means of breathing new life and vigor into this all-important industry rather than harass it with the constant threat of adversely changing basic national tax policies which over almost a half century have become an integral part of the economic fabric of this industry; an industry which is absolutely essential to survival and progress of this Nation. An industry which Interior Secretary Stewart Udall recently declared "is perhaps the most essential of all to our national security."

Mr. President, there can be no question that in the public interest, this Nation can ill afford to exchange the unlikely hope of additional tax dollars for the certainty and security of maintaining adequate petroleum supplies.

Mr. SIMPSON. Mr. President, will the Senator yield?

Mr. CARLSON. I yield.

Mr. SIMPSON. The Senator from Kansas spoke of the various Members of this body who were former members of the Interstate Oil Compact Commission, representing their States as Governors. I, too, had that privilege. The Senator will recall, as a member of the Interstate Oil Compact Commission, which has the sanction of the U.S. Government, how the commission has policed the industry with great care and precision.

Mr. CARLSON. I pay tribute to the distinguished services the Senator from Wyoming rendered during his service on the Oil Compact Commission. I am familiar with them. I am sure he will agree with me that the Interstate Oil Compact Commission has not only contributed to the stability of the industry but has added much to the reserves which continue to assure this Nation of a future supply that will not only be for the benefit of the country but will add to its economic stability.

Mr. LAUSCHE. Mr. President, according to the indications, the tax bill as

it came to the Senate will be passed without substantial modifications. There is no evidence that the amount of revenue loss contemplated in the bill will be reduced by any amendments. This prospect—I should not call it a prospect; it is a bad omen—of a tax cutting bill, which is likely to produce a deficit of $8 billion or $9 billion, in all certainty, in the fiscal year 1965, to me is a matter of grave concern.

Tax reductions on the basis of sound economics cannot be made merely by legislative fiat. Whenever tax reductions are made, they must be made bearing in mind their relationship to the state of the economy, the state of the debt, and the state of the purposes of the admin-

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istration to spend money. We are, by a sort of legerdemain, attempting to cut taxes and thus cure an ailment confronting the Government.

Taxes are the product of spending. If taxes are to be cut, spending must first be cut to lessen the burdens that rest upon the financial shoulders of the country.

There are some indications that there will be a cut in spending. I wish that were true and that I could rely upon it. There may be some reduction in spending immediately, but after the tax cut bill is passed, I fear what is going to happen. All inhibitions will be cast aside. I fear what will happen next year, after the tax reduction has been put into effect. The spending train will be put on greased rails, and off we will go into high, entirely unmindful of what repetitious deficit operations are likely to do to the country.

We are contemplating taking a great leap; my suggestion is that before we do so we ponder the probable consequences of that jump. The proposed tax cut is bottomed on a great deal of speculations and contingencies. If those contingencies and conditions do not occur and if the prophets of the nostrum are wrong, we may come up with a $20 billion deficit in one of the next few years, and what the impact of that will be is simply frightening to me. This tax cut has an appeal to the people of the country, and yet it has been slow in being accepted. My mail asking for a tax cut has been practically negligible. I have had more approvals of my determination not to support the cut than I have had criticisms. It points up one thing, that the citizens of the country are in advance of the thinking of the Congress.

It is said by these prophets of the tax cut that it will balance the budget by 1968, that our gold outflow will be stopped, that more money will be invested by industry in manufacturing cycles, that the consuming public will take every penny of tax benefits and run to the merchandiser and spend it.

This last assumption is an insult to the intelligence of the people of the country. If it is true, then in my opinion we are ascribing immorality to the people.

I do not believe they are going to take 94 percent of this benefit and spend it immediately. There is greater character and greater stability in the makeup of the American citizen than to assume that he will put all his money into purchasing and nothing into savings.

If these assumptions prove to be unfounded, we shall run into trouble of the direst kind. We may run into trouble in the next several years, when we shall have an additional deficit operation of $20 to $30 billion. I submit to the Senate that our economy cannot stand it, and the people of the country should not be subject to that danger.

I will not vote for this tax bill. I will not vote for it even though it forebodes my political demise.

I believe it is wrong. I believe it is not in the interest of our Nation.

In 1954 we cut taxes in the sum of $7½ billion. There was a rise in the economy in 1955, and some rise in 1956. In 1957 the graph went down, and in 1958 we ran into a $12 billion deficit.

If we run into that same situation now—and it is not outside the realm of probability—it will be catastrophic.

Mr. President, let us look again before we leap. In the pending tax reduction bill we are being asked to do something that has never been done before in the history of our Nation under existing circumstances and conditions. While we are being asked to reduce taxes, we are also, at the same time, being urged to spend more, raise the national debt, embark on new Federal spending programs, and enlarge existing programs. This is completely contrary to the economic philosophies that have been held frugal and prudent throughout the world for centuries.

First, we were asked to enact a tax cut and tax reform bill to take our economy out of the doldrums. In the meantime, the economy progressed to a new high in gross national product and then the tune was changed that a tax cut was essential to ward off an impending recession. The recession did not appear and then the tune was changed again that a cut was necessary to steer clear of a recession which might appear, and, lastly, we are now requested to cut taxes to bolster an already booming economy.

The administration's tax reduction proposal is couched in very attractive

terms. We are promised a restoration of "the healthy glow of dynamic prosperity" and insurance against future recessions. Consumer demand and investment spending is to be stimulated, State, and local government revenues to be raised, and future fiscal policy to be facilitated. While everyone is in favor of increased economic activity and rising income, the tax cut approach to a solution of our problems, at present, is open to some serious questions. In particular, the favorable forecasts on which the administration's proposal is premised need scrutiny. They rest on too many assumptions and contingencies.

IMPACT ON CONSUMPTION

Mr. President, the main thrust of the proposal is to engineer a rise in disposable income which is to touch off a substantial increase in consumer spending for consumption goods. This, in turn, is to create additional rounds of income and consumption increases along lines of the familiar multiplier process. The President's Council of Economic Advisers has indicated how much quantitative importance it has assigned to this tendency. As an example, a tax reduction of "$8 to $9 billion added directly to the flow of consumer income would call forth at least $16 billion of added consumer goods and services." It is further claimed that about one-half of this rise in consumption would take place within a 6-month period.

While there can be little doubt that a reduction in tax withholding would exert upward pressure on consumption expenditure, the strength of this influence is far more difficult to predict with reasonable probability. The added income in the hands of the consumer can be used for a number of things besides spending on U.S.-produced consumer goods. It can be used to buy securities, it can be used to repay old debts, it can be used to increase the purchases of imports, or it can be saved. All of these alternatives involve more complex and uncertain connections with income generation and consumer spending; in fact, it is not unreasonable to expect that these responses to increased consumer income would lead to proportionately greater personal saving and a worsening in the U.S. balance of payments.

All of these possibilities are unquestionably open. The question is: What are consumers likely to do? How will other economic and political developments affect consumer choices?

The administration's assertion that "the ratio of total consumption expenditures to total personal disposable income has in each recent calendar year fallen within the range of 92 to 94 percent" is surely not sufficient as a guide to future consumer behavior. For example, the chances for a rise in the proportion of income devoted to the purchase of goods and services produced abroad has probably been boosted by Great Britain's failure to join the Common Market. Unquestionably, Britain will attempt to expand her American markets in order to help compensate for this setback. We are also told that "recent experience with tax reduction demonstrates clearly that additions to disposable income from this source are spent as completely as any other additions."

Mr. President, is it true that experience with past tax cuts shows cause why we should be sanguine about the effectiveness of the cut now contemplated? How does the President's Council of Economic Advisers argue its case?

Taxes were reduced by some $4.7 billion on May 1, 1948—retroactive to January 1—and this resulted in large refunds in mid-1949. Again, taxes were cut by about $6 billion, net, effective January 1, 1954, followed by further cuts later that year. According to the Council, these two observations suggest that in the periods following a tax cut the percentage of consumer income spent for consumption can be expected to remain within the normal range of fluctuation from quarter to quarter. It is therefore proper, the Council goes on to argue, to abstract from transitional fluctuations and to accept the proportion of consumer expenditure out of consumer income experienced in other years—92 to 94 percent—in order to forecast the effects of the proposed reduction in taxes.

To improve its relevance to the period in question now, experience in recent years was chosen. This argument needs a closer look.

Quarter-to-quarter changes in consumer income and consumption expenditure may indeed be dominated by erratic factors, but this does not mean that short-run responses of consumers to increased disposable income should be ignored in favor of some longer-term average relationship. These shorter-run developments are precisely what matters in the process following a tax cut or any other major change affecting the course of economic activity.

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The results of the tax program are going to be evaluated by the public as well as the policymakers in the next few quarters, not over the next decade or two.

Also, the change in consumer spending has its effects depending on the way it is observed and interpreted by the business community. If consumers react favor-

ably to an improvement in their spendable income, producers may be motivated to increase their production schedules and thus raise income payments to the factors of production. This is how the further rounds of consumption and income increases come about.

But if, after two to three quarters, consumers still fail to live up to expectations, producers are likely to hold the line or begin reduction of output in order to avoid excessive inventory accumulation. In that case the so-called multiplier fails to function, or, more correctly, the multiplier effects are erased by shifts in consumer spending.

Mr. President, the tax cut of 1948 affords practically a textbook example of a multiplier that failed to materialize. Disposable income rose sharply beginning with the second quarter of 1948, but, notwithstanding the strong rise in income that developed as a result of this action and for other reasons, personal consumption leveled off. The rise in income merely enlarged personal saving, which increased from 2.7 percent of disposable income in the quarter preceding the tax cut to 6.8 percent of disposable income in the final quarter of the year.

What did happen was that the retardation of consumer spending led to the turnabout in inventory investment, the salient feature of the 1948–49 recession. There were other contributing factors, of course, but slackening consumer expenditures were, beyond question, a major cause of the downturn.

IMPACT ON THE BUDGET AND THE PUBLIC DEBT

Mr. President, a special feature of the tax cut proposal is the fact that it is scheduled at this time. Fiscal experience has been somewhat unfortunate during recent years, so that we must contemplate a situation that is bound to get even worse before it gets better. Previous tax cuts have come at more opportune times and have not involved the prospect of prolonged deficits.

In the 1948–49 period, there were large surpluses in the 1948 tax-cut year and these were followed by only 5 quarters of deficit financing. The year 1953 would have shown a significant surplus without the tax cut, and the deficits that followed because of the recession were wiped out in short order by the rapid expansion of 1955–56. Note that both 1949 and 1954 were recession years.

The outlook at the present time is modestly expansionary, and could be made more so by policies that do not involve so large an increase in deficits and in the national debt.

At the present juncture, we are building upon almost 4 years of deficit financing. According to Dr. Arthur Burns, if the tax cut is enacted:

> The budget would not be in balance before 1972 and * * * the public debt meanwhile would rise about $75 billion above its level at the end of this fiscal year.

There is no denying that this poses a major problem. The rise in Federal indebtedness for the 1961–64 period would be the largest increase for any such period since the Second World War and yet we are promised more.

Mr. President, I do not plead here for an annually balanced budget. What I oppose is the scrapping of the principle that the Federal budget should be balanced over the course of the business cycle. There are at least two main reasons why series of large sustained deficits are undesirable during the next 7 or 8 years.

The first of these is the fact that the Treasury is likely to encounter a dilemma in trying to finance the deficit. If the Federal Government raises these funds by borrowing them from the private sector of the economy, it will bid away funds from other uses and thus drive up the rate of interest. Private investment and consumption spending will be discouraged and this will surely act to offset at least partially the positive effects that the tax cut may have in this area.

Of course, the deficit can be financed by money creation, but then other undesirable effects may be unleashed. To enable the Treasury to borrow this money from the commercial banking system, thereby avoiding a rise in interest rates, excess reserves would have to be created by the Federal Reserve and the money supply would accordingly be expanded. Rough calculations show that this rise in the amount of money would have to be at an annual rate of about 5 percent if financing the prospective deficit is not to tighten capital markets and risk substantial increases in the rate of interest.

But if that is done, the large increases in public liquidity can lead to a resumption of inflationary pressures in certain sectors. This kind of spotty inflation could increase our balance-of-payments difficulties and provide an unhealthy climate—economic and political—for more general domestic expansion.

The second main problem created by sustained deficit spending is the large increase in the public debt forecast in the near future. While the character of the burden implied by the public debt is sometimes misconceived, many err on the side of ignoring the very real burdens of the national debt.

Ninety-five percent of the debt is held domestically and in that sense, it is true

that "we owe it to ourselves." But the debt is not held proportionately by all of those who pay taxes. As a result, burdensome and unjust transfers of income are certain to happen. Moreover, substantial increases in the debt have undesirable economic effects.

Probably the most important of these is created by the large interest charges that must be paid yearly for the privilege of borrowing these funds. This large item is scheduled to reach more than $10 billion in the next few years and will keep on rising for at least a decade if the tax proposal is approved. In the words of the President's Council of Economic Advisers:

> At full employment, an increase in interest payments on the publicly held Federal debt will ordinarily require higher personal income and corporate profits taxes than would otherwise be necessary to prevent inflation. In this situation * * * by dampening incentives, the higher tax rate may reduce total output.

Also, these interest charges represent what is probably not a very desirable use of revenue resources. Surely there are many more worthwhile projects for which we could use $10 billion tax.

A second unfavorable effect of the debt lies in the fact that it complicates anti-inflationary actions. It is quite true that this may not be an immediate problem, but, at a later stage when credit conditions should be tightened to prevent a possible cost-price inflation, enlarged bank holdings of U.S. Government securities would create difficulties. These securities can then be sold off by the banking system thereby mobilizing funds for unwarranted, inflation-creating expenditures.

Third, some waste of our Nation's resources occurs whenever a large part of the Federal debt has to be refinanced. The profits from this operation are largely reaped by a handful of Government securities dealers and this operation employs many Government workers.

SUMMARY

Mr. President, the tax cut proposal as it stands is difficult to accept without comparable reductions in expenditures, curtailment of new unnecessary Federal programs and other efforts to decrease the deficit. The favorable forecasts underlying the administration's scheme can be questioned on historical and theoretical grounds. The increase in consumption envisaged by the proposal is quite uncertain and so is its impact on investment. If increases in these two components of GNP do not occur to the presumed extent, the deficits that are forecast for fiscal 1964 and 1965 will be substantially larger.

I yield the floor.

Mr. TOWER. Mr. President, I believe an inaccurate and erroneous picture has been painted by the proponents of the amendment of the Senator from Delaware [Mr. WILLIAMS], that those engaged in the oil business are greedy and avaricious, that they are constantly looking for tax loopholes, and that they are ruthless exploiters of the public.

Mr. President, this is not true. For every man who has made a great deal of wealth in the oil business there are many more who have lost what they have and many have gone broke.

I wish that the proponents of this measure could walk the streets of my home town and see geologists working as shoe salesmen, drillers trying to peddle insurance, independent oil operators working as bank clerks. They would see and understand the sickness that has beset the great American petroleum industry.

This is an industry that is extremely vital to the Nation's defense. Had it not been for our vast petroleum production and our reserves during World War II, we could not have prevailed as we did.

If ever foreign sources are denied us, we must rely wholly and entirely on our domestic production to keep our industrial and military might going.

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The oil industry is currently sick, and it needs help. It seems to me to be a singularly inappropriate place to effect a cut in oil income in a tax bill that is designed to stimulate economic growth. As has been noted, this is an extremely risky and hazardous business. I believe that the basic risks inherent in oil exploration should be pointed out. Drilling expenses continue to rise. The cost of drilling wildcat wells may range from $50,000 to $3 million. According to the American petroleum industry, the average cost of every well drilled is almost $55,000. Only 1 out of 32 exploratory wells finds a field that is large enough to be profitable; 1 out of 600 exploratory wells finds a field as large as 50 million barrels of oil, or the equivalent in gas. I might note that 50 million barrels would supply our Nation's need for less than 1 week.

In spite of the great risks involved, the average profits of oil and gas companies represent a slightly smaller rate of return on investment—less than 10 percent—than in manufacturing companies. Without the depreciation allowance, the return would be much smaller still.

In addition to supplying man with a wide variety of low-cost, high-energy fuels, oil and oil derivatives form the basic ingredients of more than 1,000

industrial and consumer products, ranging from synthetic rubber and man-made fibers to plastics and detergents.

More than 70 percent of our Nation's energy is supplied by oil and gas.

Reduction of the present depletion allowances would destroy the conservation program.

It would no longer be possible to recover oil from marginal wells. Secondary recovery cost would be prohibitive.

It would result in raising the prices of crude oil which would increase prices of gasoline and other consumer products.

It would further reduce the working forces of the producers, refiners, and so forth.

I am convinced that any proposed substantial reduction in the present depletion allowance would result in a far-reaching reduction in efforts and expenditures by the industry to find new reserves. These new reserves must be found. An adequate supply of petroleum is essential to national defense, both as a deterrent to nuclear war, and as an indispensable fuel in a conventional war. The retention of the present depletion allowance will insure us of these necessary reserves.

Petroleum already is one of the most taxed industries in America, channeling billions of dollars annually to local, State, and Federal Governments through ad valorem, income, corporate, sales, and dozens of other direct and indirect tax devices.

In 1961 the State petroleum tax provided Texas with 46 percent of its tax revenue, actually in excess of $370,300,648.

Taxes paid by oil companies, excluding excise tax and sales taxes, are 5 percent of gross revenue, compared to 5.1 percent for manufacturing generally. If excise and sales taxes on petroleum products—totaling $6 billion annually—are included, taxes paid by oil companies represent 17 percent of gross revenues. The present percentage depletion rate is indeed necessary if tax deductions are to provide for recovery of capital values.

Existing natural resource tax policies have been built into petroleum industry's economic structure for nearly 40 years. Our tax laws must recognize that rising energy demands in this Nation require the constant development of maintenance of a healthy petroleum industry. Exploration and development of petroleum resources grow more difficult, more costly, and financially more hazardous. Venture capital will continue to be attracted in the industry only if the reward for success is commensurate with the risks involved. To meet national and international needs and to assure replacement of petroleum products produced for energy use, tax laws must continue to provide adequate depletion allowances.

The retention of the present allowance is necessary, possibly to the very existence of the industry as it is presently constituted. The present depletion allowance is both just and fair.

Therefore, I fervently hope that the depletion allowance will not be reduced, and that the Williams amendment will be defeated.

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REVENUE ACT OF 1964

The Senate resumed the consideration of the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes.

Mr. McGEE. Mr. President, we are indulging today in what has almost become an annual ceremony, under a different guise. Whether the issue be taxes, whether it be inequities in Federal money structures, whether it be evasion or loopholes, somehow or other the question of the oil depletion allowance is invariably attracted to the floor of the Senate. This particular occasion is no exception.

In the congressional garden of hardy perennials that blossom at a given stimulus is the movement to reduce the depletion allowance provided for the oil industry. The stimulus that brings this hardy but noxious plant to bloom is the consideration of national tax legislation. It is the almost automatic assault that is made on the depletion allowance. Now that we are considering tax legislation, the cries to reduce the depletion allowance have been heard throughout the Chamber.

In this weeding operation, which I would seek to undertake for a few minutes, I find that the basic approach by distinguished Senators on the other side of the issue is a fallacious one in its fundamental premise. The principal function of the tax bill is to attempt to cut taxes for specific economic reasons in our national scene at the present time. The fallacy behind the thinking of many Senators who are attacking the oil depletion allowance is that, somehow, the oil depletion allowance is a part of our taxing policy. The tax income from the oil industry in relation to depletion is purely incidental and, at most, secondary. The only function of the oil depletion allowance is to provide an or-

derly development of our valuable oil resources. The purpose of the depletion allowance is to encourage exploration for more oil.

The demands for the use of oil are intensifying. The availability of oil that is ready to go has been declining. Therefore, we start with the mistaken view that somehow the oil depletion allowance is a part of the tax structure of the country that demands reexamination or new examination. The fact is, if we understand it as a resource policy for the development of this great potential in the national interest, that only then will we give it its primary or prior consideration.

If the truth were known, the cost of oil exploration has continued to rise. The reason it has continued to mount in my part of the world, in the Rocky Mountain West, is that the proved reserves of oil are less today than they were a year ago. The drop has been almost 8 percent, from 362 million barrels to 338.8 million barrels in 1962. Likewise, our natural gas reserves have dropped by almost 20 percent.

We know that a vast reservoir of oil exists. We know that we have untold wealth in this kind of God-given resource. But it is not worth anything in the ground. It is not worth anything if we do not know where it is in the bowels of the earth. The whole purpose of the depletion allowance is to encourage a more aggressive exploration, in order to establish our known reserves, so that in a time of emergency, or in an emergency of a normal increased usage of oil, such as is taking place at present, we can reasonably and rationally measure our long-term capabilities in this regard. That is why the real substance of my plea is to keep this question where it belongs, as a factor of resource development policy, and not drag it in by the heels, under one guise or another, as some kind of taxing measure or measure to bring income to the Treasury.

The oil depletion allowance has produced large income for the Treasury, for the more oil we can produce, the greater the amount of income that will then be available for taxation to bring dollars into the Treasury. But one of the mistakes would be if we were to start at the wrong end of the line, start at the resource end, in an attempt to destroy, as it were, the goose that lays the golden egg.

I believe our sense of values, our order of priorities, is reversed in the annual attack that is made on the depletion allowance. For that reason, I urge Senators to give special consideration to the question, not as a taxing measure, but as a resource measure over the long range.

When Congress passed the allowance more than 35 years ago it had no intention of creating a tax "loophole"; it was providing for the obvious fact that a mineral-producing industry—and depletion allowances apply to more than 100 minerals—is using up its capital assets

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in the process of production and that it is very expensive to find new assets to replace the old.

In fact, the cost of oil exploration has risen to such a point, Mr. President, that the oil depletion allowance now falls more than 20 cents a barrel short of discovery value, thus permitting the Government to tax a portion of the producer's capital value as income.

The basic principle of the depletion allowance, as conceived by the Congress, was very well stated by President Kennedy in 1960 when he said that—

> The depletion allowance which affects over 100 items should be considered primarily as a matter of resources policy and only secondarily as a tax issue.

The President further said that—

> Its purpose and its value are first of all to provide a rate of exploration, development and production adequate to our national security and the requirement of our economy. The oil depletion allowance has served us well by this test.

And I would point out that the need now is for even greater exploration and development in this country. In the Rocky Mountain West the production and consumption of oil and gas are now outstripping the discovery of new oil and gas reserves. Our reserves of crude oil dropped from 362 million barrels to 333.8 million in 1962—nearly 8 percent—while natural gas liquid reserves dropped from 20.7 to 16.5 million barrels.

And we know that a vast reservoir of oil is still beneath our soil, unusable because it is undiscovered. The Senate Interior Committee study on National Fuels and Energy estimated that our undiscovered reserves are between 225 and 300 billion barrels.

It would be a sad thing indeed if this Nation were to go fuel hungry or face a reduction in our defense strength because we have not the capability to find and develop our oil potential.

Oil exploration is a high risk business. The odds against the wildcat driller are 40 to 1 and the costs are continually increasing while the price of crude oil is decreasing. It should be noted that for every dollar available for exploration through the depletion allowance the oil industry spends an additional two exploration dollars. And the business of exploration and development is still one

of those ventures attracting a large percentage of independent small operators. And they, naturally, would be the first to go down if any change was made in the depletion allowance.

The economic impact of any change in the depletion allowance would be largely felt on the Main Streets of towns and cities throughout the Nation; the impact upon the Treasury would be small by comparison. Some of the results would be:

First. A drastic flight of capital from the industry.

Second. A rash of mergers and sell-outs among smaller operators with the resulting increase in corporate concentration.

Third. This concentration would lead to greatly reduced levels of exploration, drilling, and development.

Fourth. The shrinking industry would, in turn, shrink the tax base for local, State, and Federal tax purposes.

Fifth. Military requirements for petroleum fuels, one of the larger budget items, could be filled only at a much higher cost.

Sixth. Reduced oil industry activities would result in lower markets for steel, other basic materials and spread economic discontent through a whole chain of supply and service organizations sustained by petroleum production.

Seventh. Reduced reserves would result in increased dependence upon foreign supplies which in turn would seriously weaken our ability to be self-sustaining in time of war or national emergency.

Mr. President, to tamper with the oil depletion allowance is to open the gates for a wholesale upheaval in the Nation's economy with serious results to a vital industry and to the entire country. I would suggest that while we are considering a bill designed to stimulate our economy to new and broader expansion, it is completely unthinkable that at the same time we provide for the crippling of a vital segment of that economy.

Mr. PROXMIRE. Mr. President, will the Senator from Wyoming yield for a question?

Mr. McGEE. I yield.

Mr. PROXMIRE. I was interested to hear the Senator from Wyoming say—and I wonder if I heard him correctly—that this was a tax cut bill, not a tax reform bill. As the bill was conceived by President Kennedy and sold to the American people, it was primarily a tax reform bill, but it has ended, as the Senator from Wyoming has revealed or disclosed, almost exclusively as a tax reduction bill. That is why the New York Times editorial writer was concerned and wrote against the bill in its present form.

The Senator from Wyoming did not hear me correctly, although I would be glad to debate with him the issue he has raised. I said that we are considering a tax bill. That is the pending business. Whether it be a tax cut bill or a bill under any other guise to discredit its real intent and purpose, my point is that the oil depletion question does not belong in the discussion of a tax bill, whether it be a tax reform or a tax cut bill. It belongs in a resource policy development measure. This is the purpose of it; this is the goal it seeks.

Would not the Senator acknowledge that some persons disagree with his viewpoint? Fortune magazine has called this the most injurious loophole in our tax laws. For the same reason, Fortune has the feeling that if there is to be any kind of tax reform bill at all, this item most certainly should be considered.

Mr. McGEE. I am mindful of that. I leave it to the Senator from Wisconsin to make his apologies to Fortune magazine. I maintain that this is a matter of education or information. That is the whole point of what I am trying to say. The oil depletion allowance was never conceived as a loophole. Nobody can honestly argue that it is a loophole. The oil depletion allowance was conceived as constructive legislation when it was written into the books. It was not conceived as a loophole, it was written not as a tax measure, but as a conservation resource measure. It should remain in that realm and not be changed into the tax arena as it is at the present time.

Mr. STENNIS. Mr. President, the reduction of oil and gas percentage depletion would have a very adverse effect upon our national security by jeopardizing the continued supply of energy necessary to our defense effort.

In addition, it would have a very detrimental effect upon the country's economy. Removal or reduction of the incentive percentage depletion would be especially damaging to the economic welfare of many land and royalty owners and to the small independent oil producers.

The State of Mississippi, while only one of many States concerned, is an example of how many present and future royalty owners, land owners, farmers, and small oil and gas operators, as well as the larger companies, will be seriously hurt by reducing the depletion allowance. Mississippi has no large fields, but has several small ones. The oil depletion allowance distributes the benefits among many individuals and many areas.

The search for oil and gas is an extremely risky business requiring large capital investment. Even after a field is found, production costs in deep produc-

ing areas such as Mississippi are very high, and unless large amounts of oil are found these costs are prohibitive. Unless we continue to find new fields and new supplies, our national reserves will be reduced below the level necessary to supply our future needs.

The 27½-percent depletion allowance has been established as the minimum amount that will insure the recovery by individuals and companies of enough of their investment capital to remain in business and continue finding new oil and gas reserves.

Money placed in circulation by the search for and the production of oil and gas benefits many people. Merchants, farmers, landowners, and in fact, every segment of the economy reaps an economic benefit from the leasing of land, royalty payments, direct and indirect employment, and many other activities resulting from oil and gas production.

The oil industry is the third largest industry in my State. It is the fourth largest producer of our State's revenue. But the risks are greater in Mississippi than in almost any other State. Experience has shown that we must drill twice as many wildcat or exploratory wells to find a producing field as is necessary in other States. Almost half of our field or development wells are dry holes and are a total loss of investment capital. Our average drilling depth of nearly 10,000 feet is the second deepest in the Nation, making the search for and production of oil and gas an extremely hazardous business financially.

These natural disadvantages greatly reduce the possibility of making a profit; and without the advantage of percentage depletion, most of our operations

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would be forced out of business. The result would be disastrous to the economic welfare of our people. Royalty payments would cease, land would not be leased, employment would decline, and farmers depending on lease or royalty payments to supplement their income would become distressed. The total result would be a decline in the standard of living.

When fully and objectively considered, the depletion allowance is not a tax "loophole" benefiting large multimillion-dollar companies; but it is a logical, fair, and equitable provision in our tax law which has proved to be workable and essential to the continued economic welfare of our Nation. It is not a favor to the property owner. It is an insurance which favors continued production. It should be retained, in order that we may continue to be assured of an adequate supply of energy to supply our domestic needs, and to have sufficient reserves for the future, and to be able to meet any national emergency.

Mr. President, the pending amendment and similar amendments should be rejected; and I urge Senators to join in rejecting this amendment.

I thank the Senator from Pennsylvania [Mr. CLARK] for his courtesy in enabling me to obtain the floor.

I yield the floor.

Mr. PROXMIRE. Mr. President, the Senator from Delaware [Mr. WILLIAMS] is recognized as a man of integrity and very deep and sound principles, and a man of very conservative instincts—at least, that is my opinion—with regard to government spending and all other government policies. Certainly he is a warm friend of free enterprise; and certainly he is so recognized throughout the country, as well as in this body.

Mr. President, the pending amendment, which has been submitted by the Senator from Delaware, cannot be "kissed off" as an amendment submitted by a group of Populists or "wild-eyed liberals." To the contrary, the amendment has been submitted by a Senator who sincerely respects—I am certain that he does—the importance of this industry to the Nation.

The pending amendment is the most modest amendment on oil depletion that has been submitted during the number of years I have served in the Senate. The amendment does not call for a sharp cut in the oil depletion allowance. Instead, the amendment calls for a gradual cut, changing over the years from 27½ percent to 20 percent.

The pending amendment is a very modest one, and it gives this industry an opportunity to adjust to this change. Therefore, the amendment seems to me to be entirely workable.

Mr. President, it seems to me that the arguments made by the Senator from Wyoming—who is a very fine person—were most shocking. He said this proposal is raised year after year as a noxious weed, when tax bills are under consideration. In other words, he is implying that we have "a lot of crust" to propose that the oil depletion allowance be amended, that it is sacred, and that it should not be touched or dealt with in a tax bill. He said any provision in regard to it should be included in a natural resources bill.

But, Mr. President, according to my view, all sorts of provisions are included in the tax bill, and not all of them by any means are for the purpose of raising revenue. They include the investment credit provision, which is certainly not

primarily a revenue raising measure; but during the debate on that provision, no Senator said it had no place in the bill. That provision, too, was included for the alleged purpose of providing for growth.

Outstanding economists and other authorities feel that this provision of the law is an exceedingly inequitable one. Certainly it should be considered by the Senate when it deals with a tax-reform and tax-reduction bill.

Mr. President, I believe we should recognize that the oil depletion allowance—which, as the Senator from Wyoming said, was originally conceived as a means of conserving our oil resources and as a means of encouraging their development—was instituted at a time when the corporation income tax was only 13 percent. However, after this bill becomes law, the corporation income tax will be 48 percent—or an increase of almost 400 percent. Yet there has been no reduction, revision, or modification of the depletion allowance. On that basis, we could make a good argument in favor of reducing the depletion allowance from the present 27½ percent to only 7 or 8 percent. However, no one is asking that that be done. In short, the pending amendment calls for a modest change in the existing rate.

It is argued that the depletion allowance is necessary in order to encourage exploration, development, and other activities in the oil industry. But what are the facts? Today there is an oversupply in the oil industry. For example, how much oil are the Texas fields allowed to pump? They are not operating at capacity, or even at 50 percent of capacity; instead, they are operating at less than 30 percent of capacity. So this industry does not need any encouragement for the production of more oil because of any idea that the country needs to have more oil produced. The restrictions imposed by the State of Texas, with the cooperation of the oil industry in Texas—which produces a great deal of our oil, and is the No. 1 oil-producing State—are imposed because of the realization that production must be held down. So they do not have too little oil; they have too much oil.

Mr. President, tears have been shed this afternoon for "the little producers"—those "who," it is said, "would be injured by a reduction of the oil depletion allowance."

But, Mr. President, who are the ones who really get the benefit of this existing provision of the tax law? We know who they are. They include Mr. J. Paul Getty, Mr. H. L. Hunt, and the late Sid Richardson—fine men, I am sure, and men who, of course, deserve proper consideration.

The Senate should consider where the principal benefits of the tax depletion allowance go. In 1958–59, $70 out of every $100 obtained by means of the depletion allowance went to corporations with assets of more than $100 million, and $97 out of every $100 obtained by means of the oil depletion allowance went to corporations with assets of $1 million or more. So the oil depletion allowance is not primarily a means of aiding "the little wildcatter." Instead, it is overwhelmingly an aid to the big boys.

Mr. ANDERSON. Mr. President, will the Senator from Wisconsin yield?

Mr. PROXMIRE. I yield.

Mr. ANDERSON. The Senator from Wisconsin said that much of the money obtained by means of the oil depletion allowance goes to Mr. Getty and to Mr. Richardson. But Mr. Richardson is dead. So where is he getting that money—in heaven or in hell?

Mr. PROXMIRE. I am sure he is in heaven.

Mr. ANDERSON. He was a great friend of Billy Graham, and I hope he is there.

Mr. PROXMIRE. Nevertheless, during his lifetime, he made a vast amount of money by means of the oil depletion allowance, and his estate is being administered, as the Senator from New Mexico knows——

Mr. ANDERSON. By a foundation.

Mr. PROXMIRE. Yes, by a foundation; and it is being administered in the usual manner, and it will be handled by men who were close to Mr. Richardson during his lifetime. But regardless of whether Mr. Richardson is alive or is dead, it is a fact that he made a great deal of money out of the oil depletion allowance, and so will the foundation, and so will many other wealthy men—who invest in oil in order to take advantage of the oil depletion allowance. The fact is that this particular provision of the tax law induces those with enormous amounts of money and very large incomes to invest in the oil industry, because the oil depletion allowance enables them to reduce their tax liability very sharply. The oil depletion allowance represents a strong attraction for many persons who are very well off, indeed.

Mr. ANDERSON. Mr. President, will the Senator yield further?

Mr. PROXMIRE. I yield.

Mr. ANDERSON. The Senator would be interested in checking to see who in America is drilling for oil. The statement was made that the Standard Oil Co. has a great interest. It has a great interest. That company pays after the entrepreneur goes in and completes the drilling for oil.

Mr. PROXMIRE. The Senator is correct. That is one of my main points.

Mr. ANDERSON. The depletion allowance goes to them.

Mr. PROXMIRE. The Senator is correst. The depletion allowance goes to the people who move in after the wildcatter has done the work. How much do the wildcatters get? As I pointed out, the corporations with assets of $1 million or more get 97 percent of the benefits of the depletion allowance.

Mr. ANDERSON. They have purchased it in advance. They have paid

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for it and have taken it into consideration in the payment for a barrel of oil in place.

Mr. PROXMIRE. Of course it has been taken into consideration, but the fact is that the corporations get the benefit of it.

Mr. MONRONEY. Mr. President, will the Senator yield before he starts on another subject?

Mr. PROXMIRE. I am happy to yield.

Mr. MONRONEY. The implication that the proration exists because we have far too much oil is very misleading. Today the daily demand for oil is about 7½ million barrels of production. If we opened up every single well to blast the full amount that it could possibly produce, we would have about 10½ million barrels. The Senator would not expect us to destroy one of the assets of America which we are producing under a conservation method. For that reason the proration exists. It is true that many wells are shut down on a percentage basis, but that action is necessary if we are to be able ultimately to get the oil supplies that we have.

When the Suez Canal was closed and we had to supply the necessary oil, not only for ourselves, but for the free world, within a period of a few weeks we discovered how quickly our wells would be destroyed if they were opened and allowed to flow at their full flow capacity.

The depletion allowance is not a means of trying to maintain a condition of overproduction. Our reserves are decreasing all the time. Even under the so-called very expensive and very wasteful depletion allowance that statement is not true. If it were true, we would have more production, more exploration, and more drilling of wildcat wells.

Mr. PROXMIRE. The facts are, first, that the Texas fields are pumping only about one-third of capacity; second, that any tax incentive which encourages the drilling of oil wells tends to use up a limited American resource. We have only so much oil. It is limited. When exploration proceeds under forced incentive, artificially, we are using up our resources more rapidly than we should.

In discussing the oil depletion allowance, too many of us have discussed it strictly from the standpoint of its justice and equity. In my opinion, the Senator from Delaware certainly has justice on his side. But what we have ignored is the realistic and practical effect of the amendment. The proposal would raise $250 million of taxes a year. When a Senator offers an amendment which would cut excise taxes, the only argument used against it is that we would lose revenue. The argument is a good one. It is a sensible and strong argument. The amendment of the Senator from Delaware would gain revenue and reduce our loss. It is a fiscally responsible proposal.

Mr. SIMPSON. Mr. President, will the Senator yield?

Mr. PROXMIRE. I am happy to yield.

Mr. SIMPSON. Does not the Senator from Wisconsin know that if the depletion allowance were reduced, the added expense would be passed on to the consumer, and that in the United States individuals are the largest consumers of gas and oil?

Mr. PROXMIRE. That is one point about which I feel very sure, for many reasons. The cost would not go to the consumer. There are many reasons why, but the big reason is that while the big oil corporations and the lobbyists for the oil industry will fight to the death such an amendment as is proposed, still they make some battle, but not very much, when the States and Federal Government increase excise taxes. That cost does go to the consumer of oil. That is a point about which I feel very strongly. The depletion allowance goes to the people who can invest vast sums and a reduction in the depletion allowance will reduce the amounts going to these persons who have invested in the industry.

They are in a position, with the depletion allowance, greatly to reduce their taxes. I believe that most economists agree that the incidence of the income tax is not shifted except in unusual circumstances. It is really shifted if the corporation is in a monopolistic position. It is in a position to shift the incidence of the tax to the consumer, but the oil industry is a competitive industry.

Mr. SIMPSON. Do I correctly understand the Senator's answer to be that the consumer would not pay the increased cost?

Mr. PROXMIRE. Yes, indeed.

Mr. SIMPSON. The Senator does make that statement?

Mr. PROXMIRE. Yes. The consumer may pay a little of it, but most of the saving would result in a diminution in the after-tax income of the big investors—those who invest heavily in the oil industry.

Mr. SIMPSON. That is conjecture.

Mr. PROXMIRE. All of this is conjecture. I agree with the Senator. We cannot be absolutely positive about it, but it seems logical.

As I have said, we cannot overstress the fact that this is a responsible proposal. It would raise money. Eventually it would raise $250 million. Immediately I believe it would raise $75 million for the next year.

Mr. President, I am almost finished. I would like to make two additional points.

First, the people in the oil industry say that they deserve, need, and should have the privilege of the oil depletion allowance. I wonder how many people in America really appreciate what an extraordinary privilege that is. Most businesses and businessmen are allowed to write off their assets once, and only once. Between 1946 and 1949 the oil industry was able to write off its oil wells not once, not twice, not three times, but 19 times—19-fold.

I can understand an incentive or a superincentive. I can understand why people would go so far as to permit a little excessive depreciation. But a 19-fold writeoff is ridiculous.

The Senator from Delaware has not proposed that we cut the depletion allowance so that those in the industry would be able to write off their oil investment once; his amendment would result in reducing the corporation writeoff to only 15 or 16 times.

I should like to state one more point. The argument for the depletion allowance has also been justified on one other basis—that the oil industry is a risky business. Since there is a great risk, the element of reward in after-tax income should be higher. How risky is it?

Dun's Review, in the mid-1950's, showed that the failure rate for every 10,000 businesses was as follows: In the food business, 20 firms, per year; apparel, 50 firms; construction, 86 firms; retailing—which is, of course, the most risky and perilous of all—400 firms; in oil, 4 firms. In other words, retailing is 100 times as risky as is the oil industry.

Mr. President, the amendment of the Senator from Delaware is the most moderate and conservative amendment which has been offered on oil depletion in years. It would reduce the revenue loss in the bill eventually by only $250 million. It deserves our support, and I hope that the amendment will be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SALTONSTALL. (after having voted in the affirmative). Mr. President, on this vote I am paired with the Senator from Nebraska [Mr. HRUSKA]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. HUMPHREY. I announce that the Senator from Oregon [Mr. MORSE] is absent on official business.

I further announce that, if present and voting, the Senator from Oregon [Mr. MORSE], would vote "yea."

Mr. KUCHEL. I announce that the Senator from Nebraska [Mr. CURTIS], the Senator from Illinois [Mr. DIRKSEN], and the Senator from Arizona [Mr. GOLDWATER] are necessarily absent.

The Senator from Nebraska [Mr. HRUSKA] is detained on official business.

If present and voting, the Senator from Nebraska [Mr. CURTIS], the Senator from Illinois [Mr. DIRKSEN], and the Senator from Arizona [Mr. GOLDWATER] would each vote "nay."

The pair of the Senator from Nebraska [Mr. HRUSKA] has been previously announced.

The result was announced—yeas 33, nays 61, as follows:

[No. 28 Leg.]

YEAS—33

Aiken	Humphrey	Neuberger
Byrd, Va.	Jackson	Pastore
Case	Javits	Pell
Church	Keating	Prouty
Clark	Kennedy	Proxmire
Dodd	Lausche	Ribicoff
Douglas	Magnuson	Russell
Ervin	McGovern	Smith
Fong	McNamara	Symington
Gore	Muskie	Williams, Del.
Hart	Nelson	Young, Ohio

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NAYS—61

Allott	Gruening	Monroney
Anderson	Hartke	Morton
Bartlett	Hayden	Moss
Bayh	Hickenlooper	Mundt
Beall	Hill	Pearson
Bennett	Holland	Randolph
Bible	Inouye	Robertson
Boggs	Johnston	Scott
Brewster	Jordan, N.C.	Simpson
Burdick	Jordan, Idaho	Smathers
Byrd, W. Va.	Kuchel	Sparkman
Cannon	Long, Mo.	Stennis
Carlson	Long, La.	Talmadge
Cooper	Mansfield	Thurmond
Cotton	McCarthy	Tower
Dominick	McClellan	Walters
Eastland	McGee	Williams, N.J.
Edmondson	McIntyre	Yarborough
Ellender	Mechem	Young, N. Dak.
Engle	Metcalf	
Fulbright	Miller	

NOT VOTING—6

Curtis	Goldwater	Morse
Dirksen	Hruska	Saltonstall

So the amendment of Mr. WILLIAMS of Delaware was rejected.

Mr. LONG of Louisiana. Mr. President, it seems to me that the oil industry more than any other industry, has suffered from adverse publicity from people who do not want to understand the problems of the industry. It is the only industry that will suffer increases in taxes of a substantial nature in the bill. Because of the bad publicity that some insist on giving the industry, it is being taxed in the bill an additional $40 million, which could not be justified, in my opinion, in any other way except by ridicule and propaganda, such as Mr. Herblock's cartoons, and things of that nature.

I invite the attention of Senators to the charts at the rear of the Chamber, which show the actual situation of the oil industry compared with other industries.

The bottom bar on the first chart shows the average rate of return on invested capital for the entire domestic oil industry for the years 1955–62. The top bar shows the average rate of return on invested capital for all manufacturing industries for the same period.

The profits for all manufacturing industries over this period has averaged 10.3 percent, after taxes, while the profits for the domestic oil industry for this same period has averaged only 9.1 percent.

The profits of the petroleum industry are based on cost depletion, which some people argue is the way taxes should be figured for the oil industry.

Furthermore, we hear talk that the oil industry does not pay as much income tax as some other industries because of the 27½ percent depletion allowance.

I hope Senators will look at all the taxes levied on the oil industry, and take into account production taxes, and taxes on income at the State and local level. For example, in the State of Louisiana, of which I have the honor in part to represent, the severance tax alone this year which the oil industry will pay will be $160 million.

Also consider State and local property taxes, which are very high in a great number of jurisdictions, and the other taxes of State and local governments. The grand total of all these direct taxes on the oil industry total is $2 billion. That is 5 percent of the total revenue of the industry, which works out to be just about the average for the manufacturing industry.

While most manufacturing industries pay very little excise tax, the oil industry is burdened by State and Federal excise taxes of $6 billion a year. That amounts to a grand total for the industry of $8 billion a year.

The next chart shows the rate of growth of industrial production and employment over the last 4 years, based on the 1957 to 1959 average and the increase in consumer prices over that period.

For all industries, on the average, industrial production since 1959 has gone up by 23.5 percent. Employment has gone up by 8 percent. Consumer prices have gone up by 4 percent.

Let us look at the domestic oil industry. Gasoline prices have actually gone down by 6.5 percent.

Employment has gone down by 10.8 percent. The drilling of exploratory wells has declined by 19.4 percent. In relative terms, Mr. President, this is a depressed industry, which is paying more than its fair share of taxes. What some people who would have the industry pay more taxes forget is the risk factor which prevails in the oil industry, but which does not prevail to the same extent in the manufacturing industry.

If they were to take the risk factor into consideration, they would not contend that the industry should pay more in taxes. The industry is already taxed $40 million more in the bill. It is the only industry whose taxes have been increased in the bill.

Let us take a look at the risk factor.

If a person drills a well in New England, whether it be Massachusetts or Connecticut or Maine, that person ought to have a 100 percent depletion allowance. For what reason? The chances are 10,000 to 1 that he would not find any oil up there.

Therefore, if a person is to take that kind of risk, he should have something to offset the risk.

The depletion allowance has been arrived at as the only fair way to deal with the risk factor. Furthermore, the only fair way in which to determine whether an industry is getting too much or too little depletion is to see whether it is relatively more profitable than other industries.

Studies made by the Chase Manhattan Bank show that it is not.

The studies to which I refer are the kind that President Kennedy wanted made. He wanted them made before making his recommendation—his recommendations having such a study made. He told me frankly that he had overlooked that point and that it was

too late to make the study, and he had to make his recommendation.

The Petroleum Industry Research Foundation made the study on which the charts I have used were based. It was based on the published figures available to the Securities and Exchange Commission and from other sources. I ask unanimous consent that the study may be printed in the RECORD at this point.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

THE TAX BURDEN OF THE DOMESTIC OIL AND GAS INDUSTRY

PREFACE

"The Tax Burden of the Domestic Oil and Gas Industry" is another in Petroleum Industry Research Foundation's background studies on current oil industry affairs of public interest.

The present study has been prompted by the special emphasis on oil and gas taxation in the President's tax reform program for 1963.

The aim of our study is to add to the information on the subject of oil and gas taxation by developing facts and figures on the oil industry's total domestic taxpayments and to consider Federal income taxpayments within this overall framework. We believe this particular approach has not previously been published in the form in which it is presented here.

Our calculations are made both with and without excise and sales taxes and pertain only to the taxpayments of oil producers and refiners. To obtain the oil industry's complete tax burden one would also have to consider the taxpayments made by the Nation's thousands of independent oil products jobbers and retailers.

The study was made under the supervision of our research director, John H. Lichtblau, who was assisted in his work by Miss Susan Goodman.

JOHN HARPER,
Petroleum Industry Research Foundation, Inc.

PURPOSE OF THE STUDY

This study was undertaken in order to (a) determine the total domestic tax payments of the U.S. oil and gas producing and refining industry; (b) to compute a ratio which measures the incidence of these tax payments on this particular industry; and (c) to compute similar ratios for other industries in order to compare the tax burden of the oil and gas industry with that of other industries.

SUMMARY OF FINDINGS

The findings of the study are that:

(a) While the burden of Federal income tax payments on the oil and gas industry tends to be somewhat lower than on U.S. industry in general, the incidence of the various other taxes paid by the oil industry (exclusive of excise and sales taxes) is significantly higher than on most other industries;

(b) The ratio of total domestic taxes (exclusive of excise and sales taxes) to total domestic revenue is approximately 5 percent for both the oil industry and most other industries;

(c) The total tax burden per dollar of revenue is therefore essentially the same for the oil industry as for other industries;

(d) If Federal and State excise and sales taxes are included, oil's tax burden is considerably higher than that of most other industries;

(e) The administration's recent proposals for changes in the taxation of minerals industries would tend to raise the oil industry's total domestic tax burden perceptively above the average for all industries.

THEORETICAL CONSIDERATIONS AND ASSUMPTIONS

A. Types of taxes considered

All types of domestic taxes—Federal, State, and local—(with the exception of excise and sales taxes) were taken into account in this study in determining the industry's total tax burden. The reason for the exclusion of excise taxes is explained below. All other

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taxes were considered collectively on the theory that all tax payments by business firms have at least one common economic effect: They tend to lower net earnings and, hence, may be considered a burden on the taxpaying firm. Thus, a tax on business operations raises the cost of production, a tax on payroll raises labor costs while a franchise or property tax increases fixed overhead costs. In the absence of offsetting measures, all these taxes will act to reduce the business' net income. They are therefore not only comparable with each other but also with income taxes which have a similar, if more direct, impact on disposable income.

B. Determination of the tax burden

To measure the relative tax burden on oil and other industries, ratios of total tax payments (exclusive of sales and excise taxes) to gross revenues were computed. The rationale for relating tax payments to revenue is that business firms usually attempt to shift taxes forward by incorporating them into the price structure of their products. However, the ability of business firms to effectively do so is limited by competitive factors and varies among different types of taxes, products, and industries.

Among the different taxes, those on operations, payroll, cost of goods, etc., are most readily shifted, since they are usually absorbed into the firm's cost structure.[1]

Income taxes are of a somewhat different nature, since they do not directly affect the product's cost. However, empirical evidence suggests that most businesses have a price

[1] An excellent illustration of the forward shifting of productions taxes is contained in "An Analysis of the Effects of the Processing Taxes Levied Under the Agricultural Adjustment Act," U.S. Treasury Department, Bureau of Internal Revenue, Washington, 1937, which analyzes in detail the effect of a processing tax on certain agricutural commodities on the price of the processed goods made from these commodities.

policy to maintain stable rates of return on investment, at least in the long run, regardless of prevailing income tax rates.[2]

Generally speaking, a comparison of corporate income tax rates and corporate rates of return over an extended period of time reveals little visible effect of the tax rate on the rate of return in the short run and even less in the long run. These and other findings have led many tax economists to conclude that in the long run the incidence of a significant part of all business income taxes tends to fall on the consumer.[3]

Accordingly, the tax burden of the industry under study was computed by relating all taxes to sales receipts plus other revenues. In effect, the resulting ratio indicates how much taxes for each dollar of revenue the industry must pay.

It should be pointed out parenthetically that the term "tax shifting" does not mean that a firm or industry thereby escapes the impact of the tax. Aside from the aforementioned fact that taxes can very rarely be completely shifted forward, the inclusion of the tax burden into the price affects, of course, the demand for and production of the firm's goods and, hence, its earnings, investments, growth rate, etc. Thus, tax shifting often only transforms the tax incidence of the business firm but does not remove it.

TREATMENT OF EXCISE AND SALES TAXES

Several reasons exist for excluding excise and sales taxes from our calculation of the tax burden:

(1) Unlike other taxes, excise and sales taxes are clearly visible to the consumer, since they are generally marked as such by being specifically listed apart from the price of the product. They are therefore shifted to the consumer with the latter's full knowledge. In fact, the tax-levying authority frequently intends these taxes to be fully passed on to the consumer and often regards the firms on whose goods these taxes are levied merely as collecting agents of public funds. Excise and sales taxes are therefore somewhat outside the scope of this study which is concerned primarily with the less visible or internal tax burden of oil and other industries.

(It should be pointed out, however, that even by shifting excise and sales taxes completely to the consumer a business does not fully escape their impact. For the resulting higher sales price affects, of course, the business much as any other tax on operations.)

(2) Another reason for excluding these taxes from our computation is that motor fuel excise taxes are of such magnitude that they overshadow all other oil industry taxes combined and, indeed, most taxes paid by any other industry. Since the size of these excise taxes are a matter of public knowledge, this study has concentrated on the other oil industry taxes whose magnitude is much less well known.

(3) The final reason for excluding excise and sales taxes was that these taxes were not included in the data pertaining to many of the industries compared to the oil industry. Hence, excise and sales taxes were eliminated as far as possible from the tax burden of the oil as well as the other industries considered. A brief discussion of the burden of the excise tax on oil only is found in the section entitled "Findings of the Study."

OUTLINE OF THE METHODOLOGY

A full discussion of the methodology employed in arriving at the findings of this study is contained in a separate appendix. The following outline of the methodology is therefore not meant to be comprehensive but is deemed sufficient for an understanding of the manner in which this study was carried out.

(1) Since domestic revenues and related tax payments for the entire U.S. oil industry are not available,[4] the desired data had to be gathered from a representative sample of individual companies. The companies selected for this purpose were the 30 large U.S. oil companies used by the Chase Manhattan Bank in its annual petroleum industry review. These companies accounted in 1961 for 63 percent of domestic crude oil production and 88 percent of domestic refinery operations.

(2) The domestic tax payments of these companies were taken from form 10–K which publicly owned corporations are required to file annually with the Securities and Exchange Commission.

(3) To compute the domestic revenues, the five major international companies were eliminated from the sample. The revenue of the 25 other oil companies is derived primarily from domestic sources in the years under study (1959–61). An adjustment was made to eliminate their marginal foreign revenues. The ratio of the total adjusted domestic revenues of these 25 companies to their total domestic tax payments was assumed to be representative of the entire U.S. oil and gas producing and refining industry.[5]

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[2] See "Pricing in Big Business"—a case approach by Kaplan, Dirlam, and Lanzillotti, the Brookings Institution, 1958. The study concludes that many large business corporations have a "target rate of return" pricing policy, designed to achieve a specific rate of return on investments.

[3] Eugene R. Schlessinger, "Corporate—Income Tax Shifting and Fiscal Policy," National Tax Journal, vol. XIII, March 1960. The author asserts that: "The existence of a corporate income tax should result in a conscious decision to charge higher prices than would have been the case in the absence of the tax or with a significantly lower rate of taxation." For additional discussion of the shifting of the corporate income tax see: (1) Eugene M. Lerner and Eldon S. Hendriksen, "Federal Taxes on Corporate Income and the Rate of Return on Investment in Manufacturing, 1927 to 1952," National Tax Journal, vol. IX, September 1956; (2) B. V. Ratchford and P. B. Han, "The Burden of the Corporate Income Tax," National Tax Journal, vol. X, December 1957; (3) Gilbert Burck, "You May Think that Corporation Profits Tax is 'Bad' But," Fortune Magazine, p. 86, April 1963.

[4] The oil industry data in the annual IRS publication, Statistics of Income, include large nonsegregable amounts of foreign revenues.

[5] In 1961 the 25 companies accounted for 35 percent of total U.S. crude oil production and 50 percent of total U.S. refinery runs.

(4) For comparative purposes, a similar ratio was computed for all U.S. mining and manufacturing corporations other than oil and for all U.S. business corporations other than oil. The source for these computations was the annual Internal Revenue Service publication, "Statistics of Income—Corporation Income Tax Returns" for the fiscal years 1958–59 to 1960–61. The numerator of the ratio consists of figures for the items "taxes paid" plus "income tax" and the denominator of figures for "total compiled receipts." In the mining and manufacturing category as well as in the all-business category a few industries, known to be burdened with very large manufacturer's excise taxes, were either eliminated or adjustments were made to exclude the excise taxes presumably included in the Internal Revenue Service data.

VALIDITY OF FINDINGS

The comparability of the data is discussed in more detail in the appendix. In brief, it is our view that while the oil industry data and the data derived from the Internal Revenue Service statistics has been computed somewhat differently, they are sufficiently homogenous to permit an approximate comparison of the various ratios. The data for mining and manufacturing and for all-business corporations include some foreign revenues and taxes. But, as the foreign tax credits of these categories indicate, their share of total revenues and taxes is too small to affect the findings significantly.

FINDINGS OF THE STUDY

A. The oil industry's tax payment

The total domestic tax payments (exclusive of motor fuel taxes) of the 30 major U.S. oil companies listed by the Chase Manhattan Bank amounted to $1.43 billion in 1961, $1.37 billion in 1960, and $1.3 billion in 1959, as the following table shows.

Total domestic tax payment of 30 major U.S. oil companies

[In thousands of dollars]

Type of tax	1961	1960	1959
Federal income taxes	260,855	289,573	308,783
State income taxes	39,365	35,892	33,809
Ad valorem, severance, production taxes	268,430	250,072	232,972
Properaty and franchise taxes	660,331	613,685	567,391
Payroll taxes	79,586	79,297	68,945
Other taxes [1]	118,599	98,714	88,684
Total	1,427,166	1,367,233	1,300,584

[1] Includes lubricating oil excise taxes.

Source: SEC Form 10-K.

In view of the aforementioned share of these companies in domestic production and refining, it is estimated that the total domestic tax payments of the entire U.S. oil and gas producing and refining industry amounted to somewhat less than $2 billion in 1961.

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The share of the various taxes in the 30-company total was as follows:

Type of tax	1961	1960	1959
Federal income taxes	18.3	21.2	23.7
State income taxes	2.8	2.6	2.6
Ad valorem, severance, production taxes	18.8	18.3	17.9
Property and franchise taxes	46.3	44.9	43.6
Payroll taxes	5.5	5.8	5.4
Other taxes	8.3	7.2	6.8
Total	100.0	100.0	100.0

As the above table indicates, the largest single tax was that levied on properties (a substantial part of which are properties held for oil production or exploration). Next came Federal income taxes and taxes levied on production or reserves, which were approximately of the same magnitude. This distribution of tax payments is peculiar to the minerals industry and differs from manufacturing industries where Federal income taxes account for about half of total tax payments, according to IRS statistics for all manufacturing corporations.

The distribution of the oil industry's tax payments reflects the existence of a number of special factors, including two provisions in the Federal income tax statutes applicable only to minerals industries, namely, percentage depletion which is designed to enable oil and gas producers to recover the value of their depleting deposits, and the right to write off intangible drilling and development expenditures in the year in which they are incurred. These factors tend to reduce the oil industry's Federal income tax burden, as defined in this study. However, they apply only to the producing sector of the industry—the same sector which must bear most of the industry's heavy property and production taxes. Hence, a determination of whether the oil and gas producing industry pays an equitable share of taxes cannot be made on the basis of Federal income tax payments alone.

B. The tax burden on oil and other industries

The domestic gross revenue and total taxes of the 25 companies in the Chase Manhattan Bank's group with primarily domestic revenues were as follows:

[In millions of dollars]

	1961	1960	1959
Gross revenues	14,016	13,229	13,333
Total taxes	655	673	643

Source: SEC Form 10-K and annual company reports.

The companies' tax burden (the ratio of taxes to receipts) for these 3 years was, therefore, 4.7 percent, 5.2 percent, and 4.8 percent, respectively. The average for the 3 years was 4.9 percent. Thus, for each dollar of revenue, these 25 companies paid out nearly 5 cents in taxes (always exclusive of excise and sales taxes) in the 3 years under study.

For total manufacturing and mining corporations other than oil,[6] the comparative figures were as follows (by fiscal years):

[In millions of dollars]

	1960–61	1959–60	1958–59
Gross revenue	323,446	317,497	283,551
Total taxes	16,750	17,131	13,511

On this basis, the tax burden ratios were 5.2 percent, 5.4 percent, and 4.8 percent respectively, or an average of 5.1 percent for the 3-year period. Considering the approximate character of many of our calculations we may therefore conclude:

(a) That the oil industry's total domestic tax burden per dollar of revenue is virtually the same as that for all mining and manufacturing industries, and

(b) That the oil industry's lower Federal income tax burden, relative to other industries, is fully offset by the correspondingly higher burden of other taxes.

To realize the full magnitude of these other taxes it should be kept in mind that the oil industry also had a lower burden of payroll taxes than many other industries, since it is not very labor intensive. Apparently, the burden of production and property taxes was sufficient to offset all these factors.

While the tax burden for all manufacturing and mining corporations appears to be fractionally above that of the oil industry, the following figures show that for all U.S. business corporations other than oil the burden is slightly less than for oil:

All business corporations [1]

[In millions of dollars]

	1960–61	1959–60	1958–59
Gross receipts	775.3	748.9	669.3
Total taxes	35.3	34.2	29.0
Ratios	4.5	4.6	4.3
3-year average ratio		4.5	

[1] A small number of industries with very heavy excise taxes have been eliminated from this total; for details see chart III in appendix.

The reason why the tax burden for all corporations is somewhat lower than for mining and manufacturing corporations is probably due to the fact that as goods and commodities travel through the economy on their way from primary producers to consumer outlets they increase in value, partly because of the inclusion of successive tax payments into the price structure. The ratio of taxes to revenues tends therefore to be lower at the distribution level than at the production level.

MOTOR FUEL EXCISE AND SALES TAXES

Although this study is not concerned with excise and sales taxes, these taxes are of such magnitude for the oil industry that they warrant at least a brief discussion.

Total excise and sales taxes paid by the 25 domestic oil companies amounted to $2.2 billion, $2.4 billion, and $2.6 billion, respectively, for the years 1959–61. This was equivalent to a ratio of about 17 percent of the total revenue of these companies. Thus, the full and complete tax burden of oil and gas producers and refiners on each dollar of revenue is approximately 22 cents (17 cents excise taxes plus 5 cents other taxes).

It was not possible to compute a meaningful comparable ratio of excise and sales taxes to revenue for all other corporations. However, the fact that about 23 percent of total Federal, State, and local excise and sales tax receipts of $23.3 billion in 1960 consisted of motor fuel taxes indicates that the excise tax burden on the oil industry is considerably larger than on most other industries.

EFFECT OF THE TAX REFORM PROGRAM ON OIL INDUSTRY TAX BURDEN

According to a recent estimate by the U.S. Treasury, the President's tax reform program of 1963 is expected to yield $280 million annually in additional Federal income taxes from the oil and gas producing industry, as a result of a series of proposed statutory tax changes affecting the minerals industries.

Since the 25 domestic oil companies in our sample paid approximately half of the oil industry's total Federal income taxes in the years under study, we may assume that these companies would contribute the same share of the anticipated additional tax payments, or about $140 million. This would have increased their total domestic tax burden to $783 million, $813 million and $795 million respectively for the years 1959–61. In turn this would have raised their average tax burden ratio to 5.9 percent, or perceptively above the 5.1 percent figure for mining and manufacturing corporations.

Assuming that the additional tax burden could be completely shifted to consumers, prices on all oil and gas products would have to be raised by 2.2 percent in order to obtain the required $280 million in additional revenue.[7] (Actually, the price increase would probably be concentrated principally on gasoline whose cost would have to rise considerably more than 2.2 percent to recoup the additional tax payments). Even under these circumstances, the tax burden ratio would still be 5.75 percent, or higher than that of the industries with which oil is being compared in this study.

CONCLUDING COMMENTS

While the distribution among income taxes and other taxes varies significantly between the oil industry and American industry in general, the total tax burden, as defined in this study, of the U.S. oil industry is at least equal to that of the average U.S. industrial corporation and considerably higher if excise and sales taxes are included.

APPENDIX

(a) The list of 30 oil companies used in this study was obtained from the Chase Manhattan Bank's report "Petroleum Industry 1961." They are described therein as "representative" companies. They fall into

[6] For other exclusions from the total, see chart II in appendix.

[7] Based on a 50-percent corporate income tax rate, as proposed for fiscal 1964 in the President's tax message, the after-tax income from $280 million would offset the additional tax payments of $140 million.

three categories: producers, integrated refiners and international companies. Following is a list of the individual companies by category:

Producers: Amerada Petroleum Co., the Louisiana Land & Exploration Co., the Superior Oil Co., Texas Gulf Producing Co., and the Texas Pacific Coal & Oil Co.

Integrated refiners: Ashland Oil & Refining Co., the Atlantic Refining Co., Champlin Oil & Refining Co., Cities Service Co., Continental Oil Co., Getty Oil Co., Marathon, Phillips Petroleum Co., Pure Oil Co., Richfield Oil Corp., Shell Oil Co., Signal Oil and Gas Co., Sinclair Oil Corp., Skelly Oil Co., Standard Oil Co. (Indiana), Sun Oil Co., Sunray Mid-Continent, the Standard Oil Co. (Ohio), Tidewater Oil Co., and Union Oil Co. of California.

International companies: Gulf Oil Corp., Socony Mobil Oil Co., Inc., Standard Oil Co. (New Jersey), Standard Oil Co. of California, and Texaco Inc.

(b) Elimination of Foreign Revenue (see chart I): Inspection of annual reports and other sources led to the conclusion that from 1959 through 1961 foreign refinery runs accounted for an average of 2.5 percent of total refinery operations of the 25 integrated refiners (i.e., 2.0 percent in 1959, 2.9 percent in 1960 and 2.8 percent in 1961). The abovementioned percents were subtracted from the gross revenue of these integrated refiners to obtain figures for gross revenue from domestic operations only. No adjustments were made for any foreign crude oil production of these 25 companies.

The lubricating oil tax was added to the figures for gross domestic revenue and taxes of refiners and producers in order to compensate for the inclusion in the IRS "Statistics of Income" of unidentifiable amounts of excise taxes in the total compiled receipts and taxes paid by other industrial groups. The amounts allocated to these 25 refiners for the lubricating oil tax were estimated on the basis of their share of total domestic refinery runs.

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(c) Elimination of specific industries: The figures used in charts II and III were derived from the IRS "Statistics of Income—Corporation Income Tax Returns" which gives the following definitions of terms. Gross revenues (total compiled receipts) are the gross operating receipts of corporations (minus returns, discounts, and allowances) and other receipts such as those from interest, dividends, rents, and royalties. Income taxes represent gross liabilities reported on the tax return before credit for foreign taxes paid or accrued. Other taxes (taxes paid) include the amounts reported as an ordinary and necessary business deduction as well as identifiable amounts reported as part of the cost of sales and operations. Deductible were ordinary State and local taxes paid or accrued during the year; social security and payroll taxes; unemployment insurance taxes; import and tariff duties; and business, license, and private taxes. Excise and stamp taxes were deductible, but when included in business receipts or in the cost of sales and operations these taxes often could not be identified.

The crude petroleum and the petroleum refining industry was eliminated from all industrial groups, since it was the industry to be compared to others. The beverage and tobacco industries were eliminated because it was not possible to determine how much of their heavy excise taxes—which we wanted to eliminate—were included in their gross revenues and taxes paid. Even though the motor vehicle and equipment industry pays substantial excise taxes, it was undesirable to eliminate it on the same ground that the beverage and tobacco industries were eliminated because of its greater significance in the economy. Therefore, we computed the ratio for 1958 through 1961 of taxes paid (excluding Federal income and all excise taxes) to gross receipts of the eight largest motor vehicle companies. The resultant ratio was considered representative of the entire industry and was therefore applied to the gross receipts of the motor vehicle industry as given in the IRS "Statistics of Income." The difference between the "taxes paid" item in the IRS "Statistics of Income" and our computed tax figure was considered to be excise taxes and was therefore subtracted from total mining and manufacturing revenues and taxes.

The communications industry was eliminated from the totals for all corporations because it too pays substantial excise taxes and it was not feasible to estimate the amount of its excise included in the IRS data.

(d) Limitations of data: Even though excise taxes were eliminated as far as possible from the data in the IRS "Statistics of Income" either by omitting entire industries which pay heavy excise taxes (the beverage, tobacco, and communications industries) or by estimating the amount of the tax and subtracting it (in the case of the motor vehicle and equipment industry), the figures still contain incalculable amounts of excise taxes paid by the remaining industries. As previously stated, allowance was made for this fact by adding oil lubricating taxes to the taxes paid and revenues received by the oil industry. Another limitation lies in the fact that the figures obtained from the IRS "Statistics of Income" are overstated to the extent that they include foreign sales and foreign tax credits, while the oil industry data are for domestic operations only. However, foreign tax credits represents only a very small part of total income tax liabilities of mining and manufacturing corporations. For example, according to the IRS data, in 1961 these credits accounted for only 3.6 percent of their total income tax liabilities. This fact was taken as an indication that the foreign revenue of these corporations was also relatively insignificant. Hence, the comparability between oil and other industries is not perceptively affected by the inclusion of foreign taxes and revenues in the data for other industries.

CHART I.—*Ratio of taxes to revenue of 25 selected domestic oil companies*

	1961	1960	1959
Gross revenue of 25 companies	14,384	13,585	13,308
Less gross revenue of 5 producers	340	367	359
Gross revenue of 20 refiners	14,044	13,218	12,949
Less estimated revenue from foreign refining operations	393	383	259
Gross domestic revenue of 20 refiners	13,651	12,835	12,690
Plus:			
Gross domestic revenue of 5 producers	340	367	359
Estimated lubricating oil excise tax receipts	25	27	25
Gross domestic revenue of 25 oil companies	14,016	13,229	13,333

	1961	1960	1959
Total domestic taxes [1] of 25 companies	655	673	643
Gross domestic revenue of 25 companies	14,016	13,229	13,333
Taxpayments per dollar of domestic revenue (percent)	4.67	5.17	4.82

[1] Includes lubricating oil excise tax payments.

Source: Chase Manhattan Bank, "Annual Analysis of the Petroleum Industry" and annual reports of companies.

CHART II.—*Gross revenue and total taxes paid—Mining and manufacturing corporations*

[In millions of dollars]

	Fiscal year 1960-61			Fiscal year 1959-60			Fiscal year 1958-59		
	Gross revenues	Income taxes [1]	Other taxes	Gross revenues	Income taxes [1]	Other taxes	Gross revenues	Income taxes [1]	Other taxes
Total mining and manufacturing	381,776	11,873	10,327	373,512	12,908	9,508	336,932	9,860	8,258
Less:									
Crude oil and natural gas	4,876	295	123	4,676	281	111	4,285	270	102
Beverage industries	8,423	242	1,315	8,308	252	1,227	7,764	215	1,168
Tobacco manufacturers	4,965	295	995	4,836	285	962	4,494	266	946
Estimated auto excise taxes	464		464	438		438	320		320
Petroleum refining	39,446	607	979	37,593	621	942	36,518	491	830
Subtotal	58,174	1,439	3,876	55,851	1,439	3,680	53,381	1,242	3,366
Total	323,602	10,434	6,451	317,661	11,469	5,828	283,551	8,618	4,892
Total taxpayments		16,885			17,297			13,510	
Total taxpayments as a percent of gross revenues		5.22			5.44			4.76	

[1] Before deduction of foreign tax credits.

Source: IRS "Statistics of Income."

CHART III.—*Gross revenue and total taxes paid—All corporations*

[In millions of dollars]

	Fiscal year 1960–61			Fiscal year 1959–60			Fiscal year 1958–59		
	Gross revenues	Income taxes [1]	Other taxes	Gross revenues	Income taxes [1]	Other taxes	Gross revenues	Income taxes [1]	Other taxes
All corporations	848, 895	21, 872	21, 108	816, 800	22, 525	19, 189	735, 338	18, 814	16, 692
Less:									
Crude petroleum	4, 876	295	123	4, 676	281	111	4, 335	271	103
Petroleum refining	39, 446	607	979	37, 593	821	942	36, 563	491	830
Tobacco manufacturers	4, 965	295	995	4, 836	285	962	4, 520	267	946
Beverage industries	8, 423	242	1, 315	6, 308	252	1, 227	7, 810	216	1, 174
Estimated auto excise taxes	464		464	438		438	320		320
Communications	15, 389	1, 488	885	14, 026	1, 374	810	12, 492	1, 165	693
Subtotal	73, 563	2, 927	4, 761	67, 877	3, 013	4, 490	66, 040	2, 410	4, 066
Total	775, 332	18, 945	16, 347	748, 923	19, 512	14, 699	699, 298	16, 404	12, 626
Total taxpayments		35, 292			34, 211			29, 030	
Total taxpayments as a percent of gross revenues		4. 55			4. 57			4. 34	

[1] Before deduction of foreign tax credits.

Source: IRS "Statistics of Income."

Mr. LONG of Louisiana. It seems to me that when this industry is paying $40 million more in taxes under the bill, with every other industry getting a reduction, it is paying enough taxes, and we should not increase them.

I hope that in the future, Senators will investigate the facts, and not listen to people who are constantly spearing this industry. There are those who have no more than a detached, textbook interest in the industry. We cannot justify any further taxes on this industry unless we wish to have a general increase in taxes for all industries.

Mr. JAVITS. Mr. President, on behalf of myself and Senators BEALL, BENNETT, and KEATING, I send to the desk an amendment and ask to have it stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. At the end of page 351, it is proposed to add the following:

SEC. 239. EXEMPTION OF CERTAIN LIVE DRAMATIC OR MUSICAL PERFORMANCES FROM TAX ON ADMISSIONS.

(a) IN GENERAL.—Section 4233(a) (relating to exemptions from the tax on admissions) is amended by adding at the end thereof the following new paragraph:

"(12) LIVE DRAMATIC OR MUSICAL PERFORMANCES.—No tax shall be imposed under section 4231 in respect of any admission to a live dramatic or musical performance presented in a theater, or presented in any other place if the presentation of such performance is the principal activity being conducted in such place at the time of such admission."

(b) EFFECTIVE DATE.—The amendment made by this subsection (a) shall apply only with respect to amounts paid, or nor after the first day of the first month which begins more than ten days after the date of the enactment of this Act, for admissions on or after such first day.

Mr. JAVITS. The amendment proposes to take the 10-percent tax off theater tickets for the live theater. It has nothing to do with the motion picture theaters or any other form of entertainment. It deals only with the live theater and musical performances.

This is the amendment which the Senator from Arkansas [Mr. FULBRIGHT] sponsored in the Finance Committee, and which was approved by the Finance Committee. Then, because of the administration's feeling that this type of tax should not be removed, it was swept out with other provisions.

I propose it as a separate item because, first, I do not believe it fits into the category of any of the taxes with which we can deal; second, because we have already demonstrated, both in the terms of the bill itself, and in the action we took on the amendment of the Senator from Minnesota [Mr. MCCARTHY], that there is no pretense of confining this tax bill purely to the idea of adjusting the rates, so far as either individuals or corporations are concerned, but that this tax bill will deal with other matters.

This is another matter which had very sympathetic consideration in the committee; indeed, enough to be carried in the committee, at least tentatively; and it should have a sympathetic consideration in the Senate.

Man does not live by bread alone; this is the essence of what we understand to be our society, and the theater is one of the great ornaments of our Nation.

The theater is suffering very materially. Indeed, the commercial theater, as we know it, is dying. This is a point which I think needs to be impressed upon all Americans; and anything that we can do to breathe some life into it is extremely useful and valuable. The theater industry is probably the best judge of the fact that the 10-percent tax on theater tickets is extremely harmful to it. If the burden were lifted from the industry, this would be extremely helpful to its continuance and vitality.

As evidence that the theater is in a very bad way, let me say that the amount of the tax, about $6 million a year, is approximately equal to the annual loss suffered by theater productions in the major theater center of the United States, New York City. The tax amounts to $6 million. The annual loss in theater production is figured at about $5.5 million.

When the 20-percent tax on theater tickets was reduced to 10 percent, the city of New York put a 5-percent tax on theater tickets, which was very wrong. The city realized it was wrong and removed that tax in October 1961, in the hope that this proffer on the part of the city of New York might create some feeling in Congress that the Federal Government should remove its tax burden from the theater tickets.

When it was announced that the Senate Finance Committee had voted to take the tax off theater tickets, the leaders in the theater, including the president of the New York League of Theaters, which represents all the managers, made a public declaration that if the 10-percent tax were taken off theater tickets, that saving would be passed on to the theater ticket buyers to stimulate attendance at the theater.

Mr. ANDERSON. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. ANDERSON. I was trying to find a clipping which stated that the saving would not be passed on.

Mr. JAVITS. The saving would be passed to the theatergoer.

Mr. ANDERSON. The clipping stated that the price would remain the same.

Mr. JAVITS. I am sorry, but I have talked with the acting president of the League of New York Theaters, and with some of the leading producers, including Leland Hayward, about it. And the leading managers have assured me by telegram that the savings would be passed on to the theater ticket buyer in order to stimulate attendance at the theater.

Mr. ANDERSON. I saw an article published in a newspaper the day after the Senate committee had taken its first action, showing that the tax would be retained by the theaters, because they were in distress.

Mr. JAVITS. I have a letter from the attorney in Washington for the League of New York Theaters and the National Association of Legitimate Theatre. He is Joel Fisher. I should like to read one section from his letter.

He writes as follows:

> Also, I am pleased to confirm on behalf of my clients, the League of New York Theatres, Inc., and the National Association of Legitimate Theatres, Inc., that the leading producers and theater owners will pass along to the theatergoers the savings from the elimination of the admission tax. In brief, the theatergoer will benefit from repeal of this admission tax.

I might say to the Senator from New Mexico—and I have, of course, the high-

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est respect for anything he might tell the Senate—that it may very well be that some theater manager said that this proposal would assume the continuance of present scales of wages, salaries, and other costs, with which the Senator knows the theater is very much concerned, including union and association problems. We would expect that. In other words, we could not expect this commitment to be completely blind; but this is the present design, based upon present financial operations, as expressed to me by counsel for the League of New York Theatres, which represents theater management.

Mr. ANDERSON. I thank the Senator from New York. Unless my memory is playing me a trick, my understanding of the statement made by someone connected with the theater industry was that the theaters in New York did not contemplate passing on the proposed reduction.

Mr. JAVITS. There is no contract or commitment that that would be done. One manager or another might believe that he could not pass on the saving; that he would have to take it for himself, in order to produce a play that he thought ought to be produced. But the general intention and design is the one I have just read, from counsel for the League of New York Theatres. I would not wish to make any representation to the Senate that I have an ironbound promise or anything else; but I do have a statement of intention.

Mr. LONG of Louisiana. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. LONG of Louisiana. I understand that the Senator is confronted with a real problem. As one who voted on the amendment in committee, I know we felt that this was an amendment that would have opened the door to the removal of all excise taxes, and that that would cost about $550 million. We agreed to the amendment before lunchtime but had to reverse ourselves in the afternoon in order to prevent the removal of all excise taxes.

I should like to suggest to the Senator that, so far as I am concerned, if he would offer the amendment to a subsequent bill—which would, of course, have to originate in the House of Representatives, an appropriate bill that the President would have an opportunity to veto if he did not agree with it—I could support what the Senator from New York is seeking to do. I think we might be able to get on its own merits the kind of relief he seeks for the legitimate theater.

But if we vote on a single excise tax amendment in the Senate, there are Senators who would feel obligated to offer similar amendments to remove the excise tax from other items, and we would have no choice but to open the floodgates; and that might cost $5 billion.

If the Senator from New York would be willing to cooperate with the committee in this respect, I assure him that we would try to see to it that this question would be considered at the earliest possible opportunity.

Mr. JAVITS. There seems to be an appropriate frame of reference for the consideration of this matter, especially as the committee looked favorably upon it. I am sure the Senator would not wish me to assume that he expresses the opinion of anyone other than himself. But if he does express the opinion of the committee, it would, of course, be extremely valuable for the Senator from New York to know that. I will be as frank with the Senator from Louisiana as he has been with me. Whether the amendment succeeds or fails on a vote, it is my feeling that, at least, there would be an expression of a substantial amount

of opinion in the Senate. The amendment may fail because of the important argument which the Senator from Louisiana makes. Apparently, the Senator convinced the Senator from Arkansas [Mr. FULBRIGHT], too, because I asked the Senator from Arkansas to offer this amendment since he was the original author of it in the Finance Committee. But he declined to do so, saying that in view of my deep interest in the theater, he preferred to have me do it.

I am being frank with the Senator from Louisiana. I know he will understand it. I should like to demonstrate some substantial sentiment for this idea by a vote. Then I feel there would be a good basis for a followup at some time when the argument that is now being made could not be made.

On the other hand, if the committee, or a substantial number of the members of the committee, would give that assurance, I would certainly give most serious consideration to whether to press the amendment.

Mr. LONG of Louisiana. When the amendment was first offered, it was agreed to in committee by a vote of 9 to 8. I voted against it. If we made that adjustment, the vote would have been 10 to 7. The committee itself recognized the merit of what the Senator from New York is advocating.

Mr. SMATHERS. I, too, voted against the amendment.

Mr. LONG of Louisiana. The Senator from Florida also voted against it. He feels somewhat as I do.

Mr. SMATHERS. As the Senator from Louisiana has said, the amendment was agreed to orginally in committee. There was a sort of pulling of fingers from the dike; because after voting as the Senator from Louisiana said yesterday, for a $550 million reduction in excise taxes. We are all somewhat sympathetic toward the Senator's desires.

I must say to the Senator from New York that in my State perhaps we are somewhat uncultured. We do not have as many legitimate theaters as motion picture houses, and some excise tax still remains on motion picture theater admissions. While I strongly favor helping and encouraging the legitimate theater, the living theater, as much as possible, still, in most small communities in my State the people who have a night out go to the motion picture theaters. They have to pay excise taxes on all admissions costing more than $1. So it seems to me that we must consider this, as the Senator has said, and we will consider it when the excise tax question is considered in toto. Before June 30, $1,500 million in excise taxes will expire. So there will be an opportunity to consider the legitimate theater admissions proposal. We shall have to consider the motion picture admissions proposal. We shall have to consider the excise tax on light bulbs, because, once again, it is not possible to see the theaters unless there are those light bulbs—and there is a tax on the light bulbs.

We shall have to go over the whole country again, talking about the removal of excise taxes. Every individual Senator has a favorite tax that he would like to have dropped off. Certainly the proposal of the Senator from New York will receive consideration when an excise tax bill is considered. The chairman of the Committee on Finance has already stated that he will hold hearings on excise taxes this year. The chairman of the House Committee on Ways and Means has said the same thing. However, under the circumstances at this time, I do not see how we could favor accepting this particular amendment without opening up the floodgates.

Mr. JAVITS. I should say in response to both Senators that they have pointed up one of the reasons why I have offered the amendment and why I really believe it should be pressed to a vote. I deeply believe that unless we have some cognizance of the significance of the living theater as being, in a sense, one of the real gages of culture of our country, we miss the fundamental point of the amendment.

Let us consider the motion picture theaters where all admissions below $1 are exempt from the excise tax. The vitality and skill of American moving pictures is very heavily based on what happens in the American theater. That is where actors are developed. That is where scene directors, who try out new ideas and concepts, are developed. It is the legitimate theater that develops playwrights. As a practical matter, the living theater has come to such a low estate that of the roughly 12,000 members of Actors' Equity—I am giving the figures off the top of my head, but the order of magnitude is correct—only about 10 percent—somewhere between 1,200 and 1,500—held a job within the last couple of years, notwithstanding the fact that so many are finished actors.

One of our colleagues told me a story to the effect that he had paid the way through a college theater course for a particularly gifted young man, but now had him working in his own office because the young man could not obtain work in the theater, for which he had been so superbly trained. So it seems to me that if we do not understand this proposal as being an effort to encourage

one of the finer cultural expressions—our stage—we really miss the point.

Mr. President, while a substantial number of Senators are in the Chamber, and so long as the Senate will vote on the amendment, I ask for the yeas and nays.

Mr. LONG of Louisiana. Does the Senator from New York wish to insist on the yeas and nays?

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Mr. JAVITS. I do. We ought to get some concept of the sentiment of Senators who favor the proposal. I think that would help in the future.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I would not want the Senator from Louisiana to consider me obdurate. I believe that his good will and helpfulness will be indispensable in getting the job done. I said a moment ago that the theater is suffering seriously and materially. For example, in 1931, there were 66 theaters in New York. The number is down to 33 now. On the road—that is, throughout the country—there were 560 theaters; now the number is down to 193.

Mr. President, I have already given the figures in regard to the money lost in the theater. It is estimated that out of every $2 invested, only $1 is returned, under present conditions—especially in view of the fact that the costs in the theater have risen so very materially—approximately five times or more in the past two decades. In other words, a play which cost $25,000 to produce in 1939 would cost approximately $150,000 to produce today.

A very significant analysis of the situation in the American theater has been written by John F. Wharton, based upon material compiled by Prof. O. Glenn Saxon, under the auspices of the League of New York Theatres and the National Association of Legitimate Theatre, Inc. The analysis shows what is happening in this country. From the analysis made by these very able men, it appears that the whole system of theaters in America, both the commercial and the noncommercial ones throughout the Nation, depend on what Mr. Wharton calls the creative core of our theater, which he says is the system which brings 50 to 75 new plays, professionally produced, to New York every season—and more than 75, if professional off-Broadway is included. He points out:

> For 50 years these plays have dominated the American theater.

I believe it might come as a surprise to many Senators to find, when they examine the situation throughout the country, the extent to which people in the various States are involved in the theater or are closely related to it, from the point of view of their interest in it and their wish to encourage it and help it develop.

In the United States there are some very fine repertory theaters. The most recent development in that connection has been in Minneapolis; I refer to the so-called Tyrone Guthrie Theater.

It is important that Senators fully realize that the pending amendment relates to a great social effort in the interest of aiding what is perhaps America's most distinguished art—the American theater, which throughout the years has been the hallmark of the culture of a people—and that Senators understand that in the United States the theater is not subsidized. Incidentally, ours is about the only one of the great nations which does not have theater subsidies by the government. We have no Government subsidies or any contributions of that sort in aid of the theater, except for the commercial efforts or the voluntary efforts of Americans throughout the country who are desirous of helping the theater.

So when Senators consider the key place the theater occupies in our culture, I believe they will find that this amendment cannot properly be considered as one to be lumped together with amendments relating to the excise taxes or other phases of the tax structure which relate to personal comforts or conveniences, or even personal necessities. Instead, this amendment relates to the giving of assistance to a great art which so far has received no assistance whatever of this kind.

Let us remember that we have completely removed the tax from the nonprofit theaters of all kinds. I say frankly, Mr. President, that I see no real difference—when we consider the condition of the theater—between the situation of the commercial American theater and the situation of the nonprofit theater. Their objectives are the same. Indeed, the nonprofit theater draws its sustenance very heavily from what Mr. Wharton calls the "creative core" of the American theater, strongly based in New York. but which also has established areas of great importance in other parts of the country, including Denver, Dallas, San Francisco, and other metropolitan centers where the theater has become a very significant and important art.

Mr. President, as I speak of the American theater, I also wish to pay my respects to New York, in particular. Often we hear expressed on this floor a feeling which would lead one to believe that New

York is not really a part of the United States, not a seat of culture and understanding, not an exponent of the fine things in our country of which all of us can be very proud. However, I know of no particular development in New York, other than the great buildings and skyscrapers there, which represents better America's trusteeship than does the institution of the theater, which, as it has developed in New York, constitutes a magnet to people from all over the United States and from all over the world, who there find in the theater the expression of American culture and creativity.

Furthermore, anyone who now attends the New York theater will be quite surprised by the number of British plays and other foreign plays being produced there, after first having been developed abroad.

All this is confirmation of my statement that, judging from the available figures, the American theater is suffering very seriously and may be dying right before our eyes. Thus, anything we can do to help revive it and breathe life into it is of critical importance, not only to the theater in New York, but to the theater in the entire Nation.

To Senators who feel that this amendment should be laid aside at this time—with all due respect for the feeling about this matter—I say that I think it most important that there be sufficient expression of opinion by Senators in regard to this matter—which I believe to be entirely separate and apart from the question of raising excise taxes—to give us a solid basis of support for dealing with it at some other appropriate time, if the Senator from Louisiana [Mr. LONG] feels that way.

The pending bill already deals with a number of matters which are not strictly related to the tax-reduction concept and to the concept of giving stimulation to the economy. For example, I have already referred to the McCarthy amendment, which was worked out admirably and was adopted.

I feel that the American theater is an institution of very great importance to the Nation and to the stimulation of its culture; and I am convinced that anything of such great importance in that connection should receive this proposed support at this time.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the analysis to which I have referred.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

[A statement of the League of New York Theaters, Inc]

CRISIS IN THE FREE WORLD THEATER

(By John F. Wharton, from material compiled by Prof. O. Glenn Saxon)

INTRODUCTION

Let me say first that the following pages are not a statement of despair. They are aimed at awakening in us the awareness of an important problem existing in our country and at offering a possible solution that is both practical and optimistic.

The League of New York Theaters commissioned Prof. O. Glenn Saxon to do an exhaustive study of theater economics in the United States of America. When the report was finally compiled, we saw before us a clear picture of a constantly diminishing business within a constantly expanding economy. The obvious competition from motion pictures and television was by no means a sufficient or valid answer to this consistent decline. The fact is that the living theater in America has been caught in a cost-price squeeze and has faced ever increasing taxes. This is a historic dilemma which has seriously impeded the development of the performing arts in many parts of the world. However, in most cases the solution has been found in legislation which could enable the theater to function as fully as possible as a vital expression of the Nation from which it springs.

John F. Wharton, who has written this statement, has spent his life in the professional theater as a partner in the Playwrights Producing Co., and as a legal adviser to many of America's most important theater people. He sees the theater as an exciting and serious element in our national life and its preservation as a responsibility not only to ourselves but to the rest of the world. From this standpoint Mr. Wharton has drawn upon the research of Professor Saxon and written the following pages which he has entitled so meaningfully, "Crisis in the Free World Theater."

ROBERT WHITEHEAD,
President, the League of New York Theaters, Inc., the National Association of the Legitmate Theater, Inc.

In the current contest to win the undecided peoples of the world to our way of life; money, arms, and even machines have, by themselves, proved insufficient. Every honest observer reports that something more is

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needed; these peoples demand something for the spirit, for the soul. In short, a culture which makes the material life worth living. Since the days of Aeschylus, one of the keystones in the arch of culture has been the living theater, which can entertain, educate and inspire its audience—often even an illiterate audience. Fortunately for us, we have built a vital living theater which, despite a current decline, can still impress both the sophisticated and the uneducated anywhere in the world.

In dynamics, progressivism and drive, our theater, for many years, ranked ahead of any

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other country, when viewed as a whole. Despite the long history of the Russian theater, returning travelers reported year after year that, except for an occasional company, they were years behind us. The same was true of all of the Iron Curtain countries of which he had knowledge. On the Continent, except for a few avant garde writers, nothing was happening. Only in England was there evidence of ferment and creativeness comparable to ours.

Now, it is in our own country and in England (to a lesser extent) that the theater is the product of the free enterprise system. In the Iron Curtain countries, and also in almost every other country, the living theater is either the creature of the state or largely subsidized by it. (Today some countries are pouring such enormous subsidies into their theater that our supremacy is threatened.) Even England has resorted to subsidy, in part. Hence, the American theater should be one of our proudest displays to the undecided peoples, and should be encouraged and assisted by every device known to the free enterprise system.

JUST THE OPPOSITE IS THE CASE

The Federal Government and the city of New York have continually harassed and impeded the creative core of the American theater. The heaviest blow is today dealt by the Federal Government through the admissions tax of 10 percent. This tax yields, from the living theater, not more than the insignificant amount of .0007 percent of Federal revenues. Yet, as we shall see, its impact on the theater is staggering; moreover, it is applied in a fashion clearly discriminatory against the creative core.

The creative core of our theater is the system which brings 50 to 75 new plays, professionally produced, to New York every season (more than 75, if professional off-Broadway is included). For 50 years these plays have dominated the American theater. The millions of people who see them each year in New York begin to spread the thoughts, standards, and concepts of these plays throughout the land. Many of them are toured through the country; they are duplicated by the 75,000 nonprofessional groups outside of New York. They thus reach more millions of our citizens who do not come to New York.

In addition, the best of the productions are adapted for presentation not only in the British Empire, but in all non-English speaking countries which have a going theater. Even the Iron Curtain countries present them—without paying royalties. But these presentations are, on the whole, puny in comparison to what could be done if real assistance were given.

It is important to understand that the dynamics of the industry requires as many new productions as possible. For every year brings a new crop of talent—playwrights, directors, actors, producers, composers, lyricists. They must have an opportunity to learn their trade and test their skills. Very few will reach the top, just as in any other free enterprise industry. But if the best are to reach the top, everyone must have opportunity. Only a sufficient number of productions can make that opportunity available.

THEATER ECONOMICS AND THE ADMISSIONS TAX

In order to have a sufficient number there must be a sufficient number of entrepreneurs (who, in the theater, are the producers) who can bring together the talent and the capital necessary for a production. The money, in the theater, is of unusual importance, for every production of a play is a new venture calling for venture capital, the most difficult kind of capital to obtain. Fortunately, the theater has had an intrinsic fascination for many venture capitalists, but it has, up to now, also offered a chance of reward commensurate with the risk. Whether it can continue to do so is doubtful. There are various reasons, but clearly one of the most important is the heavy and discriminatory admissions tax.

In the 1959–60 season, the last season for which figures are available, 77 percent of the new plays produced failed to earn back the venture capital invested in them; the combined loss was about $5½ million. It remains to be seen whether the successful 23 percent will, in time, earn more than that amount. What can be seen now, by any venture capitalist who cares to look, is that the Federal Government took, in admissions taxes, $6 million, more than the total losses of the failures. It isn't an attractive picture, is it?

This discrimination is equally startling. Motion picture theaters attract seekers of theatrical entertainment. When a motion picture has been produced, it requires, to exhibit it, only a projection machine and a projectionist. After a play is produced, it requires a troupe of actors, musicians, and stagehands who must be paid every week. Consequently, the admission price to the living theater must be higher. But the lower priced motion picture tickets have been consistently exempted, in whole or in part, from the admissions tax.

The admissions tax is an excise tax, and one thing about excise taxes is clear. A booming industry can absorb an excise tax without much difficulty (the theater absorbed it in the boom 1920's and war years). A financially declining industry cannot; excise taxes accentuate the decline, and eventually help to kill the goose that once laid the golden eggs. Since 1930 the theater has been a financially declining industry; in detailing the decline it will become apparent how the Government—instead of trying to halt the decline and stimulate regrowth—imposed both excise and other tax problems, as well as nontax burdens with disheartening regularity.

The amazing feature is the fact that until recently the theater maintained its artistic vigor despite the financial decline.

THE RISE AND FALL

Between 1920 and 1929 the disposable personal income of the Nation (in dollars of constant purchasing power) increased nearly 40 percent. In the second half came the (until then) unprecedented stock market boom. Simultaneously there was a great reduction in Federal income and corporation taxes. By 1929 personal income taxes were one-half of 1 percent to 25 percent. Corporate taxes were only 11 percent, which precipitated an increasing flow of dividends. The 10-percent admissions tax was carried

over from the World War I tax structure, but in the face of the other tax reductions was insignificant. Venture capital was easy to find; the box office boomed; production costs and running costs were comparatively low. The number of productions soared. In 1928 there were 264 new productions; the lowest number for any year in the 10 years 1921–30 was 152; the average was 217. During this period, famous personalities, such as Robert E. Sherwood, Eugene O'Neill, Maxwell Anderson, S. N. Behrman, Alfred Lunt and Lynn Fontanne, Katharine Cornell, Richard Rodgers, Cole Porter, began or developed their careers.

The stock market crash of 1929 warned of the depression which was to settle down on us and close every bank within 4 years. At the same time, the effectively competitive talking picture passed out of the experimental stage, and the no-admission radio programs began to take hold with a vengeance. Personal and corporate income tax rates went up. Venture capital was no longer plentiful. The financial decline of the theater began.

The factors of financial rise or decline in any industry are (1) amount of production (number of plays produced); (2) capital goods facilities (physical theaters), (3) sales (attendance), and (4) profit per dollar invested—this last of overpowering importance in an industry constantly seeking venture capital. Let us take these up in order.

Production: In the seasons ended May 31, 1927, and 1928, over 260 plays were produced per season. By 1931 this number had fallen to 187—and the decline had only started. The average number of plays per season from 1931 through 1940 was 142; for the ten years 1941–1950 it was 78—despite the fact that in the war years, always a boom time in the theater, the number was over 90 each year. From 1951 through 1960 the average dropped to 62, but in the last four seasons (including 1961) it has been under 60. The detailed figures are set out in exhibit A.

Theaters: In 1931 there were 66 physical theaters available for productions of the creative core. This number declined steadily during the depression decade of the 1930's to only 43 in 1940—a decline of 35 percent in one decade.

The downward trend continued, even during the war years, and reached a low of 30 theaters in 1950 and 1956—a decline of 55 percent since 1931. Today the number is about 33, an increase of 3 over 1956. However, these three theaters were old theaters, which had been abandoned for other uses and were reclaimed for professional production. No theater for professional productions exists in New York that was built after 1927—34 barren years as far as capital facilities are concerned—although architects and designers have been burning with creative ideas.

The decline in physical facilities has not been limited to New York. Plays emanating from the creative core frequently are toured through the Nation. Obviously, this requires physical theaters throughout the Nation. The number of such theaters has declined from 560 to 193. (See exhibits B and C.)

Attendance: Accurate figures on attendance are difficult to obtain. However. it is obvious that if the number of physical theaters in New York dropped from 66 to 30, and that if the number of physical theaters on the road dropped from 560 to 193, there must have been a decline in attendance of considerable proportion.

During the period of this decline, the population of the United States increased 46 percent, the per capita disposable personal income (in dollars of constant purchasing power) rose more than 78 percent, and the increased efficiency of the airlines brought New York within easier and easier reach.

Profits: Almost all profit-seeking industries in the United States have been caught in a cost-price squeeze since 1939. The industries which have had the hardest going are those which (a) rely on personal service employees to a major extent, particularly where such employees are highly unionized, or (b) constantly requuire new items of one sort or another, or (c) find more than average public resistance to increased prices for the product, or (d) have limited outlets of distribution. The living theater suffers heavily in all four respects.

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Machines play an insignificant role in the theater. Actors, musicians, stagehands, press agents,—all highly unionized,—are the major operating costs, although the royalties to dramatists, composers and lyricists, also highly organized, come to no small item. Moreover, there is always a shortage of talent with "star" quality—the ability to draw people to the box office—and the successful actor or dramatist or composer can obtain astoundingly high compensation. Exhibit D shows the increase of minimums in the theater; vast increases in cost also come from those who can command much, much more than the minimum.

As mentioned, every play is the organization of a new enterprise—new sets are bought, new costumes made, new props secured, often in a rush and hence at overtime rates. The rise in these costs has been tremendous. In the 1930's a musical comedy could be, and often was, produced in toto for $75,000 to $100,000. Today, the costumes alone may cost more than that.

Ticket prices have been raised (see exhibit E), but it has not been possible to raise them sufficiently to pass along the increased costs. Plays must now run longer in order to recoup their costs and make a fair profit; this means that more people must see them.

However, the distribution outlet is limited. Even a lavish musical cannot be presented properly in a stadium seating 100,000 people. The current physical theater will seat, on the average, around 1,000 people. This means that many people who wish to see a "hit" cannot get in; this germinates a sales resistance to all ticket prices.

It is difficult to get exact financial figures on plays, since they are private enterprises, but certain facts are clear. Exhibit F shows how capital requirements have risen. Profits have not risen commensurately.

For example, in 1938 "Life With Father" was capitalized at $25,000. It is estimated that it earned at least $1,500,000, a profit of $60 for each $1 invested. Ten years later the same producer presented a sequel by the

same authors, "Life With Mother." It was capitalized at $100,000—four times as much, and would have required earnings of $6 million to show a 60-to-1 return.

Let us repeat once more: If the creative core is to continue as part of a free enterprise system, it must attract venture capital. Every factor which the venture capitalist scrutinizes is shifting toward the negative. The trend cannot continue indefinitely, or the theater will require subsidy or cease to exist.

By every test the living theater, for 30 years, has been a financially declining industry which has needed, still needs, and will continue to need, help and encouragement. The record shows that it has received discouragement from every side.

SOME OTHER ASPECTS OF FEDERAL TAXATION

In the low tax years of the 1920's, the organization of a legal entity to produce a play was a simple matter. Sometimes it was done by syndicate letter agreements. More often a simple corporation was organized; the investors received a senior security, debentures or preferred stock, and a share of the equity stock. Everyone was thus protected from personal liability; the accounting problems were routine; the tax burden clear and small.

When corporate tax rates rose, during the 1930's, investors, who, it must always be remembered, were venture capitalists, objected to stock ownership, so a simple loan agreement with the producing corporation was worked out, which gave them their share of profits in lieu of interest. Personal liability was still protected. (The professionals, among themselves, and their close friends, still frequently used syndicate agreements.)

In 1940 an excess profits tax was passed which discriminated so violently against new ventures such as play productions that the use of the corporation had to be dropped. Most producers assumed personal liability and used a modified form of the loan agreement. Suddenly, an amendment to the law knocked out the loan agreement by denying a fully deductible loss to the lender—the venture capitalist.

The industry then turned to the limited partnership as a last hope. At first this hope seemed doomed by mechanical difficulties. When the first investor, or his counsel, looked at the proposed agreement, he demanded changes; the second investor then demanded other changes, which required going back to the first for reapproval; the third wanted something which required going back to the first two; and so ad infinitum. Fortunately, the industry laid aside personal prejudices and agreed on a more or less standard form. This did away with the interminable delays.

When all seemed well, the Treasury launched another attack. It brought suit against a syndicate of one of the most distinguished and reputable producers and his investors, asserting that they should be taxed as if they were a corporation. There was a further plain implication that the standard limited partnership was next in line for attack. The sophisticated venture capital dried up immediately; it looked as if there would be only a shell of a season during the coming year. At this point the industry retained a distinguished ex-Treasury official who was able to make the Government see some light. He obtained a ruling that the standard limited partnership was a partnership, to be taxed as a partnership and not as a corporation.

But the end is not yet. Less than a year ago the Treasury proposed new regulations designed to knock out a limited partnership unless the general partner could show adequate financial means. The new entrepreneur, willing to risk his own credit future, was not to be acceptable. He was to be denied the financing method open to his successful older competitors. The regulations, as finally promulgated, were less onerous, but where this attack will end remains to be seen.

Such is the record of the lack of help or encouragement given to the declining living theater by the Treasury.

Just one bit of help was given in 30 years. In 1954 the admission tax was not eliminated but it was reduced to 10 percent. New York City immediately imposed a new tax of 5 percent.

NONTAX ASPECTS

Near the close of the 1940's the Securities Exchange Commission decided that play productions involved sales of securities to the general public and therefore the entrepreneurs must file with the Commission. The industry protested; the law was far from clear. A Commission representative assured the industry that the matter would be handled so as to provide minimum difficulty. A short set of papers would be all that was required; 5 days after filing, unless the Commission objected, the producer could seek and take investments. The industry then quickly agreed to obey despite warnings that the simple procedure was only the beginning.

The warnings proved correct.

The organization of a play often depends on one golden moment when star, director, and theater are all available; then moving ahead full speed. Five days' delay is not fatal. But it didn't remain 5 days very long. New Commission representatives decided it should only be 5 days if they gave their approval within that time, and they frequently didn't even look at the papers within that time. The short set of papers grew and grew and grew, as the Commission demanded more and more and more statements. At one time the Commission proposed a regulation that the papers must include a synopsis of the plot of the play. Six or seven weeks became the normal time. Finally, after continued protests, but only after continued protests, the Commission adopted a system which can and does speed up approval. But the short set of papers and the 5 days have never returned.

During this whole period of harassment of the producers who complied with the Commission's rulings, not one action was brought by the Commission to prevent producers who ignored the law from raising money for a play, although these producers regularly sent out unapproved prospectuses and in one case announced their money raising in the daily papers.

Such has been the lack of help from the guardians of financial morality.

Until Mayor Robert Wagner personally studied the problem and reached the long over-due conclusion that the theater was one of the city's main attractions, the city of New York drew, from the theater, indirect benefits in the millions, but added to the general harassment.

One reason why the construction of theaters came to an end was an obsolete city building code. The theater protested for years but it wasn't changed until building costs had risen to a point of no return, while the general theatrical financial decline had made any kind of theatrical construction unattractive to the builder.

Even in minor ways, the city has been, to put it mildly, uncooperative. In the 1920's it became clear beyond all question that the theater was an enormous drawing card for visitors, and some wise theater operator appealed to the city to help make theatergoing attractive to them. He proposed that, since many of these visitors used taxicabs to go and come, the theater approaches be cleared of parked cars for an hour before curtain time. The experiment was tried and everyone who remembers it will testify that it was spectacularly successful—everyone except the city officials, who refused to make it permanent. No only that, but shortly thereafter taxicabs were forbidden to enter theater streets to pick up passengers at the close of a play.

A real body blow was dealt by the city when it negated half the benefit of the grudging reduction of the Federal admissions tax. This occurred in 1954. The reduction was from 20 to 10 percent. The city immediately imposed a 5-percent tax.

Quite properly, the city has a commissioner of licenses whose duty it is to make sure of the physical safety of theaters for both actors and audience. From time to time, a commissioner has been appointed who has used his power over the physical theater to censor the artistic content of a play. No other city has ever used such a crude, backhanded method of censorship.

Such has been the attitude of the city where the artistic side of the living theater has flourished so brilliantly as to bring millions of visitors every year.

At the moment there is a glimmer of hope. Mayor Wagner has studied the problems and realized that the city has been energetically sawing off a stout branch of its support. helped by the State and the Federal Governments. He is advocating as a first step to rescue the theater repeal of all admission taxes.

CONCLUSION

The United States is justly proud of the fact that its great physical natural resources have been developed by a free enterprise profit system. The culture of a country is as much a natural resource as any physical product, but only two facets of our culture have been products of the free enterprise system—books and the living theater. Painting, sculpture, music, opera, ballet have had to rely largely on charitable institutions. Books have been left alone; no one ever had to pay 10 percent, or 15 percent, or 20 percent of the cost of a book before

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being permitted to read it. The disheartening record of the theater is set out above. In conclusion, let us compare the treatment of a physical resource with the treatment of the living theater.

When the importance of oil became apparent, what did the Government do? Did it harass the oil explorer and his backers with Government, city, and State regulations? Did it levy special unfair taxes on the prospector? Very clearly it did not; instead it gave the seeker for oil and his backers an enormous tax advantage. They were permitted to charge off exploration costs whether they succeeded or failed; they were given, in cases of success, a depletion allowance which amounted to tax-free income; they were assured of a capital gain treatment on sales. These factors combined to produce the greatest oil industry in the world—copied by every other nation. Would we have had it without this encouragement?

The creative core of the living theater can be proud of the fact that, despite lack of help and encouragement, despite financial harassment, despite discrimination against it, it has maintained, artistically, a vital dynamic theater. But artistic vitality cannot surmount financial disaster forever. Our creative core is today on the brink of the cascade; at any moment it may go down with a plunge. Yet very little is needed to avert the danger. It is not seeking subsidization nor special aid; it is asking only that a free people take pride in their free theater and treat it fairly.

Without pride at home, we shall soon lose our position abroad. We cannot continue to ask eminent producers to arrange economical foreign tours to show off our theater, while our competitors spare no expense to display their best. We must look on our artistic theatrical accomplishments with admiration, not as something to be used at the least expense possible. This may require a complete reversal of feeling toward the theater on the part of many people. Maybe this cannot be done overnight, but, to quote our President, "Let us begin." An admirable beginning, as shown above, would be the elimination of unfair and discriminatory taxes.

EXHIBIT A.—*Total annual professional productions in New York City, 1901–60*

Seasons [1]	Total productions	Seasonal decades	High, low, and annual average, production per decade			Seasons [1]	Total productions	Seasonal decades	High, low, and annual average, production per decade		
			High	Low	Annual average				High	Low	Annual average
1901	96					1931	187				
1902	90					1932	207				
1903	98					1933	174				
1904	118					1934	151				
1905	127	1901–10	144	90	114	1935	149	1931–40	207	91	142
1906	111					1936	135				
1907	129					1937	118				
1908	110					1938	111				
1909	118					1939	98				
1910	144					1940	91				
1911	131					1941	69				
1912	140					1942	83				
1913	162					1943	80				
1914	128					1944	97				
1915	133	1911–20	162	115	138	1945	92	1941–50	97	57	78
1916	115					1946	76				
1917	126					1947	79				
1918	156					1948	76				
1919	149					1949	70				
1920	144					1950	57				
1921	152					1951	81				
1922	194					1952	72				
1923	174					1953	54				
1924	186					1954	59				
1925	228	1921–30	264	152	217	1955	63	1951–60	81	54	62
1926	255					1956	56				
1927	263					1957	62				
1928	264					1958	56				
1929	225					1959	57				
1930	233					1960	57				

[1] Each season's year ending on May 31 of each year.

Source: Derived from article in Variety, New York, N.Y., issue of June 1, 1960.

EXHIBIT B.—*Legitimate (commercial) theaters in New York City, 1931–60*

Year	Number of theaters	Average number per decade	Year	Number of theaters	Average number per decade	Year	Number of theaters	Average number per decade
1931	66		1941	43		1951	31	
1932	64		1942	43		1952	30	
1933	59		1943	41		1953	33	
1934	56		1944	39		1954	33	
1935	56	54.0	1945	36	37.0	1955	31	31.5
1936	53		1946	36		1956	30	
1937	50		1947	35		1957	31	
1938	48		1948	35		1958	32	
1939	47		1949	31		1959	31	
1940	43		1950	30		1960	33	

Source: League of New York Theaters.

EXHIBIT C.—*Theaters booked outside New York City for professional production,[1] by States, selected seasons ending in 1921, 1953, 1958, and 1960*

State	1921	1953	1958	1960	Change, 1953–60	Change, 1921–60	State	1921	1953	1958	1960	Change, 1953–60	Change, 1921–60
Alabama	9	3	3	3	0	−6	Illinois	24	11	11	11	0	−13
Arizona	6	2	2	2	0	−4	Indiana	27	6	6	6	0	−21
Arkansas	5	1	1	1	0	−4	Iowa	34	6	6	6	0	−28
California	35	14	14	14	0	−21	Kansas	29	7	7	7	0	−22
Colorado	10	3	3	3	0	−7	Kentucky	8	1	3	3	+2	−5
Connecticut	13	4	4	4	0	−9	Louisiana	7	2	2	2	0	−5
Delaware	3	1	1	1	0	−2	Maine	10	1	1	1	0	−9
District of Columbia	4	1	2	2	+1	−2	Maryland	3	1	1	1	0	−2
Florida	15	6	6	6	0	−9	Massachusetts	17	6	8	7	+1	−10
Georgia	17	5	5	5	0	−12	Michigan	20	6	6	6	0	−14
Idaho	8	2	2	2	0	−6	Minnesota	10	3	2	1	−2	−7

Footnotes at end of tables.

EXHIBIT C.—*Theaters booked outside New York City for professional production,[1] by States, selected seasons ending in 1921, 1953, 1958, and 1960*—Continued

State	1921	1953	1958	1960	Change, 1953-60	Change, 1921-60
Mississippi	4	3	3	3	0	−1
Missouri	7	3	3	3	0	−4
Montana	6	5	5	5	0	−1
Nebraska	4	0	1	1	+1	−3
Nevada	3	1	1	1	0	−2
New Hampshire	11	1	1	1	0	−10
New Jersey	8	6	2	2	−4	−6
New Mexico	2	1	1	1	0	−1
New York	22	7	4	4	−3	−18
North Carolina	4	5	5	5	0	+1
North Dakota	3	2	2	2	0	−1
Ohio	32	11	11	11	0	−21
Oklahoma	14	3	3	3	0	−11
Oregon	5	1	1	1	0	−4
Pennsylvania	36	13	13	13	0	−23
Rhode Island	3	1	1	1	0	−2
South Carolina	6	4	4	4	0	−2
South Dakota	2	1	1	1	0	−1
Tennessee	3	4	4	4	0	+1
Texas	21	14	14	14	0	−7
Utah	5	2	2	2	0	−3
Vermont	5	0	0	0	0	−5
Virginia	9	5	5	5	0	−4
Washington	9	3	3	3	0	−6
West Virginia	3	3	3	3	0	0
Wisconsin	17	4	4	4	0	−13
Wyoming	2	2	2	2	0	0
Total	560	197	195	193	−4	−367

[1] Exclusive of all professional theaters in New York City.

Source: National Association of the Legitimate Theatre & Independent Booking Office.

EXHIBIT D.—*Minimum weekly wages and salaries in the professional living theater (pre-World War II, 1953, 1957, and 1960* [1]*)*

Groups	Prewar years	1953	1957	1960	Percent increase from earliest year to 1960	Percent increase in cost of living index [2]
Actors' Equity Performers: [3]						
Rehearsal		$45.00	$65.00	$82.50	83	11
New York production [4]	$40.00 [1938]	85.00	100.00	111.00	[5] 180	110
Road production	40.00 [1938]	110.00	135.00	145.00	262	110
Stage Managers:						
New York dramatic	[6]	150.00	175.00	190.00	27	11
New York musical	[6]	200.00	225.00	240.00	20	11
Road dramatic	[6]	175.00	225.00	240.00	37	11
Road musical	[6]	225.00	275.00	290.00	29	11
1st assistant managers:						
New York dramatic	[6]	85.00	125.00	135.00	60	11
New York musical	[6]	100.00	150.00	160.00	60	11
Road dramatic	[6]	110.00	175.00	190.00	73	11
Road musical	[6]	125.00	200.00	215.00	72	11
Musicians (New York):						
Musicals:						
Contract houses	$80.00 [1934]	$139.50	$155.50	$170.00	112	121
Noncontract houses	[6] [1934]	[6]	195.00	213.20	9	5
Dramas:						
Contract houses	56.00 [1934]	98.15	109.35	119.50	112	121
Noncontract houses	[6] [1934]	[6]	146.75	159.90	9	5
Box offices (New York):						
Treasurer	80.00 [1939]	115.00	130.00	130.00	62	113
Assistant treasurer	55.00 [1939]	95.00	110.00	110.00	100	113
Engineers (New York)	58.50 1940	100.00	126.00	131.00	124	111
Stage hands (New York):						
Department heads	82.50 [1937]	136.08	155.77	160.18	95	106
Others	54.00 [1937]	90.72	103.84	106.80	98	106

Porters (New York):							
Head	------		--------	68.46	73.68	8	5
Others	25.00	1939	59.29	62.90	67.70	170	113
Cleaners (New York):							
Head	------		--------	49.04	52.78	8	5
Others	13.75	1939	37.51	43.31	46.61	240	113
Ushers (New York):							
Chief	------		--------	42.90	42.90	0	5
Others	11.00	1942	24.75	33.00	33.00	200	81
Stage door (New York):	22.50	1942	45.10	64.00	64.00	185	81
Ticket taker (New York)	22.50	1942	41.80	58.00	58.00	160	81
Wardrobe attendants (New York):							
Master	50.00	1939	90.00	112.08	115.20	130	113
Dressers	22.00	1939	42.00	60.00	70.40	218	113
House managers:							
Company managers (New York):							
Dramatic	100.00	1938	150.00	173.65	176.96	77	110
Musicals	100.00	1938	150.00	179.45	182.87	83	110
Company manager (road):							
Dramatic	(6)		(6)	231.55	235.95	2	5
Musicals	(6)		(6)	277.80	283.09	2	5
Advance agents:							
New York	150.00	1938	210.00	242.55	247.19	65	110
Road	150.00	1938	210.00	283.60	287.00	88	110

[1] Effective June 1, 1960.
[2] From earliest year to 1960.
[3] Includes Equity Chorus.
[4] In 1938 the minimum for Equity Chorus was only $35.
[5] The increase for Equity Chorus was 217 percent, while the cost of living increased 110 percent between 1938 and 1960.
[6] Not available.

Source: National Association of the Legitimate Theater.

EXHIBIT E.—*Average maximum prices [1] of theater tickets in New York City, 1944, 1953, 1955, and 1959*

	1944 [2]	1953 [2]	1955	1959	Percent price increase 1959 over—	
					1953	1944
DRAMATIC SHOWS						
Average maximum price	$3.49	$5.29	$5.49	$7.17	35.5	105.5
Admissions taxes [3]	.58	.88	.72	.85		
Federal	.58	.88	.48	.53		
New York City			.24	.32		
Price less admissions taxes	2.91	4.41	4.77	6.32	43.3	117.0

	1944 [2]	1953 [2]	1955	1959	Percent price increase 1959 over—	
					1953	1944
MUSICALS						
Average maximum price	4.84	6.90	6.97	8.57	24.2	77.1
Admissions taxes	.81	1.15	.91	1.03		
Federal	.81	1.15	.61	.65		
New York City			.30	.38		
Price less admissions taxes	4.03	5.75	6.06	7.54	31.1	87.1

[1] Average maximum price is the sum of the maximum ticket price of all dramatic shows and all musicals playing in January of each year, divided by the number of dramatic shows and musicals, respectively.
[2] The statistics in this chart for the years 1944 and 1953 differ somewhat from those reported for these years by the same source in 1953, but are more comprehensive.
[3] Admissions taxes: In 1944 and 1953: Federal, 20 percent of established price. In 1955: Federal, 10 percent of established price. New York City: 5 percent of established price. In 1959: Federal, 10 percent of established price, less $1. New York City: 5 percent of established price.

Source: National Association of the Legitimate Theatre.

[P. 2095]

EXHIBIT F.—*Increase in capital requirements in the New York theater, 1939–60*

Year	Show	Capitalization	Year	Show	Capitalization
	DRAMAS			MUSICALS	
1939	Life With Father	$25,000	1949	South Pacific	$225,000
1943	Voice of the Turtle	20,000	1950	Gentlemen Prefer Blondes	160,000
1945	Deep Are the Roots	40,000	1956	Bells Are Ringing	360,000
1948	Mr. Roberts	100,000	1956	My Fair Lady	400,000
1956	Auntie Mame	180,000	1960	Camelot	600,000
1959	Miracle Worker	125,000			
1960	Toys in the Attic	125,000			
1960	The Rape of the Belt	144,500			
1960	Advise and Consent	150,000			

Source: League of New York Theatres.

Mr. MORTON. Mr. President, I appreciate the plight of the American theater, and I commend the Senator from New York for his efforts in behalf of this institution.

However, I feel constrained to oppose his amendment.

Yesterday, the Senate had a very close vote on the Federal retail sales tax amendment; and the amendment was rejected. Assurance was given to us that this matter would be reviewed by the Ways and Means Committee and the Senate Finance Committee before the end of this fiscal year.

If that amendment had been adopted yesterday, I would be more inclined to support this amendment. But yesterday we pointed out that we must not open a Pandora's box, and that therefore amendments which do not relate to the actual necessities should be rejected.

Therefore, Mr. President, although I am sympathetic to the objectives the Senator from New York has in mind, I must oppose the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York. On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD (when his name was called). On this vote I have a pair with the distinguished minority leader, the Senator from Illinois [Mr. DIRKSEN]. If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Arizona [Mr. HAYDEN], the Senator from Oregon [Mr. MORSE], and the Senator from Georgia [Mr. TALMADGE] are absent on official business.

I further announce that the Senator from California [Mr. ENGLE] is necessarily absent.

On this vote, the Senator from Oregon [Mr. MORSE] is paired with the Senator for California [Mr. ENGLE]. If present and voting, the Senator from Oregon would vote "yea" and the Senator from California would vote "nay."

Mr. KUCHEL. I annouce that the Senator from Nebraska [Mr. CURTIS], the Senator from Illinois [Mr. DIRKSEN], and the Senator from Arizona [Mr. GOLDWATER] are necessarily absent.

The pair of the Senator from Illinois [Mr. DIRKSEN] has been previously announced.

On this vote, the Senator from Arizona [Mr. GOLDWATER] is paired with the Senator from Nebraska [Mr. CURTIS]. If present and voting, the Senator from Arizona would vote "yea", and the Senator from Nebraska would vote "nay."

The result was announced—yeas 33, nays 59, as follows:

[No. 29 Leg.]

YEAS—33

Aiken	Fulbright	Pastore
Bartlett	Gore	Pearson
Beall	Gruening	Pell
Bennett	Hickenlooper	Prouty
Boggs	Javits	Ribicoff
Case	Keating	Saltonstall
Clark	Kuchel	Scott
Dodd	Mechem	Tower
Dominick	Metcalf	Williams, N.J.
Douglas	Moss	Yarborough
Fong	Neuberger	Young, Ohio

NAYS—59

Allott	Holland	Monroney
Anderson	Hruska	Morton
Bayh	Humphrey	Mundt
Bible	Inouye	Muskie
Brewster	Jackson	Nelson
Burdick	Johnston	Proxmire
Byrd, Va.	Jordan, N.C.	Randolph
Byrd, W. Va.	Jordan, Idaho	Robertson
Cannon	Kennedy	Russell
Carlson	Lausche	Simpson
Church	Long, Mo.	Smathers
Cooper	Long, La.	Smith
Cotton	Magnuson	Sparkman
Eastland	McCarthy	Stennis
Edmondson	McClellan	Symington
Ellender	McGee	Thurmond
Ervin	McGovern	Walters
Hart	McIntyre	Williams, Del.
Hartke	McNamara	Young, N. Dak.
Hill	Miller	

NOT VOTING—8

Curtis	Goldwater	Morse
Dirksen	Hayden	Talmadge
Engle	Mansfield	

So Mr. JAVITS' amendment was rejected.

Mr. DOUGLAS. Mr. President, I call up my amendment No. 368, which is on the desks of most Senators.

The PRESIDING OFFICER. The amendment offered by the Senator from Illinois will be stated.

The legislative clerk read as follows:

Add at the end of the bill a new section:

"SEC. . PERCENTAGE DEPLETION FOR OIL AND GAS WELLS.

"(a) GRADUATED RATES.—Section 613 (relating to percentage depletion) is amended—

"(1) by striking out in subsection (a), 'specified in subsection (b)' and inserting in lieu thereof 'specified in subsections (b) and (d)';

"(2) by striking out paragraph (1) of subsection (b) and inserting in lieu thereof the following:

"'(1) OIL AND GAS WELLS.—The percentage applicable under subsection (d) (1).'; and

"(3) by redesignating subsection (d) as (e), and by inserting after subsection (c) the following new subsection:

"'(d) OIL AND GAS WELLS.—

"'(1) PERCENTAGE DEPLETION RATES.—In the case of oil and gas wells, the percentage referred to in subsection (a) is as follows:

"'(A) 27½ percent—to the extent that,

for the taxable year, the taxpayer's gross income from the oil and gas well, when added to (i) the taxpayer's gross income from all other oil and gas wells, and (ii) the gross income from oil and gas wells of any taxpayer which controls the taxpayer and of all taxpayers controlled by or under common control with the taxpayer, does not exceed $1,000,000;

"'(B) 21 percent—to the extent that, for the taxable year, the taxpayer's gross income from the oil and gas well, when added to (i) the taxpayer's gross income from all other oil and gas wells, and (ii) the gross income from oil and gas wells of any taxpayer which controls the taxpayer and of all taxpayers controlled by or under common control with the taxpayer, exceeds $1,000,000 but does not exceed $5,000,000; and

"'(C) 15 percent—to the extent that, for the taxable year, the taxpayer's gross income from the oil and gas well, when added to (i) the taxpayer's gross income from all other oil and gas wells, and (ii) the gross income from oil and gas wells of any taxpayer which controls the taxpayer and of all taxpayers controlled by or under common control with the taxpayer, exceeds $5,000,000.

"'(2) CONTROL DEFINED.—For purposes of paragraph (1), the term "control" means—

"'(A) with respect to any corporation, the ownership, directly or indirectly, of stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote, or the power (from whatever source derived and by whatever means exercised) to elect a majority of the board of directors, and

"'(B) with respect to any taxpayer, the power (from whatever source derived and by whatever means exercised) to select the management or determine the business policies of the taxpayer.

"'(3) CONSTRUCTIVE OWNERSHIP OF STOCK.—The provisions of section 318(a) (relating to constructive ownership of stock) shall apply in determining the ownership of stock for purposes of paragraph (2).

"'(4) APPLICATION UNDER REGULATIONS.—This subsection shall be applied under regulations prescribed by the Secretary or his delegate.'

"(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply only with respect to taxable years beginning after the date of the enactment of this Act."

Mr. DOUGLAS. Mr. President, this is a variation of the amendment previously offered by the Senator from Delaware [Mr. WILLIAMS]. On this question I ask for the yeas and nays.

The yeas and nays were ordered.

SLIDING SCALE REDUCTION

Mr. DOUGLAS. First, Mr. President, let me explain the amendment. It is the same amendment which I have offered in previous years. In brief, it would reduce

[*P. 2096*]

the depletion allowance on oil and gas from the present 27½ to 15 percent in those cases where the taxpayer's gross income, abroad and at home, from oil and gas in any 1 year exceeds $5 million.

The allowance would be reduced to 21 percent where the taxpayer's income from oil and gas exceeded $1 million but did not exceed $5 million.

It would leave the existing 27½-percent allowance for those whose income from oil and gas does not exceed $1 million gross income in a year.

SMALL INDEPENDENTS AND WILDCATTERS EXEMPT

This, in practice, would exempt virtually all the wildcatters from any reduction in the depletion allowance. It would also exempt the owners of land upon which drillings are conducted, and who normally receive a one-eighth royalty.

My amendment differs from the Williams amendment in that the Williams amendment would have reduced, at a uniform rate, all operations, regardless of size, down to an ultimate low of 20 percent.

This amendment provides a graduated reduction, exempting small drillers, operators and royalty recipients. It provides that the medium-sized drillers will not have their depletion allowance reduced below 21 percent, but under it the big companies, the very prosperous companies, will have their depletion allowance reduced to 15 percent.

REBUTTAL OF PROFIT FIGURES

Before I go into the affirmative case for this amendment, let me refer to some of the figures which have been introduced by my good friend, the Senator from Louisiana [Mr. LONG], and which are contained in the well-fashioned charts at the rear of the Chamber and which bear evidence of an expert job.

The Senator from Louisiana pointed out one chart which shows, apparently, that the average profits of the petroleum industry were only 9.1 percent over the 8-year period from 1955 to 1962, whereas they were 10.3 percent for all the manufacturing industries.

This is correct so far as it goes, but what is omitted is that it does not include income which American companies receive from oversea oil operations. It is well known these are much more profitable to the big companies, such as Standard Oil Co. of New Jersey, that have oil wells in Venezuela, or such as the three standard oil companies and Texaco, which have oil wells in the Persian Gulf. It does not include them.

OIL AVERAGE PROFITS HIGHER THAN OTHER INDUSTRIES

If they are included, we find that the average rate of profit for the 8 years on foreign operations is, not 9.1 percent, but 19.5 percent. If the foreign operations are added in with the domestic oil operations, it produces a combined total aver-

age rate of profit of 11.2 percent, or 1 percent higher than the average for all manufacturing industries. This is shown in a table prepared at my request by the Tax Analysis Division of the Treasury Department and which I ask unanimous consent to be inserted in the RECORD at this point in my remarks.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—*Rate of return on investment capital*

[Percent]

	All manufacturing companies [1]	33 petroleum companies [2]		
		Total [3]	Domestic	Foreign operations
1955	12.6	13.5	10.2	30.2
1956	12.3	13.9	10.5	28.8
1957	11.0	13.0	10.1	23.8
1958	8.6	9.5	7.2	17.3
1959	10.4	9.7	8.5	13.8
1960	9.2	10.0	8.8	13.8
1961	8.8	10.0	8.7	13.9
1962	9.8	10.3	8.8	14.6
Average of 8 years	10.3	11.2	9.1	19.5

Office of the Secretary of the Treasury, Office of Tax Analysts, Jan. 29, 1964.

[1] Federal Trade Commission-Securities and Exchange Commission.

[2] Chase Manhattan Bank, "Annual Report on 33 Petroleum Companies."

[3] Rate of return on all operations, regardless of origin by domestic or foreign.

Mr. DOUGLAS. So let us be done with the crocodile tears about the low rate of earnings in the oil industry. I shall refer to that matter again later on in my remarks.

DRY HOLE MYTH

Second, we have had brought up again the old ghost that there are eight unsuccessful or dry holes for every successful drilling. This is a somewhat hoary myth which has been perpetrated year after year.

I call attention to the statement of Gen. E. O. Thompson, who was supposed to have been the great authority in the oil industry. In testimony before the House Ways and Means Committee in 1950, he stated that the overall industry average was two successes for every dry hole.

The Oil and Gas Journal itself, volume 67–16, stated that the 5 largest oil companies in 1958 hit 3,447 successful production wells against 868 dry holes, or a ratio of 4 successes to 1 miss. Even the worst record among the 40 top oil companies was 105 successes to 96 dry holes. The secret of the whole thing is that the wildcatters do the adventurous drilling and, when a field is found and developed, the big companies come in. They take very little risk. The wildcatter does take some risk. That is why I do not propose to reduce the depletion allowance for the wildcatters and for those who have a gross income of less than $1 million a year.

My amendment, therefore, is a small independent oilman amendment as well as a propublic amendment.

This amendment strikes at the greatest abuse among the many abuses in our whole tax system. Many unjust tax privileges are now embodied in the revenue system, costing the Government many billions of dollars a year in revenue. These privileges are sometimes called loopholes. Perhaps they are better termed "truck holes." They produce a disparity in the rates of taxation on equal net incomes. They have been increased over the years so that the tax structure of the country is now seriously eroded.

OIL AND GAS DEPLETION GREATEST ABUSE

Of all these abuses, depletion allowance and other privileges for oil and gas are the worst. Unless Congress cures this and other erosions and injustices, these abuses will continue to spread like a cancer through our tax system and make citizens disgruntled and cynical. They may break down our whole tax system with everyone seeking special privileges.

I have said that the 27½-percent depletion allowance and other privileges for income from oil and gas are the worst of many tax loopholes. Let me review the situation so far as oil and gas are concerned.

Under present law, a host of costs and special allowances in and for the gas industry are deductible from gross income even before the depletion allowance applies. There are others which offset the actual taxes—that is, tax credits owed dollar for dollar.

OPERATING COSTS DEDUCTIBLE

First, of course, there are operating costs. This is a deduction for every industry. Perhaps it is the only deduction which is not a special deduction for the oil industry. I would not change this. It is completely proper.

INTANGIBLE DRILLING COSTS

Second, the gas and oil industry is credited with intangible drilling and developmental costs. These are capital costs which can be written off in 1 year and not spread over a period of years, as is the case in other industries. It has been estimated that between 75 and 90 percent of all costs involved in drilling a successful well can be written off within a year in this manner. We have,

therefore, given to this industry virtually the ultimate in accelerated depreciation and in fast tax writeoffs. This is in addition to and apart from the ordinary depreciation and the depletion allowance. Thus, there is the very great advantage of the fast writeoff which many experts tell us is more advantageous than even the oil depletion allowance itself. What other industries must capitalize and depreciate, the oil industry can and does write off in the first year.

I am not proposing in my amendment to alter this situation. It applies abroad as well as at home. Most of the 75 to 90 percent of the capital costs can be written off in 1 year.

WRITEOFF OF DRY HOLES

Third, the custom of drilling unsuccessful so-called dry holes can be written off against the income from successful drilling. I do not propose to change that.

FOURTEEN-POINT WESTERN HEMISPHERE DEDUCTION

Fourth, there is a 14-point reduction in the tax itself, or a reduction from 52 to 38 percent on taxable income, for incomes derived from operations abroad in the Western Hemisphere, notably in the oil center of Venezuela, but also in Mexico and other countries.

Standard Oil has big drillings and fields in Venezuela.

[*P. 2097*]

ROYALTY PAYMENTS DISGUISED AS TAXES

Royalty payments abroad, particularly in the Near East, are commonly disguised as income tax payments for which the foreign tax credit then is available. The 50–50 plan was started, I believe, in Latin America and then it was applied to the Middle East. Now it has been applied to Persia and throughout the Near East. Indeed, it has gone up in many countries from one-half to two-thirds, and up to 70–30 in some countries. This is really a royalty, but it is called a tax, and therefore it is used to offset to that degree the tax which the American company would otherwise pay on its income from abroad.

I believe it is well known that the Arabian-American Oil Co., which is a subsidiary of three Standard companies, and of Texaco, probably does not pay a single dollar in income tax to the American people, although its profits run into the hundreds of millions of dollars.

DEPLETION IN PERPETUITY

In the case of gas and oil, this amounts to an additional 27½ percent of gross income which is free from taxation up to one-half of net income. This allowance is, moreover, permitted in perpetuity, as long as there is any flow of oil or gas from the well. There are wells in the east Texas fields which I believe started to gush 30 to 50 years ago, and are still continuing.

I remember as a youngster reading about the first great gusher that came in outside of Beaumont, Tex. Some years ago, I was in Beaumont, and I was told that it is still flowing, that ever since 1926 a depletion allowance has been given to it.

Oil can flow, and gas can flow. Men may come and men may go, but the depletion allowance goes on forever.

Mr. GORE. Mr. President, will the Senator from Illinois yield at that point?

TAX HAVENS

Mr. DOUGLAS. I should first like to finish my statement as a whole, and then I shall be glad to yield. In times past, I have yielded during the course of my presentation and have never been able to get back to the thread of my discourse. So if the Senator will allow me to finish my speech, I shall try to finish rapidly, and then I shall be happy to yield to him.

There are also tax havens abroad. If the Gore amendment should be dropped in conference, which may well be its fate, the oil executives abroad would be exempted, as they are now, on the first $35,000 of income. I hope the Gore amendment will be maintained, but I am not too optimistic.

Mr. GORE. The Senator from Illinois will certainly yield long enough for me to say "hurrah," will he not?

Mr. DOUGLAS. Most certainly.

PERCENTAGE DEPLETION ALSO

All these provisions would seem to be extremely generous, but the oil and gas industry is permitted a still further allowance called the percentage depletion allowance, and I should like to speak about that.

There is no limit, moreover, to the depletion allowance as compared with the original cost of the well. They are not limited to the original cost, and in the case of rich wells and long-gushing or long-flowing wells, the deduction of the depletion allowance has gone on interminably without regard to the original cost.

I emphasize again that the depletion allowance is not limited to recapturing the cost of the well in question. It may sound like depreciation, but I assure Senators that depletion is different from depreciation. Depreciation really means providing for the replacing of the original cost of the properties. Under our system, we have double depreciation and then added the depletion allowances as well.

I emphasize that the depletion allowance is in addition to all of the other deductions, continuing through time, without relationship to the taxpayer's investment in the venture and whether or not the investment has been more than recovered from the taxpayers.

There are wells where the depletion allowance has amounted to more than 20 times the original cost. I should like to get the cost figure on that original well in the Beaumont region. Probably the depletion allowance down there has been 100 times the original cost of the drilling.

DEPLETION MORE VALUABLE OVER TIME

From its inception, the percentage depletion allowance has been 27½ percent of gross and half of net income when it was put into effect in 1926. The corporation income tax was then 14 percent, so that this amounted to only about 7 percent of net profits.

As corporation income taxes have risen from 14 percent to the present 52 percent, the value of the allowance both in percentage of profits retained, and dollars, has grown. Not only is this true, but it has also brought in its train a host of similar deductions on virtually everything else extracted from the earth and from the sea.

LOOPHOLE EXTENDED FROM A TO Z

It extends all the way from aluminum to zinc. I should like to read some of them:

Sulfur, uranium, anorthosite (to the extent that alumina and aluminum compounds are extracted therefrom), asbestos, bauxite, beryl, celestite, chromite, corundum, fluorspar, graphite, ilmenite, kyanite, mica, olivine, quartz crystals—radio grade—rutile, block steatite talc, and zircon, and ores of the following metals: antimony, bismuth, cadmium, cobalt, columbium, lead, lithium, manganese, mercury, nickel, platinum and platinum group metals, tantalum, thorium, tin, titanium, tungsten, vanadium, and zinc.

Also rock asphalt and vermiculite; also brucite, coal, lignite, perlite, sodium chloride, and wollastonite.

In 1951, the great Senator from Texas, Tom Connally, had the list extended to include mollusk shells, including clam shells and oyster shells. Other items include peat, pumice, sand, scoria, shale, and stone; also clay used, or sold for use, in the manufacture of building or paving brick, drainage and roofing tile, sewerpipe, flower pots, and kindred products.

I could continue to read from another supplementary list. I shall read only a few of them:

All other minerals, including, but not limited to, aplite, barite, borax, calcium, carbonates, diatomaceous earth, dolomite, feldspar, fullers earth, garnet, gilsonite, granite, limestone, magnesite, magnesium carbonates, marble, phosphate rock, potash, quartzite, slate, soapstone, stone—used or sold for use by the mine owner or operator as dimension stone or ornamental stone—thenardite, tripoli—that is not the place, but a mineral, I assume—trona. And so forth.

Perhaps I should read what the list does not include. It does not include soil, sod, dirt, turf, water, or mosses, or minerals from sea water. I understand that there is a lawsuit now pending in an attempt to include water in the depletion allowance. But the oil and gas depletion allowance has been the father of them all. We started sowing the dragon's teeth with this allowance and they have borne bitter fruit.

A LOOPHOLE UNIVERSALIZED

This process has gone wild. The depletion allowance is almost a perfect example of why it is necessary to close these loopholes in the law. A more or less successful attempt has been made to make the loopholes universal. This is the citadel of privilege. This is the greatest waste of taxpayers' money. This is the "truckhole" which enables certain specially favored groups to obtain enormous privileges from the Treasury and from the taxpayers.

I do not always agree with the policies of the Treasury. However, it has a very honorable and very capable Office of Tax Analysis manned by fine men. When we ask them to produce figures, they produce honest statistics. For years we have been asking them to produce statistics on depletion. We did so last year. Senators will find these statistics in the first volume of the hearings on the bill before the House Ways and Means Committee, beginning on page 302. It will be found that in the year 1960 the total amount of the tax-free depletion allowance to corporations amounted to $3.267 billion. This was merely the allowances to corporations. It does not include the allowances to individuals.

The estimate is that this figure for individuals as well as corporations would raise the total by approximately one-sixth more. This may be an overstatement. It is most conservative to say that the total depletion granted tax exemption is at least $3.5 billion, of which $2.5 billion is on gas and oil. I do not believe those figures can be challenged in any degree.

Furthermore, 72 percent of this depletion allowance goes to companies with total assets of over $100 million. This information will be found on page 304 in table 3 of the report. Only a little over 2 percent went to corporations with

incomes of less than a million dollars. So it is the big boys who are getting the depletion allowance, although they like to hold up the little fellows, the widows, and orphans and use them as fronts and also as the receptacles for the copious tears which they shed.

I ask unanimous consent that this table from page 304 of the House hearings be printed at this point in my remarks.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Amount and distribution of total depletion deductions, by asset size classes, corporate tax returns, 1950, 1958, and 1959 [1]

Total asset classes	1950			1958			1959		
	Depletion claimed	Percent of total	Percent of total cumulative from largest asset class	Depletion claimed	Percent of total	Percent of total cumulative from largest asset class	Depletion claimed	Percent of total	Percent of total cumulative from largest asset class
	Millions			*Millions*			*Millions*		
0	$3.5	0.2	100.0	$11.4	0.3	100.0	$20.1	0.6	100.0
Under $50,000				9.2	.3	99.7	5.3	.1	99.4
$50,000 under $100,000	3.7	.2	99.8	5.9	.2	99.4	4.5	.2	99.3
$100,000 under $250,000	12.1	.6	99.6	22.3	.7	99.2	16.4	.5	99.1
$250,000 under $500,000	21.4	1.0	99.0	32.1	1.0	98.5	28.6	.9	98.6
$500,000 under $1,000,000	41.4	2.0	98.0	42.8	1.4	97.5	28.8	.9	97.7
$1,000,000 under $5,000,000	160.8	7.8	96.0	167.0	5.3	96.1	165.6	5.1	98.8
$5,000,000 under $10,000,000	83.8	4.1	88.2	91.4	2.9	90.8	96.4	2.9	91.7
$10,000,000 under $50,000,000	318.9	15.4	84.1	333.6	10.6	87.9	341.0	10.6	88.8
$50,000,000 under $100,000,000	120.8	5.8	68.7	200.2	6.3	77.3	206.3	6.3	78.1
$100,000,000 and over	1,299.3	62.9	62.9	2,232.5	71.0	71.0	2,326.5	71.9	71.9
Total	2,065.8	100.0		3,148.2	100.0		3,234.0	100.0	

[1] Includes depletion claimed for both minerals and timber since the figures in the original source could not be adjusted to remove depletion for timber, which accounts for approximately 8 percent of total depletion claimed.

Source: "Statistics of Income, Corporation Income Tax Returns," 1950, 1958–59, 1959–60.

Office of the Secretary of the Treasury, Office of Tax Analysis, Feb. 6, 1963.

INDIVIDUAL EXAMPLES

Mr. DOUGLAS. We all know, as men, some of the huge individual fortunes which have been made and upon which either no taxes or very little taxes have been paid.

I am not here to excoriate those gentlemen; I do not make a practice of that. I do not say that they have done anything illegal. I do say that the laws have been so rigged as to benefit them enormously, and that virtually all of those gentlemen—with some honorable exceptions—are opposing any change in the law which would take from them some of the unjust benefits which they are now receiving.

MILLIONS IN INCOME—NO TAXES PAID

On December 12, I had printed in the RECORD six examples of individual oil operators, who, because of special allowances allowed, paid little or no taxes in 1960. One of these individuals had an economic income of $26,400,000 in 1960, and paid no Federal income taxes at all. I do not say the depletion allowance was the sole cause of this. The intangible drilling and developmental costs, and capital gains all played their part.

Mr. ANDERSON. Mr. President, will the Senator yield?

Mr. DOUGLAS. Not at this time. I had to decline to yield to my friend, the Senator from Tennessee [Mr. GORE]. I would like to complete my speech. Then I shall be very glad to yield to the Senator from New Mexico.

Another had an income of $2,300,000, and paid no income taxes at all; another had an income of $1,200,000 and paid no income taxes at all. Another had an income of little over $1 million, but paid only 5.9 percent of his income, or $60,000 in Federal income taxes. Another had an economic income of $2.1 million and paid $167,000, or 7.9 percent in Federal income taxes.

Still another had $1.7 million in income, but paid only $162,000, or 8.4 percent, in Federal income taxes.

I ask unanimous consent that a table showing these facts and the detailed examples be printed at this point in the RECORD, and that specific examples for each of the six be also printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE I.—*Examples of high income oil operators with low effective tax rates (1960)*

Taxpayer	(1) Total economic income	(2) Reported economic income	(3) Adjusted gross income	(4) Net taxable income	(5) Federal income tax	(6) Federal income tax as percentage of total reported economic income (col. 2)
A	$4,542,447	$2,110,060	$405,376	$317,284	$166,768	7.9
B	4,020,349	2,271,723	(723,916)	(725,252)	0	0
C	2,201,278	1,707,839	454,404	240,016	142,808	8.4
D	28,716,932	26,440,776	[1] (556,626)	[2] (846,330)	0	0
E	1,522,478	1,179,248	[1] 330,645	[2] (184,992)	0	0
F	1,307,962	1,029,540	135,633	[2] 131,945	61,240	5.9

[1] After carryover of net loss.
[2] Before personal exemptions.

Example of actual high income oil operator (individual A) with low effective tax rate, 1960

Total reported economic income:	
Salary	$45,000
Dividends	$1,028,163
Interest (taxable)	$5,904
Capital gains (100 percent)	$717,166
Oil and gas production (before special deductions)[1]	$2,336,729
Oil and gas manufacturing, distribution, and royalties	$399,495
Farm income	$9,990
Total income before exploration and development and nonallocated overhead expenses	$4,542,447

Footnotes at end of table.

Example of actual high income oil operator (individual A) with low effective tax rate, 1960—Continued

Less:	
Oil and gas exploration and development expenditures[2]	$2,072,069
Overhead expenses not allocated[3]	$360,318
Total reported economic income—Continued:	
Total exploration and development and nonallocated overhead	$2,432,387
Total reported economic income	$2,110,060

Footnotes at end of table.

Example of actual high income oil operator (individual A) with low effective tax rate, 1960—Continued

Components of taxable income for Federal tax purposes:	
Salary	$45, 000
Dividends less exclusion	$1, 028,063
Interest (taxable)	$5, 904
Capital gains (50 percent)	$358, 583
Oil and gas production:	
Net before special deductions	$2, 336, 729
Less special deductions:	
Excess percentage depletion [4]	$881, 297
Intangible drilling expenses	$464, 704
Taxable income from oil and gas production	$990, 728

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Oil and gas manufacturing, distribution and royalties	$399, 495
Farm income	$9, 990
Total adjusted gross income before exploration and development and nonallocated overhead expenses	$2, 837, 763
Less total exploration and development and nonallocated overhead [3]	$2, 432, 387
Adjusted gross income	$405, 376
Less deductions from adjusted gross income:	
Contributions	
Interest	
Taxes	$2, 157
Medical	$85, 483
Other	$452
Total deductions	$88, 092
Net taxable income	$317, 284
Federal income tax:	
Computed tax before dividends credit	$179, 291
Less dividends received credit	$12, 523
Net Federal taxes	$166, 768
Net tax as percent of total reported economic income (percent)	7. 9

[1] Excess percentage depletion (footnote 4) and intangible drilling expenses.
[2] Including $1,221,925 in dryhole expenses, $520,508 in canceled and surrendered leases.
[3] Interest expenses of $382,766 is included in total overhead expenses of $617,797. Some $257,479 of total overhead was allocated to oil and gas production. The remaining $360,318 was not allocated by income category.
[4] Excess of percentage depletion over adjusted basis depletion.

Example of actual high income oil operator (individual D) with low effective tax rate, 1960

Total reported economic income:	
Salary	$18, 150
Dividends	64, 398
Interest (taxable)	852, 639
Capital gains (100 percent) [1]	26, 203, 307
Oil and gas production (before special deductions) [2]	1, 534, 082
Oil and gas royalties, drilling contracts, partnerships and miscellaneous [3]	320, 724
Farm income (loss)	(276, 368)
Total income before exploration and development and nonallocated overhead expenses	28,716, 932
Less:	
Oil and gas exploration and development expenditures	1, 546, 463
Overhead expenses not allocated [4]	729, 693
Total exploration and development and nonallocated overhead	2, 276, 156
Total reported economic income	26, 440, 776
Components of taxable income for Federal tax purposes:	
Salary	$18, 150
Dividends less exclusion	64, 298
Interest (taxable)	852, 639
Capital gains (50 percent) [1]	5, 436, 224
Oil and gas production:	
Net before special deductions	1, 534, 082
Less special deductions:	
Excess percentage depletion [5]	686, 642
Intangible drilling expenses	1, 609, 530
Taxable income (loss) from oil and gas production	(762, 090)
Oil and gas royalties drilling contracts, partnerships, and miscellaneous	320, 724
Farm income (loss)	(276, 368)
Total adjusted gross income before exploration and development and nonallocated overhead expenses	5, 653, 577
Less total exploration and development and nonallocated expenses	2, 276, 156
Adjusted gross income before carryover of net loss	3, 377, 421
Less net operating loss carryover from 1957 and 1959 [6]	(3,934, 047)

Footnotes at end of table.

Example of actual high income oil operator (individual D) with low effective tax rate, 1960—Continued

Adjusted gross income after carryover of net loss	(556, 626)
Less total itemized deductions	289, 704
Taxable income (loss) before personal exemptions	(846, 330)
Federal income tax	0
Net tax as percent of total reported economic income	0

[1] For tax purposes an installment of $10,872,449 was reported in 1960 from a total capital gain realized of $26,203,307 (under section 453(b)(2)(A)). The gain resulted from the sale of a reserved oil and gas production payment. A second installment of $5,743,200 from this capital gain was reported in the 1961 tax return.

[2] Excess of percentage depletion over cost depletion, and intangible drilling expenses.

[3] Includes net income from royalties, drilling contracts, drilling tools, and other sources, in part offset by net losses from partnerships in oil development and manufacturing operations.

[4] Includes $238,430 in interest, $80,675 in general overhead and $63,965 for employees group insurance.

[5] Excess of percentage depletion over adjusted basis depletion.

[6] $232,050 loss carried over from 1957 and $3,701,997 from 1958, primarily from oil operations.

Example of actual high income oil operator (individual B) with low effective tax rate, 1960

Total reported economic income:	
Salary	----------
Dividends	$1, 441
Total reported economic income—Continued:	
Interest (taxable)	$120
Capital gains (100 percent)	1, 642
Oil and gas production (before special deductions)[1]	4, 061, 682
Oil and gas distribution, royalties, and other income	(44, 536)
Total income before oil and gas exploration and development expenditures	$4, 020, 349
Less oil and gas exploration and development expenditures[2]	$1, 748, 626
Total reported economic income	$2, 271, 723
Components of taxable income for Federal tax purposes:	
Salary	----------
Dividends less exclusion	$1, 341
Interest (taxable)	$120
Capital gains (50 percent)[3]	----------

Footnotes at end of table.

Example of actual high income oil operator (individual B) with low effective tax rate, 1960—Continued

Oil and gas production:	
Net before special deductions	$4, 061, 682
Less special deductions:	
Excess percentage depletion[4]	$1, 529, 667
Intangible drilling expenses	$1, 464, 230
Taxable income from oil and gas production	$1, 067, 785
Oil and gas distribution, royalties and other income (loss)	($44, 536)
Total adjusted gross income before exploration and develop. expend	$1, 024, 710
Less oil and gas exploration and development expenditures	$1, 748, 626
Adjusted gross income	($723, 916)
Less deductions from adjusted gross income:	
Contributions	----------
Interest	----------
Taxes	$1, 366
Medical	----------
Other	----------
Total deductions	$1, 336
Net taxable income	($725, 252)
Federal income tax	0
Taxes as percent of total reported economic income	0

[1] Excess percentage depletion (footnote 4) and intangible drilling expenses.

[2] Includes $875,622 in dryhole expenses and $765,620 in canceled and surrendered leases.

[3] In 1960 capital gains offset by capital losses carried forward from previous years.

[4] Excess of percentage depletion over adjusted basis depletion.

Example of actual high income oil operators (individual C) with low effective tax rate, 1960

Total reported economic income:	
Salary	$100
Dividends	$9, 927
Interest (taxable)	$32, 192
Capital gains (100 percent)	$571, 950
Oil and gas production (before special deductions)[1]	$2, 297, 052
Oil and gas manufacturing, distribution and other income (loss)[2]	$27, 731

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Example of actual high income oil operators (individual C) with low effective tax rate, 1960—Continued

Total reported economic income—Continued	
Farm income (loss)	($637, 674)
Total income before exploration and development and nonallocated overhead expenses	$2, 201, 278

Footnotes at end of table.

Example of actual high income oil operators (individual C) with low effective tax rate, 1960—Continued

Less:	
Oil and gas exploration and development expenditures	$286,527
Overhead expenses nonallocated	$206,912
Total exploration and development and nonallocated overhead	$493,439
Total reported economic income	$1,707,839
Components of taxable income for Federal tax purposes:	
Salary	$100
Dividends less exclusion	$9,877
Interest (taxable)	$32,192
Capital gains (50 percent)	$285,975
Oil and gas production:	
Net before special deductions	$2,197,052
Less special deductions:	
Excess percentage depletion [3]	$861,400
Intangible drilling expenses	$106,010
Taxable income from oil and gas production	$1,229,962
Oil and gas manufacturing, distribution and other income (loss)	$27,731
Farm income (loss)	($637,674)
Total adjusted gross income before exploration and development and nonallocated overhead expenses	$947,843
Less total exploration and development and nonallocated overhead	$493,439
Adjusted gross income	$454,404
Less deductions from adjusted gross income:	
Contributions	$38,940
Interest	$49,435
Taxes	$63,365
Medical	----------
Other	$62,648
Total deductions	$214,388
Net taxable income	$240,016
Federal income tax:	
Computed tax before dividends credit	$143,203
Less dividends received credit	$395
Net Federal taxes	$142,808
Net tax as percent of total reported economic income (percent)	8.4

[1] Excess percentage depletion (footnote 3) and intangible drilling expenses.

[2] Includes losses on various business ventures, offset by net income from others.

[3] Excess of percentage over adjusted basis depletion.

Footnotes at end of table.

Example of actual high income oil operator (individual E) with low effective tax rate, 1960

Total reported economic income:	
Salary	$250
Dividends	$73,176
Interest (taxable)	$320,731
Capital gains (100 percent) [1]	$610,257
Oil and gas production (before special deductions) [2]	$440,918
Oil and gas royalties and miscellaneous income	$83,499
Farm income (loss)	($6,353)
Total income before exploration and development and nonallocated overhead expenses	$1,522,478
Less:	
Oil and gas exploration and development expenditures [3]	$222,671
Overhead expenses not allocated [4]	$120,559
Total exploration and development and nonallocated overhead	$343,280
Total reported economic income	$1,179,248
Components of taxable income for Federal tax purposes:	
Salary	$250
Dividends less exclusion	$73,076
Interest (taxable)	$320,731
Capital gains (50 percent)	$66,164
Oil and gas production:	
Net before special deductions	$440,918
Less special deductions:	
Excess percentage depletion [5]	$217,513
Intangible drilling expenses	$59,339
Taxable income from oil and gas production	$164,066
Oil and gas royalties and miscellaneous income	$83,499
Farm income (loss)	($6,353)
Total adjusted gross income before exploration and development and nonallocated overhead expenses	$701,433
Less total exploration and development and nonallocated overhead expenses	$343,230
Adjusted gross income before net operating loss carryover	$358,203
Less net operating loss carryover from 1958	($27,558)
Adjusted gross income after carryover of net loss	$330,645

Footnotes at end of table.

Example of actual high income oil operator (individual E) with low effective tax rate, 1960—Continued

Less deductions from adjusted gross income:	
Contributions [6]	$511, 419
Interest	$--------
Taxes	$2, 950
Medical	$1, 133
Other	$135
Total deductions	$516, 637
Net taxable income (before exemptions)	($184, 992)
Federal income tax	0
Net tax as percent of total reported economic income (percent)	0

[1] Includes $125,469 from sale of oil and gas leases and $477,929 excess of market value over book value of gift (unimproved land in a major city) to a foundation.

[2] Excess percentage depletion (footnote 5) and intangible drilling expenses.

[3] Includes $145,867 for drilling expenditures on nonproducing leases and $41,202 for leases expired and surrendered.

[4] Includes $82,700 for general and administrative expensse.

[5] Excess of percentage depletion over adjusted basic depletion.

[6] Includes contribution to foundation referred to in footnote 1.

Example of actual high income oil operator (individual F) with low effective tax rate, 1960

Total reported economic income:	
Salary	----------
Dividends	$191, 933
Interest (taxable)	$1, 157
Capital gains (100 percent)	$120, 089
Oil and gas production (before special deductions) [1]	$767, 488
Oil and gas royalties, partnership, trust, and miscellaneous [2]	$227, 295
Total income before exploration and development and nonallocated overhead expenses	$1, 307, 962
Less:	
Oil and gas exploration and development expenditures [3]	[3] $175, 665
Overhead expenses not allocated	$102, 757
Total exploration and development and nonallocated overhead	$278, 422
Total reported economic income	$1, 029, 540

Footnotes at end of table.

Example of actual high income oil operator (individual F) with low effective tax rate, 1960—Continued

Components of taxable income for Federal tax purposes:	
Salary	----------
Dividents less exclusion	$191, 833
Interest (taxable)	$1, 157
Capital gains (50 percent) [4]	$60, 940
Oil and gas production:	
Net before special deductions	$767, 488
Less special deductions:	
Excess percentage depletion [5]	$297, 703
Intangible drilling expenses	$536, 955
Taxable income (loss) from oil and gas production	($67, 170)
Oil and gas royalties, partnership, trust and miscellaneous	$227, 295
Overhead	$278, 422
Total adjusted gross income before exploration and development and nonallocated overhead	$414, 055

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Components of taxable income for Federal tax purposes—Con.	
Less total exploration and development and nonallocated adjusted gross income	$135, 633
Less deductions from adjusted gross income:	
Contributions	$1, 151
Interest	$1, 471
Taxes	$1, 066
Medical	0
Other	0
Total deductions	$3, 688
Net taxable income (before exemption)	$131, 945
Federal income tax:	
Computed tax before dividends received and foreign tax credit	$66, 628
Less dividends received and foreign tax credits	$5,388
Net Federal taxes	$61, 240
Net tax as percent of total reported economic income (percent)	5. 9

[1] Excess percentage depletion (footnote 4) and intangible drilling expenses.

[2] Includes $166,804 from a family partnership and $56,619 from rents and royalties.

[3] Includes $152,368 for leases canceled and expired.

[4] Includes a small amount of short-term capital gains at 100 percent.

[5] Excess of percentage depletion over adjusted basis depletion.

Mr. DOUGLAS. Mr. President, in addition to this, Fortune magazine for April 1963, estimated that the depletion allowance was taken by 30 of the largest oil and gas companies in this country. The first 10 companies received a total of $1,440 million in depletion allowances. If we add the next 5, for a total of 15, we get a grand total of $1,680 million which was written off and freed from taxation.

I ask unanimous consent that a table, reprinted from the Fortune magazine article, showing the estimated depletion allowances for the 30 largest companies, be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Depletion: What's at stake for 30 companies

	Estimated production revenues		Estimated depletion allowance	
	Total (millions)	As proportion of net sales	Total (millions)	Per common share
		Percent		
Standard Oil (New Jersey)	$1,511	18	$399	$1.84
Gulf Oil	862	31	228	2.18
Texaco	817	27	216	1.74
Standard Oil of California	492	24	130	2.05
Shell Oil	430	23	114	1.88
Standard Oil (Indiana)	415	20	110	3.06
Socony Mobil Oil	415	13	110	2.25
Phillips Petroleum	250	20	66	1.92
Cities Service	225	23	59	5.48
Continental Oil	200	25	53	2.47
Sinclair Oil	196	16	52	3.32
Atlantic Refining	185	33	49	5.37
Sun Oil	180	23	47	3.43
Superior Oil	144	99	38	89.89
Marathon Oil	128	36	34	2.37
Tidewater Oil	123	20	33	2.38
Union Oil of California	122	27	32	3.61
Sunray DX Oil	103	22	27	1.51
Amerada Petroleum	100	97	26	4.17
Richfield Oil	97	34	24	2.96
Pure Oil	96	17	25	2.55
Skelly Oil	86	35	23	3.93
Signal Oil & Gas	53	18	14	1.38
Standard Oil (Ohio)	39	9	10	2.09
Kerr-McGee Oil Industries	19	11	5	.80
Ashland Oil & Refining	17	6	4	.66
Murphy	16	15	4	1.08
Delhi-Taylor Oil	11	10	3	.43
American Petrofina	11	14	3	.40
Clark Oil & Refining	(1)			

[1] Negligible.

INDIVIDUAL COMPANIES

Mr. DOUGLAS. Mr. President, in addition, over the years, I have been collecting some facts and figures on taxes paid in general by producing companies, as opposed to those which have large integrated operations. I have collected figures on some 28 companies to show the amount they paid in income taxes and the percentages which those taxes were to income before taxes. Some of those figures go back as far as 1945. It will be seen very clearly that the rates for those companies are very much lower than the 48- to 52-percent corporate tax which has been in effect since that time. These figures are available to the public in Moody's Manual and other sources; but I have preferred to call them company A, company B, company C, and so forth, because I am not interested in pillorying any company, but merely illustrating the point.

I ask unanimous consent to have printed at this point in the RECORD tables showing the 28 companies and the taxes they paid and the percentage of the income taxes paid to income before taxes.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

Income taxes paid by 28 oil and gas companies

COMPANY A

[Data through 1962, if available]

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1962	$34,804,282	$1,294,000	$33,510,282	3.72
1961	28,824,114	250,000	28,574,114	.87
1960	27,768,929	200,000	27,568,929	.72
1959	24,122,835	100,000	24,022,835	.41
1958	23,270,135	785,000	22,485,135	3.37
1957	35,208,979	5,260,000	29,948,979	14.94
1956	29,523,395	3,024,000	26,499,395	10.24
1955	28,143,673	2,780,000	25,363,673	9.88
1954	21,029,684	1,252,000	19,777,648	5.95
1953	18,812,590	367,000	18,445,590	1.95
1952	16,550,361	654,000	15,896,361	3.95
1951	17,369,652	1,073,000	16,296,652	6.17
1950	18,467,607	3,068,000	15,399,607	16.61
1949	14,759,193	375,000	14,384,193	2.54
1948	27,367,252	4,725,000	22,642,252	17.27
1947	17,749,626	2,830,000	14,919,626	15.94
1946	10,130,975	1,275,000	8,855,975	12.59
1945	5,611,770	215,000	5,396,770	3.83

NOTE.—"Income taxes" also include State and/or foreign taxes.

COMPANY B

[Liquidated Apr. 1, 1961]

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1960	(1)	(1)	(1)	(1)
1959	$7,799,592	$915,000	$6,884,592	11.73
1958	4,371,094	525,000	3,846,094	12.01
1957	5,392,505	150,000	5,242,505	2.78
1956	6,975,283	1,095,000	5,880,382	15.70
1955	5,975,382	485,000	4,965,220	9.90
1954	3,291,733	38,172	3,253,561	1.16
1953	5,594,074	1,552,500	4,441,574	27.75
1952	4,436,030	669,500	3,766,530	15.09
1951	5,561,770	714,880	4,846,890	12.85
1950	5,709,537	1,023,900	4,685,637	17.93
1949	3,259,928	163,040	3,096,888	5.00
1948	6,295,858	898,900	5,396,958	14.28
1947	4,011,073	1,023,126	2,987,947	25.51
1946	2,089,932	417,000	1,672,932	19.95
1945	2,321,605	205,908	2,115,697	8.87

[1] Not available.

NOTE.—"Income taxes" may also include State and/or foreign taxes.

Income taxes paid by 28 oil and gas companies—Continued

COMPANY C

[Acquired by company B-Z, Dec. 22, 1961]

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1960	$5,548,693	$658,022	$4,890,671	11.86
1959	4,378,649	1,061	4,377,588	.02
1958	5,402,894	481,413	4,921,481	8.91
1957	5,561,652	640,635	4,921,017	11.52
1956	4,770,495	261,837	4,508,658	5.49
1955	4,826,687	417,388	4,409,299	8.65
1954	4,625,759	336,889	4,288,870	7.28
1953	4,391,404	179,114	4,212,290	4.08
1952	3,588,107	91,660	3,496,447	2.55
1951	3,934,107	399,397	3,534,710	10.15
1950	3,696,584	847,072	2,849,412	22.91
1949	3,373,448	679,553	2,693,895	20.14
1948	4,542,842	982,540	3,560,302	21.63
1947	2,284,109	529,781	1,754,328	23.19
1946	161,816	212	161,604	.13
1945	33,895	256	33,639	.76

NOTE.—"Income taxes" may also include State and/or foreign taxes.

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COMPANY D

[Sold and liquidated]

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1960	($623,758)	0	($623,758)	--------
1959	(35,226)	[1] ($20,347)	(14,879)	--------
1958	156,130	0	156,130	0
1957	271,515	5,000	266,515	1.84
1956	472,556	35,000	437,556	7.41
1955	549,093	15,000	534,093	2.73
1954	309,405	------------	309,405	--------
1953	303,453	11,332	292,121	3.73
1952	159,084	25,686	133,398	16.15
1951	415,948	8,234	407,714	1.98
1950	277,514	1,500	276,014	.54
1949	177,187	1,000	176,187	.56
1948	526,061	35,000	491,061	6.65
1947	399,643	52,000	347,643	13.01
1946	139,923	1,000	138,923	.71
1945	140,101	1,500	138,601	1.07

[1] Credit.

NOTE.—"Income taxes" may also include State and/or foreign taxes.

Income taxes paid by 28 oil and gas companies—Continued

COMPANY E

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1962	$12,040,753	$2,350,000	$9,690,753	19.52
1961	11,794,460	2,500,000	9,294,460	21.20
1960	11,156,510	2,000,000	9,156,510	17.93
1959	9,497,890	950,000	8,547,890	10.00
1958	8,108,706	800,000	7,308,706	9.87
1957	11,303,747	1,600,000	9,703,747	14.15
1956	11,379,241	1,900,000	9,479,241	16.69
1955	8,509,136	1,500,000	7,009,136	17.63
1954	5,320,750	------------	5,320,750	--------
1953	6,420,968	1,048,000	5,372,968	16.32
1952	5,601,723	1,400,000	4,201,723	24.50
1951	5,866,052	2,000,000	3,866,052	34.09
1950	4,951,476	1,500,000	3,451,476	30.29
1949	4,928,459	1,020,000	3,908,459	20.70
1948	5,766,543	960,000	4,806,543	16.65
1947	3,650,374	600,000	3,050,374	16.44
1946	3,248,813	200,000	3,048,813	6.16

NOTE.—"Income taxes" include Federal taxes only.

COMPANY F

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1962	$69,483,631	$407,000	$69,076,631	0.59
1961	67,544,853	3,018,000	64,526,853	4.47
1960	70,832,501	9,600,000	61,232,501	13.55
1959	78,177,550	17,905,500	60,272,050	22.90
1958	54,865,371	7,400,000	47,465,371	13.49
1957	51,273,749	4,550,000	46,723,749	8.87
1956	67,517,000	15,700,000	51,817,000	23.25
1955	56,259,000	9,900,000	46,359,000	17.60
1954	50,383,000	8,700,000	41,683,000	17.27
1953	55,775,000	14,900,000	40,875,000	26.71
1952	52,488,000	14,400,000	38,088,000	27.43
1951	58,593,000	17,300,000	41,293,000	29.53
1950	57,407,000	15,000,000	42,407,000	26.13
1949	46,487,000	10,390,000	36,097,000	22.35
1948	74,080,000	19,863,000	54,217,000	26.81
1947	40,655,000	9,298,000	31,357,000	22.87
1946	22,599,000	3,585,000	19,014,000	15.86
1945	16,371,700	1,228,000	15,143,000	7.50

NOTE.—"Income taxes" include Federal taxes only.

Income taxes paid by 28 oil and gas companies—Continued

COMPANY G

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1962	$1,134,525	$313,524	$821,001	27.63
1961	1,408,071	624,112	783,959	44.32
1960	859,517	85,000	774,517	9.89
1959	865,330	105,000	760,330	12.13
1958	804,716	50,000	754,716	6.21
1957	1,167,546	115,000	1,052,546	9.85
1956	560,753	------------	560,753	--------
1955	832,765	------------	832,765	--------
1954	785,624	------------	785,624	--------
1953	730,699	------------	730,699	--------
1952	968,287	69,022	899,265	7.13
1951	935,134	137,220	797,914	14.67
1950	892,552	147,275	745,277	16.50
1949	969,991	204,860	765,131	12.12
1948	872,719	150,367	722,352	17.23
1947	654,922	160,452	494,470	24.45
1946	471,923	135,664	336,259	28.75
1945	461,448	180,808	280,640	39.18

NOTE.—"Income taxes" may also include State and/or foreign taxes.

COMPANY H

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1962	$1,902,482	0	$1,902,482	0
1961	1,784,566	[1] ($120,000)	1,904,566	--------
1960	2,021,545	55,000	1,966,545	2.72
1959	2,022,351	30,000	1,992,351	1.48
1958	1,760,794	0	1,760,794	0
1957	2,176,226	160,000	2,016,226	7.35
1956	2,647,058	93,000	2,554,058	3.51
1955	1,994,072	86,000	1,908,072	4.31
1954	2,276,415	238,329	2,038,086	10.47
1953	1,899,343	156,039	1,743,304	8.22
1952	1,998,758	370,291	1,628,467	18.53
1951	1,992,234	411,166	1,581,068	20.64
1950	1,270,271	72,843	1,197,428	5.73

[1] Credit.

NOTE.—"Income taxes" include Federal taxes only.

Income taxes paid by 28 oil and gas companies—Continued

COMPANY I

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1962	$6,633,096	$107,906	$6,525,190	1.63
1961	4,166,438	64,355	4,102,083	1.54
1960	2,260,728	65,000	2,195,728	2.88
1959	6,696,047	40,000	6,656,047	.60
1958 [1]	7,076,455	[2] (23,352)	7,099,807	--------
1957	9,079,022	[2] (5,860)	9,084,882	--------
1956	8,886,172	151,000	8,735,172	1.69
1955	8,106,746	429,075	7,677,671	5.29
1954	6,769,145	196,335	6,572,810	2.90
1953	5,414,053	26,156	5,387,897	.48
1952	5,067,243	410,539	4,656,704	8.10
1951	4,477,673	404	4,477,269	.01
1950	3,456,001	202,087	3,253,914	5.85
1949	2,949,585	72,628	2,876,957	2.46
1948	2,774,079	201,176	2,572,903	7.25
1947	3,172,001	504,487	2,667,514	15.90
1946	755,220	258,488	496,732	34.23
1945	102,860	65,966	368,946	64.13

[1] 12 months ended June 30.
[2] Credit.

NOTE.—In total analysis 1956 equals 1957 on this company, etc. "Income taxes" may also include State and/or Federal taxes.

COMPANY J

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1962	$2,556,000	0	$2,556,000	0
1961	3,176,000	$25,000	3,151,000	.79
1960	1,816,000	[1] (400,000)	2,216,000	--------
1959	3,517,000	150,000	3,367,000	4.26
1958	2,950,700	90,000	2,860,700	3.05
1957	3,154,900	20,000	3,134,900	.63
1956	3,168,549	75,000	3,093,549	2.37
1955	3,656,274	150,000	3,506,274	4.10
1954	3,570,162	360,000	3,210,162	10.08
1953	3,363,964	500,000	2,863,964	14.86
1952	2,561,162	267,461	2,293,701	10.44
1951	3,971,370	965,230	3,006,140	24.30
1950	2,302,729	519,263	1,783,466	22.55
1949	1,551,586	104,000	1,447,586	6.70
1948	1,344,021	150,000	1,194,021	11.16
1947	1,230,364	50,000	730,364	4.06
1946	409,171	------------	409,171	--------
1945	328,260	------------	328,260	--------

[1] Credit.

NOTE.—"Income taxes" may also include State and/or Federal taxes.

Income taxes paid by 28 oil and gas companies—Continued

COMPANY K

[Assets sold in October 1961]

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1960	$12,062,758	$1,700,000	$10,362,758	14.09
1959	14,594,387	1,700,000	12,894,387	11.65
1958	14,145,331	2,300,000	11,845,331	16.26
1957	17,938,378	3,400,000	14,538,387	18.95
1956	16,316,268	2,500,000	13,816,268	15.32
1955	15,599,264	1,900,000	13,699,264	12.18
1954	11,541,464	1,278,154	10,263,310	10.01
1953	11,762,519	1,590,080	10,172,439	13.52
1952	9,218,224	1,875,000	7,343,224	20.34
1951	10,327,002	2,400,000	7,927,002	23.24
1950	8,723,484	2,000,000	6,723,484	22.93
1949	8,716,231	1,800,000	6,916,231	20.65
1948	17,245,547	4,000,000	13,245,547	23.19
1947	9,301,386	2,300,000	7,001,386	24.73
1946	5,321,560	1,010,000	4,311,560	18.98
1945	4,235,097	257,000	3,978,097	6.07

Note.—"Income taxes" include Federal taxes only.

COMPANY L

[Liquidated Apr. 11, 1957]

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1954	$7,762,785	$1,275,000	$6,487,785	16.42
1953	8,494,844	1,785,000	6,709,844	21.01
1952	7,844,057	1,500,000	6,344,057	19.12
1951	8,553,640	1,500,000	7,053,640	17.54
1950	8,086,702	1,983,000	6,103,702	24.52
1949	7,805,345	1,900,000	5,905,345	24.34
1948	7,512,733	1,726,006	5,786,727	22.97
1947	7,667,536	1,575,000	6,092,536	20.54
1946	5,146,094	1,100,000	4,046,094	21.38
1945	3,209,359	832,500	2,377,859	25.91
1944	3,519,208	1,068,760	2,450,448	30.37

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Income taxes paid by 28 oil and gas companies—Continued

COMPANY M

[Merged on Dec. 1, 1959; the following data are for parent company and include company M]

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1962	$848,903,000	$8,000,000	$840,903,000	0.94
1961	814,083,000	56,000,000	758,083,000	6.88
1960	735,573,000	47,000,000	688,573,000	6.39
1959	708,778,000	79,000,000	629,778,000	11.15
1958	573,475,000	11,000,000	562,475,000	1.92
1957	857,178,000	52,000,000	805,178,000	6.07
1956	925,534,919	117,000,000	808,534,919	12.64
1955	824,309,992	115,000,000	709,309,992	13.95
1954	680,793,158	96,000,000	584,793,158	14.10
1953	714,825,969	162,000,000	552,825,969	22.66
1952	653,981,109	134,000,000	519,981,109	20.49
1951	695,460,779	167,000,000	528,460,779	24.01
1950	501,223,223	93,000,000	408,223,223	18.55
1949	316,869,501	48,000,000	268,869,501	15.15
1948	452,604,976	87,000,000	365,604,976	19.22
1947	327,626,580	59,000,000	268,626,580	18.01
1946	201,609,931	24,000,000	177,609,931	11.90
1945	179,156,196	25,000,000	154,156,196	13.95

NOTE.—"Income taxes" include Federal taxes only.

COMPANY M

[Before merger]

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1958	$512,543,223	$16,000,000	$136,543,223	10.49
1957	192,910,393	17,000,000	175,910,393	8.81
1956	212,961,000	34,000,000	178,961,000	15.97
1955	215,997,000	41,000,000	174,997,000	18.98
1954	174,803,000	28,500,000	146,303,000	16.30
1953	207,757,854	43,500,000	164,257,854	20.94
1952	175,792,000	30,500,000	145,292,000	14.68
1951	220,981,000	51,500,000	169,481,000	23.30
1950	161,360,000	32,000,000	129,360,000	19.83
1949	138,480,000	18,000,000	120,480,000	13.00
1948	240,069,000	54,000,000	186,069,000	22.49
1947	153,207,000	29,100,000	124,107,000	18.99
1946	79,332,000	7,500,000	71,832,000	9.45
1945	80,395,000	9,500,000	70,895,000	11.82

Income taxes paid by 28 oil and gas companies—Continued

COMPANY N

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1962	$19,507,764	$2,473,500	$17,034,264	12.68
1961	21,464,125	4,461,000	17,003,125	20.78
1960	10,600,457	3,313,000	7,287,457	31.25
1959	6,548,745	675,415	5,873,330	10.31
1958	5,378,973	0	5,378,973	0
1957	7,972,558	1,727,910	6,244,648	21.67
1956	5,378,994	699,000	4,679,994	13.00
1955	2,502,867	18,000	2,484,867	.72
1954	1,603,682	23,923	1,579,759	1.49
1953	3,077,447	4,724	3,072,723	.15
1952	2,334,532	99,844	2,234,688	4.28
1951	1,209,045	31,250	1,177,795	2.58
1950	282,202	49,750	232,452	17.63
1949	1,225,576	6,949	1,218,627	.57
1948	1,395,517	29,053	1,366,464	2.08
1947	359,903	15,000	344,903	4.17
1946	[1] 106,098	200	[2] 106,298	--------
1945	1,537,551	406,500	1,131,051	26.44

[1] 12 months ended June 30.
[2] Deficit.

NOTE.—In total analysis, 1956=1957 on this company, etc. "Income taxes" also include State and foreign taxes.

COMPANY O

[Merged July 31, 1959]

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1958	(1)	(1)	(1)	--------
1957	$1,573,165	------------	$1,573,165	--------
1956	1,034,094	(2)	1,034,094	--------
1955	1,006,718	(2)	1,006,718	--------
1954	1,690,567	$42,130	1,648,437	2.49
1953	1,873,226	50,000	1,823,226	2.67
1952	1,502,077	40,000	1,462,077	2.66
1951	2,714,277	30,000	2,684,227	1.11
1950	2,692,947	40,000	2,652,947	1.49
1949	3,382,140	42,323	3,382,140	1.25
1948	4,236,057	348,900	3,887,157	8.24
1947	1,517,480	48,919	1,468,561	3.22
1946 [2]	689,609	10,241	679,368	1.52
1945 [2]	664,526	4,103	660,423	.62
1954 [3]	2,205,837	42,130	2,163,707	1.91
1953 [3]	2,600,271	50,000	2,550,271	1.92
1952 [3]	2,202,835	40,000	2,162,835	1.81
1951 [3]	2,623,191	30,000	2,593,191	1.14
1950 [3]	3,744,852	40,000	3,704,852	1.01
1949 [3]	4,158,672	42,322	4,116,350	1.00
1948 [3]	4,353,435	348,900	4,004,535	8.01

[1] Not available.
[2] Not reported.
[3] Figures for 1954–48 restated as result of revision of estimates of recoverable oil and gas reserves.

NOTE.—Company O felt not liable for Federal income tax in this period.

Income taxes paid by 28 oil and gas companies—Continued

COMPANY P

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1962	$6,137,672	$470,000	$5,667,672	7.66
1961	6,209,027	470,000	5,739,027	7.57
1960	6,449,358	610,000	5,839,358	9.46
1959	6,407,498	590,000	5,817,498	9.21
1958	6,235,363	470,000	5,765,363	7.54
1957	6,611,110	660,000	5,951,110	9.98
1956	6,277,997	478,000	5,799,997	7.61
1955	6,211,916	470,000	5,741,916	7.56
1954	6,209,385	470,000	5,739,385	7.57
1953	6,761,834	515,000	6,246,834	7.62
1952	7,023,582	540,000	6,483,582	7.69
1951	7,008,444	535,000	6,473,444	7.63
1950	6,616,103	415,000	6,201,103	6.27
1949	4,940,029	270,000	4,670,029	5.47
1948	5,679,055	333,000	5,346,055	5.86
1947	2,827,824	159,000	2,668,824	5.62
1946	2,532,718	151,000	2,381,718	5.96
1945	2,522,301	157,075	2,365,226	6.23

NOTE.—"Income taxes" include Federal taxes only.

COMPANY Q

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1962	$24,216,327	$7,380,000	$16,836,327	30.48
1961	19,967,835	6,037,000	13,939,835	30.22
1960	15,026,655	4,205,000	10,821,655	27.98
1959	14,236,083	3,575,000	10,661,083	25.11
1958	16,144,274	3,271,000	12,873,274	20.26
1957	19,137,735	4,500,000	14,637,735	23.51
1956	10,590,947	2,703,000	7,887,947	25.52
1955	13,034,071	1,852,000	11,182,071	14.21
1954	14,484,813	1,967,000	12,517,813	13.58
1953	12,815,586	1,143,000	11,672,586	8.92
1952	9,570,934	602,000	8,968,934	6.29
1951	8,190,680	385,000	7,805,680	4.70
1950	6,263,638	400,000	5,863,638	6.39
1949	5,183,830	210,000	4,973,830	4.05
1948	7,713,057	407,623	7,305,434	5.28
1947	3,896,936	85,000	3,811,936	2.02
1946	1,614,888	65,000	1,549,888	4.02
1945	997,075	40,000	957,075	4.01

NOTE.—"Income taxes" also include State and/or foreign taxes.

Income taxes paid by 28 oil and gas companies—Continued

COMPANY R

[In process of liquidation]

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1960	($2,845,711)	[1] ($400,000)	($2,445,711)	--------
1959	1,644,843	[1] (540,900)	2,185,743	--------
1958	3,620,312	[1] (968,000)	4,588,312	--------
1957	6,908,969	882,000	6,026,969	12.77
1956	10,595,588	2,640,000	7,955,588	24.92
1955	8,052,718	1,164,559	6,888,159	14.46
1954	8,395,516	1,636,500	6,759,061	19.49
1953	11,536,428	3,477,350	8,059,078	30.14
1952	13,532,095	3,884,000	9,648,095	28.70
1951	14,940,795	4,645,000	10,295,795	30.11
1950	10,850,226	2,351,801	8,498,425	21.68
1949	6,470,610	299,023	6,171,587	4.62
1948	8,229,656	1,635,000	6,594,656	19.87
1947	4,773,864	576,444	4,197,420	12.07
1946	2,475,239	370,000	2,105,239	14.95
1945	1,983,259	252,500	1,730,759	10.27

[1] Credit.

NOTE.—"Income taxes" include Federal taxes only.

COMPANY S

[Assets sold to major company and 4 other companies in December 1961. In liquidation]

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1960	$6,379,492	$675,000	$5,704,492	10.58
1959	4,318,985	250,000	4,068,985	5.79
1958 [1]	3,337,324	[2] 236,642	3,100,682	7.09
1957 [1]	4,712,841	330,000	4,382,841	7.00
1957	4,712,841	330,000	4,382,841	7.02
1956	4,060,798	260,000	3,800,798	6.40
1955	4,284,521	220,000	4,064,521	5.13
1954	5,241,179	43,000	5,198,179	.82
1953	5,525,948	583,000	4,942,948	10.55
1952	5,618,762	1,425,000	4,193,762	25.36
1951	5,280,578	964,000	4,316,578	18.26
1950	2,944,322	191,000	2,753,322	6.49
1949	4,736,153	342,000	4,394,153	7.22
1948	4,213,001	266,000	3,947,001	6.31
1947	3,200,034	160,000	3,040,034	4.99
1946	1,809,404	30,000	1,779,404	1.66

[1] 12 months ended June 30.
[2] Includes credit of $171,642 prior years' tax adjustment.

NOTE.—In total analysis 1956=1957 for his company, etc. "Income taxes" may also include State and/or foreign taxes.

Income taxes paid by 28 oil and gas companies—Continued

COMPANY T

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1962	($571,641)	0	($571,641)	--------
1961	(89,095)	0	(89,095)	--------
1960	425,933	0	425,933	0
1959	515,400	[1] ($86,814)	602,214	--------
1958	1,011,165	[1] (235,320)	1,246,485	--------
1957	701,822	0	701,822	0
1956	949,659	138,000	811,659	14.53
1955	1,385,335	185,000	1,200,335	13.35
1954	542,208	2,500	539,708	4.61
1953	408,107	------------	408,107	--------
1952	431,569	------------	431,569	--------
1951	273,473	------------	273,473	--------
1950	183,116	5,000	178,116	2.73
1949	[1] 6,000	------------	[1] 6,000	--------

[1] Credit.

NOTE.—"Income taxes" include Federal taxes only.

[*P. 2104*]

COMPANY U

[Acquired by major company in June 1958]

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1958	(1)	(1)	(1)	--------
1957	$11,719,324	$560,482	$11,158,842	4.78
1956	9,568,842	200,000	9,368,842	2.09
1955 [2]	9,340,810	900,000	8,440,810	9.64
1954	7,805,307	335,000	7,470,307	4.29
1953	7,140,132	600,000	6,540,132	8.40
1952	7,715,591	1,000,000	6,715,591	12.96
1951	10,239,600	2,900,000	7,396,000	28.32
1950	7,659,000	1,200,000	6,459,000	15.67
1949	6,656,347	875,000	5,781,347	13.15
1948	9,030,713	2,250,000	6,780,713	24.91
1947	7,191,002	1,250,000	5,941,002	17.38
1946	3,400,586	400,000	3,000,586	11.76

[1] Not available.

[2] Restated to conform with accounting practice effective Jan. 1, 1956—method of charging intangible development costs was changed. 1956 net income would have been $1,470,000 less without such change.

Income taxes paid by 28 oil and gas companies—Continued

COMPANY V

[In liquidation]

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1954	$4,173,767	------------	$4,173,767	--------
1953	3,951,367	$350,000	3,601,367	8.86
1952	4,414,623	660,000	3,754,623	14.95
1951	3,112,871	------------	3,112,871	--------
1950	1,904,836	526,000	1,378,836	27.61
1949	[1] 592,448	7,500	584,948	1.26
1948	461,640	2,400	459,240	.52
1947	416,506	4,100	512,406	.98
1946	328,052	11,282	316,770	3.44
1946 [2]	176,841	5,250	171,591	2.97
1945 [2]	298,539	6,127	287,412	2.0

[1] Before $653,408 loss on wells abandoned.

[2] 12 months ended Apr. 30. In 1946, the company changed to a calendar year basis, so 1946 taxes are shown both ways.

COMPANY W

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1962	$23,311,467	$2,496,407	$20,815,060	10.71
1961	26,423,774	5,298,305	21,125,469	20.05
1960	21,478,712	[1] (123,194)	21,601,906	--------
1959	20,164,080	808,150	19,355,930	4.01
1958 [2]	16,726,337	[3] 175,000	16,551,337	1.05
1957 [2]	18,877,389	0	18,877,389	0
1957	18,877,389	------------	18,877,389	--------
1956	5,040,752	------------	[4] 5,040,752	--------
1956 [5]	(6)	------------	(6)	--------
1955	3,395,446	------------	3,395,446	--------
1954	10,260,388	[1] 100,000	10,360,388	(7)
1953	11,500,382	[1] 500,000	12,000,382	(7)
1952	12,100,165	200,000	11,900,165	1.65
1951	15,195,639	1,900,000	13,295,639	12.03
1950	7,128,542	200,000	6,928,542	2.81
1949	7,483,443	200,000	7,283,443	2.67
1948	17,917,474	3,000,000	14,917,474	16.74
1947	5,266,897	400,000	4,866,897	7.59
1946	1,844,156	------------	1,844,156	--------
1945	5,422,254	450,000	4,972,254	8.29

[1] Credit.

[2] 12 months ended Aug. 31.

[3] Foreign income taxes.

[4] Same for both consolidated and company only.

[5] Consolidated.

[6] Same.

[7] Credit taxes.

NOTE.—In total analysis, 1956=1957 on this company, etc. "Income taxes" also include State and/or foreign taxes.

Income taxes paid by 28 oil and gas companies—Continued

COMPANY X

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1962	$7,152,966	$844,864	$6,308,102	11.81
1961	7,696,827	1,626,142	6,070,685	21.13
1960	5,972,614	1,272,698	4,699,916	21.31
1959	5,194,877	1,006,024	4,188,853	19.37
1958	4,642,978	670,023	3,972,955	14.43
1957	7,670,654	840,709	6,829,945	10.96
1956	6,057,708	400,000	5,657,708	6.60
1955	6,720,029	400,000	6,320,029	5.95
1954	5,245,527		5,245,527	
1953	4,470,659	240,000	4,230,659	5.37
1952	3,635,498	450,000	3,185,498	12.38
1951	3,702,765	550,000	3,152,765	14.85
1950	3,770,706	696,200	3,047,506	18.46
1949	4,022,266	640,907	3,381,359	15.93
1948	4,731,952	901,906	3,830,046	19.06
1947	2,940,750	597,621	2,343,129	20.32
1946	1,394,512	163,973	1,230,539	11.75
1945	666,557		666,557	

NOTE.—"Income taxes" may also include State and/or foreign taxes.

COMPANY Y

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1962	$7,805,736	[1] ($105,074)	$7,910,810	
1961	7,272,890	[1] (534,557)	7,807,447	
1960	7,664,892	[1] (113,002)	7,777,894	
1959	7,196,561	0	7,196,561	0
1958	6,231,481	0	6,231,481	0
1957	7,802,218	570,000	7,232,218	7.31
1956	7,859,694	650,000	7,209,694	8.27
1955	8,449,374	500,000	7,949,374	5.92
1954	8,256,034	400,000	7,856,034	4.85
1953	8,874,068	1,275,000	7,599,068	14.37
1952	8,101,335	1,255,000	6,846,335	15.49
1951	8,009,124	1,185,000	6,824,124	14.79
1950	7,047,367	1,050,000	5,997,367	14.89
1949	7,048,753	710,000	6,338,753	10.07
1948	9,186,038	1,725,000	7,461,038	18.78
1947	4,883,907	760,000	4,123,907	15.56
1946	2,428,249	315,000	2,113,249	12.97
1945	1,934,850	175,000	1,759,850	9.04

[1] Credit.

NOTE.—"Income taxes" include Federal taxes only.

Income taxes paid by 28 oil and gas companies—Continued

COMPANY Z

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1962	$3,040,880	0	$3,040,880	0
1961	2,841,243	0	2,841,243	0
1960	1,040,237	0	1,040,237	0
1959	2,379,129	0	2,379,129	0
1958	2,065,816	0	2,065,816	0
1957	2,215,290	0	[1] 2,215,290	0
1965 [2]	746,447		746,447	
1956 [3]	1,602,988		1,602,988	
1955	1,262,177		1,262,177	
1954	1,720,086		1,720,086	
1953	1,508,988		1,058,988	
1952	1,547,048		1,547,048	
1951	703,747		703,747	
1950	151,488		151,488	
1949	154,707		154,707	
1948	134,881		134,881	

[1] Adjusted.
[2] 7 months ending Dec. 31.
[3] In totals analysis, May 31 ending years used.

NOTE.—Years end May 31 prior to 1957. "Income taxes" include Federal taxes only.

COMPANY A–Z

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1962	$1,222,633	0	$1,222,633	0
1961	880,515	0	880,515	0
1960	839,556	0	839,556	0
1959	982,552	0	982,552	0
1958	909,982	0	909,982	0
1957	891,025	0	891,025	0
1956	783,082		783,082	
1955	981,994		981,994	
1954	647,516		647,516	
1953	1,008,416	$80,000	928,416	7.93
1952	768,664		768,664	
1951	1,143,004	283,000	860,004	24.76
1950	969,156	264,774	704,382	27.32
1949	394,227		394,227	
1948	874,306	173,000	701,306	19.79
1947	655,289	73,000	582,289	11.14
1946	227,789		227,789	
1945	322,232		332,232	

NOTE.—"Income taxes" include Federal taxes only.

COMPANY B-Z

Year	Net income (loss) before income taxes	Income taxes (credit)	Net income (loss) after income taxes	Percent of income taxes to income before taxes
1962	$46,266,000	0	$46,266,000	0
1961	46,094,000	0	46,094,000	0
1960	45,816,000	[1] ($750,000)	46,566,000	
1959	27,526,000	[1] (2,648,000)	30,174,000	
1958	29,750,374	[1] (4,074,902)	33,825,276	
1957	33,842,149	[1] (1,827,610)	35,669,759	
1956	52,638,000	5,481,000	47,157,000	10.41

[1] Credit.

NOTE.—"Income taxes" include Federal taxes only.

Mr. DOUGLAS. Mr. President, I have called attention very often to company W, which over one period of 6 years had net profits of $65 million, paid no tax during that time, and received a refund of $425,000.

Mr. MONRONEY. Mr. President, will the Senator from Illinois yield for a suggestion?

Mr. DOUGLAS. I yield for that purpose.

Mr. MONRONEY. Will the Senator be good enough to identify for the RECORD the companies having overseas production in addition to the domestic producing companies?

Mr. DOUGLAS. I believe that most of the nonintegrated companies do not have oversea production. The Standard Oil group, Texaco, Getty, and the rest do.

Mr. MONRONEY. Some of them do.

Mr. DOUGLAS. I will try to follow the Senator's suggestion. In the main, although not entirely, these 28 companies are the smaller companies.

Mr. MONRONEY. There is a vast difference between the application of the depletion allowance for companies operating at home and companies operating abroad.

Mr. DOUGLAS. That is correct. Would the Senator like to have me state the names of the companies, or should I shield them?

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Mr. MONRONEY. I am not asking for any shielding. The Senator can use his own judgment.

Mr. DOUGLAS. If we study the table, we find that many companies pay less than 10 percent of their net profits in taxes and a large number that pay less than 20 percent. As I have said, some companies pay nothing at all, or only 1, 2, or less than 5 percent. These on the whole are nonintegrated companies.

OTHER EXAMPLES

If we take some of the big companies—and I am speaking of taxes paid—Texaco in 1961, according to my figures, drawn from Moody's Manual for Industrial Companies, paid only 13.2 percent of its profit in taxes. Sinclair paid 18.2. Socony-Mobil paid 31.1. Standard Oil of New Jersey, the parent Rockefeller Co., paid 11.7 percent.

TAXES OF OIL COMPANIES PAY ABOUT HALF WHAT OTHERS PAY

The average for all corporations was 49 percent of net profits. The average for all oil corporations, however, was only about 23 percent, or less than half the amount paid by all other corporations. Some of those oil companies paid very much less than 23 percent. The biggest ones paid very much less.

Consider Standard Oil of New Jersey. Less than 12 percent of its net profits went to taxes. About three-fourths of its profit came from overseas. I call attention to the fact that my amendment refers to oversea oil as well as domestic oil. It is not confined to domestic oil, but applies to oversea oil, as well. My amendment would, therefore, give a comparative advantage to the small domestic producer as compared with the large oversea producer.

In addition, the table which was placed in the hearings of the House by the Secretary of the Treasury indicated who got the depletion allowances by asset classes. I have already mentioned that, but let me review it again.

BIG FIRMS GET MOST OF THE DEPLETION

The table showed that 71.9 percent—or 72 percent—of all depletion allowances went to firms having assets of $100 million or more. Firms having less than $1 million in assets got only 2 percent of all allowances. Firms having under $5 million in assets got only 5.3 percent. In other words, 91.7 percent, or approximately 92 percent, of depletion allowances went to firms having assets in excess of $5 million. From that, it can be seen that very little of the depletion allowance goes to the small wildcatters, to the independent producers, to farmers, to royalty holders, in whose names the depletion allowance is often supported. This is another case in which a vast loophole, going almost entirely to the extremely high income groups, is justified in the names of widows, orphans, and small wildcatters.

One of the major points of my amendment is that it does not reduce the depletion allowance in any way for those who really receive relatively small incomes from oil and gas, but only the vast incomes of oil companies.

OVERINVESTMENT IN OIL

Mr. President, we have already heard the argument that the oil industry has lower average profits than the rest of industry. I have dealt with that point, and have pointed out that if we include oversea income, which I strike at in my amendment, the figure is 11.2 percent as compared with 10.3 percent for all major industries. Therefore, the average is higher than in other industries; but even if it were not higher, it would indicate that the depletion allowance is greater.

What the depletion allowance has done has been to encourage overinvestment in the oil industry. The prospect of tax reductions has lured capital into the industry which would not normally go in if the tax were neutral, so far as the oil industry is concerned. This is one of the gravest abuses in the oil industry, in that it has led to an uneconomic application of labor and capital. This is one of the great abuses of our tax system.

It causes people to think not of what is needed, not of what profits can be made, but how they can beat Uncle Sam. It has shifted the business decisions onto an extremely uneconomic level.

UNECONOMIC INVESTMENT

As I understand, in Texas, the oil wells are now limited to 30 percent of production and run for approximately only 8 days a month. They close down for the remainder of the month. This is a clear indication of overdevelopment. Texas has so many wells that it has to restrict their flow. If my figures are incorrect, I shall be glad to be corrected.

I observe the Senator from New Mexico rising to his feet.

Mr. ANDERSON. Did the Senator ever hear of conservation?

Mr. DOUGLAS. Oh, yes; I have heard of conservation. I know that conservation is generally an excuse for restricting output and either raising or maintaining prices.

Mr. ANDERSON. I assure the Senator from Illinois that that is not the situation at all. The Texas Railroad Commission administers the operation of oil wells for purposes of conservation.

Mr. DOUGLAS. It says it does.

Mr. ANDERSON. It has done a fine job. It is not done for the purpose of making money, either.

Mr. DOUGLAS. I am the one who got through the Senate the provision requiring the Attorney General to examine the operations of the interstate oil compacts; and I believe he has had some questions about these practices. They do not involve conservation alone. These restrictions are imposed in order to maintain the price, because the industry is overdeveloped in relation to the demand, and it is overdeveloped because of the great tax bonus which has been given the industry.

Mr. ANDERSON. Does the Senator from Illinois say the Attorney General has charged that, with reference to these compacts?

Mr. DOUGLAS. Well, I have some qualifications in regard to the job done by the Attorney General.

RELATIVE ADVANTAGE TO INDEPENDENTS

Mr. President, let me make a further point: This amendment would, if passed, give a relative advantage to the independent domestic producers who are, at the moment, in some difficulties. The depletion allowance is given for production both at home and abroad. The large American companies abroad are shipping oil into this country, and are cutting down the production of the domestic industry. The domestics are therefore in trouble. One of the basic reasons they are in trouble is that the depletion allowance goes to those companies which operate abroad. My amendment would cut down the depletion allowance for companies abroad which, in the main, are the huge companies—most notably the Standard Oil Co., Texaco, Gulf, J. Paul Getty, Superior, and the others.

But, at the same time, it would not decrease the depletion allowance for the smaller companies and the independent companies which operate here at home. Thus, there would be a relative advantage to the small and independent producer of oil in the United States if my amendment is passed.

Far from hurting the vast majority of those in the oil business in this country, it would help them. The large major companies spend much of their time trying to prove to the small independents that their interests are one and the same. But this is not true.

ROYALTY PAYMENTS ABROAD DISGUISED AS TAXES

The major companies not only have the advantage of the depletion allowance for their operations abroad, but also have the advantage of having royalty payments disguised as taxes. I should like to discuss that subject, because along the Persian Gulf the land is owned by a sheik or a potentate, and our taxes should not be offset, dollar for dollar, by royalties which are regarded as taxes. But instead, the royalties should be regarded as a cost, and then deducted from income rather than taken as a credit against taxes. The same is true in Venezuela, where the Roman law prevails, and where, therefore, the subsurface assets belong to the state. Therefore, the roy-

alty payments, in that case, should be regarded as a deductible cost.

But the clever experts and advisers of these companies succeeded in having the royalty payments called taxes, and then the companies proceed to charge off the royalties, dollar for dollar, against the taxes which otherwise they would have to pay; and then they have the depletion allowance, in addition, tax free; and also the exemptions on their salaries—all that, and heaven, too.

Mr. ANDERSON. As to the European situation, let me say that I might agree about that with the Senator from Illinois.

Mr. DOUGLAS. I am glad to hear the Senator from New Mexico say that.

Mr. ANDERSON. That is a situation to which I believe we must pay some attention.

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A SMALL PRODUCERS AMENDMENT

Mr. DOUGLAS. My amendment is not only a consumers and taxpayers amendment; it is also a small producers amendment and a widows and orphans amendment, and an amendment for the owners of farmland on which there are drillings, and also a little man's amendment. But it is not a Standard Oil Co. amendment or a Texaco amendment or a J. Paul Getty amendment or an H. L. Hunt amendment; neither is it a Clint Murchison amendment. In other words, it is not a "big shot" amendment.

Mr. EDMONDSON. Mr. President, will the Senator from Illinois yield for a question?

Mr. DOUGLAS. I yield.

Mr. EDMONDSON. Earlier, the Senator from Illinois said his amendment would apply to the foreign producers as well as to the domestic producers.

Mr. DOUGLAS. Yes.

Mr. EDMONDSON. Is any distinction made, in terms of the gross income?

Mr. DOUGLAS. No; but, as I indicated today, the Standard Oil Co. of New Jersey is making its profits largely from its operations abroad. Therefore, this amendment would hit that company more than it would hit the small companies.

Mr. EDMONDSON. A while ago the Senator from Illinois indicated that there are those who are sympathetic with the criticism the Senator from Illinois has raised with reference to that foreign production. But as I understand his amendment, the proposed reduction of the depletion allowance would apply both to domestic production and foreign production, and with the same percentage.

Mr. DOUGLAS. That is correct. In fact, I submitted another amendment, which provided that the payments to foreign governments for the privilege of drilling should be called royalties, not taxes, and that there should be a reduction of the depletion allowance abroad, and I tried to obtain support from the independent producers. But they are so afraid of the big operators, that the independent producers would not endorse the amendment. I have never seen a group more intent on suicide than are the small producers.

Mr. SIMPSON. Mr. President, will the Senator from Illinois yield?

Mr. DOUGLAS. I yield.

Mr. SIMPSON. I point out that in the case of crude oil production, and the conservation of the production of crude oil in the Nation, as compared to the meatpacking industry and the production of automobiles, the large producers account for only 32 percent, and the rest own 68 percent.

Mr. DOUGLAS. Does the Senator refer to the domestic production?

Mr. SIMPSON. Yes.

Mr. DOUGLAS. Yes. But the Senator will find that the group of American companies virtually control the production in Venezuela and in Saudi Arabia, and, I believe also in Iran. They have interests in other countries as well.

Mr. SIMPSON. There are more than 15,000 producers of oil in the United States.

Mr. DOUGLAS. Yes, and my amendment would not hurt "the little fellow"; he could still get his 27½ percent.

Mr. SIMPSON. But the amendment would hurt the little fellow, because any amendment that would diminish the depletion allowance would, in my opinion—and I have been interested in the discovery of oil and the production of oil by a small, independent oil company—it would hurt the little fellow, because the price of the product, which naturally will go up if they lose the depletion allowance to the extent the Senator seeks.

I am for the little fellow, although I do not know who he is, because I thought everybody in America was big. And I am for the big fellow, because I have seen what he does, and I am sure he has never disgraced the principles of morality, except in a few instances; and the American industry will, I am sure, take care of him.

I was interested in the Senator's reference to the Attorney General in connection with the IOCC. We have always depended on that office to take care of the interests of the industry; and during the years in which I have been in touch with the industry, the Interstate Oil Compact Commission, over which I

once presided, not only has policed the industry, but also has done a very magnificent job in connection with it—better than has been done in any other industry of which I know.

Mr. EDMONDSON. Mr. President, will the Senator from Illinois yield again to me?

Mr. DOUGLAS. I yield.

Mr. EDMONDSON. Will the Senator from Illinois agree that if there are inequities in our tax laws with reference to the production of oil, those inequities are much more apparent in the instances of foreign production to which the Senator from Illinois has referred?

Mr. DOUGLAS. Yes; and I think they get proportionately more than the domestic ones do, because they are allowed to charge off the royalties, which are regarded as taxes; and they have that benefit in addition to the benefit of the depletion allowance; and they also benefit because of the fact that the wells are gushers, and also because the risk of having dry holes is less.

Mr. EDMONDSON. There are no allowables. There are no conservation practices.

Mr. DOUGLAS. I believe that is true.

Mr. EDMONDSON. As to fairness, why would the Senator suggest that a reduction in the depletion allowance applicable to a domestic producer would be more fair than one in the same amount applicable to a foreign producer?

Mr. DOUGLAS. If it is fair for the domestic producer, it would be still more fair for the foreign producer, if there are degrees of fairness.

Mr. EDMONDSON. The Senator believes that the percentage should apply equally, even though the inequity would be greater in the instance of the foreign producer?

Mr. DOUGLAS. If one tries to proportion everything precisely, he may never remove any abuse. I merely repeat that we all know that it is the big companies and the big operators that have the foreign holdings.

I have been in Venezuela. The Standard Oil Co. is there. I am not attacking them. They have done a good productive job. I have been near the Persian Gulf. I know something of what goes on there. Enormous profits are being made there—hundreds of millions of dollars. Production costs are very low. Those profits are siphoned back home. They are virtually free from taxation.

Mr. EDMONDSON. Mr. President, will the Senator yield further?

Mr. DOUGLAS. I yield.

Mr. EDMONDSON. I would like to allude for a moment to the statements made by the Senator from Wyoming. Having served on and worked with the Interstate Oil Compact Commission, as well as having been aware of the problems of the oil industry for a number of years in Oklahoma, I cannot quite see the comparison between an oil company in Oklahoma that produces under a 14-per-barrel-per-day-per-well allowable and the tax cut that the Senator is proposing for a foreign producer that not only has no allowables, but also, as a result, when he hits a 10,000-barrel-a-day production, he can produce 10,000 barrels a day.

The operator in Oklahoma, Texas, or any other State in the United States must operate under local conservation laws, and certainly would be at an extreme disadvantage over and above the disadvantage the Senator would be placing upon the foreign producer if the Senator's theory were carried through.

Mr. DOUGLAS. What I am trying to say is that the relatively low production of American wells is not merely due to the comparative low yield of the oil fields and the relative absence of gushers but it is also due to the overinvestment in the industry, which has been encouraged by the depletion allowance.

Mr. EDMONDSON. Mr. President, will the Senator yield further?

Mr. DOUGLAS. I yield.

Mr. EDMONDSON. How can the Senator justify the fact that for about 25 years our reserves have remained almost constant?

Mr. DOUGLAS. There are always enough reserves discovered to keep the ratio approximately the same. I have watched most reserve figures for many years. They always find enough reserves to keep the ratio of reserves to current yield at the same figure. It is very interesting. The Senator can go back over the years. What happens is that the wildcatter drills. Most of them lose their shirts. A few make some money. If they develop a field, a big company comes in. If a field is found, the large company buys up the wildcatter, takes the leases on the land, and then drills systematically with a minimum of waste and makes a great deal of money. That is what happens.

Mr. EDMONDSON. Mr. President, will the Senator yield further?

Mr. DOUGLAS. I yield.

Mr. EDMONDSON. That theory is not commensurate with the figures released by the Department of Commerce

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which were recited by the Senator from Wyoming [Mr. SIMPSON] a moment ago, showing that 62 percent of the produc-

tion is held by the independent small producers and not by the major companies.

Mr. DOUGLAS. Not by the major eight.

Mr. EDMONDSON. Not by the major companies that control 32 percent of the production.

Mr. DOUGLAS. I think he said eight companies. If 20 companies are considered, that is a different story.

Mr. ANDERSON. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield to the Senator from New Mexico.

Mr. ANDERSON. A while ago the Senator used the term "economic income." I believe he said that some man had an economic income of $26 million and paid no taxes.

Mr. DOUGLAS. Yes.

Mr. ANDERSON. I am perplexed by the term "economic income." I have in my hand a copy of the Wall Street Journal for today. Last year the Owens-Illinois Glass Co. had net sales of $654 million.

The net before income taxes was $62,616,000. Would that be their economic income? Since the Senator has referred to $26 million of economic income, I should like to understand what he means by the term. Is that net, gross, or the final figure?

Mr. DOUGLAS. Virtually all that amount came from capital gains—not half of the capital gains, but all capital gains. Of that income $26,200,000 was on capital gains.

Mr. ANDERSON. What economic income was there?

Mr. DOUGLAS. The $26,200,000 consisted of capital gains. It was all capital gains—not half of it, but all of it. The interest was $852,000, dividends $64,000, salary $18,000. Oil and gas production before special deductions, $1,534,000. Oil and gas royalties, $320,000. Against those amounts the taxpayer wrote off a deduction for a farm income loss of $276,000.

Mr. ANDERSON. Did I correctly understand the Senator to say that the owner of a royalty could not take the depletion allowance?

Mr. DOUGLAS. No; as I understand, very few royalties yield more than $1 million a year.

Mr. ANDERSON. I am sure of that.

Mr. DOUGLAS. Under my amendment they would still continue to get the 27½ percent allowance. There would be no change in that. It would be effective only if they got more than $1 million.

Mr. GORE. Mr. President, will the Senator yield?

Mr. DOUGLAS. I am glad to yield to the Senator from Tennessee.

Mr. GORE. I have been observing with interest the figures and statistics on the chart which the distinguished junior Senator from Louisiana placed in the rear of the Chamber. I notice that on the chart reference is made to the profits of all manufacturing industries. About what percentage of profits would the manufacturing industries pay in taxes in the opinion of the senior Senator from Illinois?

Mr. DOUGLAS. Approximately 48 or 49 percent in Federal taxes.

Mr. GORE. I notice in another category "U.S. Petroleum Industry." About what percentage of its profits would be paid?

Mr. DOUGLAS. About 23 percent in taxes. Profits on the domestic production were about 9.2 percent. I wish to emphasize again that if we included foreign production, where the profits are 19½ percent, we would arrive at a profit figure of 11.2 percent, or 1 percent higher than the figure for all manufacturing industries.

Mr. GORE. If the Senator would include the foreign holdings of the U.S. petroleum industry, the tax payment as a percentage of gross profits would be considerably less than 23 percent.

Mr. DOUGLAS. In my judgment, the income tax paid on foreign oil holdings of American companies is very low, because against the taxes is written off not only the depletion allowance, but also the so-called tax on royalty disguised as a tax. It is a notorious fact, which I believe once got into the RECORD inadvertently, and therefore I do not believe I am violating any confidence if I repeat it, that in some years the Arabian-American Oil Co., with profits of hundreds of millions of dollars, paid no taxes at all to the U.S. Government.

Mr. GORE. The distinguished Senator will observe on the charts to which I have referred that there is no reference to the percentage of profits paid in taxes.

Mr. DOUGLAS. On domestic production it is around 23 percent.

Mr. GORE. But this chart makes no reference at all to that.

Mr. DOUGLAS. It makes no reference to earnings abroad or to taxes paid on earnings abroad.

Mr. GORE. Or to taxes paid on domestic profits.

Mr. DOUGLAS. These are not profits before taxes; on Senator LONG's chart, these are profits after taxes.

Mr. GORE. But there is no indication as to the percentage of tax paid, either on domestic or foreign earnings.

Mr. DOUGLAS. That is correct.

Mr. GORE. Likewise, that is omitted from the figure on manufacturing industries.

Mr. DOUGLAS. That is correct.

Mr. GORE. There is a second chart, on which reference is made to taxes, though it bears no relationship to chart No. 1.

Mr. DOUGLAS. That is correct.

Mr. GORE. I notice a very large taxpayment, $6 billion in excise taxes. Who pays the excise taxes?

Mr. DOUGLAS. The consumer not the companies, pays the excise taxes. These are gasoline taxes which the motorists pay.

I wish my good friend from Louisiana [Mr. LONG] were here. My good friend from Louisiana is taking credit on behalf of the companies for the taxes which the consumers and the motorists pay.

Mr. MONRONEY. Mr. President, will the Senator yield at that point?

Mr. DOUGLAS. I yield.

Mr. MONRONEY. The distinguished senior Senator from Illinois was present when I had a long colloquy with the distinguished senior Senator from Vermont [Mr. AIKEN] in which, certainly in our part of the debate, I agreed that this tax was paid by the consumers. I also pointed out, however, that we in the gas and oil producing States are saddled with the regressive effect of the charge for excise taxes that amounts to 10 cents a gallon. It does not help the sale of oil and gas when those taxes are 10 cents a gallon.

Mr. DOUGLAS. The Senator from Oklahoma is the soul of honor, as is the Senator from Louisiana, and he would never stretch figures; but I find it extraordinary to see that this figure of $6 billion in excise taxes is somehow implied in the chart, if not directly stated, as being borne by the companies. It is borne by the motorists.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. LONG of Louisiana. I know that if the Senator investigated it, he would learn this. When the last Federal excise taxes were placed on the oil and gas industry, it tried to pass that tax on to the consumers in the price on oil and gas. It could not do it. It tried it, but could not do it. That is shown by the decline of 6.5 percent in gasoline prices.

It is sometimes possible for Congress to tax so heavily that the tax cannot be passed on. The Senator from Illinois is an economist. He has read some of these studies. He knows that every industry tries, if it can, to pass forward even the income tax. The industries try to fix what they regard as a fair profit after taxes. They try to pass forward the income tax. They do it if they can. That is true of all taxes, the excise tax, the income tax, the severance tax, and all the rest. Much of that $8 billion tax is stuck on the oil and gas companies, and they cannot pass it forward. That is shown by the other chart. I invite attention to the 6.5 percent decline in gasoline prices.

Mr. DOUGLAS. That is due to foreign oil competition plus improvements in technique and production. The companies have done extremely well from a technical standpoint. I do not criticize them for that. On the contrary, I praise them for it. I am merely saying they are not paying their share of the taxes.

Mr. LONG of Louisiana. They are paying the $2 billion.

Mr. DOUGLAS. The Senator admits they are not paying the $6 billion?

Mr. LONG of Louisiana. Let us take the $2 billion.

Mr. DOUGLAS. No; let us take the $6 billion.

Mr. LONG of Louisiana. The profits of the oil companies are down. They are not making as much as the manufacturing industry. I am talking about the domestic oil industry. This is a domestic industry.

Mr. DOUGLAS. No; I am seeking to tax both foreign and domestic.

Mr. LONG of Louisiana. Let us talk about the domestic companies.

Mr. DOUGLAS. Let us talk about both.

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Mr. LONG of Louisiana. It is not going to do a domestic oil company any good if the Senator taxes a foreign oil company.

Mr. DOUGLAS. I am seeking to tax the foreign company as well as the domestic company, but mainly the large companies.

Mr. LONG of Louisiana. If the Senator imposes a tax which covers both the foreign and domestic producer, it is of no particular consequence to the domestic oil producer who is having a hard time that the foreign producer, which is doing better than the domestic producer, is being taxed.

Mr. DOUGLAS. The Senator from Louisiana has one of the sharpest minds and is one of the most amiable persons and one of the most honorable characters of anyone I know. I admire and love him. I have tried for years to make him understand that this is not a proposal for uniform reduction, as the amendment of the Senator from Delaware provided. My amendment provides for a graduated reduction, in which the

small producer would suffer no reduction in his depletion allowance. He still would get the 27½-percent depletion allowance. The medium-sized producer would get a depletion allowance of 21 percent. The big producer would have his depletion allowance reduced to 15 percent.

Mr. LONG of Louisiana. The reason why the tax on the domestic oil producer should not be increased has a different logic than the reason why the tax on the foreign oil producer should not be increased. If the Senator wants to debate the question with respect to the domestic producer, there is good reason why his tax should not be increased. It is not the same as the reason why the tax on the foreign producer should not be increased. If we are talking about domestic oil production, the domestic oil industry is not making the profit that it needs to be competitive as compared with all manufacturing. At the prices it is getting, it is suffering. Explorations are down. Domestic producers will all be affected.

The only reason why there is a difference between the amendment of the Senator from Illinois and that of the Senator from Delaware is that the amendment of the Senator from Illinois is well calculated. It affects Louisiana, Texas, and Oklahoma producers, but does not affect anybody in Illinois.

Mr. DOUGLAS. It affects the Ohio Oil Co. It affects the Carter Oil Co. It affects several other oil companies operating in Illinois. The big companies have been successful in bamboozling the small operator. During every election they try very hard to take after me with a scalping knife, but I go into the oil districts then, and at other times as well, and explain the situation, and I carry the oil counties every time.

Mr. LONG of Louisiana. If the Senator is really looking at why the 27½-percent depletion allowance is in existence, it is to offset the tremendous risk a man takes when a man goes into New Hampshire or Vermont or Massachusetts and tries to drill for oil. The chances are very great that all he will get will be salt water. Against that, the allowance is for the fantastic risks involved in exploring and trying to find new oil. The companies invest 67 cents every time they get a dollar in revenue, in order to find more oil. That is the big problem we are talking about.

The Senator from Illinois seeks to retain the depletion allowance for the man who owns the land. Let us assume that someone leases a man's land and explores for oil. The chances are 50 to 1 that nothing will be found, but the farmer has nothing to lose.

The Senator from Illinois is a very smart politician, so he protects the farmer, even if nothing is found on his land but salt water, or even dust, and the farmer makes a profit.

Mr. DOUGLAS. Is the Senator against the farmer and the small producer?

Mr. LONG of Louisiana. I am against giving something for nothing to anyone except the welfare client, and I am in favor of giving him a little more, but I am not in favor of giving something to somebody at another man's expense.

Mr. DOUGLAS. The Senator from Louisiana has charged me with hypocrisy——

Mr. LONG of Louisiana. No; with being a good politician.

Mr. DOUGLAS. I just voted for the Williams amendment, which did not provide for graduation. I do not think it is as good an amendment as mine, because the small producer does not have the same distribution of risk as the large operator. Furthermore, he tends to venture out into untrained fields and, therefore, it is proper that he should have greater protection against risk. That is the basic economic reason why I retain the 27½-percent allowance for those with a gross income of less than $1 million.

Mr. LONG of Louisiana. I hope the Senator from Illinois, who has been three times elected to the Senate, will not contend that he is not an astute politician. I have always known that he is a great man, that he is a lovable man, and one whom I truly admire, but I hope he will not contend that he is not an astute politician, because I have always considered that that is one reason why he is here.

Mr. DOUGLAS. This is the first time I have ever been accused of being an astute politician. I have always regarded myself as a wandering city fellow trying to do his best, making many mistakes, one who did not have the ability of many of his colleagues, but somehow hitched up with the right causes which would ultimately, though not immediately, triumph.

Mr. ANDERSON. Mr. President, will the Senator from Illinois [Mr. DOUGLAS] yield?

Mr. DOUGLAS. I promised before to yield to the Senator from Tennessee [Mr. GORE] but——

Mr. McGEE. If I may fill in the gap made by the Senator from Tennessee, who is not now in the Chamber, I would hope the Senator from Illinois would be willing to correct one of the rare mistakes that he is guilty of making.

Mr. DOUGLAS. I am guilty of making mistakes?

Mr. McGEE. The Senator from Illinois has one of the great minds in this body.

Mr. DOUGLAS. Beware of Greeks bearing gifts. I yield to the Senator from Wyoming.

Mr. McGEE. I believe the Senator from Illinois, if I may make the point, is starting at the wrong end of the problem, that again, as I had occasion to say earlier today, this is a resource development question. The depletion allowance is aimed at encouraging oil exploration. I say we are only confusing the issue and having a little fun when we start to reverse the order of priority.

The Senator from Illinois, in his esteemed way, is interested in maintaining the well-being of the independents. In fact, he proposes to "do them in." By his own table of statistics he reminds us that only 2 percent of the depletion allowance going to producers with gross incomes of $1 million would be affected by his amendment.

Mr. DOUGLAS. The table involves gross assets; yes.

Mr. McGEE. Yes. That 2 percent proves the point. It seems to me that the Senator is talking unrealistically.

Mr. DOUGLAS. Wait a minute——

Mr. McGEE. The independent works with a risk factor, there is the momentum factor and other factors concerned with the resource of oil.

Mr. DOUGLAS. My amendment provides for a $1 million gross income before any reduction in the depletion allowance. The figure the Senator has just given deals with $1 million of assets. The income would be——

Mr. McGEE. One million dollars gross will bring in what, to a producer?

Mr. DOUGLAS. A $1 million income.

Mr. McGEE. One million dollars gross. The Senator is talking about $1 million gross.

Mr. DOUGLAS. I do not know what the net would be.

Mr. McGEE. It would be small. The profits would bring in what, $80,000?

Mr. DOUGLAS. If it is small, then the taxes would be small.

Mr. McGEE. No; the Senator from Illinois is discouraging the independents, for the reason that——

Mr. DOUGLAS. How am I discouraging the independents, by permitting them to retain the same depletion allowance that they have today?

Mr. McGEE. The Senator has this $1 million in gross income. I should like to point out that the independent would be deterred from oil exploration. I do not believe the Senator is trying to argue that we have too much oil and that we have got so much that we do not know what to do with it.

Mr. DOUGLAS. We have got too many wells.

Mr. McGEE. We need more oil and we need to prove up more reserves. Why would not the independent, if the Senator is interested in protecting him, have an incentive to stop exploring the moment he reached a million dollars?

Mr. DOUGLAS. Is he saying that to become a John D. Rockefeller is what lures him on?

Mr. McGEE. The Senator from Illinois, by the use of this figure, has not been deeply involved in oil exploration.

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Mr. DOUGLAS. That is true.

Mr. McGEE. The risk and cost factors must be considered.

Mr. DOUGLAS. The risk factor shows up between the wildcatter and the established company. General Thompson, who was formerly regarded as the great god on this subject in Texas, testified in 1950 that in the industry as a whole there were two successes for every failure. I have the figures on the drilling, and the ratios of success to failure are approximately 4 to 1 for the 5 big companies.

Mr. McGEE. We are talking about exploring oil and the independents do 70 to 80 percent of all exploration. They have no such phenomenal percentage as this.

Mr. DOUGLAS. This is one of the reasons why I am not diminishing the depletion allowance for those who have a gross income of less than $1 million. I am retaining the 27½-percent depletion allowance for them as a compensation for the risk because they suffer in two ways. First, they drill in undeveloped fields, and second, they do not have as wide a distribution in the number of the drillings which a big company will have.

Mr. McGEE. With $1 million gross they cannot continue. The Senator will put them out of business before they start.

Mr. DOUGLAS. I do not believe I will put them out of business because they would still have the same 27½ percent depletion allowance.

Mr. McGEE. One million dollars gross to an independent, he cannot stay in the oil exploration business on a wide scale. He has got to go out of business. The Senator's $1 million is totally out of line because he loses the point of the whole assault on depletion. Depletion was designed to develop and prove out on resources. It was not a source of income to the company. That is why the Sen-

ator has started at the wrong end. He has the well before the exploration.

Mr. DOUGLAS. I say a million dollars in gross income from oil is not an excessively small amount.

Mr. McGEE. I say it is a very excessively small amount. In the oil exploration business one cannot stay in business by bringing in one well and then waiting until one has spent out that year, whatever the allowance would be, $80,000, and then do it again next year.

Mr. DOUGLAS. What is the price per barrel of oil in the field?

Mr. McGEE. Around 20 to 25 cents profit. We are interested in the profit.

Mr. DOUGLAS. What is the price in the field?

Mr. McGEE. Three dollars.

Mr. DOUGLAS. Well, then, an oil man would have to produce more than 333,000 barrels in a year in order to exceed the $1 million figure. On all yields of less than 333,000 barrels, or the $1 million figure, the depletion allowance would not be reduced.

Mr. ANDERSON. Mr. President, will the Senator from Illinois yield?

Mr. DOUGLAS. I yield.

Mr. ANDERSON. I should like to ask a question about this $26 million. The Senator from Illinois has said that an individual earning $26 million paid no tax. Would the Senator compare the record because I know the fact of a man with $26 million and only $10 million of it was attributable to that year.

Mr. DOUGLAS. I know, but it was capital gains.

Mr. ANDERSON. The capital gains was attributable to that year. Only $10 million went in that year. So it comes down from $26 million to $10 million. The capital gains was $5,436,224. From that he took only $2,276,156 in exploration. That left $3,377,421 profit on which he would have paid tax had it not been that he had a previous loss. So while he did have $26 million it came to only $3 million and the rest is cut off. If the Senator has some information better than that, I should like to hear it.

Mr. DOUGLAS. I have a memorandum on that, which was furnished to the Senator from Louisiana and to the Senator from Illinois. The sale was made for $8 million cash with the balance in purchase money notes. Notes due January 25, 1961, amounting to $3,377,421 were sold to a third party on December 29, 1960, raising the selling price realized in the calendar year to $11,325,000. The realized gain for 1960, therefore amounted to $10,888,000, the balance being deferred until future years in accordance with the installment method which is provided in the code. This is possible only if the payments—exclusive of evidence of indebtedness—do not exceed 30 percent of the selling price. Of the balance of the notes, $6 million was collected in 1961.

Mr. ANDERSON. That is right. That is what he paid.

Mr. DOUGLAS. On which $5,743,000 represented taxable gain, 10 million therefore remained for collection in future years.

The point is that he was paid in cash, and the balance in purchase money notes, which he could collect at almost any time.

Mr. ANDERSON. No. He would have lost his whole capital gains. This is a perfectly normal transaction.

Mr. DOUGLAS. What tax did he pay in the following year?

Mr. ANDERSON. I do not know.

Mr. DOUGLAS. I believe the Senator will find that he paid no tax in the following year.

Mr. ANDERSON. Oh, no. The Senator has had many nice things said about him, and I could add to them. It was unfortunate, however, that he said the man had a $26 million income.

Mr. DOUGLAS. An economic income.

Mr. ANDERSON. Economic income is income. The Senator said that he paid no taxes.

Mr. DOUGLAS. I am not trying to conceal anything. I gave the Senator the information I had. I had previously put all the facts in the RECORD.

Mr. ANDERSON. The Senator handed me the chart. He is not trying to conceal anything. He wanted it all out in the open. I do not believe that what he has said shows the exact situation.

Mr. DOUGLAS. Suppose he had $12 million and did not pay any taxes?

Mr. ANDERSON. But he had previous losses which he wrote off.

Mr. SIMPSON. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. SIMPSON. Perhaps we are fiddling while Rome burns. We may well need the combined resources of these great companies to provide us with the required energy. The news has just come over the wire that Castro has enforced his threat to shut off the water at Guantanamo. What we are discussing here may become academic in a few days.

Mr. President, I ask unanimous consent to insert in the RECORD at this point a table showing the net value of production as against expenditures for finding, developing and producing oil and gas for the years 1951, 1953, and 1955.

The total net value of production in 1955, for the entire industry, was $6,720,539,000. The total exploration and developmental costs in 1955 were $5,127,465,000.

The net annual loss in 1955 was $428,260,000.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Net value of production versus expenditures for finding, developing, and producing oil and gas

[In thousands of dollars]

	1951	1953	1955
Industry income:			
Net value oil produced	4,862,136	5,401,018	5,884,215
Net value gas produced	465,451	660,501	836,324
Total, net value production	5,327,587	6,061,519	6,720,539
Industry expenditures-exploration costs:			
Geological, geophysical, and related professional services	186,000	243,590	245,440
Lease purchases and rentals	637,910	744,630	876,520
Dry holes	650,290	795,890	940,210
Overhead	126,780	171,270	206,220
Total, exploration costs	1,600,980	1,955,380	2,268,390

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	1951	1953	1955
Development costs:			
Drilling and completion of producing wells	1,390,050	1,689,607	2,097,225
Equipment (tubing, tanks, flow value, etc.)	420,360	483,000	556,210
Overhead	135,780	168,378	205,640
Total, development costs	1,946,190	2,340,985	2,859,075
Subtotal, exploration and development costs	3,547,170	4,296,365	5,127,465
Operating costs:			
Oil:			
Direct costs	1,274,149	1,392,576	1,540,092
Overhead	242,146	306,326	337,758
Total, oil operating costs	1,516,295	1,698,902	1,877,850
Gas:			
Direct costs	89,220	134,675	134,097
Overhead	7,758	10,920	9,387
Total, gas operating costs	96,978	145,595	143,484
Total operating costs	1,613,273	1,844,497	2,021,334
Total expenditures for finding, developing, and producing [1]	5,160,443	6,140,862	7,148,799
Net annual balance	+167,144	−79,343	−428,260

[1] Includes maintenance, supervision, and general overhead but excludes charges for research. The costs do not include income taxes, payment on interest and principal, or return to investors.

Source: "Petroleum and Natural Gas in the United States—Relation of Economics and Technologic Trends," by C. C. Anderson, chief petroleum engineer, U.S. Bureau of Mines, Washington, D.C.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. PROXMIRE. The colloquy between the Senator from Illinois and the Senator from Wyoming was quite fascinating. If we followed it through, would it not show that if a firm or individual has a gross income of $1 million, he is netting in the neighborhood of $75,000 or $85,000?

Mr. DOUGLAS. Yes.

Mr. PROXMIRE. Does the Senator believe that a man who nets $75,000 or $85,000 is a pauper, or is in a very weak financial position?

Mr. DOUGLAS. I hardly think so.

Mr. PROXMIRE. Besides, he would not be affected by the Senator's amendment, would he?

Mr. DOUGLAS. The Senator is correct.

Mr. PROXMIRE. So he would have a substantial income, an income more than three times as large as U.S. Senators receive.

Mr. DOUGLAS. He would be among the upper one-fifth of 1 percent of the people of the country.

Mr. PROXMIRE. One-fifth of 1 percent. In other words, 99.8 percent of the people earn less than that.

Mr. DOUGLAS. Yes.

Mr. PROXMIRE. Yet a man who has that income is considered by Senators opposing the Senator from Illinois, as small potatoes in the oil industry, yet he is in a category which is far above that of 99 percent of the population of the country. Is that correct?

Mr. DOUGLAS. Yes; I am trying to protect 99.8 percent of the population. The Senator from Wyoming is weeping copious tears for two-tenths of 1 percent, or for 1 out of every 500.

I do not regard that as a principle of the Democratic Party of Andrew Jackson, Woodrow Wilson, Franklin Roosevelt, Harry Truman, and John F. Kennedy.

Mr. PROXMIRE. The Senator has discussed the fact that the manuufacturing industry has a profit of 10.3 percent and the petroleum industry a profit of 9.1 percent. Of course, as he pointed out, this does not include foreign operations.

Let us assume that the oil industry does not make quite as much money as the rest of the industry. Does the Senator believe that to be any basis for arguing that they should pay only half as much in taxes? For example, if a person lives in a State which has half the per capita income of another State, should he be permitted to pay only 50 percent as much in taxes?

Mr. DOUGLAS. If the average domestic production is lower, it is due to the depletion allowance, which has encouraged overinvestment and overdrilling—so much overdrilling, in fact, that it is necessary to restrict production in order to keep up prices.

I ask unanimous consent that a table giving the profits on investment for 16 major companies be provided at this point in my remarks.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Profits on investment after taxes 1961–62

	Percent
1. Standard Oil of New Jersey	11.1
2. Socony	8.2
3. Texaco	14.8
4. Standard Oil of California	11.6
5. Standard Oil of Indiana	6.6
6. Shell	11.2
7. Phillips	8.9
8. Sinclair	5.0
9. Continental	9.4
10. Standard Oil of Ohio	8.4
11. Marathon	8.3
12. Signal	8.6
13. Richfield	10.6
14. Kerr-McGee	15.7
15. Superior	9.6
16. Amerada Petroleum	15.9

Mr. PROXMIRE. Would it not be to the interest of the people in Texas, Oklahoma, Louisiana, and Wyoming if the oil industry did not have these enormous concessions, so that the wealthy people from the East and the North who have huge incomes would not be in a position where they felt they had to come into the oil industry to take advantage of the tax concessions.

Mr. DOUGLAS. Their going into the oil industry has contributed to overdevelopment. They have made the plight of the producer worse than it would have otherwise been.

Mr. PROXMIRE. Does the Senator recall the great book by Phil Stern "Treasury Raid" in which the author referred to a man who had $85 million in assets, with very high income, and who said he could not afford to stay out of the oil industry, and had to go into it in order to take advantage of the tax concessions?

Mr. DOUGLAS. Yes.

Mr. PROXMIRE. As a consequence, the people who live there and who have ordinary wealth would be better off if this capital were not pulled in into that area in this artificial way.

Mr. DOUGLAS. The Senator expresses it very well.

Mr. PROXMIRE. The argument is made that the depletion allowance is necessary because this is a high risk industry. Is it not correct that Dunn's Review shows that, whereas the construction industry has failures in the neighborhood of 85 per 10,000, the retail industry has failures of 400 per 10,000——

Mr. DOUGLAS. Construction has 86 failures per 10,000.

Mr. PROXMIRE. I stand corrected; 86 per 10,000. The retail industry has failures of 400 per 10,000. How many failures are there in the petroleum industry?

Mr. DOUGLAS. Four out of every ten-thousand.

Mr. PROXMIRE. Four out of every ten thousand?

Mr. DOUGLAS. Yes. It is the lowest of any industrial group. It is one of the safest industries to go into. The ratio is 20 in food and 86 in construction, but only 4 in oil, gas, and mining. If these people claim we must give them a tax break, what are we going to do for the corner grocer?

What about the baseball player. A baseball player's life in baseball is very short. There are few Stan Musials. Most players have a very brief time in the game. Should they not have the benefit of a depletion allowance? They want it. What about poets? Should not poetic genius have a depletion allow-

ance? Should not there be a depletion allowance for defeated politicians?

Mr. PROXMIRE. I think that would be an excellent idea, in view of what I may face in a few months.

One of the real difficulties of the depletion allowance in its present form is that Uncle Sam is a partner, up to 90 percent, for the man who is losing money in the oil industry; 70 percent, if the pending bill passes. It will be very high. But what happens when the oil speculator is on the winning side? How much does Uncle Sam get?

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Mr. DOUGLAS. The speculator takes almost all. It is a case of "heads I win, tails you lose."

Mr. PROXMIRE. In other words, heads, Uncle Sam loses; tails, the oil speculator gains.

Mr. DOUGLAS. That is correct.

Mr. PROXMIRE. Uncle Sam never wins.

Mr. DOUGLAS. Seldom.

Mr. PROXMIRE. One more question. I know the Senator from West Virginia has been waiting patiently. Does the Senator from Illinois know of any principle in taxation or economics that would justify a depletion allowance which, in the years 1946 to 1949, enabled the average oil corporation to write off its wells not once, not twice, not 10 times, but 19 times?

Mr. DOUGLAS. I know of no such principle. This is one of the scandals. The depletion allowance is not depreciation, but the oil well operator writes off the original cost multiple times. I know of no other industry in which that can be done. There is no other industry, except possibly the sulfur industry.

Mr. PROXMIRE. But in terms of the whole principle of depletion depreciation, what is the purpose of it? The purpose is to enable the taxpayer to write off the asset which he has invested for business purposes, full value of it during its life, not twice, but once. Is not that correct?

Mr. DOUGLAS. That is correct.

Mr. PROXMIRE. So this principle is violated by the depletion allowance, and the Senator from Illinois, by his modest amendment, would not affect the man who nets about $75,000 or $80,000 a year at all. He would affect the middleman only to the extent of reducing his depreciation to 21 percent. The big operator would still have a 15-percent depletion allowance with which he could write off his investment.

Mr. DOUGLAS. If the oil industry does not accept this, it will get something worse. I am astounded by my own moderation. It would save the taxpayers nevertheless $400 million a year. Those who were so solicitous for the budget when they voted down the Ribicoff amendment and the proposed removal of retail excise taxes now have the chance to prove that their concern is sincere.

Mr. RANDOLPH. Mr. President, will the Senator from Illinois yield?

Mr. DOUGLAS. I yield to the Senator from West Virginia.

Mr. RANDOLPH. I am deeply honored to sit here, as I do day after day, beside the diligent and distinguished Senator from Illinois. We hold many similar views and we vote together very often. I hold a genuine affection for him as a friend.

Mr. DOUGLAS. May I interrupt the Senator from West Virginia to say that Disraeli was once asked how he got along with Queen Victoria. He replied:

> When I deal with Queen Victoria, I lay it on with a trowel.

I would say that the Senator from West Virginia lays it on with a shovel.

Mr. RANDOLPH. What I have spoken is from my heart.

We hear about the multimillionaires——

Mr. DOUGLAS. The Hunts and the Gettys.

Mr. RANDOLPH. The Senator has placed these names in the RECORD.

Mr. DOUGLAS. The Cullens and Clint Murchisons and Sid Richardson and a host of lesser lights.

Mr. RANDOLPH. I remember that my revered father was an active independent oil and gas producer in West Virginia. He lost money in this industry; but he was a pioneer and he helped thousands of citizens and aided the economy.

Mr. DOUGLAS. He would not be affected by my amendment.

Mr. RANDOLPH. But I make the point that not all persons who drill for oil and gas have become or did become rich.

Mr. DOUGLAS. That is true.

Mr. RANDOLPH. Not all West Virginians who went from our State to the fields in Oklahoma became wealthy in that State. Most of them, I note, in the presence of Senators from that State, were substantial people. They were ready to take a chance.

I had two uncles who went to Oklahoma from West Virginia; they did not become rich men, although they carried from the oil background in West Virginia to the Sooner State, hard work and good citizenship.

We have pioneered in this industry. Our first commercial well was drilled in October 1859. This well was drilled in

the Hughes River territory 4 years before West Virginia became a State.

Mr. DOUGLAS. About the time of the discovery of oil at Titusville?

Mr. RANDOLPH. Titusville was the location of the first U.S. production.

Mr. DOUGLAS. That is correct.

Mr. RANDOLPH. Mr. President, in the early years there was feverish competitive activity in the petroleum industry. Overdrilling was the rule. Extravagant dissipation of reservoir energy wasted billions of feet of valuable natural gas. It also allowed upward to 80 percent of the oil in the reservoir to lie unrecovered and unrecoverable except under some form of secondary operation.

Despite those early practices, and because of the large virgin territory in our State available for exploration and development, production steadily increased until the peak year of 1900, when over 16 million barrels of oil were produced in our State. After that top year, production steadily declined until the total output of crude oil in 1962 in West Virginia amounted to 3.5 million barrels.

But oil alone is not involved, in our State, because oil and gas are generally found in the same horizon and in many cases are produced from the same well. It is significant that the total value of crude oil, natural gas liquids, and natural gas in 1962 amounted to $91.7 million. These mineral products were second in value only to coal, and these petroleum values represent 12.9 percent of the total value of all our State's minerals.

In West Virginia, 47 percent of the total land area is under lease for oil and gas purposes and in the search for and development of these hydrocarbons, 85,193 wells have been drilled. Upward to 30,000 producing oil and gas wells were in operation in the State in 1962, and 1,400 of them were new last year. In 1962 we drilled 1,171 wells and 200 were dry holes.

The producing division of the industry provides employment for 4,250 persons. Refining, transportation, and marketing divisions and employees of gas companies number 10,400. Thus, 14,650 individuals are gainfully employed by the oil and gas industry in West Virginia. Several thousand additional are employed in retail marketing outlets. It is estimated that payrolls in excess of $70 million are generated annually in our State by petroleum drilling, transporting, refining, and marketing.

Approximately 80 percent of the wells now producing in West Virginia are owned by small independent companies. More than 150,000 West Virginians receive income from these wells based on investment or royalty or rental.

The oil and gas industries are vital revenue producers for several of our counties, and for the State government. The industry, in the month of August of last year, paid gross sales taxes amounting to $671,230—the oil portion having been over $22,000, the gas portion almost $122,000, and gas utilities, slightly over $527,000.

I am a vigorous believer in the concept that conservation of our nonrenewable natural resources, particularly oil and gas and component hydrocarbons, is indispensable to the welfare and the continuing strength of the State and the Nation. Only through wise utilization of our nonrenewable natural resources can we escape the detrimental consequences of profligate depletion of the sources of our valuable petroleum products.

I think in terms of incentive, and the aiding of productivity of West Virginia. Even so, although one may discount the financial hazard of drilling an oil well in West Virginia, the hazard exists, nevertheless, to a considerable degree.

I feel that, by and large, we must face the fact that there is a need, not only in this particular industry, but in many other industries, for what we call incentives for venture capital, for risk capital.

I wish to emphasize again, as I did earlier, that in West Virginia the average cost of drilling a producing well is $49,500. That is not a deep well; it is of the average depth of 3,500 feet. Our productive sands are between 1,000 and 12,000 feet below the surface.

The domestic, the independent, the small producer in West Virginia is concerned in terms of the needed protection which comes to him from the present depletion allowance.

Earlier this afternoon I read into the RECORD—at a time when I believe the Senator from Illinois was not on the floor—a statement from a West Virginia friend whom I know very well. In 1962 his firm drilled 141 wells. Only one of them produced sufficient profit to be em-

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braced within the 27½-percent depletion allowance. The actual depletion allowance on the wells drilled amounted to less than 13 percent. So the figure is not always 27½ percent.

Mr. DOUGLAS. The average percentage taken, in the country as a whole, is, however, approximately 26 percent.

Let us consider the average small producer in West Virginia. How many barrels of oil will his well produce in a year?

Mr. RANDOLPH. I cannot answer

that question, but I do have the figures on crude-oil production for the following years:

	Barrels
1958	2,186,000
1959	2,184,000
1960	2,300,000
1961	2,760,000
1962	3,345,000

Mr. DOUGLAS. We do not reduce the depletion allowance for any individual or corporation on any gross income of less than $1 million; and with oil worth $3 a barrel in the field—as the distinguished Senator from Oklahoma has said and has been corroborated by the Senator from New Mexico—one would have to have over 330,000 barrels, to go over the $1 million mark. So a producer who has 2,000 barrels a year need not fear; neither will one who has 10 average wells with 20,000 barrels or $60,000, or one who has 50 wells, or one who has 100 wells, or one who has 150 wells need fear. Even the latter will only have a gross income of $450,000. He will still have his 27½ percent allowance.

Let the Senator return to West Virginia and tell the producers there that there is nothing for them to fear in the Douglas amendment.

Mr. RANDOLPH. I understand the principle on which the Senator from Illinois bases his argument.

Those of us who come from States such as West Virginia—which is identified in the public mind as being a coal-producing State, there is important oil-production——

Mr. DOUGLAS. But the Senator should not let his State be used by the "big boys"——

Mr. RANDOLPH. I feel we are both concerned with doing that which is equitable, even though there is a disagreement on this proposal. My position has been a consistent one, in the House and now in the Senate. I respect the conviction of the Senator from Illinois.

Mr. DOUGLAS. Mr. President, the Senator from West Virginia is always generous, and also amiable and kind.

Mr. RANDOLPH. I thank the Senator from Illinois.

Mr. DOUGLAS. Mr. President, unless the Senator from Oklahoma [Mr. MONRONEY] wishes to ask me some questions——

Mr. MONRONEY. I wish to obtain the floor.

Mr. DOUGLAS. Does the Senator from Oklahoma wish to obtain the floor in his own right?

Mr. MONRONEY. Yes.

Mr. DOUGLAS. Very well.

Mr. President, I yield the floor.

Mr. MONRONEY. Mr. President——

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. CLARK. Mr. President, will the Senator from Oklahoma yield briefly to me?

Mr. MONRONEY. I yield.

Mr. CLARK. I thank the Senator from Oklahoma.

Mr. President, I supported the Williams oil depletion amendment, and I shall support the Douglas amendment. I desire to state very briefly my reasons for doing so.

First, I wish to make it clear that—at least, in my own mind—I am not engaging in a grandstand play. I have revealed to the public the fact that for many years my principal source of income has been oil royalties paid me by the Humble Oil & Refining Co., in an amount sufficient to enable me to lead a comfortable life and still be a U.S. Senator.

I repeat that I am not indulging in a grandstand play.

Mr. LONG of Louisiana. Mr. President, will the Senator from Pennsylvania yield?

Mr. CLARK. I yield.

Mr. LONG of Louisiana. Would not the Senator from Pennsylvania be protected by this amendment? He is an oil royalty owner, is he not?

Mr. CLARK. I intend to support the amendment of the Senator from Illinois, because the oil depletion allowance is so unconscionable that I cannot sleep very well some nights when I realize that I am a beneficiary of it. So I intend to support a cut in it; and I think it can be cut and still be such as to enable me to continue my rather comfortable mode of living.

I say to the Senator from Louisiana that it is the munificence which flows from underneath the land of the sugar plantation which my great grandfather had the wisdom to squat on, shortly before the Civil War, land located in Louisiana, which enables me to take this so-called high-minded attitude, because I could afford to have the oil depletion allowance cut rather substantially and still not suffer unduly.

Mr. LONG of Louisiana. Mr. President, does the Senator from Pennsylvania say——

Mr. CLARK. Mr. President, I do not yield at this time.

I say that this is no grandstand play on my part, because the depletion allowance could be cut in half, and I still could pay for the groceries I need.

Mr. President, I asked the Senator from Oklahoma to yield briefly to me. However, if the Senator from Louisiana

wishes to inject his remarks into my speech, I am glad to yield to him.

Mr. LONG of Louisiana. Is the Senator from Pennsylvania making more than $1 million a year from those royalties?

Mr. CLARK. No. I am making in the neighborhood of $60,000 to $70,000 a year from the royalties.

Mr. LONG of Louisiana. Then the Senator from Pennsylvania is well protected; and the amendment would cost him nothing, and he could be a statesman about this matter.

Mr. CLARK. So what? I am still in favor of the amendment.

Mr. LONG of Louisiana. But the Senator from Pennsylvania would take no risk.

That is exactly what is wrong with the amendment of the Senator from Illinois: Those who take no risk could continue to stay in Philadelphia and draw their royalties; and the Senator from Pennsylvania therefore would favor the amendment, even if the result was that nothing but dust were found in the bottom of a dry hole.

Mr. CLARK. Mr. President, I can shout as loud as the Senator from Louisiana can. If he wishes me to yield from the time given me by courtesy of the Senator from Oklahoma, I am willing to yield for a question—but not for a speech in the brief amount of time which has been yielded to me. But I can shout as loud as the Senator from Louisiana can. If he wishes to ask me a question, I shall yield. If he wishes to make a stump speech, he should make it on his own time.

Mr. LONG of Louisiana. Well, does the Senator from Pennsylvania say that if an oil company conducts its operations on the land which was acquired by his great-grandfather, and if that company takes all the risk and drills the well, and if its operations result in enabling the Senator from Pennsylvania to have a guaranteed income of $70,000 a year, is it fair, when that company takes all the risk for the Senator from Pennsylvania to take none of the risk, but still favor an amendment which would cut the depletion allowance to an extent which really would hurt that company?

Mr. CLARK. Mr. President, if the Senator from Louisiana wishes to have me give him a candid answer, it is that I do not think it is fair that I get so much income tax free and at the same time that the Humble Oil Co. not pay the amount of taxes which it should pay as its fair share in order to help preserve our freedoms and our American way of life.

Mr. LONG of Louisiana. Does the Senator from Pennsylvania think it is fair for the producer to take all the risk and for the Senator, who receives that fine income from the oil company's operations, to take no risk—not only take no risk, but, in fact, receive that very large payment—and also for the Senator to favor this amendment, which really would hurt that producer? Does the Senator from Pennsylvania think it is fair for him in that way to repay that company for all the risk it took? In other words, does he believe it would be fair for him to favor an amendment which would penalize those who took the risk, while those who are protected and are making fine profits are living comfortably and are the ones who really benefit as a result of the 27½-percent depletion allowance?

Mr. CLARK. The answer to that question is "Yes." Nevertheless I voted for the amendment of the Senator from

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Delaware [Mr. WILLIAMS], which did not include the escape clause which, in my opinion, the Douglas amendment includes.

In my opinion, a cut in the depletion allowance, whether confined to the depletion allowance received by the large companies which produce oil or confined to allowance received by the royalty owners, is an appropriate exercise of the discretion of Congress; and I shall support it.

Mr. President, if the Senator from Louisiana will permit me to do so, I should like to conclude my comments—and in short order.

I thank the Senator from Oklahoma for yielding this time to me.

My point is that the arguments made by the Senator from Delaware and the Senator from Illinois are quite unanswerable. In my opinion that is an industry which quite clearly is not paying its fair share of our national tax burden.

I understand that this is a controversial statement for me to make. I have tried to follow the arguments on both sides as well as I could. Nevertheless, it seems clear to me that the preponderance of sound argument is on the side of the Senator from Delaware [Mr. WILLIAMS] and the Senator from Illinois [Mr. DOUGLAS]. In my judgment, there is no conceivable excuse for my getting tax free income because my great-grandfather, who thought he was going to raise sugar—I am sure he would roll over in his grave now if he knew that there were 63 to 70 oil-producing oil wells under the land where, unhappily, he failed to raise sugar with any profit—

had the good fortune or the good luck to squat on that land. I suppose that statement is not fair to great-grandfather, because he got a good title to that Spanish land grant. He did not really squat; he bought the land.

I conclude on the following note: Here is an inequitable tax situation which has existed for a long time. Every year since I came to the Senate efforts have been made to cut the depletion allowance in order to bring the return from the oil industry somewhere into line with the return from other well-managed and profitable American corporations.

We have been defeated because the votes of Senators who come from the States where oil is being produced defeat the effort to give equity to this part of our tax structure.

The argument has been made that we ought not to cut the depletion allowance because we have to encourage further exploration for oil and gas and the building up of further reserves. In my opinion that is an unsound argument. There is too much oil now. The Middle Eastern oil is produced so much more cheaply than our domestic oil that it is necessary to rig the price. The gulf coast posted price which controls U.S. prices for oil is far higher than the profitable cost of bringing oil in from the Middle East and elsewhere. In my opinion—and I am now about through—it would be far better to keep those reserves in the ground until perhaps they will be badly needed in the event of war or some other catastrophe, when perhaps our source of supply from foreign oil would be cut down. We know those reserves are there. We know what they are. The oil wells on the property from which I received royalties are now restricted as to the number of barrels they can produce each day. It is probably a good thing for my children and my grandchildren that, in an effort to maintain and stabilize the price, production from those wells is being curtailed. It seems to me that in that situation it would be far wiser not to drill a great many more wells to prove those reserves. I believe domestic production should be cut even further.

I thank my friend from Oklahoma for yielding to me. I shall support the Douglas amendment.

Mr. MONRONEY. Mr. President, before we establish a change in our historic and, I believe, successful policy of dealing with mineral deposits in the United States, we should at least stop, look, and listen. We have heard nothing, except bare statements on the floor of the Senate, to show that we have too much oil. I feel that we do not have too much oil. I believe that we must always have enough oil so that our Nation can be independent, if necessary, in the event Middle Eastern oil is shut off or if Latin American oil is shut off. We should have that oil available so that we can supply with oil the necessary equipment, including airplanes, tanks, automobiles, and buses that are so heavily dependent on that prime source of energy.

If we keep those objectives in sight, I do not believe it can be shown that we are overdeveloping our natural resources. Any idea that we should make it harder to find oil is difficult to understand. That is the point of the argument of all three leaders who support the amendment. They maintain that there has been overdevelopment of our oil resources and overinvestment in them. If we are required to import 12½ percent of our oil from overseas today, I believe that we certainly are not overproducing or overdeveloping. Certainly some of the oil is shut in. I am very glad that we are producing only 7½ million barrels a day against an absolute potential of 10½ million barrels. But that is not a sign that if we should open production to 10½ million barrels we would have that much supply per day. Over a period of 45 days, when the rock pressure would go down, we could not produce that much oil.

I should like to state what we are asked to do in the Douglas amendment.

I am very much surprised that a man who always hews to the line of absolute fairness in the treatment of any tax question would change the whole philosophy of the depletion allowances, which historically have been based on many factors, but certainly not on the income of the individual taxpayer.

We have a graduated income tax for individuals. We have a corporation tax, which has been too high. It has been 52 percent; it will be lowered to 48 percent. But even then these corporations will be declaring dividends. When the dividends go out and are received by the individual stockholders, those stockholders will pay the graduated income tax on them. For that reason I say that we are attempting to put two taxes on the income of the individual taxpayer. We would put a penalty on his success in finding oil or developing it. I think such a penalty is against the best principles that we have always stood for.

Under the Douglas amendment, the rate of depletion would no longer be based upon a particular mineral or commodity, as has historically been the case, but it would be based instead upon a concept completely irrelevant to the original purposes of depletion, such as

the need for domestic reserves, the large amount of capital required, and the comparative risk. Under the Senator's amendment, the depletion rate would be based solely on the financial status of a particular individual or a particular corporation.

It would not depend on the mineral, whether it was hard to find, or whether it existed in great quantities. All the minerals with peculiar sounding names would be placed above oil in the depletion allowance. The amendment would give higher allowances to those people who are fortunate enough to have deposits of sulfur or uranium that he mentioned.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. MONRONEY. I yield.

Mr. DOUGLAS. If the Senator desires to apply to sulfur and uranium the same rate that would apply to oil, that would be satisfactory.

Mr. MONRONEY. The Senator has his amendment, and he has been arguing for it for 2 days. I am merely pointing out how poorly thought out is the amendment.

Lead and zinc, which exist in great quantities, are found only a few hundred feet under the surface of the ground. Sometimes they are only 10 feet below the surface. Those minerals would continue to have a depletion allowance of 23 percent, while the depletion allowance on oil would be cut to 15 percent.

As the Senator has said, most of the oil producers would be in the higher brackets. But all of these things depart from the traditional concept that the percentage depletion allowance over the years should be based on the mineral and not on how many stockholders there are, or how rich or how lucky an oil producer might have been in the discovery of oil. I do not think we wish to go to that kind of concept, particularly when the Senator includes such items as sagger clay, and clay used or sold for use for such purposes, and bentonite. All those minerals would be given a more favorable rate than oil, which is to be found 5,000 feet under the surface of the earth. The risk one must take in searching for oil is high.

We might as well use the number of shareholders of a corporation, or in the case of an individual, the color of his hair or the cut of his clothes to determine what the rate should be.

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Mr. CARLSON. Mr. President, will the Senator yield?

Mr. MONRONEY. I yield to the Senator from Kansas.

Mr. CARLSON. An interesting discussion on the statement which the Senator has made took place during the hearings at the time Mr. Harold Decker, who was immediate past president of the Independent Petroleum Association, testified. The statement is found at page 2373 of the hearings. The Senator from Illinois was involved in the colloquy. I ask the Senator if I may quote briefly from that page.

Mr. MONRONEY. Yes.

Mr. CARLSON. It reads as follows:

Senator CARLSON. Just following the suggestion that the Senator from Illinois, Senator DOUGLAS, made, would it not be the establishment really of a graduated corporation tax based on size or bigness and the tendency, of course, if that were approved would be for these large corporations to gradually split up into smaller units; wouldn't that be the tendency?

Mr. DECKER. I think you would find the smaller individual once he gets past a certain stage would immediately sell out.

Senator CARLSON. In other words—well, yes, of course, that is what would happen, I assume.

Mr. DECKER. It is happening fast enough now and you would really accelerate it if you had that.

Senator CARLSON. That is all.

Senator DOUGLAS. Would the Senator yield?

Senator CARLSON. I am through.

Senator DOUGLAS. Do you think they would sell out?

Mr. DECKER. I say if the depletion came to 20 percent instead of 27½ percent by the graduation that you propose they would immediately sell out.

Senator DOUGLAS. Why?

Mr. DECKER. Because the lower depletion rate that they would have after they got past a certain stage, they would sell out. The capital gains would be a greater encouragement for them to sell. My income, if it is a million dollars under your proposal, I would have 27½ percent.

Senator DOUGLAS. That is right.

Mr. DECKER. If my income became $5 million, I would be graduated down to 20 percent.

Senator DOUGLAS. Fifteen percent.

Mr. DECKER. Fifteen, all right.

Senator DOUGLAS. Between 1 and 5 million, 21 percent.

Mr. DECKER. Why should I remain in business having seen—had depletion at 27½ percent, seen it go down to 15 percent. I would sell out.

That is an interesting colloquy in view of the statement of the Senator from Illinois. Mr. Decker is one of the most important oil producers.

Mr. MONRONEY. I think we would depart from a commodity depletion allowance which was established as a result of putting a high value on materials we need to have in adequate supply. I do not think the time has come to turn the valve off the discovery of such products. Perhaps they should not be pro-

duced in such volume. Perhaps their production needs to be prorated, and they should not be pulled out of the ground as fast as at present. But we do not have to put up a sign, "No explorers need apply." I do not think any State wants to deter explorations.

I am sure many investors from Oklahoma who discovered oil there have moved to West Virginia and are helping to find oil in West Virginia. If they were held down to a strict financial restriction whereby their depletion allowance was reduced to 15 percent, I think they would do what many of the wildcatters and big producers have done when they find oil. They sell and take a capital gain, which is more productive of income than the discovery of an oilfield, producing oil for 10 years, and taking the 27½ percent on 50 percent of the net.

Mr. DOUGLAS. If the Senator will yield, up to 50 percent.

Mr. MONRONEY. Fifty percent of the net. They have to have no expenditures if they are going to use up the whole 27½ percent. The average in my State is about 15 percent.

The depletion allowance applies to more than 100 metals. This method has proven valuable and is now applicable to all such industries. Why single out oil and gas as the sole minerals to be penalized by making them exceptions, when the others will continue to have a depletion allowance much higher than 15 percent, which would be the amount for the $5 million producers?

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. MONRONEY. I yield.

Mr. DOUGLAS. I do not have the list from the Internal Revenue Code before me.

Mr. MONRONEY. I have it.

Mr. DOUGLAS. It is my understanding that oil and gas are the only ones that have a 27½-percent depletion allowance. I believe sulfur and uranium have a depletion alowance of 23 percent. I believe other minerals have a depletion allowance of 15 percent or less.

Mr. MONRONEY. No; there is a long list, including sulfur, uranium, lead, zinc, and thorium. That is the way the Internal Revenue Code reads. Most of these minerals—enjoy a 15-percent depletion allowance. The Senator certainly knows that coal is found very close to the surface. Once it is found, its location is definitely known and how long the field will last is known.

Mr. DOUGLAS. If my friend will permit me to say it, it states "27½ percent" depletion allowance, which starts the parade, and the others move up toward it.

When I last saw the list, I had not realized there were some 20 or 30 minerals which had a depletion allowance of 23 percent. I thought it was confined to sulfur and uranium. The 27½ percent is an evil example. Everything is drawing toward it.

Mr. MONRONEY. The Senator is drawing on his own judgment. The 27½-percent depletion allowance has produced a profitable industry that has led employment in its field and has supported a tax base of billions of dollars. I do not think it has proved to be unsuccessful.

The Senator feels that certain persons have made an unusual amount of money in oil; but, generally speaking, I feel that the oil industry has paid its part of the taxes. Now it is proposed to single out oil and gas producers for a special rule and not only penalize them on what can be deducted, but, if they are successful in finding oil, decrease their depletion allowance gradually, until the depletion allowance for a company making $80,000 a year, which is about the net profit on $1 million gross of oil production, will be 21 percent. If they happen to be efficient and discover oil, and spend money for geologic and geophysical research, and receive an income up to $5 million, the depletion allowance drops to 15 percent.

When that happens many oil producers will go out of business, and this country will have to depend on oversea supplies. and will be plagued again by the dollar outflow as a result of having to depend for our supplies from abroad.

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KENNEDY in the chair). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Illinois [Mr. DOUGLAS]. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Arizona [Mr. HAYDEN], the Senator from Georgia [Mr. RUSSELL], and the Senator from Alabama [Mr. SPARKMAN] are absent on official business.

Mr. KUCHEL. I announce that the Senator from Nebraska [Mr. CURTIS],

the Senator from Illinois [Mr. DIRKSEN], and the Senator from Arizona [Mr. GOLDWATER] are necessarily absent.

The Senator from Iowa [Mr. HICKENLOOPER] and the Senator from North Dakota [Mr. YOUNG] are detained on official business.

If present and voting, the Senator from Nebraska [Mr. CURTIS], the Senator from Illinois [Mr. DIRKSEN], the Senator from Arizona [Mr. GOLDWATER], the Senator from Iowa [Mr. HICKENLOOPER], and the Senator from North Dakota [Mr. YOUNG] would each vote "nay."

The result was announced—yeas 35, nays 57, as follows:

[No. 30 Leg.]

YEAS—35

Aiken	Jackson	Neuberger
Brewster	Javits	Pastore
Case	Keating	Pell
Church	Kennedy	Prouty
Clark	Lausche	Proxmire
Dodd	Magnuson	Ribicoff
Douglas	McGovern	Saltonstall
Ervin	McIntyre	Smith
Fong	McNamara	Symington
Gore	Morse	Williams, Del.
Hart	Muskie	Young, Ohio
Humphrey	Nelson	

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NAYS—57

Allott	Engle	Metcalf
Anderson	Fulbright	Miller
Bartlett	Gruening	Monroney
Bayh	Hartke	Morton
Beall	Hill	Moss
Bennett	Holland	Mundt
Bible	Hruska	Pearson
Boggs	Inouye	Randolph
Burdick	Johnston	Robertson
Byrd, Va.	Jordan, N.C.	Scott
Byrd, W. Va.	Jordan, Idaho	Simpson
Cannon	Kuchel	Smathers
Carlson	Long, Mo.	Stennis
Cooper	Long, La.	Talmadge
Cotton	Mansfield	Thurmond
Dominick	McCarthy	Tower
Eastland	McClellan	Walters
Edmondson	McGee	Williams, N.J.
Ellender	Mechem	Yarborough

NOT VOTING—8

Curtis	Hayden	Sparkman
Dirksen	Hickenlooper	Young, N. Dak.
Goldwater	Russell	

So Mr. DOUGLAS' amendment was rejected.

Mr. GORE. Mr. President, last evening the Senate took three votes on a section to be found on pages 38 and 39 of the bill, dealing with the treatment of the investment credit. If Senators will give me their attention, once again I will give them my promise not to take very long.

The PRESIDING OFFICER. Is the Senator offering an amendment?

Mr. GORE. In a moment I shall offer it. Last evening, there were three votes on one highly controversial section of the bill. The first vote was on a motion to table. This failed by 10 votes. That indicated a substantial sentiment in the Senate to treat substantively with this subject.

The distinguished junior Senator from Georgia [Mr. TALMADGE] then demanded a division of the amendment. That was his parliamentary right.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. GORE. I should like to finish stating my proposal; then I shall be happy to yield.

When the question was divided, both parts of the amendment failed. A number of Senators raised the question that neither the provision in the bill nor the failure of one amendment and the adoption of the other would treat all regulated utilities alike.

I have drafted an amendment, with the advice and help of many Members of the Senate and of the staff, which would neither require nor prohibit the passthrough of the investment credit.

It would leave to the regulatory agencies discretion as to whether to do so or not, but would fix a limitation on all flowthrough requirements affecting all regulated utilities. That is the identical provision that we find in Part 1 of section 203(e) on page 38, that is the part of that section which deals with the electric utilities and interstate telephone lines. Insofar as the investment credit is concerned, this would treat all regulated utilities in identically the same way.

I send the amendment to the desk and ask that it be read. I have several copies which I shall distribute to Senators.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. Beginning on line 18, page 38, it is proposed to strike out all through line 9, page 39 and insert:

More than a proportionate part (determined with reference to the average useful life of the property with respect to which the credit was allowed) of the credit used against tax allowed for any taxable year by section 38 of such Code to reduce such taxpayer's Federal income taxes for the purpose of establishing the cost of service of the taxpayer or to accomplish a similar result by any other method.

Mr. TOWER. Mr. President, will the Senator from Tennessee yield?

Mr. GORE. I yield.

Mr. TOWER. The Senator said that first we had to defeat the motion. We defeated that motion by 10 or 11 votes. Then the Senator from Georgia invoked his privilege to divide the amendment into two parts. It is not true that the Senator from Georgia announced his intention to invoke his privilege prior to the vote on the motion to table?

Mr. GORE. Yes.

Mr. TOWER. So Senators who voted to table were aware that that privilege could be invoked, and that in spite of the result of the vote on the tabling motion, we could still vote on the amendment in two parts?

Mr. GORE. The Senator is exactly correct.

Mr. TOWER. Many Senators felt that since they were going to vote on the two parts anyway, they might as well defeat the tabling motion.

Mr. GORE. I do not know what were the reasons of Senators, but the Senator has correctly stated the situation.

[*P. 2118*]

REVENUE ACT OF 1964

The Senate resumed the consideration of the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes.

Mr. GORE. Mr. President, I shall take only enough time to read the amendment as it would appear in the bill. If Senators will turn to page 38 of the bill, my amendment strikes, beginning with line 18, all through line 9 on page 39. If Senators will look at line 14, on page 38, I shall begin to read with the word "accordingly", and then, after the word "use", read from my amendment. I read from the bill, line 14, page 38:

> Accordingly, Congress does not intend that any agency or instrumentality of the United States having jurisdiction with respect to a taxpayer shall, without the consent of the taxpayer, use more than a proportionate part (determined with reference to the average useful life of the property with respect to which the credit was allowed) of the credit used against tax allowed for any taxable year by section 38 of such code to reduce such taxpayer's Federal income taxes for the purpose of establishing the cost of service of the taxpayer or to accomplish a similar result by any other method.

That is it. It treats every regulated utility in exactly the same way. I desist.

Mr. LONG of Louisiana. Mr. President, we are again asked to regulate the utilities of the country. Yesterday the argument was made for 9 hours that we should not tell regulatory commissions what to do. Those of us who were arguing for the prevailing position of the Senate said that we had voted a tax cut for the transportation industry, and that that meant that for the utility industries we provided a tax cut as an incentive. That is the way the Senate voted. But we had to listen to at least 6 hours of oratory yesterday, to the effect that we should not tell the commissions what to do.

The amendment of the Senator from Tennessee provides that the commissions shall not require a passthrough except over the life of depreciable property. Is not that telling the commissions what to do? Of course it is telling them what to do.

If that is not telling them what to do, why leave it to their discretion, so that they may or may not require the passthrough? It is the same issue on which the Senate passed last night. It is telling the commissions what they can or cannot do. It is the same issue all over again. The question is whether we want to require commissions that regulate the utility industry—that regulate railroads, pipelines, bargelines, ship lines, and airlines—whether we want to require regulatory agencies to require a passthrough of the tax credit which Congress, to this point at least, has indicated it wants to permit those industries to keep as an incentive for their expansion.

It seems to me that we have voted on the issue and made our position clear. I do not think the Senate would want, on the spur of the moment, to do something which, I am told by those who would be regulated by the amendment, based on the short time they have had to consider it, would be a suggestion to the regulatory agencies that they should require a passthrough of the tax credit that the industries have earned, in the event that they modernize and improve their facilities or in the event they procure new facilities or provide improved service for the people.

Furthermore, if we accepted the so-called flexibility provided for by the amendment, the situation would still be that if a management wanted to modernize its railroad, wanted to install a new pipeline alongside an existing pipeline, wanted to build new barges or tankers, it would have to do so not knowing whether it would be able to keep the tax credit or would ever get its expenditure back. Such a management would be in a state of uncertainty when it sought to borrow money from a bank. It could not tell the banker whether it could keep the investment credit or would have to return it. It would be in the kind of uncertainty that President Johnson, in his state of the Union message, said is a very bad thing for business.

If Senators want to be certain that business will be able to use the credit to modernize and expand, if they want to enable industry to serve the people bet-

ter, they will permit it to have the incentive of the tax credit. If they do not want industry to have it, they can vote against the incentive of the tax credit.

Mr. MORTON. Mr. President, will the Senator yield?

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Mr. LONG of Louisiana. I yield.

Mr. MORTON. As I understand—and I saw the amendment only a few hours ago—it would impose twice as much of a penalty on industry as did the amendment offered by the Senator from Wisconsin last night. Senators spent 9 hours debating this question. We voted on the amendment on its merits, and we rejected it.

Now an amendment is proposed that seems to me, from my cursory examination of it—and I spent a couple of hours with it—would not only eliminate depreciation credit, but, on top of that, lower the rate base. So there would be a double penalty by reason of this amendment. After spending 9 hours of absolutely exhausting debate on the issues, I would hope that the Senator in charge of the bill would see fit to move to table the amendment.

Mr. LONG of Louisiana. It seems to me that the bill contains language to carry out what appears to be the original intention of Congress when the tax credit was originally passed.

That is what we have here. We also have here a measure which has been studied by the House Ways and Means Committee, and then passed by the House; and then studied by the Senate committee and debated by the Senate committee, and then voted by the Senate. But now we are asked—after a presentation lasting only 2 or 3 minutes—to change the whole policy in the way the Senator from Tennessee thinks it should be changed.

This is the way the bill as it now stands would treat the regulated electric companies and the telephone companies, as compared with the treatment of the companies in the transportation industry: It is felt that the telephone companies and the private utilities which serve the home—such as the electric companies—have a locked-in monopoly. They are guaranteed a fair rate of return, and they do not have to compete for customers.

On the other hand, the transportation industry is such that the railroads are competing with other railroads, and also are competing with the barge lines, and all of them are delivering the same commodities; and, in turn, all of them are competing with the shipping lines and the truck lines. So it is only good sense that all of them be treated alike, and that none have an advantage over the others.

Mr. McCLELLAN. And that is why we have the arrangements for the seven and the three.

Mr. LONG of Louisiana. Yes; the one for the locked-in monopoly companies, and the other for the companies that have competition.

Mr. COOPER. Mr. President, I wish to discuss the proposed amendment briefly. I listened carefully to the debate yesterday which lasted 6 or 7 hours. I know that the subject is not a simple one, and that any amendment to this section can affect the relative position of different businesses or have other effects which may not be immediately apparent.

Yesterday, I voted against the amendments of the Senator from Wisconsin [Mr. PROXMIRE] would have permitted a regulatory agency to require that a utility or regulated business flow through or pass on the benefit of the tax credit—in 1 year or 2 years or 3 years, as that agency might see fit—and thereby vitiate what I considered to be the intent of the investment credit act passed by the Congress in 1962, and for which I voted. The clear intent of the Congress was to encourage investment in new equipment, to make businesses more competitive, and to reduce unemployment.

I wish to ask a question. The Finance Committee, and the Senator from Louisiana, who is the Senator in charge of the bill, supported subparagraph (1) of section 203(e), which with respect to public utility property would permit a regulatory agency to require that the investment tax credit or benefit be "flowed through" or passed on—but only "a proportionate part determined with reference to the average useful life of the property" for which the credit was allowed.

If that was agreed to by the committee, and by the Senator in charge of the bill, and yesterday by the Senate, in what respect does the pending amendment, which has been offered by the Senator from Tennessee [Mr. GORE], differ from subparagraph (1) which has the support of the Senator from Louisiana and the committee?

I felt, I may say, that the proposals of the Senator from Wisconsin to strike subparagraph (1), and later subparagraph (2), were both wrong because I believe they would have vitiated the intent of the Investment Credit Act. No regulatory agency has any authority to change or frustrate the intent of the Congress with respect to the investment credit.

But inasmuch as the Senate committee and the Senator in charge of the bill and the Senate itself accepted the principle incorporated in subparagraph (1)—respecting public utility properties—I think it should be made clear why it should not be applied to all the other properties which get the benefit of the investment tax credit.

Mr. LONG of Louisiana. The difference is that the industries which were held to the lower investment credit to begin with because they do not have to compete for their customers, in other words, the ones which include the telephone companies, inasmuch as the telephone company keeps its customers, no matter how much or how little the customers use the telephones, and, in effect, the telephone company can guarantee that it will have a fair rate of return; and the same is true of the electric companies, which provide electricity to the homes—can charge a rate high enough to guarantee themselves a fair rate of return, and thus they an be assured that they will be able to remain in business.

On the other hand, consider the situation which is faced by the gas companies in New York City which supply gas to homes. A certain amount of the gas is used for cooking purposes; but at the moment I refer particularly to gas which is used for heating homes. At any moment an oil company could build an oil tanker twice the usual length of oil tankers, and could arrange to have that supertanker operated with only half the usual number of crew members, and could use the tanker to transport oil to New York at half the previous cost of transporting oil there by tanker; and the oil of the grade used for heating houses could then be placed on the New York market, and in that way there would be sharp competition with the gas company which was supplying gas for household heating purposes.

Furthermore, imports of residual oil would also provide sharp competition with the gas company, particularly in view of the fact that residual oil has, on a British thermal unit basis, twice the efficiency of gas. Likewise, consider the competition which would then develop if an electric company decided to supply electricity for heating purposes to the consumers in New York City. After all, in view of recent developments, electricity is now competitive with gas, for heating purposes; and since the electric companies have begun to work hard to have electricity used for heating purposes, and thus be able to take the customers away from the gas companies, insofar as the heating of households is concerned, and since the electric companies are becoming much more efficient in that connection—by making offpeak rates available, and by other means, and thus keeping down the rates—all the more competition is developed.

Furthermore, even in the case of customers who now are using coal, other companies can bring in coal over the highways, by truck, or over the waterways, by barge or by ship. In short, all those industries are competing to provide the service to the customers; and they are competitive industries, even though they are regulated. They do not have captive customers, and all of them are competing for the market. In fact, in some instances this would apply to trucklines which use the same highways, but are competing with each other for the customers or for the business; and thus this proposal would treat them as competing, and would permit them to enjoy the 7-percent tax credit.

Mr. COOPER. Under the amendment proposed by the Senator from Tennessee, all these competing transportation businesses would be treated the same way, as far as legislation is concerned, with respect to passing through the investment tax benefits, would they not?

Mr. LONG of Louisiana. No. The Commission could treat them the same way, but it would also have the discretionary authority not to do so.

Mr. COOPER. But the amendment of the Senator from Tennessee requires that all be treated the same way, as far as legislation is concerned.

Mr. GORE. That is correct.

Mr. LONG of Louisiana. Oh, no.

Mr. COOPER. That is to say, it would provide that their investment tax benefit should be passed through over a number of years, proportionate to the use-

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ful life of the property on which the investment credit was used.

Mr. LONG of Louisiana. No. Under this amendment the Federal Power Commission could tell the pipelines that they would have to pass through or give back every nickel of the investment credit over the useful life of the property, at the same time that the Interstate Commerce Commission could permit the railroads and the bargelines to have the full benefit of it. But under this amendment, the opposite effect could obtain; in other words, it would permit the one regulating agency to deny it to the carriers it regulates, whereas the other regulating agency could permit it to the carriers it regulates.

With this problem before them, three of the Commissioners thought the companies should be required to give up the investment credit entirely, but two of

the Commissioners thought the companies should have the benefit of it. So the fight will wind up in court, and eventually the Supreme Court will decide whether to decide in line with the view of the three Commissioners or to decide in line with the view of the two Commissioners—in other words, to decide whether the companies should have the credit or should not have it.

So far, the Interstate Commerce Commission thinks the act clearly was intended to enable the railroads to have it, in order to be able to modernize. Thus, the Interstate Commerce Commission thinks the railroads were intended to get the benefit of it; and that would still be the result, even under the discriminatory tax treatment which the Senate laid down last night.

Mr. COOPER. I shall vote against the amendment. As I understand the position of the Senator from Louisiana, it is that some, and perhaps most businesses, would receive the full benefit of the investment credit, for their own uses, under the amendment offered by the able Senator from Tennessee [Mr. GORE], but that a few would be required to pass the credit through to others, and thus be placed in a bad position with their competitors.

Mr. LONG of Louisiana. Exactly; and the amendment could let it obtain in one way, but not obtain in the other.

Mr. TOWER. Mr. President, will the Senator from Louisiana yield briefly to me?

Mr. LONG of Louisiana. I yield.

Mr. TOWER. Would the amendment apply to companies also engaged in transportation in competition with other concerns which might have their own trucklines or pipelines or bargelines, and so forth; and would it enable them to get the full benefit of the credit, without any regulation whatsoever?

Mr. LONG of Louisiana. Yes. Furthermore, there is at least an inference that that is the way Congress should permit the agency to do it.

Mr. SALTONSTALL. Am I correct in saying that section 1 refers to a monopoly, and that would allow 3 percent; section 2 refers to competition with railroads, pipelines, and so on, and would allow 7 percent. Then, if the amendment of the Senator from Tennessee were adopted, it would vitiate the whole value of the second part of the section. In other words, in instances in which railroads and pipelines were competing and were allowed 7 percent, because of the competition, and so on, that provision would be vitiated and it would be returned to the same basis as the first section, which refers to a monopoly?

Mr. LONG of Louisiana. The Senator is correct.

Mr. SALTONSTALL. Is that a fair statement?

Mr. LONG of Louisiana. That is a fair statement of the situation as I see it.

Mr. LAUSCHE. Mr. President, with respect to the amendment offered by the Senator from Tennessee, if we refer to page 38 of the bill we find that the language at that point is an absolute prohibition against the right of a regulatory agency to pass on to consumers any of the benefits derived through the investment credit except when the utility consents.

Mr. GORE. Mr. President, will the Senator yield?

Mr. LAUSCHE. I yield.

Mr. GORE. The Senator is referring, I wish it understood, to a provision in the bill.

Mr. LAUSCHE. The Senator is correct.

Mr. GORE. The Senator from Louisiana said something about the big point. The big point here is that the 7-percent utility group has, according to the bill as it now stands, an absolute lock against the regulatory agency even considering the benefits of investment credit in reaching a fair and reasonable rate for consumers to pay or a fair and reasonable rate of return on investment. If Senators will read my amendment, they will find that the treatment which the bill accords to the electric and telephone utilities would be extended to the other utilities. The big point is that unless the Senate adopts the amendment, the unconscionable thing is that by subparagraph (2) we would say to the gas pipelines, "You have a free ride," and to the Federal Power Commission that it cannot even consider the question. So the amendment would treat the 3-percent and the 7-percent groups of utilities in exactly the same way.

The amendment does not require that the benefits be passed through, but it does not prohibit consideration of the investment credit to the extent—and this is a severe limitation—of the prorated annual amounts according to the useful life of the capital assets.

Mr. LAUSCHE. I contemplate voting for the amendment of the Senator from Tennessee. But I now would like to speak a word apart from the subject which the Senator from Tennessee discussed. If the tax reduction bill is passed, it will be on the basis of a commitment that there will be a reduction of expenditures by the Federal Government. The effort was made to convince the chairman of the Committee on Fi-

nance that the tax bill ought to be passed because the Government contemplates exercising prudence in expenditures in the future.

I invite the attention of Senators to the amendment offered by the Senator from Arkansas [Mr. McClellan] and myself. The amendment reads:

(a) In General.—If the net administrative budget expenditures made during any fiscal year ending on or after June 30, 1965, exceed $100,000,000,000, then—

(1) with respect to taxable years beginning after the December 31 following the close of such fiscal year, the amendments made by part I (relating to individuals) and part II (relating to corporations) of this title and the amendments made by section 301 (relating to optional tax if adjusted gross income is less than $5,000) of title III shall not apply, and the provisions of the Internal Revenue Code of 1954 amended by such parts I and II and such section 301 shall apply as if this Act had not been enacted, and

The purpose of the McClellan-Lausche amendment is to keep the commitment that there shall be prudence in the expenditure of the public funds. If and when expenditures exceed $100 billion, and it is so certified, the tax reductions provided in the pending bill would no longer apply, and the taxes which were in existence before the pending bill is passed would go into effect.

I yield the floor.

Mr. GORE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee [Mr. Gore]. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MILLER (after having voted in the affirmative). Mr. President, on this vote I have a live pair with the distinguished Senator from Illinois [Mr. Dirksen]. If he were present and voting, he would vote "nay." If I were at liberty to cast my vote, I would vote "yea." I therefore withdraw my vote.

Mr. HUMPHREY. I announce that the Senator from Alabama [Mr. Hill] and the Senator from Mississippi [Mr. Stennis] are absent on official business.

Mr. KUCHEL. I announce that the Senator from Nebraska [Mr. Curtis], the Senator from Illinois [Mr. Dirksen], and the Senator from Arizona [Mr. Goldwater] are necessarily absent.

The Senator from Iowa [Mr. Hickenlooper] and the Senator from North Dakota [Mr. Young] are detained on official business.

If present and voting, the Senator from Nebraska [Mr. Curtis], the Senator from Arizona [Mr. Goldwater], and the Senator from Iowa [Mr. Hickenlooper] would each vote "nay."

The pair of the Senator from Illinois [Mr. Dirksen] has been previously announced.

The result was announced—yeas 42, nays 50, as follows:

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[No. 31 Leg.]

YEAS—42

Aiken	Jackson	Neuberger
Bartlett	Javits	Pastore
Bayh	Keating	Pell
Burdick	Kennedy	Prouty
Byrd, Va.	Kuchel	Proxmire
Case	Lausche	Ribicoff
Church	McGovern	Robertson
Clark	McIntyre	Russell
Dodd	McNamara	Scott
Douglas	Metcalf	Smith
Gore	Morse	Talmadge
Gruening	Moss	Williams, Del.
Hart	Muskie	Yarborough
Humphrey	Nelson	Young, Ohio

NAYS—50

Allott	Ervin	McGee
Anderson	Fong	Mechem
Beall	Fulbright	Monroney
Bennett	Hartke	Morton
Bible	Hayden	Mundt
Boggs	Holland	Pearson
Brewster	Hruska	Randolph
Byrd, W. Va.	Inouye	Saltonstall
Cannon	Johnston	Simpson
Carlson	Jordan, N.C.	Smathers
Cooper	Jordan, Idaho	Sparkman
Cotton	Long, Mo.	Symington
Dominick	Long, La.	Thurmond
Eastland	Magnuson	Tower
Edmondson	Mansfield	Walters
Ellender	McCarthy	Williams, N.J.
Engle	McClellan	

NOT VOTING—8

Curtis	Hickenlooper	Stennis
Dirksen	Hill	Young, N. Dak.
Goldwater	Miller	

So Mr. Gore's amendment was rejected.

Mr. MORTON. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. LONG of Louisiana. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota [Mr. McCarthy] is recognized.

Mr. McCARTHY. Mr. President, I call up my amendment No. 403 and I send to the desk the language which I have substituted for the text of amendment No. 403.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The Legislative Clerk. On page 49, line 13, strike out "period.'" and insert

"period if such amounts exceed 75 percent of the regular weekly rate of wages of the employee; provided that if such amounts are less than 75 percent of the regular weekly rate of wages of the employee, the preceding sentence shall not apply to amounts attributable to the first seven calendar days in such period unless the employee is hospitalized on account of sickness for at least one day during such period.' "

Mr. McCARTHY. Mr. President, in considering this amendment, I urge Senators to keep in mind the actual situation faced by most workers who are sick and the equities which are involved.

Most workers do not receive their regular wages from their employer when they are absent from work because of sickness or an accident. They receive only a sickness benefit which is generally no more than 50 to 65 percent of their regular weekly wage. This benefit is paid only for a limited number of weeks. Whether the benefit is provided unilaterally by the employer through an agreement negotiated by their union or from a health and welfare fund, the same reduction in income is applicable. For example, the General Motors worker whose weekly wage is $105 a week and who is absent from work because of a disability, will only receive a weekly benefit of $60 and this benefit will not be payable for more than 26 weeks for any one illness. A steelworker whose weekly earnings are $125 will only receive a benefit of $69 when he is sick.

These limited benefits, where they are provided through group insurance, have heretofore never been included in gross income or subject to income tax.

The tax bill of 1954 did not affect the status of these benefits. It provided that an individual who continued to receive his regular wage when he was sick, would be able to exclude the first $100 of such wage from gross income. The bill before you, however, would tax not only continued wage payments for the first 30 days, it would also require that limited sick benefits be included in gross income.

There is a considerable difference between requiring an individual to include in gross income his regular wages which he continues to receive during the period of illness, and requiring a worker whose income has been sharply curtailed during a period of illness or injury to pay a tax on a benefit which is considerably less than his after-tax take-home pay when he is working.

My amendment would not relieve the individual who continues to receive his full wage. It would only exclude benefits from gross income which are less than 75 percent of the regular weekly wage. Such a worker has already had his income curtailed by at least 25 percent. During a period of total disability, which is usually a condition of eligibility for the receipt of these limited benefits, the workers' expenses are likely to be substantially increased because of illness or injury. The additional costs of medicine, special diet, and other expenses are usually not reimbursed by most hospital and medical care programs. These increased expenses must be met out of the limited benefit.

I do not believe that equity is served by imposing a tax on these unfortunate workers. The unemployed worker who receives a limited unemployment compensation payment does not have to include this payment in his gross income. There is no more reason to require the worker who is unemployed because of illness to include as gross income, his benefit, which is usually the same percentage of his wages as unemployment compensation.

It is also important to keep in mind that all existing collective bargaining agreements which provide for sickness or accident benefits were predicated on their nontaxable status. If, for the first time in tax history, these benefits are made taxable, there will be an immediate demand for increasing the benefits to compensate for the tax which is imposed. Unions will be forced to demand a reopening of otherwise stable collective bargaining agreements with many thousands of employers.

My amendment would avoid these results. It would avoid any possibility of the tax law being used as a tax avoidance device, by continuing the requirements of present law that does not give the tax benefit during the first 7 days of sickness, unless the employee is hospitalized during such period. At the same time, it would avoid the imposition of a gross injustice on workers who are afflicted by serious illness and who are at the same time suffering a drastic reduction in income.

If the employee's sick pay is less than 75 percent of his regular pay, the 30-day waiting period provided by the House bill would not apply. Rather, in such a case, the waiting period provided by the existing law, would be retained. On the other hand, if the sick pay is 75 percent or more of the employee's regular pay, the 30-day rule of the House bill would apply.

Mr. President, I urge the adoption of this amendment.

Mr. SMATHERS. Mr. President, will the Senator from Minnesota yield?

Mr. McCARTHY. I yield.

Mr. SMATHERS. I should like to say to the able Senator from Minnesota that having checked with the various members of the Finance Committee, including the senior member of the Finance Committee on the other side, we believe that this is an amendment which should be accepted and taken to conference.

Mr. McCARTHY. I thank the Senator from Florida.

Mr. SMATHERS. I have also talked with the majority leader, the Senator in charge of the bill, and the acting majority and acting minority leaders, who are in accord on this matter.

Mr. KEATING. Mr. President, will the Senator from Minnesota yield?

Mr. McCARTHY. I yield to the Senator from New York.

Mr. KEATING. I believe the distinguished Senator from Florida has shown excellent judgment in accepting the amendment. I hope that the words "taken to conference" do not have a sinister connotation and that it will emerge from conference as well as being taken there. It will, in my judgment, receive overwhelming support if put to a vote. I commend the committee for its wisdom, good sense, and judgment; and when I offer the next amendment I hope I shall do as well as the Senator from Minnesota has done.

Mr. MORTON. Mr. President, will the Senator from Minnesota yield?

Mr. McCARTHY. I yield to the Senator from Kentucky.

Mr. MORTON. I concur with the Senator from Florida, and I suggest that the Senate vote now, because if we start "fighting" in the Chamber we shall repeal it.

Mr. HUMPHREY. Mr. President, I am pleased that the Finance Committee is willing to accept the amendment. Un-

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der present law sick pay is excludable from a worker's gross income. It has been argued that since sick pay is a substitute for regular income it should not be tax exempt except in case of serious illness or injury. Following this line of reasoning, the Finance Committee adopted a provision that the first 30 days of sick pay would be subject to income taxation.

I agree with the reasoning behind the committee's decision and I support the principle that tax exemptions on sick pay should not be used as a device to avoid just taxation. However, the committee's action would cause serious hardship. The fact of the matter is that many employees do not receive regular wages when they are sick. Instead, they are paid only a fraction of their regular compensation. The customary practice in labor-management agreements on sick pay is to provide 50 to 65 percent of the employee's regular pay in sickness and accident benefits. For example, a man whose regular wage was $100 a week would get only $50 if he were too sick to work. Taxing this partial pay would impose an additional burden on a family already suffering from the disability of its breadwinner.

Many collective bargaining agreements are based on the assumption that sick pay will be tax exempt. Accepting the Finance Committee's provision will force renegotiation of thousands of contracts between management and labor.

For these reasons I support the humane amendment offered by my distinguished colleague from Minnesota. The amendment provides that the first 30 days of sick pay would be taxable only when it exceeded 75 percent of the employee's regular pay.

Some opponents of this amendment have claimed that exemption from taxation should be given only in cases of hardship. But if being sick and then losing 2 weeks' pay is not hardship, I do not know what is. I trust the conference committe will give this amendment full support. It is fair; it is just; and it is needed.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota [Mr. McCarthy].

The amendment was agreed to.

Mr. KEATING. Mr. President, I believe my amendment can be disposed of in 5 or 10 minutes. I shall wish to have a yea-and-nay vote.

I call up amendment 417 which is offered on behalf of myself, my colleague the Senator from New York [Mr. Javits] the Senator from Nebraska [Mr. Hruska] and the Senator from New Jersey [Mr. Williams].

The PRESIDING OFFICER. The clerk will state the amendment for the information of the Senate.

The Legislative Clerk. At the proper place in the bill add the following new section:

Sec. . Retailers Excise Tax on Purses and Bags.

(a) In General.—Section 4031 (relating to imposition of retailers excise tax on luggage, handbags, etc.) is amended by adding at the end thereof the following new sentence: "In applying the tax imposed by the preceding sentence with respect to any purse or handbag sold at retail, there shall be disregarded so much of the retail sales price of such purse or handbag as does not exceed $50."

Mr. KEATING. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I should like to propound a unanimous-consent request and ask unanimous consent that on the pending amendment there be a allocation of 20 minutes, 10 minutes to each side.

Mr. GORE. Mr. President, reserving the right to object, yesterday I said I was not angry with anyone. I still think that way, but I must admit that today my temper is not quite so high as it was yesterday morning.

I should like to suggest to the distinguished majority leader that the absence of unanimous consent as to time limits and time to vote may have served the Senate very well for 2 days. I believe we have had the best attendance and perhaps the best debate for the past few days that I have witnessed in my 12 years in the Senate.

Mr. MANSFIELD. I agree.

Mr. GORE. I do not attribute all of that to the absence of a unanimous-consent agreement. I believe much of it is because of the importance of the subject matter, but as we near the conclusion of this very difficult and complicated bill, I am going to yield to the wisdom and the leadership of the majority leader, and I shall not impose any objection to this request.

Mr. MANSFIELD. I appreciate that. Can the distinguished Senator from Tennessee advise the Senate how much time he would like on his amendment so that we could obtain a general consensus?

Mr. GORE. I have only one other amendment that I shall offer. There are many more I should like to offer, believing that the bill needs to be thoroughly rewritten; but I shall offer only one amendment. It is a major amendment, in my opinion, affecting restrictive stock options.

Please understand that I would not eliminate options. I would permit employee purchase plans. This is the kind of restrictive stock option for the corporation insider, which has been greatly abused.

If I could have 40 minutes that would be sufficient, and I shall try to hold it down to 25 minutes.

Mr. MANSFIELD. That is fair enough.

Mr. President, I ask unanimous consent that on all amendments except the Gore amendment, there be allocated 30 minutes, 15 minutes to a side, to be equally divided between the proponents and the opponents of the measure, and that on the Gore amendment there be an allocation of 80 minutes, with 40 minutes under the control of the Senator from Tennessee [Mr. GORE] and 40 minutes under the control of the Senator from Louisiana [Mr. LONG], and that there be 1 hour debate on the bill.

Mr. TALMADGE. Mr. President, will the majority leader yield?

Mr. MANSFIELD. I am glad to yield.

Mr. TALMADGE. I assume that the usual rule of germaneness will prevail.

Mr. MANSFIELD. Yes.

Mr. MORTON. This request is for 1 hour on the bill?

Mr. MANSFIELD. Yes.

Mr. MILLER. Mr. President, reserving the right to object, would the majority leader extend the time on the bill to 2 hours?

Mr. MANSFIELD. If the Senator from Iowa will trust the judgment of the leadership, if additional time is needed, it will be forthcoming.

Mr. MILLER. Very well.

Mr. WILLIAMS of Delaware. Mr. President, reserving the right to object, would the agreement apply to the amendment which the Senator from Arkansas intends to offer? It is a major amendment.

Mr. MANSFIELD. I have not seen the Senator from Arkansas. However, if there is any objection on his part, we will, of course, take it into consideration and withdraw that part of the unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. Mr. President, I exclude from the proposed agreement the amendment to be proposed by the Senator from Arkansas [Mr. MCCLELLAN].

Mr. RANDOLPH. Mr. President, reserving the right to object, I wish to ask the distinguished majority leader, in view of these arrangements which are now taking place, if it is anticipated that the Senate will meet tomorrow, or will an attempt be made to finish consideration of the bill tonight?

Mr. MANSFIELD. If the opportunity presented itself tonight, yes; however, I doubt it at this time. I would be prepared to remain in session late. However, in view of the fact that some Senators are overly tired and exhausted, it would be better to anticipate concluding consideration of the bill tomorrow instead of tonight.

Mr. EASTLAND. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. EASTLAND. I should like to know what the plans are for tonight.

Mr. MANSFIELD. At the convening of the Senate this morning, and in response to questions raised by Members

of the Senate, it was indicated that the Senate would remain in session, provided amendments were offered, until about 10 o'clock this evening. It was not anticipated that consideration of the tax bill could be completed this evening. It was hoped that it would be possible, but events have proved that it is not possible. It is our hope that the Senate will bear with the leadership, and allow us to consider amendments up to 10 o'clock this evening. The Senate will then meet at 10 o'clock tomorrow morning. Tomorrow it will finish consideration of the bill, and immediately therafter proceed to the consideration of certain money resolutions, to get them out of

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the way, so that the decks may be cleared for next week.

Mr. EASTLAND. In other words, consideration of the bill will not be concluded tonight.

Mr. MANSFIELD. The Senator is correct.

Mr. GORE. Would it be agreeable to make my option amendment the pending business tomorrow? I could use half of my time tonight, so that Senators could read my statement in the RECORD tomorrow. I could offer the amendment this evening and make my brief remarks this evening.

Mr. MANSFIELD. That might be satisfactory.

Mr. LONG of Louisiana. I suggest to the majority leader that he modify his unanimous-consent request, so that the Senator from Tennessee may make his statement tonight and perhaps divide the time tomorrow. If any Senator wishes to respond to the Senator's statement tonight, that will be all right. It would be better to do that than to have it made the pending business. Might we not let it come up in its natural course, and reserve such time as the Senator may require?

Mr. McCARTHY. Mr. President, does the Senator from Delaware intend to offer his amendment tonight?

Mr. JAVITS. Mr. President, there is too little time on the bill. I shall wish to speak for 10 minutes on the bill. The Senator from Iowa——

Mr. MANSFIELD. When that question was raised by the Senator from Iowa, I assured him that if more time is needed, it will be forthcoming.

The PRESIDING OFFICER. Is there [illegible]ection to the unanimous-consent re[illegible]st? The Chair hears none, and it is [illegible] ordered.

Mr. MANSFIELD. Mr. President, if I [illegible]ay recapitulate, the agreement pro[illegible]ides for a half hour of debate on all amendments, equally divided, except the Gore amendment. On the Gore amendment the time allowed will be 80 minutes, 40 minutes to a side. The only exception is with respect to the McClellan amendment. When the Senator from Arkansas comes to the floor, an agreement will be reached, which I hope will be satisfactory. I should like to suggest to the Senator from Louisiana, who is so skillfully managing the pending bill, that it would be in the interest of the Senate to have a part of the debate on the Gore proposal tonight, so that Senators may have an opportunity to study it overnight.

Mr. LONG of Louisiana. What the Senator from Tennessee has in mind is that he would like to explain the amendment and his position on it tonight, in order to have it in the RECORD. I would prefer not to agree on what the pending business will be tonight or tomorrow. I would be glad to accommodate the Senator by having him make his speech, and have the time either charged against his time or not.

Mr. GORE. I do not believe that I have made an unusual request. On two previous evenings understanding was reached as to what the pending business would be the following day. I have cooperated with the leadership. I feel very deeply about my amendment. I will remain here as late as necessary. I am willing to us half my time tonight. However, I would like to have it the pending business tomorrow.

Mr. MANSFIELD. I believe that is agreeable. The time limitation will begin to run when the amendment is brought up.

Mr. JAVITS. In order to clarify the situation, the unanimous-consent agreement applies to any amendment, whether printed or not, whether at the desk or not. Is that correct?

Mr. MANSFIELD. Yes, except that the amendment must be germane. Any Senator has a right to offer such an amendment.

Mr. LONG of Louisiana. I am not satisfied with the procedure of having a speech made by the distinguished Senator from Tennessee in favor of his amendment tonight without having an opportunity for a response, to state the other side of the argument, if any Senator cares to do so.

Mr. GORE. I have no objection to that.

The unanimous-consent agreement subsequently reduced to writing is as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That, effective on the adoption of this order, during the further consider-

ation of the bill H.R. 8363, the Revenue Act of 1964, debate on an amendment intended to be proposed by Mr. GORE, relating to stock options, shall be limited to 80 minutes, and on amendment No. 407, intended to be proposed by Mr. MCCLELLAN, debate shall be limited to 100 minutes, the time in each case to be equally divided and controlled by the mover of the amendment and Mr. LONG of Louisiana; and that debate on any other amendment, motion, or appeal, except a motion to lay on the table, shall be limited to 30 minutes, to be equally divided and controlled by the mover of any such amendment or motion and Mr. LONG of Louisiana: *Provided*, That in the event Mr. LONG is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or some Senator designated by him: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the majority and minority leaders: *Provided*, That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, motion, or appeal.

Mr. KEATING. Mr. President, I yield myself 5 minutes on the amendment. I believe that is all I shall need. The amendment relates to only one item.

Mr. SMATHERS. Mr. President, have the yeas and nays been ordered on the amendment?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. SMATHERS. We can expect a vote on the amendment at 8:15. Is that correct?

Mr. KEATING. I should say that there should be a vote by 8 o'clock.

Mr. President, we defeated by a rather narrow margin the amendment offered by the distinguished Senator from Kentucky [Mr. MORTON], on behalf of the Senator from Illinois [Mr. DIRKSEN], to repeal all of the Federal retail excise taxes. My amendment relates to one item only, ladies' purses and handbags. It provides that the present 10 percent tax shall apply only to the portion of the selling price over $50. I am pressing this separate amendment applicable only to ladies' handbags on the ground that there is probably no other item subject to existing excises for which a more convincing and meritorious case of repeal can be made.

This particular tax is unfair, regressive, discriminatory, and inequitable. Originally imposed in 1944 as a temporary wartime emergency measure, the tax was supposed to have expired automatically 6 months after the cessation of hostilities. But now, almost 20 years later, it is still burdening the women of America and the handbag industry and all those employed by the industry.

Of course, no article of women's clothing, with the exception of furs, is subject to a Federal tax. Shoes, hosiery, skirts, blouses, belts, scarves, and hats, even though they may be made partly or wholly of leather, are not subject to any excises. But handbags are. I know of ladies who travel in the best of circles who, depending on their particular outfit, can dispense with items like belts or leather shoes. But rare is the occasion on which any woman can do without a basic handbag.

I do not see how ladies' handbags can in any sense be called a luxury. They are an absolute necessity. American women are up in arms against this unmitigated nuisance tax.

The handbag industry has lost much ground because of it. It has been losing ground around holidays like Christmas and Mother's Day to other appropriate gifts which do not bear the burden of the 10-percent excise tax. The tax in practical operation, therefore, discriminates against this one item and against the industry that produces the item in favor of other items of women's apparel, many of which can well be classified as luxuries, which do not carry any Federal excise levy.

There is this additional consideration for repealing the tax on ladies' handbags only. The justice of singling out this one item is demonstrated by the fact that when in 1950 an excise tax reduction bill passed the House—I might say, by the overwhelming margin of 375 to 14—the tax on furs, jewelry, cosmetics, and luggage was to have been reduced from 20 to 10 percent, but, in contrast, the tax on handbags was to have been repealed in its entirety. However, the entire bill was killed in the Senate Finance Committee when the Korean war broke out. The point I make is that as far back as 1950 the case for singling out the excise tax on handbags for repeal was clearly recognized.

The modified Dirksen-Morton amendment, which would have repealed all the retail excise taxes combined, would have resulted in a net revenue loss to the Treasury of approximately $455 million. The amendment which I am now offering, on the other hand, would result in

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revenue losses in the neighborhood of only $38 million annually. I emphasize that this estimated loss represents a gross loss of revenues from the excise tax considered by itself. It does not take into account the undeniable fact that ad-

ditional income tax revenues would flow to the Treausry from a healthier handbag industry and the additional employees who would be put back on the job—and in many cases, back on the tax rolls—if Congress would only give the industry this vitally needed shot in the arm. Therefore, the net revenue loss to the Treasury, in my judgment, would be considerably less than the $38 million figure which represents the gross loss in excise tax revenues.

During the debate on the much broader Dirksen-Morton amendment, I heard very often the argument that it would not be appropriate to remove from the excise tax, purchases which are strictly luxury in nature. There is much force in this argument, provided you can properly draw the line between luxuries and necessities. The Dirksen-Morton amendment, as modified, drew the line at $100 on purchases of furs and jewelry. Let me point out that the overwhelming majority of handbag purchases are plainly in the necessity classification. Very few are sold for over $25, still fewer for over $50 and almost an infinitesimal number for over $100. I am willing on balance, to strike a dividing line between handbags that are a necessity and handbags that are a luxury at the $50 level. This amendment would, rather than repeal the entire tax, simply exempt the first $50 of retail value from the handbag tax, thereby subjecting only the excess over $50 to the 10 percent Federal tax.

I hope all Senators will search their consciences and consider the fealty they owe to their wives and mothers, sisters and daughters, and, indeed, to all American womanhood, and vote their resounding approval of this amendment.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. KEATING. I yield.

Mr. JAVITS. I support my colleague from New York in his eloquent plea to the Senate. This is a unique application of a tax. It affects one single item of wearing apparel for women—handbags. The Senator's amendment is designed to exclude it from the classification of a luxury. I hope the Senate will grant this measure of justice and remove the discrimination that exists against handbags in favor of other items of apparel which are not subject to tax.

Mr. KEATING. I am grateful to my colleague from New York. His cosponsorship of the amendment is most helpful and is much appreciated.

Mr. LONG of Louisiana. Mr. President, I yield 3 minutes to the acting minority leader.

Mr. MORTON. In the first place, I do not think I am the acting minority leader.

Mr. LONG of Louisiana. I yield to the Senator from Kentucky.

Mr. MORTON. I thank the Senator.

Mr. President, I dislike to oppose the amendment offered by the junior Senator from New York, as I did the amendment offered by the senior Senator from New York [Mr. JAVITS] concerning theater tickets. We went down this road yesterday. We then had for consideration an amendment that was all encompassing and comprehensive with respect to what are actually Federal retail sales taxes. The amendment was rejected. The vote was close. I fought as hard as I could for its adoption. However, I do not believe we would be serving the consumers of this country by tearing up the excise taxes piecemeal.

We now have an agreement from the Committee on Ways and Means and the Committee on Finance that we will promptly examine the whole question of excise taxes.

The proposal to remove the excise tax from ladies' handbags has much political sex appeal, perhaps other appeal. Of course, it is the best thing in the package. So why throw away our best weapon for getting all the regressive taxes removed?

Much as I dislike to be on the opposite side from my friend the distinguished junior Senator from New York [Mr. KEATING], I shall have to oppose the amendment. It is my opinion that we must consider the retail excise taxes, which are nothing but retail sales taxes at the Federal level, as a package. Therefore, I shall have to oppose the piecemeal approach to the situation.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield 2 minutes to the Senator from Delaware.

Mr. WILLIAMS of Delaware. Mr. President, I concur in the statement of the Senator from Kentucky. I supported a similar proposal yesterday. I had hoped we would be able to do away with all the retail excise taxes. But I believe it would be a mistake to start to remove them in piecemeal fashion tonight. Regretfully, I shall have to oppose the amendment.

Mr. KEATING. Mr. President, I yield myself 2 minutes.

This is a rather amazing argument, but the candor of the Senator from Kentucky [Mr. MORTON] is admirable. The reason given for opposing the amendment is that it is the most meritorious item from which to remove the excise tax. In other words, there is a tacit admission that some of the other items

cannot stand on their own feet and that it is necessary to throw in the ladies' handbags in order to have a bill reported later.

Personally, I should like to see some action taken on this item now. If it is more meritorious than the other items, I find it difficult to see how any Senator who supported the amendment to remove all excise taxes on articles costing less than $100 can vote against the amendment to remove the excise tax from an article which most deserves to have the tax removed.

I do not accept the argument that it is necessary to use this item as a trading point in some later operation in an effort to have the excise tax removed from other items.

I supported the Dirksen-Morton amendment. I regret that it was not agreed to. But I have now selected what I believe to be the most meritorious item and the most deserving. I do not think any Senator can explain voting against this amendment by saying that he wanted to wait for a bill that would provide for the removal of the excise tax from more articles.

Mr. ALLOTT. Mr. President, will the Senator yield for a question?

Mr. KEATING. I yield.

Mr. ALLOTT. I am sure the Senator from New York was in the Chamber yesterday and heard the argument that many countries in Europe raise money by means of excise taxes. Does not the Senator agree that if money is to be raised for general, broad tax purposes by means of an excise tax, the tax must cover the whole gamut, and should not be restricted to a few items at the retail level?

Mr. KEATING. I agree. That is why I supported the Dirksen-Morton amendment. We now have a retail excise tax on only a few, selected items. We told the American public long ago that the tax on all such items would be removed in its entirety, and it should have been removed. What we did over a period of years was to remove the tax gradually from one thing and then from another. I have now selected what I think is the most meritorious of the various items from which to remove the tax.

Mr. ALLOTT. I entirely agree with that statement. The Senator has a clearcut case. Other clearcut cases were left outside the purview of the amendment offered yesterday.

I join wholeheartedly with the Senator in this effort, because I think the total effect of the excise tax is greatly to restrict two classes of individuals—first, those who are really supplying necessities to the people; and, second, the small retailers, who have to bear the burden of the collection of this tax by the Federal Government.

Mr. KEATING. I appreciate that statement, and I agree entirely with the sentiments of the Senator from Colorado.

Mr. MORTON. Mr. President, I yield myself 30 seconds.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 30 seconds.

Mr. MORTON. Mr. President, handbags may be very important; but for someone who has the itch, itching powder is important, and it also carries the 10 percent penalty tax.

Mr. KEATING. But someone who has the itch always has the tax-free alternative of scratching himself.

Mr. President, as I recall, in my previous remarks I stated the distinguished Senator from New Jersey [Mr. WILLIAMS] is a cosponsor of this amendment. If I did not make that statement before now, I make it now.

Mr. LONG of Louisiana. Mr. President, I yield back the remainder of the time under my control.

Mr. KEATING. Mr. President, I yield back the remainder of the time under my control.

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The PRESIDING OFFICER. All remaining time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from New York [Mr. KEATING]. On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the distinguished minority leader, the Senator from Illinois [Mr. DIRKSEN]. If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. HUMPHREY. I announce that the Senator from Arizona [Mr. HAYDEN], the Senator from Alabama [Mr. HILL], and the Senator from Georgia [Mr. RUSSELL] are absent on official business.

On this vote, the Senator from Nebraska [Mr. HRUSKA] is paired with the Senator from Georgia [Mr. RUSSELL].

If present and voting, the Senator from Nebraska would vote "yea" and the Sentaor from Georgia would vote "nay."

Mr. KUCHEL. I announce that the Senator from Nebraska [Mr. CURTIS], the Senator from Illinois [Mr. DIRKSEN] and the Senator from Arizona [Mr. GOLDWATER] are necessarily absent.

The Senator from Iowa [Mr. HICKENLOOPER], the Senator from Nebraska [Mr. HRUSKA], and the Senator from North Dakota [Mr. YOUNG] are detained on official business.

If present and voting, the Senator from Nebraska [Mr. CURTIS], and the Senator from Arizona [Mr. GOLDWATER] would each vote "yea."

The pair of the Senator from Illinois [Mr. DIRKSEN] has been previously announced.

On this vote, the Senator from Nebraska [Mr. HRUSKA] is paired with the Senator from Georgia [Mr. RUSSELL]. If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Georgia would vote "nay."

The result was announced—yeas 35, nays 55, as follows:

[No. 32 Leg.]

YEAS—35

Aiken	Gruening	Pell
Allott	Jackson	Prouty
Beall	Javits	Proxmire
Boggs	Jordan, Idaho	Ribicoff
Case	Keating	Saltonstall
Cooper	Kennedy	Scott
Cotton	Kuchel	Simpson
Dodd	Mechem	Smith
Dominick	Morse	Tower
Douglas	Mundt	Williams, N.J.
Fong	Pastore	Young, Ohio
Gore	Pearson	

NAYS—55

Anderson	Hart	Monroney
Bartlett	Hartke	Morton
Bayh	Holland	Moss
Bennett	Humphrey	Muskie
Bible	Inouye	Nelson
Brewster	Johnston	Neuberger
Burdick	Jordan, N.C.	Randolph
Byrd, Va.	Lausche	Robertson
Byrd, W. Va.	Long, Mo.	Smathers
Cannon	Long, La.	Sparkman
Carlson	Magnuson	Stennis
Church	McCarthy	Symington
Clark	McClellan	Talmadge
Eastland	McGee	Thurmond
Edmondson	McGovern	Walters
Ellender	McIntyre	Williams, Del.
Engle	McNamara	Yarborough
Ervin	Metcalf	
Fulbright	Miller	

NOT VOTING—10

Curtis	Hickenlooper	Russell
Dirksen	Hill	Young, N. Dak.
Goldwater	Hruska	
Hayden	Mansfield	

So Mr. KEATING's amendment was rejected.

Mr. MANSFIELD. Mr. President, I should like to have the attention of the distinguished Senator from Arkansas [Mr. MCCLELLAN].

I should like to make a unanimous-consent request, which was postponed because of the fact that the Senator from Arkansas was absent from the floor of the Senate on official business.

I ask unanimous consent that 100 minutes be allotted to the amendment offered by the distinguished Senator from Arkansas [Mr. MCCLELLAN], 50 minutes to be under the control of the Senator from Arkansas and 50 minutes to be under the control of the Senator in charge of the bill, the Senator from Louisiana [Mr. LONG].

Mr. McCLELLAN. Mr. President, reserving the right to object, I assume that the distinguished leader has reference to my amendment No. 407.

Mr. MANSFIELD. The Senator knows that I have reference to that amendment.

Mr. McCLELLAN. I did not want any misunderstanding. That is the amendment which would provide that the tax cut would remain in force only so long as total expenditures of the administrative budget remain not to exceed $100 billion.

In other words, this is an amendment that gives Senators an opportunity to vote both for a tax reduction and for economy in government. Is that the one my distinguished friend refers to?

Mr. MANSFIELD. That is the general idea.

The PRESIDING OFFICER. Is there objection. The Chair hears none; and it is so ordered.

Mr. McCLELLAN. Mr. President, it is my understanding that this amendment will come up tomorrow. Is that correct?

Mr. MANSFIELD. Following the Gore amendment, it will be the pending business tomorrow.

Mr. McCLELLAN. Mr. President, will the Senator yield further to me?

Mr. MANSFIELD. I yield.

Mr. McCLELLAN. So far as we know, it will be the last amendment. Is that correct?

Mr. MANSFIELD. That is the general idea, but we have no right to prevent any Senator from offering an amendment.

Mr. McCLELLAN. The amendment of the Senator from Tennessee will be the pending business when the Senate reconvenes tomorrow. Is that correct?

Mr. MANSFIELD. Yes.

Mr. McCLELLAN. Immediately following the disposal of that amendment, my economy amendment will be in order. Is that correct?

Mr. MANSFIELD. I would assume so.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. FONG. Mr. President, I call up my amendment No. 338. I ask unanimous consent that the reading of the amendment be dispensed with and that it may be made a part of the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment offered by Mr. FONG is as follows:

At the proper place in title II of the bill insert the following new section:

"SEC. . DEDUCTION BY LESSEE OF RESIDENTIAL LAND OF CERTAIN REAL PROPERTY TAXES PAID BY HIM.

"(a) TAXES CONSIDERED AS IMPOSED ON LESSEE.—Section 164 (relating to deductions for taxes) is amended by redesignating subsection (g) as (h), and by inserting after subsection (f) the following new subsection:

"'CERTAIN REAL PROPERTY TAXES PAID BY LESSEE OF RESIDENTIAL LAND.—

"'(1) TAXES CONSIDERED AS IMPOSED ON LESSEE.—For purposes of subsection (a), a real property taxes paid or accrued with respect to land by a lessee of such land shall be treated as real property taxes imposed on such lessee (and not on the owner of such land) if—

"'(A) a residence owned by the lessee is situated on such land,

"'(B) the lessee is required under the lease to pay all real property taxes assessed with respect to such land, and

"'(C) the term of the lease is for a period of 20 years or more.

"'(2) LEASE CONSIDERED AS SALE.—For purposes of subsection (d), the entering into of a lease of land described in paragraph (1) by a lessee described in such paragraph shall be treated as a sale of the land, and the lessor and lessee shall be treated as the seller and purchaser, respectively.

"'(3) APPLICATION TO SUBLESSEES.—For purposes of paragraphs (1) and (2) (other than paragraph (1)(C), the terms "lease", "lessor", and "lessee" include a sublease, sublessor, and sublessee. The requirement of paragraph (1)(C) shall be treated as being satisfied with respect to a sublease if the term of the lease is for a period of 20 years or more.'

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act."

Mr. FONG. Mr. President, my amendment would permit a lessee who has a home on land leased to him for a term of 20 years or more to deduct real property taxes paid by him if the lease agreement requires him to pay such taxes.

Under present provisions of the Internal Revenue Code, real property taxes are allowed as deductions to a taxpayer only if the taxes are both owed and paid by him.

Because of this requirement, a serious inequity has arisen for many residential lessees in Hawaii. There are large tracts of land in Hawaii which have been subdivided and leased out as residential districts for periods in excess of 20 years. In many of the lease contracts, the lessees are required to pay all real property taxes.

In such instances, because the lessor owes the tax but the lessee is required to pay it, neither party is permitted to claim the payment as a deduction on his Federal income tax return.

My amendment would correct this inequity and allow the lessee who is legally obligated to pay the real property taxes assessed against his leased land and who does actually pay them to claim such payments as Federal income tax deductions.

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I want to emphasize that first, the residence owned by the lessee must be situated on the leased land; second, the lessee must be required under the lease to pay all real property taxes assessed against this land; and, third, the term of the lease must be for a period of 20 years or more.

My amendment would also extend to sublessees if their leases meet the requirements applicable to prime lessees; that is, if the land is used as his residence, if the lease agreement is for 20 years or more, and if the sublessee is required to pay and does pay the real property taxes on such leased land.

My amendment is identical to Senate bill 344, which I introduced earlier this year and which is cosponsored by my friend and colleague the distinguished junior Senator from Hawaii [Mr. INOUYE]. No oral testimony has been taken by the Finance Committee on S. 344 or on my amendment, although I did file a written statement with the committee explaining amendment 338 prior to the committee's executive consideration of the pending tax bill—H.R. 8363.

Had there been oral testimony on either S. 344 or on amendment 338, I believe questions of committee members on this matter could have been answered satisfactorily.

What is involved here is a matter of equity for many Hawaii taxpayers who are denied this deduction on a technicality. The existing Internal Revenue Code, does not take into a situation faced by many lessee-taxpayers, particularly a large group in Hawaii, who by their lease contracts are legally obligated to pay real property taxes but who are denied the right to claim them as deductions on their Federal income tax returns because the Treasury has ruled the taxes are owed by the lessor.

Thus, neither the lessor nor the lessee can claim the real property tax deduction.

While I believe equity is on the side of my amendment, and while I believe it is both fair and meritorious, I shall not call for a vote on my amendment, as I

have discussed this matter with the senior Senator from Virginia [Mr. BYRD], chairman of the Finance Committee, who has assured me he would arrange for further study and consideration of this important matter. I believe when the issue is fully explored, the committee will recognize the equity involved and will approve S. 344 and report it to the Senate.

Mr. BYRD of Virginia. Mr. President, will the Senator yield?

Mr. FONG. I yield to the distinguished Senator.

Mr. BYRD of Virginia. What the Senator has said is correct—we will arrange for further study and consideration or hearings.

Mr. ANDERSON. Mr. President, will the Senator yield?

Mr. FONG. I yield.

Mr. ANDERSON. This amendment was considered by the Finance Committee. We did not feel we had an opportunity to go over the matter carefully. A strange situation is involved in which neither of the parties involved can claim these property tax deductions. I also assure the Senator, as the distinguished chairman of the committee has, that this matter will receive attention. It sounds like a situation in which we could be helpful.

Mr. FONG. I thank the Senator.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. FONG. I yield.

Mr. LONG of Louisiana. As one member of the committee, I am sympathetic toward the problem. I studied it in the Finance Committee. I am sure the Senator realizes that the problem involved is that if we legislate in the fashion he asks us in order to meet the problem in Hawaii, it would tend to open up problems in many other States of the Union. The answer is to find a way to give relief to the people for whom the problem exists, without creating problems involving the other 49 States.

Mr. FONG. I believe the suggested change in the law would not create other problems. I think the committee will find the problem to be very simple.

Mr. CARLSON. Mr. President, will the Senator yield?

Mr. FONG. I yield.

Mr. CARLSON. I commend the Senator for the diligence with which he pursued this matter in the Senate, and particularly in the Finance Committee. It was pursued to some extent in the committee. As mentioned by the chairman and members of the committee, there are problems involved that need further consideration and study. I assure the Senator, as a member of the Finance Committee, that the problem will receive sympathetic consideration and any necessary hearings.

Mr. FONG. I thank the distinguished and able Senator from Kansas for his kind remarks and sympathetic understanding of the problem.

Mr. BENNETT. Mr. President, will the Senator yield?

Mr. FONG. I yield.

Mr. BENNETT. The Senator from Utah presented this amendment to the committee, and regrets that he was not a good enough salesman to persuade his colleagues on the committee to handle the problem in the bill. Under all the circumstances, I agree with the chairman of the committee that the best way to handle the problem is by separate consideration, so that we can get to the very novel and interesting problems involved, without having it become involved with other problems that may arise.

Mr. FONG. I thank the Senator from Utah for bringing the matter before the committee. I am sorry he was not able to convince the committee. I know that on further study the committee will be convinced.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. FONG. I yield.

Mr. WILLIAMS of Delaware. I assure the Senator from Hawaii that the Senator from Utah did a good job in trying to convince the committee. There was no objection to finding a solution for your problem. However, we felt it was not properly a part of this bill. Along with the other members of the committee, I give the Senator my assurance that your proposal will receive consideration.

Mr. FONG. I thank the Senator.

Mr. President, in view of the various assurance I have received from the distinguished members of the Finance Committee, I now withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. WILLIAMS of Delaware. Mr. President, I call up my amendment No. 398 and ask that it be stated.

The PRESIDING OFFICER (Mr. WALTERS in the chair). The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. It is proposed to strike out section 217 relating to deductions for interest on indebtedness incurred or continued to purchase or carry tax-exempt bonds (beginning on page 100, line 3, and continuing through page 101, line 5), as follows:

SEC. 217. INTEREST ON INDEBTEDNESS INCURRED OR CONTINUED TO PURCHASE OR CARRY TAX-EXEMPT BONDS.

(a) APPLICATION WITH RESPECT TO CERTAIN FINANCIAL INSTITUTIONS.—Section 265 (relating to expenses and interest relating to tax-exempt income) is amended by adding at the end of paragraph (2) the following new sentence: "In applying the preceding sentence to a financial institution (other than a bank) which is subject to the banking laws of the State in which such institution is incorporated, interest on face-amount certificates (as defined in section 2(a)(15) of the Investment Company Act of 1940 (15 U.S.C. 80a-2) issued by such institution, and interest on amounts received for the purchase of such certificates to be issued by such institution, shall not be considered as interest on indebtedness incurred or continued to purchase or carry obligations the interest on which is wholly exempt from the taxes imposed by this subtitle, to the extent that the average amount of such obligations held by such institution during the taxable year (as determined under regulations prescribed by the Secretary or his delegate) does not exceed 25 percent of the average of the total assets held by such institution during the taxable year (as so determined)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years ending after the date of the enactment of this Act.

Mr. WILLIAMS of Delaware. Mr. President, this particular amendment proposes to strike from the bill section 217. The adoption of the amendment or its rejection would in no way affect existing law as it relates to the taxation of banks. That interpretation is incorporated in the committee report; and the Senator from Minnesota, the committee, and the Treasury are all in agreement on that point. So we are dealing only with the proposed language of the amendment which affects one company only. It is true that there are several related companies controlled by two singly owned companies. These two are, in turn, under one ownership.

My argument is that the bill is not meritorious, and even if it were I believe it should be considered as a separate bill. This is a private bill and should not be made a part of general tax bill where the President would have to accept it in order to approve the bill. The

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committee should have a right to consider this question on its own merits.

This is in effect a private bill for only one company, and it should not be made a part of the large tax bill.

I was hoping that the Senator from Minnesota would agree to strike this out and have it considered by the committee at a later date on its own merits. If approved it could then be sent to the President, and he could accept it or veto it, based upon his opinion of the merits of this individual case.

I yield now to the Senator from Minnesota.

Mr. McCARTHY. The Senator from Delaware knows that I am in disagreement with him. In my opinion, this question was adequately considered by the committee, which made several significant changes in the language of the bill which was submitted for the consideration of the court.

This is not in that case a precourt situation, to deal with internal revenue, but we provide that there shall be no retroactivity.

The problem in dispute as between the Treasury and the company is the 25-percent limitation upon the credit tax exempts which might be held in portfolios of the company, as described in the bill. I believe the vote in the committee after the hearings and the deliberations was 11 to 3.

This is not the only provision in the bill which relates to a single company. It may involve slightly more money in other cases. One amendment that was adopted for the special benefit of one other insurance company is the changeover, the time for which we may extend another year. This is special legislation. I do not believe it to be the kind that would be vetoed by the President, but this is not unusual practice; and I believe that what we did was meritorious.

Mr. WILLIAMS of Delaware. The extension of the extra year for the mutual company to which the Senator from Minnesota refers, does not in any way affect their tax liability. It merely gave them 1 extra year to change their company over to the formula of new insurance laws enacted a couple of years ago. We gave that company an extended period of time to make the changeover and bring them into compliance with the new law. I repeat, it would not in any way affect the tax liability of that company.

Mr. McCARTHY. This is a minor item, but a member of my staff informs me that it involves certain deductions which would not otherwise have been involved; but they do not amount to very much.

Mr. WILLIAMS of Delaware. If they make the changeover it still leaves the tax the same as it would be for all other taxpayers. However, in the particular instance before us now, this company would be allowed to charge off the interest which it will be paying for the money it receives from its investors and then to put that money in tax-exempt securities.

This would be an unsound principle, a proposal which is denied to all other corporations and all individual taxpayers in America. This should be treated as a private bill and should not be made a part of general tax legislation.

Mr. LAUSCHE. Mr. President, will the Senator from Delaware yield?

Mr. WILLIAMS of Delaware. I yield.

Mr. LAUSCHE. I have just heard the Senator from Delaware state that if this amendment is passed it will be applicable to only one company of the thousands of companies in the United States, and that it is, instead of a tax bill, to apply uniformly. In truth, it is a relief bill for one company.

Mr. WILLIAMS of Delaware. That is correct. There are two related companies under single ownership, so we might say that in effect, we are dealing with one case. That is why I say it should be in the form of a private relief bill and should be considered as a separate measure.

The President could then accept it or reject it depending upon advice which he received from the Treasury Department.

Why should this measure not rest or fall on its own merits? Why should we be laying down the ground rules for one company different from those for other American companies? I was hoping we could strike this from the bill in order that it could be considered as a separate measure.

Mr. LAUSCHE. What type of relief does it contemplate and what is the name of the company? I wonder if the Senator from Utah [Mr. BENNETT] could answer that question?

Mr. BENNETT. The interest on State and local bonds under law is exempt from Federal taxation. They are so-called tax-exempt bonds.

Under the law, banks are allowed to buy tax-exempt bonds. The interest on such bonds is eliminated from the total income on which taxes are computed. This provision in the bill would give that same privilege to a company which operates to sell a savings ideas to people. It is a financial institution. But it invests about 30 percent of its income now in tax exempts. People are asked to buy the certificates. They buy a lesser amount, and after so many years, the face amount of the certificate is returned to them in the same way that labor bonds and factory bonds are sold.

In a sense, they borrow money from the people and issue the bonds against the borrowings. They use the borrowed money to buy tax exempts. The general Federal law says one cannot deduct interest on borrowed money if one uses that money to buy bonds which are exempt from taxation.

This is a technical problem. I stand somewhere between my two colleagues. It is not a case of a man going out and deliberately using his own funds to borrow money at his own risk and then investing that money in tax exempts.

This is a financial program, a savings program, operated by this one company, under which the company invites investments or loans from individuals.

The fundamental question is, Having invited those loans, should these people have the right to invest any of that money in tax exempts, and in turn have the income from those tax exempts eliminated from the income on which they pay taxes?

The company says it should. The Treasury says this company is not a bank, and therefore they cannot deduct whatever interest they pay to these certificate holders to the extent that that money is invested.

Mr. LAUSCHE. What is the position of the Treasury Department on the measure?

Mr. WILLIAMS of Delaware. The Treasury Department was opposed to this item being included in this bill.

Mr. ANDERSON. I believe the Senator is correct. I believe that is correct as to the earlier language. They did not testify too much on the subsequent language.

Mr. LAUSCHE. Does the testimony show whether there is any other company in the United States which has benefited, or is interested in the passage of the measure?

Mr. WILLIAMS of Delaware. To my knowledge there was none.

Mr. LAUSCHE. So, in effect, this is a special measure for one company.

Mr. WILLIAMS of Delaware. We are told that there are seven companies registered under the Investment Company Act of 1940 which presently issue face amount certificates. More than 90 percent of the total of the assets of these seven companies are held by two related companies, both of which are presently being audited by the Internal Revenue Service with respect to the very issue covered by the McCarthy amendment. In substance it is a private relief bill.

Mr. LAUSCHE. What is the Senator reading from?

Mr. WILLIAMS of Delaware. I am reading from a memorandum prepared by the staff of the committee. It is on this basis of what I say, that the proposal should be considered on its merits as a separate proposal. This should not be made a part of the pending bill.

That is the argument I am making. It is wrong to draft a formula which will fit one situation and one company only.

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We are told that no other company in America fits the guidelines set out in the amendment.

Mr. LAUSCHE. May I pursue this one step further? On August 30, 1962, when the tax bill of 1962 was considered, there was also submitted a special relief bill for a Minnesota company, known as the Twin Cities Rapid Transit Co.

Mr. BENNETT. This is not that case at all.

Mr. WILLIAMS of Delaware. The question before the Senate now is not related to that situation.

Mr. LAUSCHE. But the principle is the same, is it not?

Mr. WILLIAMS of Delaware. The principle is different, but in both instances there are private bills for the benefit of one company only.

Mr. ANDERSON. They are completely different things. They are entirely different. It is true that a firm was involved in the previous bill, and that a private situation was involved. However, this is a wholly different matter.

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Mr. WILLIAMS of Delaware. My time has expired. I yield the floor.

Mr. ANDERSON. I have no objection to the Senator continuing.

Mr. LAUSCHE. Mr. President, I have a distinct recollection of the measure of 1962. At that time I argued that laws must be uniform in operation. Laws which are passed solely for the purpose of aiding one group or one individual are not consonant with our concept of justice. If the bill, as has been stated by the Senator from Delaware, has within it provisions intended to serve one company or seven companies alone, and has been designed to serve them outside the realm of the application of the general principle, it ought not to be passed.

On the basis of what the Senator from Delaware has stated, it strikes me that the Senate is being asked to pass a provision that will be applicable to one or several companies. I cannot subscribe to it.

Mr. ANDERSON. Mr. President, in the first place, this may or may not be a private bill. It is true that the Treasury is thus far auditing only one company. I know of no one who can state with any certainty that no other company in the United States issues this type certificate. As the Senator from Utah very ably stated, with his fine business background, this is a provision that comes within section 265, which clearly states that "no deduction shall be allowed for interest on indebtedness incurred or continued to purchase or carry obligations, the interest on which is wholly exempt from the taxes imposed by this substitute."

I have left out a few words, but that is the substance.

In order to make this section applicable, one must say that these people purshased the certificates, and bought them tax exempt, for the purpose of doing a certain thing. That is the argument between the Treasury and the company, it seems to me. The Treasury has filed no lawsuit. If they were sure they were right, the Treasury might have filed a lawsuit long ago. The Treasury Department recognizes that the banks of this country have been faced with the very same question. There is no lawsuit pending against a single bank. Banks issue certificates of deposit, and sometimes buy the same type investment that is referred to here. No one has raised the question of whether they buy them for the specific purpose of evading taxation, and I am not sure what the outcome of a suit on that question would be.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. ANDERSON. I only say that the Senator from Utah put his finger on it when he said this is a very technical problem. The Senator from Utah referred to the prior bill, which was passed a year and a half or 2 years ago.

It is true that the situation in Minneapolis dealt with a firm that was not able to take care of its indebtedness, and it was necessary to lengthen the period for a short time, so that it could take care of it.

Mr. McCARTHY. To carry over the loss.

Mr. ANDERSON. Strangely enough, in this very bill, there was included a provision that would have taken care of it completely.

We provided for a carryover of losses for many years in advance. We would not have needed a bill at this time. Therefore, I do not think we should say this is private legislation. We were merely dealing with one institution that was in deep trouble.

I now yield to the Senator from Delaware.

Mr. WILLIAMS of Delaware. In order to clarify the RECORD, the Senator from New Mexico will agree, will he not, that the language in the bill, whether it is stricken from the bill as my amendment would provide, or left in, will, in no way affect existing law as it relates to the methods by which banks have been and will continue to be taxed?

— Mr. ANDERSON. That is correct. I tried to say that.

Mr. WILLIAMS of Delaware. The Senator was clear. The reason I raise the question was that I did not want some bank officials to read about our discussion tomorrow and think that banks are involved. Banks are in no way affected by what we do here on this proposal now before us.

Mr. ANDERSON. The Senator from Delaware is completely correct. I am glad he has made that abundantly clear. Banks are not involved, because for a long time the Treasury has allowed banks to go ahead and take all the tax-exempts they want and not question whether they were bought for this purpose.

Mr. WILLIAMS of Delaware. The Treasury agrees that as far as banks are affected the existing law stands unchanged.

Mr. ANDERSON. Mr. President, I support the committee bill, and I oppose the amendment offered by the Senator from Delaware. Incidentally, the language in the bill was placed in it by a vote of 11 to 3. I am sure the Committee on Finance is not composed of individuals who are trying to class this as a private law for particular individuals.

The committee bill provides that within reasonable limits a financial institution—let me emphasize—a financial institution, which issues face amount certificates and which is subject to the banking laws—let me emphasize—which is subject to the banking laws of the State of its incorporation—is not to be denied a deduction for interest paid by it with respect to its face amount certificates merely because it has invested a part of its assets in State or local government bonds rather than corporation securities.

There is nothing peculiar about this amendment. Under Treasury practice dating back to 1918, banks have been free from the rule of the Internal Revenue Code that denies an interest deduction because of the purchase of tax-exempt securities.

The Treasury Department came to Congress in 1934 with a recommendation that we specifically provide by statute that this administrative rule be overturned and that banks be denied an interest deduction in these circumstances. The House version of the 1934 act would have accomplished the Treasury objective but when the bill came before the Senate Finance Committee, the Finance Committee refused to follow the House bill. To the contrary, the Senate Finance Committee was of the opinion and stated in its report:

> Your committee is of the opinion that the change made by the House bill will seriously interfere with the marketing of Government securities, which are bought for the most part by banks and financial institutions; and also presents grave administrative difficulties. Your committee, therefore, disagrees with the change made in this section by the House bill and recommends that the provisions of existing law be continued. (S. Rept. 558, 73d Cong.)

Note the emphasis the committee places on the fact that the interest deduction was not to be denied in the case of banks and financial institutions.

This year, 1964, we are reaffirming the action taken by the Senate Finance Committee in 1934 with one very important difference. We are placing a limit by statute on the amount of tax exempt securities that can be purchased by financial institutions, other than banks, which issue face amount securities and which are subject to the banking laws of the State in which they are incorporated. Under the committee amendment, the disallowance rule in the case of such a financial institution is not to apply to the extent that investments in tax exempt securities do not exceed 25 percent of the total assets of the corporation. This means, Mr. President, that the face amount certificate company must invest 75 percent of its total assets in taxable securities if it is to completely avoid the disallowance rule. The Finance Committee felt this was a reasonable limitation, and I feel it is a reasonable limitation. I believe the provision approved by the committee after careful and complete consideration should be retained.

Let me make it perfectly plain that the committee amendment does not apply to banks. Banks, if they choose to do so, may invest their entire assets in tax-exempt securities and no deduction will be denied. This practice is now the published position of the Internal Revenue Service Rev. Rul. 61–222 (1961–2CB 58). The amendment only applies to the financial institution which issues face amount certificates.

The committee received testimony on this amendment at its public hearings on the bill. A witness before your committee called attention to the fact that financial institutions which are subject to the banking laws of a State, although not actually banks themselves, pay interest on face amount certificates—a way by which thousands of individuals throughout the country systematically invest their savings. In the example cited to your committee, a certificate holder pays to the financial institution equal monthly payments for 20 years and at the end of that time, the financial institution pays back the amount of the

investment plus interest in accordance with the provisions of the certificate. The funds of the financial institution in this case are subject to regulation by the Investment Company Act which permits investment of the funds received from the certificate holder in "qualified investments."

Qualified investments for this purpose include real estate mortgages, certain property improvement loans, U.S. Government and municipal bonds, and other securities meeting certain performance standards. As a result, part of the financial institution's funds are invested in State and municipal bonds.

The committee concluded that in cases of this type the relationship of the financial institution to the certificate holder is sufficiently close to the relationship of a bank to its depositors as to permit the investment of a substantial portion of the funds of such an institution in tax-exempt State and municipal bonds without this resulting in the possible denial of the interest deduction with respect to amounts paid out to the certificate holders.

That is the basis on which the committee acted. I think the committee acted wisely. It merely said that if a bank does not put more than 25 percent in tax exempts, it does not have to be punished by a deduction of the interest paid out. That follows the rule of 1934, adopted by the Senate.

Mr. BENNETT. Mr. President, will the Senator yield?

Mr. ANDERSON. I yield.

Mr. BENNETT. There is one other point which I think should be made to the Senate, if the Senator remembers it. This is prospective only, and has no effect on the existing quarrel between the company and the Internal Revenue Service.

Mr. ANDERSON. I thank the Senator from Utah. His statement is exactly correct. When we were assigned to pass on the question, the amendment was put to a vote again. Some of us announced that we would not vote for it if it were to be retroactive. I said I would not cast my vote for it if it involved one dollar of retroactive taxation. The Treasury said it did not. The Senator from Utah [Mr. BENNETT], with his fine business background, suggested that we should not make it retroactive, and we did not. We voted upon it. It does not contain one dollar of retroactive relief.

Mr. McCARTHY. I should like to make one additional point in connection with the dispute with the Treasury. Representatives of various units of the Government that sell tax-exempt securities have joined with the company in support of its position. We have had discussions with them with regard to this particular action. I think we ought to correct the RECORD with regard to municipalities, so that there will be no question that their tax-exempt status is in no way affected, either retroactively or prospectively, by the action taken here.

To that end, I should like to ask the Senator in charge of the bill, the distinguished Senator from Louisiana (Mr. LONG), a question regarding section 217 of the bill, which amends section 265 of the Internal Revenue Code. I think every member of the committee was concerned that there should be no impairment of the exemption of State and local bond interest. Everyone knows the need of government at those levels to raise money to meet growing responsibilities.

Do I correctly understand that section 217 of the bill creates no inference against any investor in such public obligations merely because in a particular tax year, past or future, the investment in such obligations exceeded the 25-percent figure? I should like to have the Senator confirm my understanding that the existing rule remains unchanged, that for the interest on any indebtedness to be disallowed under section 265 there must be a determination that such indebtedness was incurred or continued for the purpose of purchasing or carrying tax-exempt State and local government bonds.

I am sure that none of us wanted in any way to see financial institutions affected merely because they invest in State and local government bonds.

Mr. LONG of Louisiana. The Senator from Minnesota is correct in his interpretation of the bill and the existing law which it would amend. No inference is to be created against any taxpayer for any year; and the existing test for disallowance of interest on indebtedness, as the Senator has stated it, would remain.

Mr. McCARTHY. I understand that the Senator's interpretation would meet the demands of State and local governments with respect to tax-exempt securities. I thank the Senator for having made that point clear.

Mr. LONG of Louisiana. The bill was designed to meet the problem pointed out by a witness before the Committee on Finance, and it creates no inference for past or future years against any investor in State or local government bonds.

Mr. WILLIAMS of Delaware. Mr. President, I have used all my time, but I had promised to yield 5 minutes to the Senator from Tennessee to discuss my

amendment. Would there be objection to my asking unanimous consent that he be granted 5 minutes, in addition to the time I have used.

Mr. ANDERSON. There is no objection to that.

Mr. GORE. Mr. President, I support the amendment. Perhaps the Senate will recall that on the first day of debate I called to the attention of the Senate the fact that only a few pages of this more than 300-page bill dealt with tax rates. The other 300 or so pages are filled with provisions a few of which may be in the public interest, but most of which, in my view, are adverse to the public interest and deal with special interests.

With all due regard to the explanation which has been given, my view is that this is a special-interest provision, and that it should be stricken.

It is questionable, Mr. President, whether even the banks—with their special responsibility for part of the monetary functions of government—should have the privilege of deducting an interest charge as an operating cost, while investing such money in tax-exempt securities. If that is to be permitted, it will be a sure-fire way of making money at the expense of the Government of the United States.

This provision would extend that special privilege to a few special institutions which are not banks. It is said that these assets are owned to the extent of 90 percent by two companies. If this privilege is to be extended to these special companies, why not extend it to others? And then all will have a way to borrow money and deduct the interest and buy the tax-exempt securities, but owe no taxes on the income received from the tax-exempt securities. The issue is just that simple.

Mr. President, there are many other parts of the bill which should be stricken, but surely this one should be; and therefore I support the amendment of the Senator from Delaware.

Mr. LONG of Louisiana. Mr. President, I am not an expert in this field. I do not understand this subject as well as I should like to understand it. Moreover, I do not know what company or companies may be involved. But I sat with the committee and heard the matter discussed, and heard the Treasury's views and the staff's views. On the basis of the discussion I concluded that it made sense to permit some of those institutions to have 25 percent of their investments in tax-exempt State or municipal bonds and still receive a deduction for interest paid to certificate shareholders. I understood that if they were not entitled to this treatment for the part of their portfolios which invested in such securities, it would not be practically possible to invest any of the funds from the certificates of these financial institutions in tax-exempt bonds. That is the problem, as I understood it.

But whenever we are asked to pass a special bill for the benefit of one individual, I have regularly insisted that, instead of having the bill drawn so as to be for the benefit of only one person, it at least be drawn in general language, so that others similarly situated might have the benefit of the same law.

So far as this case is concerned, there may be two or three or four other companies which might benefit from this provision. At any rate, I would much rather vote on the basis of the principle involved. If it is right, I would be inclined to vote for it; if it is wrong, I would be inclined to oppose it.

I believe this issue is not now a court case, but I assume that it could become a case in court.

It seems to me this is the logical answer to the problem; in order to clear up what seems to be a hiatus between the Treasury Department and one or more companies, this would appear to be the way to solve it.

The subject would be in conference, of course; and if the Senator from Delaware feels as strongly about it as he appears to, I have no doubt that he would

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be able to impress the conferees with the force and the merit of his views.

However, I still feel that I should oppose the inclusion of this amendment in the bill.

Mr. WILLIAMS of Delaware. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 2 minutes.

Mr. WILLIAMS of Delaware. Mr. President, I think there should be no confusion about this matter.

The practical effect of the amendment would be to exempt financial institutions which sell face amount certificates under the Investment Company Act of 1940 from application of the disallowance rule. Data issued by the Securities and Exchange Commission shows that there are seven companies registered under the Investment Company Act of 1940 which presently issue face amount certificates. More than 90 percent of the total of the assets of these seven companies are held by two related companies, both of which are persently being

audited by the Internal Revenue Service with respect to the very issue covered by the amendment. Thus the committee amendment is in substance a private relief bill which would resolve in favor of the taxpayers primarily concerned, an issue which is being contested with the Internal Revenue Service.

Since this really is only a private relief measure it should be considered as such and on its own merits, not as part of this broad tax bill where it would be vetoproof.

Therefore, I urge that my amendment striking the McCarthy amendment from the bill be approved.

The Treasury Department agrees that we are dealing with a proposal that affects only one group of taxpayers or one company. There is no question about that. The Treasury Department opposed this provision remaining in the bill. It is clear that the provision is a private bill for the benefit of only one group of investors.

If this provision of the bill were to be enacted into law no doubt in a relatively short time others would find that the loophole would be of advantage to them. They would be able to come under the same umbrella and thus would avoid paying some of their taxes.

In short, Mr. President, the McCarthy amendment, as contained in the bill, is a violation of the principle of sound taxation. We should close this loophole tonight, and thus be done with it.

That can only be done by approving my amendment to delete the section.

Mr. GORE. Mr. President, will the Senator from Delaware yield to me?

Mr. WILLIAMS of Delaware. I yield.

Mr. GORE. If we open this loophole for the benefit of this small group, how shall we be able to oppose opening it, next year, for the building and loan associations and other institutions?

Mr. WILLIAMS of Delaware. Yes; and, not only that, no doubt many others would find that they could fit their operations under the formula of the bill and thus avoid their tax liability. Let there be no doubt that this is a new loophole for the benefit of one company now, but others will later take advantage of it also.

Mr. President, I yield back the remainder of the time under my control.

Mr. LONG of Louisiana. Mr. President, I yield back the remainder of the time under my control.

Mr. WILLIAMS of Delaware. Mr. President, on the question of agreeing to my amendment, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware. On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Maryland [Mr. BREWSTER], the Senator from Virginia [Mr. BYRD], the Senator from Mississippi [Mr. EASTLAND], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from Alabama [Mr. HILL], the Senator from North Carolina [Mr. JORDAN], the Senator from Virginia [Mr. ROBERTSON], and the Senator from New Jersey [Mr. WILLIAMS] are absent on official business.

I further announce that the Senator from California [Mr. ENGLE] is necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. BARTLETT] and the Senator from Virginia [Mr. ROBERTSON] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Nebraska [Mr. CURTIS], the Senator from Illinois [Mr. DIRKSEN], and the Senator from Arizona [Mr. GOLDWATER] are necessarily absent.

The Senator from Iowa [Mr. HICKENLOOPER], the Senator from Nebraska [Mr. HRUSKA], the Senator from Massachusetts [Mr. SALTONSTALL], the Senator from North Dakota [Mr. YOUNG], and the Senator from New Jersey [Mr. CASE] are detained on official business.

If present and voting, the Senator from Nebraska [Mr. CURTIS], the Senator from Illinois [Mr. DIRKSEN], the Senator from Arizona [Mr. GOLDWATER], the Senator from Nebraska [Mr. HRUSKA], and the Senator from Massachusetts [Mr. SALTONSTALL] would each vote "yea."

The result was announced—yeas 40, nays 41, as follows:

[No. 33 Leg.]

YEAS—40

Aiken	Hartke	Nelson
Allott	Jackson	Pearson
Beall	Javits	Pell
Boggs	Jordan, Idaho	Prouty
Burdick	Keating	Proxmire
Carlson	Kuchel	Scott
Church	Lausche	Simpson
Clark	McClellan	Smith
Cooper	McGovern	Tower
Cotton	Mechem	Walters
Dominick	Monroney	Williams, Del.
Douglas	Morse	Yarborough
Fong	Morton	
Gore	Mundt	

NAYS—41

Anderson	Inouye	Muskie
Bayh	Johnston	Neuberger
Bennett	Kennedy	Pastore
Bible	Long, Mo.	Randolph
Byrd, W. Va.	Long, La.	Ribicoff
Cannon	Magnuson	Russell
Dodd	Mansfield	Smathers
Edmondson	McCarthy	Sparkman
Ellender	McGee	Stennis
Ervin	McIntyre	Symington
Fulbright	McNamara	Talmadge
Hart	Metcalf	Thurmond
Holland	Miller	Young, Ohio
Humphrey	Moss	

NOT VOTING—19

Bartlett	Engle	Jordan, N.C.
Brewster	Goldwater	Robertson
Byrd, Va.	Gruening	Saltonstall
Case	Hayden	Williams, N.J.
Curtis	Hickenlooper	Young, N. Dak.
Dirksen	Hill	
Eastland	Hruska	

So the amendment of Mr. WILLIAMS of Delaware was rejected.

Mr. PROXMIRE. Mr. President, I call up my amendment No. 386.

The PRESIDING OFFICER. The amendment of the Senator from Wisconsin will be stated.

The LEGISLATIVE CLERK. On page 33, it is proposed that, beginning with the word "Repeal" on line 10, strike out all through the word "Provisions" on line 12.

Beginning on page 33, line 14, it is proposed to strike out all through line 2, page 36.

Mr. PROXMIRE. Mr. President, I modify my amendment by adding:

On page 38, beginning on line 10, strike out "and it is the intent of the Congress in repealing the reduction in basis required by section 48(g) of such Code,".

The correction is a technical one. It was suggested to me by the distinguished Senator from Iowa. I think it necessary to make the amendment properly drafted.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. PROXMIRE. It is my understanding that the debate on the amendment will be limited to one-half hour. I believe it can be completed in less time than that.

Each Senator has on his desk a memorandum which describes what the amendment would do. The amendment would reduce the revenue loss in the bill by $725 million a year by 1973, according to the estimates of the Joint Committee on Internal Taxation.

It would reduce the revenue loss in the 1965 budget by $245 million.

Many Senators—those who are in favor of and those who are against the bill—are concerned about the bill's revenue loss. The proponents of the bill have fought hard to keep out excise tax cuts on the ground that we would lose too much revenue. This amendment would enable us to restore some of the revenue loss, and at the same time abide by a principle which was written into the tax law deliberately and carefully by the Finance Committee in 1962, and ratified by the Senate in 1962, and upheld in conference in 1962.

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The amendment would eliminate from the committee's version of the bill a change in present law proposed by the committee.

The present law prevents purchasers of plant and equipment, in effect, from deducting more than 100 percent of the cost of an asset as depreciation in computing their income taxes.

It seems to me that it is a sound and vital tax principle. But I think we all must recognize that the investment credit, if it were modified as the committee has suggested, would have the effect of providing more than 100 percent depreciation.

This is because the law now recognizes that a 7-percent investment credit gives purchasers of assets an opportunity to buy the asset at an effective 93 percent of stated cost. Let me give an example of this. A firm paying $1 million for equipment can subtract $70,000—the investment credit—from its taxes, and, in effect, therefore, have a net expenditure of only $930,000 for its purchase.

I think that is clear and simple. A firm buys equipment for $1 million. With the investment credit, in effect, it costs $930,000, not $1 million. This is the actual cost.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PROXMIRE. I yield myself 2 additional minutes.

Because of this, the firm, under present law, is allowed to depreciate $930,000—the real cost of the asset—not $1 million.

The committee bill would remove this recognition of the effect of the investment credit in calculating asset cost and would thereby, in effect, permit equipment that cost $1 million to be depreciated for tax purposes as if it cost $1,140,000.

This is a sharp departure from the whole philosophy of American taxation, which has always been that a firm should be allowed to depreciate the full cost of an asset, but no additional fictitious cost.

While the cost of this provision is high—$245 million next year and $725 million a year by 1973—the potential cost to the Treasury, once the principle is recognized that assets can be depreciated at more than 100 percent is immense.

Once this principle is abridged there is no reason why in the future Congress could not provide for 150 percent depreciation or 200 percent depreciation. There is no limit.

A firm principle has been established for 175 years of American history that depreciation shall be 100 percent. It is clear that this bill would violate that principle.

There is no justification for this additional artificial benefit for purchasers of plant and equipment.

In the past 3 years such purchasers have enjoyed the following benefits expressly for purchasing equipment in addition to the corporate and personal tax reduction they enjoy in other sections of the bill:

First. Purchasers of plant and equipment have been allowed to increase depreciation under the new accelerated depreciation provisions as announced by the Treasury to any rate they can physically justify. That is, any equipment can be written off at least as rapidly as it is used up.

The value of this incentive to business is estimated at more than $1 billion a year. That is provided by the accelerated depreciation guidelines on the basis of the Treasury regulations recently issued.

Second. The investment credit in its present form provides an additional generous incentive to buy new equipment. The value of this incentive, with depreciation confined to 100 percent of the real cost of the asset, is more than $1 billion a year.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PROXMIRE. I yield myself 1 additional minute.

Mr. President, this amendment should be adopted for two reasons. In the first place, it is an amendment that stands for fiscal soundness. It means that the Treasury will recover between $245 million per year and $725 million per year over the period of the next 10 years.

Finally, the amendment should be adopted because it would permit the Senate to do what it did in 1962, to stand for the principle that equipment should be depreciated only 100 percent, and not 107 percent, or 114 percent.

The PRESIDING OFFICER. Does the Senator modify his amendment?

Mr. PROXMIRE. Yes. I did modify my amendment, which is at the desk. I shall bring the modification to the desk in a moment.

Mr. MILLER. Mr. President, will the Senator yield me 3 minutes?

Mr. PROXMIRE. I yield 3 minutes to the Senator from Iowa.

Mr. MILLER. I want to wholeheartedly support the amendment offered by the Senator from Wisconsin. When the Senate acted on the investment tax credit last year we intended taxpayers to take the 7-percent investment tax credit. In the case of the purchase of $1 million worth of equipment, the firm can subtract a $70,000 tax credit on its tax return. If we do not adopt the Proxmire amendment, we are going to vitiate our intention by doubling that deduction. We will double it because we will allow the complete cost—that is, the market price of the item purchased—to be depreciated, instead of requiring it to be reduced by the amount of the investment tax credit. If we permit a taxpayer on his income tax return to take $70,000 tax deduction this year for investment tax credit and then next year, and during the next 3 or 4 or 5 years, to take $70,000 more off in depreciation, that is nothing except a gift that allows him to restore to himself that which he never had in the first place.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. MILLER. I yield.

Mr. PASTORE. The last time I was in Rhode Island I had a meeting with some of our industrialists. Their complaint was pretty much to the effect that the trouble with amortization was that, as it was done, they could amortize only the value of the machinery and equipment that had been purchased. When it came to replacing it, one of the impediments to modernization was that it cost much more than it did the last time. I was wondering how much this amendment affects the philosophy I have just expressed.

Mr. MILLER. This amendment has nothing to do with what the Senator has just mentioned. What it does have to do with is the investment tax credit; and that is exactly why we permitted the investment tax credit. We recognized that the costs to replace worn-out machinery were much more than they had been previously. As an incentive for modernizing equipment, we said: "We will give the incentive by means of the 7-percent investment tax credit," but we never said, "We will give you 14-percent investment tax credit." That is what would happen if the Senate did not adopt the Proxmire amendment.

Mr. PASTORE. While it is true that Congress has provided the 7-percent in-

vestment tax credit, the investment credit can be invoked only if new machinery or equipment is bought.

Mr. MILLER. That is correct.

Mr. PASTORE. My question is raised not so much as to the equipment that is bought in 1964; I am wondering about the equipment that will have to be bought in 1974.

We have had to build up a reserve in order to modernize the machinery. I am questioning now whether the amendment will not retard the incentive to modernize in 1974.

Mr. MILLER. I can answer that question by stating that in 1974 the investment tax credit of 7 percent will be to encourage that modernization; and it is not a 14 percent investment tax credit.

Mr. LONG of Louisiana. Mr. President, I yield 5 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for 5 minutes.

Mr. BENNETT. Mr. President, I am in the unusual position—as many Repubican Senators have been in this debate—of defending the administration against its own members.

The investment tax credit was considered by President Kennedy, supported by him and offered by the Treasury Department to Congress. When it was adopted last year, it was modified by an amendment proposed by the Senator from Louisiana [Mr. LONG], which has created so much difficulty for investors and for the industries which propose to use the investment tax credit, that many of them failed to use it because, in the form in which it was passed into law, it reqiured these companies to keep a completely separate depreciation record for every piece of machinery that they bought under this program. They could no longer use guidelines set up by them, because under the Long amendment they could not depreciate 100 percent; they could depreciate only to the extent of 93 percent in order to get the benefit of it. They had to have a separate set of books for every piece of machinery. So many industries in the United States, when we

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got to work on this job, said, "Give us what you said you were going to give us or take it away, because we cannot keep our records under the Long amendment because it is prohibitive and unreasonable."

Mr. CARLSON. Mr. President, will the Senator from Utah yield?

Mr. BENNETT. I yield.

Mr. CARLSON. I wonder if it does not boil down to the simple proposition that if Senators are for the investment credit they will vote against the Proxmire amendment, and if they are against it, of course they will vote for the Proxmire amendment.

Mr. MILLER. Mr. President, will the Senator from Utah yield?

Mr. BENNETT. The Senator from Iowa has had an opportunity to make his remarks; I have only 5 minutes.

This is the fundamental problem. The Treasury had the concept. It was offered to Congress a year ago. The Senate cut it in half. I believe the Senator from Kansas [Mr. CARLSON] has laid down the question simply. If we want industry to use the investment tax credit, let us accept the proposal in the form in which it was originally offered. If we wish to stultify it and nullify its use by industry, let us go back and re-create the problems that they hoped the committee would eliminate by a change which the committee did adopt.

In this case, I had some personal consideration about the investment tax credit when it was adopted a year ago, but now I am sure that we either want it all one way or we want to eliminate it entirely.

Mr. PASTORE. Mr. President, will the Senator from Utah yield for a question?

Mr. BENNETT. I yield.

Mr. PASTORE. In other words, what the Senator from Utah is saying is that if we adopt the Proxmire amendment now, we are actually vitiating the effect of the 7 percent investment credit.

Mr. BENNETT. Yes. If we adopt the Proxmire amendment, we will vitiate the effect of the 7 percent investment credit.

Mr. PASTORE. In other words, in the process of including the amortization benefit we give now, and subtracting it on the other end, we will take away from what we have already given?

Mr. BENNETT. That is partially true.

Mr. PASTORE. I like to simplify things.

Mr. BENNETT. We can say to a man, "Your investment credit, if you spend a thousand dollars for a machine, will be $70. You still have that machine, but under the Long proposal adopted last year, you cannot deprecite it less than a thousand dollars," so the depreciation is $930.

Mr. PASTORE. Which in effect takes it away?

Mr. BENNETT. Certainly; in effect it takes it away.

Mr. ANDERSON. Mr. President, will the Senator from Utah yield?

Mr. BENNETT. I yield.

Mr. ANDERSON. I compliment the Senator from Utah. That is the real question. Are we going to make every

business man keep two sets of books? I believe it is a bad thing to keep two sets of books.

Mr. PASTORE. That is correct. Not only two sets of books; but the Treasury went to great lengths a year ago to try to simplify the depreciation program by saying "we are going to lump machinery in a class, and we can apply a flat figure to a class, but if we are going to continue the Long amendment, the businessman must write a separate depreciation ledger for every single piece of machinery."

Mr. ERVIN. Mr. President, will the Senator from Utah yield for a question?

Mr. BENNETT. I am glad to yield, if I have the time.

Mr. ERVIN. The Senator from Wisconsin said that if we did not adopt the amendment, we would destroy the principle. I ask the Senator from Utah if it is not true that we have had the principle; and will not the depreciation always be calculated upon the actual cost of the machinery?

Mr. BENNETT. That is correct.

Mr. ERVIN. If we adopt the amendment of the Senator from Wisconsin, we will change that principle so that instead of depreciation on the basis of the actual proposal we will depreciate only on the basis of 93 percent.

Mr. BENNETT. I believe the Senator is absolutely correct. Under the investment credit proposal, we did not say the Federal Government would pay 7 percent of the cost of a machine, and to the man from whom it was purchased say the cost will be that much lower. We said the Federal Government would give a tax credit of 7 percent, which has no specific relationship to the depreciation problem with the machine.

Mr. LONG of Louisiana. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 5 minutes.

Mr. LONG of Louisiana. Mr. President, I have considerable regard for the Proxmire amendment, because it is the Long amendment of 2 years ago. The Senator from Louisiana thought 2 years ago exactly as the Senator from Wisconsin thinks today. The amendment was offered in committee, it was not discussed on the floor. If it had not been for the vigorous support which I gave it in the conference committee, it would not have become law; but I held out for it. That is how it became law. I believe we should change the name to the Proxmire amendment because I think the Senator is entitled to that much credit for saving the "baby" from the "flaming building."

As a practical matter, this amendment has had the effect of requiring that the tax credit be used as a reduction in depreciation. So, as a practical matter, if we take the tax credit that was passed by the House 2 years ago, and attach the Long amendment to it, it means that there will be a 4 percent tax credit in the long run instead of a 7 percent tax credit; because while people reduce their depreciation base, they have the benefit of interest during the period of time that they are depreciating the equipment; and the result is about a 4 percent reduction as recommended by President Kennedy. When President Kennedy made his recommendation 2 years ago, he recommended an 8 percent tax credit. The House cut it back by 1 percent, to 7 percent. The committee took the Long amendment and cut it by 3 percent. The bill went through with the 4 percent investment credit.

I would be against repeal of my amendment if we were doing this only in and of itself, but this is a balanced package. If we repeal the dividend credit in the bill, it will cost corporation stockholders a considerable amount of money.

So when we repeal the dividend credit, the answer to those of us from the Democratic side of the aisle who advocate it is, "yes; we are going to take care of your dividend credit which will give you back what the Long amendment took away from you on investment credit. Then we are going to give back to you a reduction in tax rates and we are going to cut your personal income taxes. So by the time you see the whole package, we believe you will be happy." And with a few exceptions, they will be glad.

But this is a part of a package proposition when we look at the whole thing. We have to see it work out to a balanced tax reduction for those in the highest bracket receiving reductions of about 5 and 6 percent, and those in the lowest brackets receiving a reduction of a maximum of 38 to 75 percent—1,500,000 taxpayers removed from the income tax brackets.

Considered as a part of a package, it is a good proposal. When our Republican friends prevailed temporarily in putting the cost up by $550 million, I urged the Senator from Delaware to move to save the Long amendment. If we look at it as a balanced package, it is a good proposal, and it should be agreed to. While I am proud about it and think I was right about it, I am frank to state that apparently the only ones who understand the bill do not appreciate it. I am willing to let someone else take the credit. I am content to go along with

the committee and the judgment of the Treasury. As an overall proposal, it is a fair settlement of the issue.

Mr. PROXMIRE. Mr. President, the distinguished Senator from Utah and other Senators have said that if the amendment is adopted it will vitiate the investment credit provision. If it is adopted, it will keep the present law as it is. It would not change anything. It would maintain the principle adopted in 1962. The amendment merely maintains what we already have.

The argument has been made that those who understand the amendment are opposed to it, and want to change the law. I submit that if we consider the membership of the Committee on Finance we find that the chairman of the committee, the Senator from Virginia [Mr. BYRD], who is a man of great judgment, was strongly opposed to the change in the Long amendment. The distinguished ranking minority member——

Mr. SMATHERS. Mr. President, will the Senator yield?

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Mr. PROXMIRE. I yield.

Mr. SMATHERS. Is it not a fact that the chairman was opposed even to the investment credit? He was opposed to the whole thing, was he not?

Mr. PROXMIRE. It is true that he was opposed to the investment credit. The distinguished Senator from Louisiana, the champion of the investment credit provision, the father and the author and the prime supporter of the proposal, was right then, and he is wrong now.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. LONG of Louisiana. I thank the Senator for admitting that I am batting 500.

Mr. PROXMIRE. The Senator is batting far more than .500. On the bill he is batting .995. He has been able to beat off everything except one little amendment.

Mr. AIKEN. Mr. President, the Senator from Vermont confesses to being considerably puzzled by the argument last night and tonight. Last night, we had Senators pleading for the right of utilities to keep two sets of books for the benefit of stockholders, and tonight we hear some of the same Senators say that keeping two sets of books would work a hardship on a corporation. I cannot understand why last night it was said that keeping two sets of books was a benefit, and tonight that keeping two sets is a curse.

Mr. PROXMIRE. The Senator is correct.

Mr. AIKEN. It is really puzzling to hear conflicting arguments made by the same Senators.

Mr. PROXMIRE. The Senator from Vermont is correct. I yield to the Senator from Iowa.

Mr. MILLER. I reply to the Senator from Vermont that the keeping of two sets of books will not be required. There is no reason for keeping two sets of books.

Mr. ANDERSON. Oh, my.

Mr. MILLER. I am referring now particularly to the comment made by the Senator from New Mexico. If the taxpayer buys an item for $1,000, and Uncle Sam says: "You paid only $930 for it, because of a $930 tax credit," he has no business putting that item down on his tax return, or on his depreciation schedule for anything more than $930. If he desires to bring it up to $1,000, and keep two sets of books, that is his privilege.

Mr. ANDERSON. Mr. President, will the Senator yield?

Mr. MILLER. I yield.

Mr. ANDERSON. If he keeps one set of books for his State income tax, and one set of books for his Federal income tax, he is wrong.

Mr. MILLER. May I answer that?

Mr. ANDERSON. Yes.

Mr. MILLER. It depends on the State. The State of Iowa recognizes the investment tax credit. I suggest that most States which levy an income tax do so; nevertheless, even if a person kept two sets of books, any accountant could handle it in the twinkling of an eye by simply reducing the amount of depreciation by 7 percent. There is no handicap involved in that, and the question is whether it is worth it to keep two sets of books, to get the benefit of the investment credit. I do not believe this argument of a double set of books is valid at all.

Mr. PROXMIRE. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The time of the Senator has expired.

The question is on agreeing to the amendment offered by the Senator from Wisconsin [Mr. PROXMIRE]. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD (when his name was called). On this vote I have a pair with the junior Senator from Illinois [Mr. DIRKSEN]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. McNAMARA. On this vote, I have a live pair with the senior Senator from Alaska [Mr. BARTLETT]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. SMATHERS. On this vote I have a pair with the junior Senator from Alaska [Mr. GRUENING]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Maryland [Mr. BREWSTER], the Senator from Virginia [Mr. BYRD], the Senator from Mississippi [Mr. EASTLAND], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from Alabama [Mr. HILL], the Senator from Ohio [Mr. LAUSCHE], the Senator from Washington [Mr. MAGNUSON], the Senator from Virginia [Mr. ROBERTSON], and the Senator from New Jersey [Mr. WILLIAMS] are absent on official business.

I further announce that the Senator from California [Mr. ENGLE] is necessarily absent.

I further announce that, if present and voting, the Senator from Maryland [Mr. BREWSTER], the Senator from Mississippi [Mr. EASTLAND], the Senator from California [Mr. ENGLE], the Senator from Arizona [Mr. HAYDEN], and the Senator from Virginia [Mr. ROBERTSON] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Nebraska [Mr. CURTIS], the Senator from Illinois [Mr. DIRKSEN], and the Senator from Arizona [Mr. GOLDWATER] are necessarily absent.

The Senator from Iowa [Mr. HICKENLOOPER], the Senator from Nebraska [Mr. HRUSKA], the Senator from North Dakota [Mr. YOUNG], and the Senator from New Jersey [Mr. CASE] are detained on official business.

If present and voting, the Senator from Nebraska [Mr. CURTIS], the Senator from Arizona [Mr. GOLDWATER], and the Senator from Nebraska [Mr. HRUSKA] would each vote "nay."

The pair of the Senator from Illinois [Mr. DIRKSEN] has been previously announced.

The result was announced—yeas 20, nays 58, as follows:

[No. 34 Leg.]

YEAS—20

Aiken	Gore	Nelson
Burdick	Keating	Proxmire
Church	McGovern	Ribicoff
Clark	Metcalf	Williams, Del.
Cooper	Miller	Yarborough
Dodd	Monroney	Young, Ohio
Douglas	Morse	

NAYS—58

Allott	Humphrey	Neuberger
Anderson	Inouye	Pastore
Bayh	Jackson	Pearson
Beall	Javits	Pell
Bennett	Johnston	Prouty
Bible	Jordan, N.C.	Randolph
Boggs	Jordan, Idaho	Russell
Byrd, W. Va.	Kennedy	Saltonstall
Cannon	Kuchel	Scott
Carlson	Long, Mo.	Simpson
Cotton	Long, La.	Smith
Dominick	McCarthy	Sparkman
Edmondson	McClellan	Stennis
Ellender	McGee	Symington
Ervin	McIntyre	Talmadge
Fong	Mechem	Thurmond
Fulbright	Morton	Tower
Hart	Moss	Walters
Hartke	Mundt	
Holland	Muskie	

NOT VOTING—22

Bartlett	Goldwater	Mansfield
Brewster	Gruening	McNamara
Byrd, Va.	Hayden	Robertson
Case	Hickenlooper	Smathers
Curtis	Hill	Williams, N.J.
Dirksen	Hruska	Young, N. Dak.
Eastland	Lausche	
Engle	Magnuson	

So Mr. PROXMIRE's amendment was rejected.

REVENUE ACT OF 1964

The Senate resumed the consideration of the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes.

Mr. MANSFIELD. Mr. President, I hope Senators will remain in the Chamber to listen to what the distinguished senior Senator from Tennessee will say apropos his amendment. There will be no further voting tonight. It is my understanding that when the Senator from Tennessee has made his preliminary statement, the Senate will adjourn.

Mr. GORE. I send to the desk amendment No. 207 and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 74, beginning with line 14, it is proposed to strike out all through line 3 on page 108 and insert the following:

[P. 2134]

SEC. 214. TERMINATION OF PREFERENTIAL TAX TREATMENT OF RESTRICTED STOCK OPTIONS.

Section 421(d)(1) (definition of restricted stock option) is amended by inserting after "granted after February 26, 1945," the following: "and before January 25, 1963,".

REVENUE ACT OF 1964

The Senate resumed the consideration of the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes.

Mr. HART. Mr. President, since many of the constructive actions of the Committee on Finance perhaps go unnoticed because of the attention we concentrate upon controversial amendments, I should like to refer to an action which the Committee on Finance took and which is reflected in full detail on pages 73 and 74 of the committee report. I refer to deductions for political contributions, which are there authorized.

There is much concern that we develop a method which will broaden the basis for the support of political parties in this country. Many of us have spoken on the subject. No one pretends to have an answer at hand. The bill now pending does not purport to contain an answer.

However, I thank the Committee on Finance very much for adding this particular section to the bill that was received from the House. I clearly voice the attitude of both major political parties in Michigan. I ask unanimous consent to have printed at this point in my remarks a joint statement issued by the Democratic State chairman, Zolton A. Ferency, and the Republican State chairman, Arthur G. Elliott, Jr. The recommendations of our two political party chairmen have been heard by the Committee on Finance. I add my voice to theirs, and I am glad the committee acted in a responsible fashion.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Following is a joint statement issued today by Zolton A. Ferency, Democratic State chairman, and Arthur G. Elliott, Jr., Republican State chairman:

"As chairmen of our respective political parties, we have together been reviewing problems concerning the financing of political party activities—problems that we both agree are becoming increasingly disturbing.

"The complex difficulties of modern life require that voters be better informed on the issues of our day; that they have a clear understanding of the stands proposed by our major political parties on the vital problems of the day; that they be able to make discerning selections of public officials in elections.

"The burden of properly informing and educating voters on both issues and candidates, falls to the major political party organizations. The expanding volume of needs and assignments require that the parties be more adequately and systematically financed to effectively carry out their responsibilities.

"It is our belief that citizens will support the parties of their choice if they are given sufficient encouragement and inducements to do so.

"To stimulate greater citizen support of the parties of their choice, we are asking Michigan Congressmen and Senators to join in a genuine bipartisan effort to initiate and promote passage of legislation, in this session of Congress, which will permit Federal income tax deductions for contributions to political parties.

"We suggest allowances up to $50 for contributions of individuals up to $100 for husbands and wifes who file joint returns.

"We are confident that such legislation would be an excellent start in the development of systematic procedures for financing the essential operations of political parties.

"In addition, such a move will greatly encourage wider citizen activity in the management of political parties, and will reduce the danger of the parties coming under control of heavily financed special interest groups."

Mr. HART. I thank the Senator from Tennessee very much.

Mr. GORE. Mr. President——

Mr. MORTON. Mr. President, will the Senator from Tennessee yield for a parliamentary inquiry?

Mr. GORE. I yield.

Mr. MORTON. Mr. President, I understand that the Senate is now proceeding under a time limitation. Are the remarks to be made tonight by the Senator from Tennessee [Mr. GORE] to be charged to his time, or will that start from scratch tomorrow?

The PRESIDING OFFICER (Mr. WALTERS in the chair). Under the agreement, any time used tonight by the Senator from Tennessee is to be charged against his allotted time.

Mr. MORTON. Very well, Mr. President.

I wish my colleague well.

Mr. GORE. I thank the Senator; and good night. [Laughter.]

Mr. President, two basic questions are involved in the amendment I have offered.

The first question is this: Will the officers of a corporation be required to pay, on the compensation they receive for their work, the same kind of taxes that ordinary employees are required to pay and that other citizens are required to pay?

The second question is this: Will Congress reward corporate insiders by preferential tax treatment and encourage them to divide among themselves funds of the corporation which rightfully belong to all the stockholders of the corporation?

Mr. President, I have long waged a battle to eliminate from the law this loophole of tax favoritism. Fortunately, very influential and powerful voices have been raised in support of this battle. The late beloved President Kennedy made one of his strongest recommendations for tax reform in this regard; and I wish to read from his recommendation to Congress on January 24, 1963:

(b) The tax treatment of restricted stock options: The difference between the price paid for optioned stock at the time of exercise of such an option and the option price represents compensation for services quite as much as do wages and salaries. Under present law, however, such gains are taxed under capital gains rules at very favorable rates and the tax liability may be postponed for many years.

Under present war-inspired high tax rates, compensation arrangements of this kind clearly have their attractions. But under the new more reasonable rates I am recommending, the favored tax treatment of stock options can no longer be said to be either

[*P. 2135*]

desirable or necessary; and larger salary payments will be more effective than at present as a means of attracting and holding corporate executives.

I, therefore, recommend that, with respect to stock options granted after this date, the spread between the option price and the exercised be taxed at ordinary income tax rates at the time the option is exercised. The averaging provision referred to above, which the Secretary of the Treasury will present, will prevent a tax penalty due to bunching of income in 1 year. In addition, payment of tax attributable to exercise of the stock option would be permitted in installments over several years.

This change will remove a gross inequality in the application of the income tax, but it is not expected to yield appreciable amounts of revenue; for the gains to be taxed as compensation to the employee will, as in the case of compensation in other forms, be deductible from the income of the employer.

The overall effect of all these changes in the capital gain provisions affecting individuals and corporations will stimulate a freer flow of investment funds and facilitate economic growth as well as provide more evenhanded treatment of taxpayers across the board. They have a direct positive revenue impact of about $100 million per year. The reduction in the tax rate on capital gains will be somewhat more than offset by the increased revenue from the change in holding period, the taxation of capital gains at death and the changes in definitions—including those affecting real estate shelters and sales of mineral properties.

However, the "lock-in" effect of the present law, due to the ability to avoid all capital gains taxes on assets held until death, will be eliminated. This will result in a sharp increase in transfers of capital assets as individuals feel free to shift to the most desirable investment. The increased volume of transactions under these new rules should, in an average year, yield approximately $700 million in additional revenue. Indeed, this figure will be substantially higher during the first few years after enactment as those who are presently "locked in" respond to the new situation.

Mr. President, the pending bill amends the option law. For instance, the bill provides for an employee purchase plan. My amendment would not alter that; indeed, the amendment I have offered would not prevent stock options. My amendment would strike out of the bill the prefential tax treatment provided for qualified stock options.

In the existing law, the provision by which corporate insiders receive preferential tax treatment is entitled "Restricted" stock option. The existing "restricted" stock option is terminated by the provisions of the bill; and, instead, a new "qualified" stock option is instituted.

Under the employee purchase plan, any employee—whether an officer or a lathe operator—can purchase as much as $25,000 worth of stock per year. I repeat that this is a provision which is available to the janitor of the company and also to the president of the company. My amendment would not repeal this. So even after enactment to the amendment I have offered, the officers of a corporation could purchase option stock, under the employee purchase plan, to a maximum of $25,000 per year.

But, Mr. President, my amendment would strike out of the bill the provisions for the new "qualified" stock option, which under the old term "restricted" stock option has been so greatly abused as an instrument of tax avoidance.

Now, Mr. President, a good example of this abuse has been furnished recently by the Chrysler Corp.

The Senate Finance Committee ordered an investigation of the Chrysler stock option deal which was published early this year. I wish to read briefly from the report which was prepared following an investigation. The Treasury Department conducted the investigation, and rendered a thorough report to the Senate Finance Committee; and I now read the report.

Letter of Transmittal

Treasury Department,
Washington.

Hon. Harry F. Byrd,
Chairman, Senate Finance Committee,
New Senate Office Building,
Washington, D.C.

My Dear Mr. Chairman: Pursuant to the request of the committee to study the facts involved in the operation of Chrysler's stock option plan, I am transmitting copies of a report, "Chrysler's Stock Options." This re-

port was prepared by the Treasury Department but coordinated with the joint committee staff and has its concurrence.

Sincerely yours,

STANLEY S. SURREY,
Assistant Secretary.

REPORT ON OPERATIONS OF STOCK OPTION PLAN BY CHRYSLER CORP.

1. PRINCIPAL PROVISIONS OF THE STOCK OPTION PLAN

Chrysler's stock option plan was approved by the stockholders at their annual meeting, April 15, 1952. Originally covering a period of 10 years, the plan was extended for an additional 5 years by approval of the stockholders on April 17, 1962. During this 10-year period the plan was substantially revised, principally with respect to the number of shares authorized, option pricing policy, and the conditions of exercise of the options.

The original plan authorized 400,000 shares of Chrysler common stock to be set aside for purchase by the principal officers and key employees of the corporation and its subsidiaries. No more than 45,000 shares could be granted to a single employee. A committee of directors not eligible to receive such options was authorized to award the options at a price not less than 95 percent of the fair market value of the stock on the date of grant. On January 4, 1962, the minimum option price was raised to 100 percent of the fair market value of the stock.

The plan originally provided that no option could be exercised in whole or in part until after the holder of the option had been employed by the corporation (or a subsidiary) for at least 1 year after the date of grant. At the end of the first year the holder could purchase up to one-third the total number of shares subject to his option, at the end of the second year up to two-thirds, and at the end of the third year he could purchase up to 100 percent of the shares covered. The period of the option was limited to 10 years. The conditions of exercise were later amended (1958) to provide that options could be exercised, in whole or in part, after the holder had been in continuous employ at least 18 consecutive months after the date of grant. Thereafter he could exercise options (except in the case of death) only if he remained continuously employed through the date of exercise.

On January 4, 1962, significant changes were made in the terms of exercise of new options. An employee receiving new options after that date was required to remain in the continuous employ of the corporation or of a subsidiary for 12 consecutive months before he could exercise any part of the option; thereafter he may not buy more than 20 percent of the shares covered before the second anniversary of the date of grant, more than 40 percent before the third anniversary, more than 60 percent before the fourth anniversary, or more than 80 percent before the fifth anniversary. Options granted before January 4, 1962, however, could continue to be exercised in whole or in part after a period of 18 months from the date the option was granted.

The plan originally contained a provision that the person exercising the option must represent in writing that he intends to acquire the shares for investment purposes and not with a view to their distribution. After the annual stockholders' meeting of March 5, 1962, the board of directors, on recommendation of the stock option committee, deleted this provision for outstanding options as well as for all options granted in the future.

Shares sold under the plan may be either authorized and unissued shares or issued shares reacquired by the corporation; i.e., Treasury stock. Only authorized and unissued shares have been used for this purpose. The purchase price for the shares acquired under an option must be paid in full, in cash, upon exercise. Because of the sizable investment entailed, many officers finance the purchase of stock through bank loans.

In the event of a change in the outstanding common stock of the corporation by reason of a stock dividend, splitup, recapitalization, merger, or consolidation, the board of directors or the stock option committee may make appropriate adjustment in the aggregate number of shares available under the plan, the maximum number of shares which may be granted to any individual, the number of shares subject to each outstanding option and the option price.

No option may be granted under the plan after April 30, 1967. Prior to that date the board of directors may amend the plan in any respect or terminate the plan. But they may not increase the maximum number of shares to be sold under the plan or to any one individual, reduce the minimum option price, or extend the period during which options may be granted or exercised without further approval of the stockholders. Nor may the board of directors, without approval of stockholders, reduce the option price of an outstanding option or cancel an outstanding option and grant a new option at a lower price to replace it. Termination or amendment of the plan may not, without the consent of the holder of any option outstanding, terminate any employee's option or materially or adversely affect his rights under the option.

On January 10, 1963, subject to the approval of the stockholders, the board of directors amended the plan to increase to 650,000 shares the maximum number of shares covered. This number was doubled in accordance with the stock split effected April 19, 1963, and redoubled to 2,600,000 shares with the second stock split approved by stockholders, effective December 20, 1963. Shares reserved for options represented 3.25 percent of authorized capital stock.

2. OPTION GRANTS AND PRICES 1952–63

Options were first granted under the plan on May 1, 1952, for 84,000 shares of common stock at a price of $69.35. These awards were followed on June 19, 1952, by additional grants of 75,250 shares at a price of $73.51. Further grants were not made until May 5, 1955, when options covering 97,250 shares were granted at a price of $77.07. These grants were followed by options cover-

ing 64,000 shares on August 2, 1956, at a price of $61.52. An additional grant of 34,500 shares was made April 25, 1957, at a price of $75.71. Thus, through 1957, option awards covered a total of 355,000 shares (1,420,000 shares after adjustment for subsequent stock splits).

By August 31, 1958, options covering only 23,500 shares were exercised; 63,500 shares covered by options lapsed through the death of the holder or otherwise, and 320,500 shares remained unexercised. The status of the plan at that time is shown by the following table:

Date of grant	Option price per share	Number of shares covered by options exercised	Number of shares covered by options lapsed [1]	Number of shares covered by options outstanding	Latest date of expiration [2]
May 1, 1952	$69.35	21,311	31,500	62,189	Apr. 30, 1962
June 19, 1952	73.51	2,129	19,500	73,121	June 18, 1962
May 5, 1955	77.07		12,500	86,750	May 4, 1965
Aug. 2, 1956	61.52	60		63,940	Aug. 1, 1966
Apr. 25, 1957	75.71			34,500	Apr. 24, 1967
Total		23,500	63,500	320,500	

[1] Through death of holder or otherwise. These shares became available for subsequent options.
[2] Provided holder of option remains in employ of the corporation (or of a subsidiary).

Source: Chrysler Corp., notice of annual meeting of stockholders, Mar. 11, 1959.

By this time, because of the declining price of Chrysler stock, the options had tended to lose their value to the employee and their usefulness as a means of retaining desirable personnel. The average market value of Chrysler stock during the preceding 12 months had declined to less than 80 percent of the fair market value of stock on the dates that the foregoing grants were made. Taking advantage of the reset provisions of the Internal Revenue Code, the stock option committee lowered to $52.49 the option price covering 245,111 shares previously granted May 1, 1952, June 19, 1952, May 5, 1955, and April 25, 1957, at prices ranging from $69.35 to $75.71 per share. This action was conditional upon the surrender for cancellation by the employees of their old options. On January 8, 1959, the committee also granted new options at $49.94 a share to replace those previously granted August 2, 1956, at a price of $61.52. Each holder of these newly granted options could exercise them after a continuous period of employment of 18 months from the new date of grant.

Because of changes in management assignments since the original options were granted, the size of the options held by many individual employees no longer reflected their management responsibilities. The stock option committee, therefore, did not modify all outstanding options "across the board" but considered each case individually and adjusted the number of shares optioned to each holder in accordance with his new responsibilities. In addition to the above adjustments of previously existing options (involving the surrender of the old options for cancellation) the stock option committee granted options on September 11, 1958, to 21 officers and employees to purchase 28,750 shares of stock at $52.49 a share, and on January 8, 1959, to 5 officers to purchase 45,000 shares of Chrysler stock at $49.94 a share. On December 3, 1959, options were granted to 12 persons covering a total of 30,750 shares at $61.22 a share.

By March 5, 1962, none of the newly granted options had been exercised. At that time options were held by 86 officers and employees to purchase in the aggregate 307,396 of Chrysler common stock; 69,104 shares remained available for future grants. Of the original 400,000 of common stock reserved under the plan, options covering 23,500 shares had been exercised (prior to 1959). It was not until January 1963, that any of the new options was exercised by directors and officers of the corporation.

Table 1 summarizes the total number of shares covered by option grants through December 31, 1963, together with their price. Because of the 2 for 1 stock splits of April 19, 1963, and December 20, 1963, the number of shares and option prices are adjusted to reflect the situation at December 31, 1963. Through this period all directors and officers received options covering the equivalent of 1,112,584 shares, of which the officers who were directors received 603,984 shares. No information is available on the total number of shares covered by options granted all employees.

3. VALUE OF OPTIONS EXERCISED, 1963

As was indicated above, none of the new options was exercised until January 1963. By the end of the year all officers of the corporation (29) exercised options covering 480,800 equivalent number of $6.25 par value shares. All executives, including the above officers, purchased 876,000 shares covered by options (table 2). The total value of these options at the time of exercise was $13,658,979. This amount represented the difference between the option price and the market value of the shares at that time.

Officers who were directors of Chrysler exercised options with a value of $3,891,811. Of these, the options exercised by Mr. Love, chairman, had a value of $1,281,614, almost one-third of benefits realized by this group. The value of Mr. Townsend's, president, amounted to $667,483, Mr. Quinn's, $632,298, Mr. Misch's, $481,981, and Mr. Bright's, $500,175 (table 2).

It is of some interest to know how option benefits realized by the sale of optioned stock (the spread between market value and option

price at time of exercise), and similar unrealized benefits on stock acquired under option but not yet sold, compare with compensation received by the principal executives of Chrysler. Since the period might properly be considered to date from 1958—when new options were granted in connection with the resetting of prices—salaries and bonuses received over the 6-year period, 1958–63, are taken as a basis of comparison. Although there were significant variations among the principal executives, the realized and unrealized value of options exercised by the seven top officers almost exactly equaled the salaries and bonuses they received over this period, excluding the 1963 bonus yet to be determined (table 3).

During this 6-year period there was also an increase in the regular compensation of Chrysler's officers (table 4). In part, this increase, particularly in the case of Messrs. Townsend and Leary, was occasioned by an appreciable increase in responsibility. Excluding the new chairman, G. H. Love, total salary and bonuses of the top six officer-directors more than doubled, from a total of $452,000 in 1958 to $917,600 in 1962. In addition, increases in the salaries of some officers, as well as an anticipated increase in bonuses awarded in 1963, should bring their 1963 compensation to well above the 1962 total.

The option benefits of G. H. Love, chairman, represented about 83.3 percent of his total compensation, and those of E. C. Quinn and L. A. Townsend, president, about 51 percent of their total compensation (including the option benefits).

As of December 31, 1963, substantial options remained unexercised. Outstanding options of all employees are estimated at 885,684 shares, of which 638,184 shares were covered by options held by officers (table 5). These represented over one-half the number of shares covered by options granted over the period. At the end of 1963 the seven top officers still held options covering 347,184 shares, or about 57 percent of those received since 1958.

Under the terms of the grant not all of the options outstanding December 31, 1963, could be exercised by that time. Although those granted prior to January 4, 1962, could have been evercised in full, those granted after this date could be exercised only over a period of 5 years, and not over 20 percent could be exercised before the second anniversary of the grant. Thus, all but 302,400 shares of those issued to the directors and officers during the period could have been exercised; exercisable options of officers covering 335,784 shares, therefore, remain unexercised at the end of 1963. No information is available on the number of options exercisable by all optionees.

4. SALES OF OPTION STOCK, 1963

(a) *Shares sold*

During the second half of 1963, Chrysler's officers sold substantial amounts of the stock they acquired through the exercise of options during the first half of the year. In most cases they sold the stock shortly after the 6-month holding period that would qualify them for long-term, capital-gains tax treatment.

Reports of officers filed with the SEC show that in 1963 they sold about 33 percent of the stock acquired during this year (table 6). One-third of the officers reporting, including G. H. Love, chairman, retained all the stock purchased through options. Others sold up to 75 percent, including P. C. Ackerman, 75 percent; W. S. Simmons, 67.5 percent; Robert Anderson, 60 percent; and Messrs. Misch, Quinn, Bogan, and O'Brien, about 50 percent. L. A. Townsend, president, disposed of 63.8 percent of the stock he acquired during this period. Although R. S. Bright sold stock not identified as option stock, his sales amounted to 40 percent of the stock he acquired through options.

(b) *Gains realized*

Substantial gains were realized by the officers of Chrysler on the sale of their stock in 1963. All officers as a group are estimated to have realized $4.2 million gain, before tax (table 7). After deduction of capital gains tax at the alternative rate, net gains are estimated at $3.2 million.

The top seven officers realized total gains of $2.7 million. Individual gains ranged to as high as $744,000, for L. A. Townsend, $507,234 for F. W. Misch, and $625,982 for E. C. Quinn. Although R. S. Bright did not sell stock purchased through options, his gain would have amounted to $376,530 if figured on the basis of stock so acquired. Mr. Love did not sell any of his holdings.

The magnitude of the gains reflected not only the low option price in comparison with market price at the time of exercise, but also the sharp rise in price of Chrysler stock since that time. Of the total gains of $2.7 million realized by the top seven officers $1.5 million reflected the rise in market price over the option price at time of exercise.

According to the chairman, Mr. Love, the large sales of stock are explained by the necessity of paying the corporation the full option price at time of purchase. Since this usually requires borrowing from banks and other sources to finance the purchase, it is necessary for the optionees to sell a portion

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of the shares acquired in order to repay the loans. The 6-month holding period complies with SEC rules and with provisions of the Internal Revenue Code to qualify as long-term gains.

(c) *Total realized and unrealized gains, 1963*

In addition to the gain actually realized on sale of Chrysler stock, the officers also experienced substantial appreciation in the value of stock acquired during 1963 and still held at the end of the year. The value of the unrealized gain on such holdings of the seven top officers of the corporation at December 31, 1963, is estimated at $4,649,992, of which G. H. Love's holdings accounted for almost one-half (table 8). About 50 percent ($2.3 million) of the appreciation took place after the exercise of the options.

Taking into account realized and unrealized appreciation on option stock purchased, the total value of the seven top officers' wealth was enhanced through the exercise of options by an estimated $7.3 million. After tax on gains realized, the net increase in wealth was $6.7 million.

Including the $4.8 million value of options exercisable at the end of the year, total realized and unrealized gains on options of the top officers amounted to $12.2 million (table 8).

5. THE RECORD OF EARNINGS AND STOCK PRICES

The substantial stock option benefits realized by Chrysler's officers are attributable to the recovery in the company's earnings and the value of its stock since 1958. After plunging from $3.44 per share in 1957 to a deficit of $0.97 per share in 1958 (based on the equivalent number of $6.25 par value shares outstanding) earnings rose to $1.81 per share in 1962 and to probably double this amount in 1963 (table 9) (1963 earnings have not been reported but amounted to $100 million in the first 9 months, against $65 million for the full year 1962). Dividends per share dropped from $1 in 1957 to a low of $0.25, and were restored to $1 in 1963.

Reflecting Chrysler's improved earnings outlook, the market value of its stock rose from a low of $11 in 1958 to a high of about $50 in 1963 (after adjusting for stock splits). Since most of the options were exercised at prices ranging between $10.79 and $13.1225, and the stock sold at prices ranging between $30.8125 and $45 in 1963, the gains were very substantial. The closing December 31, 1963, market price was $41.625 (adjusted for the 2 for 1 split on December 20).

The improved profit of Chrysler's operations since 1958 is largely explained by the increase in its passenger car output from 581,244 cars to 1,047,722 in 1963. The efficiency of its operations was also improved through severe cost-cutting measures. However, it did not succeed in improving its market share in 1963 over the 13.7 percent held in 1958. Although this was somewhat higher than the low point of 10.3 percent in 1962, it fell below the 20-percent mark in 1957 and 15.2 percent in 1960. The record of automobile production over this period is shown below:

U.S. production of passenger cars, 1957–63

	Total United States	Chrysler	Chrysler percent of total
1957	6, 120, 029	1, 223, 035	20. 0
1958	4, 247, 371	581, 244	13. 7
1959	5, 599, 468	737, 799	13. 2
1960	6, 703, 108	1, 019, 295	15. 2
1961	5, 522, 019	648, 670	11. 7
1962	6, 943, 334	716, 809	10. 3
1963	7, 644, 350	1, 047, 722	13. 7

6. NET INCREASE IN HOLDINGS DURING 1963

Despite the large sales of stock acquired through options, Chrysler officers still retained a substantial interest in their corporation at the end of 1963. And this interest represented a considerable increase over their holdings in the past. The number of shares still held by officers reporting to the SEC, compared with those held at the beginning of the year, are shown in table 10. At the end of 1963 this group of officers held a total of 334,132 shares—6.9 times the number held before the exercise of options in 1963. Although most of these officers held options to purchase additional shares before the end of the year, it was necessary, under SEC rules, for them to wait 6 months after they sold their corporation's stock before acquiring additional stock.

TABLE 1.—*Number of shares covered by options granted, dates granted, and the option prices per share* [1]

Name of individual or group	Sept. 11, 1958—$13.1225	Jan. 8, 1959—$12.485	Dec. 3, 1959—$15.305	July 27, 1961—$10.7925	Sept. 20, 1961—$13.39	Dec. 7, 1961—$11.61	Mar. 22, 1962—$14	Oct. 25, 1962—$13.97	Sept. 11, 1963—$37.19	Total through Dec. 31, 1963
Paul C. Ackerman	36,000	8,000								44,000
R. S. Bright	36,000	8,000			16,000				20,000	80,000
John D. Leary	19,784	6,000						6,000	15,000	46,784
George H. Love					80,000			60,000		140,000
F. W. Misch	40,000	32,000	8,000						20,000	100,000
E. C. Quinn	31,200				12,000				20,000	63,200
Lynn A. Townsend	20,000	6,000		34,000	20,000			20,000	30,000	130,000
All directors and officers	374,584	110,000	26,000	34,000	158,000	32,000	40,000	118,000	220,000	1,112,584
All employees	729,584	148,000	56,000	34,000	228,000	32,000	79,000	154,000	(2)	(2)

[1] Equivalent number of $6.25 par value shares, after adjustment for stock splits, Apr. 19 and Dec. 20, 1963.
[2] Not available.

Source: Chrysler Corp., proxy statements and special report.

TABLE 2.—*Value of options exercised by principal officers, Jan. 1 to Dec. 31, 1963*

	Number of shares purchased [1]	Difference between market value and option price [1]
Officers who are directors:		
Paul C. Ackerman	24,000	$194,535
R. S. Bright	30,000	500,175
John D. Leary	10,000	133,725
George H. Love	80,000	1,281,614
F. W. Misch	32,000	481,981
Officers who are directors—Continued		
E. C. Quinn	43,200	$632,298
Lynn A. Townsend	37,600	667,483
Total	256,800	3,891,811
All executives	876,000	13,658,979

[1] Equivalent number of $6.25 par value shares, after adjustment for stock splits, Apr. 19 and Dec. 20, 1963.

Source: Chrysler Corp. and SEC reports.

TABLE 3.—*Total compensation of present officers who are directors, including salaries, bonus,[1] and option benefits, 1958–63*

	Salary and bonus [1]	Option benefit [2]	Total	Option benefit percent of total
Paul C. Ackerman, vice president	$632,259	$194,535	$826,794	23.5
R. S. Bright, vice president	632,259	500,175	1,132,434	44.2
John D. Leary, vice president	378,982	133,725	512,707	26.1
George H. Love, chairman	256,264	1,281,614	1,537,878	83.3
F. W. Misch, vice president	729,355	481,891	1,211,336	39.8
E. C. Quinn, vice president	$598,130	$632,298	$1,230,428	51.4
Lynn A. Townsend, president	636,734	667,483	1,304,217	51.2
Total	3,863,983	3,891,811	7,755,794	50.2

[1] Not including 1963 bonus yet to be determined.
[2] Difference between market value of stock and option price at time of exercise.

Source: Chrysler Corp.

TABLE 4.—*Salaries and bonuses of present officers who are directors, 1958–63*

	1958	1959	1960	1961	1962	1963
Paul C. Ackerman	$84,825	$96,667	$100,000	$100,000	$100,000	$100,000
Bonus			4,500		29,600	(1)
Total	84,825	96,667	104,500	100,000	129,600	(1)
R. S. Bright	84,825	96,667	100,000	100,000	100,000	116,667
Bonus			4,500		29,600	(1)
Total	84,825	96,667	104,500	100,000	129,600	(1)
John D. Leary	40,182	50,000	50,000	60,000	67,500	85,000
Bonus			2,400		23,900	(1)
Total	40,182	50,000	52,400	60,000	91,400	(1)
George H. Love	(2)	(2)	(2)	[3] $21,131	$83,333	$125,00
Bonus					26,800	(1)
Total	(2)	(2)	(2)	[3] 21,131	110,133	(1)
F. W. Misch	$108,388	$115,000	$115,000	115,000	115,000	121,667
Bonus			5,500		33,800	(1)
Total	108,388	115,000	120,500	115,000	148,800	(1)
E. C. Quinn	85,113	85,000	85,000	93,750	100,000	116,667
Bonus			3,000		29,600	(1)
Total	85,113	85,000	88,000	93,750	129,600	(1)
Lynn A. Townsend	48,600	60,000	62,500	117,500	129,167	166,667
Bonus			3,000		49,300	(1)
Total	48,600	60,000	65,500	117,500	178,467	(1)

[1] Not determined; but because of higher earnings will be substantially greater than in 1962.
[2] Not employed.
[3] Partial year.

Source: Chrysler Corp.

TABLE 5.—*Number of shares [1] covered by options granted and exercised by officers-directors, Sept. 11, 1958–Dec. 31, 1963*

	Options granted	Options exercised	Balance unexercised, Dec. 31, 1963
Officers who are directors:			
Paul C. Ackerman	44,000	24,000	20,000
R. S. Bright	80,000	30,000	50,000
John D. Leary	46,784	10,000	36,784
George H. Love	140,000	80,000	60,000
F. W. Misch	100,000	32,000	68,000
Officers who are directors—Con.			
E. C. Quinn	63,200	43,200	20,000
Lynn A. Townsend	130,000	37,600	92,400
Total	603,984	256,800	347,184
All officers	1,112,584	474,400	638,184

[1] Equivalent number of $6.25 par value shares, after adjustment for stock splits Apr. 19 and Dec. 20, 1963.

Source: Chrysler Corp.

TABLE 6.—*Number of shares [1] covered by options exercised and shares sold by officers reporting to SEC, Jan. 1 to Dec. 31, 1963*

	Shares purchased	Shares sold [2]	
		Number	Percent of purchase
Officers who are directors:			
Paul C. Ackerman	24,000	18,000	75.0
R. S. Bright	30,000	12,000	40.0
John D. Leary	10,000	3,400	34.0
George H. Love	80,000	0	0
F. W. Misch	32,000	15,600	48.8
E. C. Quinn	43,200	21,372	49.5
Lynn A. Townsend	37,600	24,000	63.8
Total	256,800	94,372	36.7
Other officers reporting:			
R. Anderson	10,000	6,000	60.0
V. E. Boyd	6,400	2,800	43.8
W. S. Blakeslee	8,000	0	0
B. W. Bogan	2,800	1,400	50.0
Other officers reporting—Continued			
H. E. Chesebrough	20,000	0	0
E. P. Engel	12,800	0	0
E. N. Graham	4,000	1,000	25.0
G. T. Higgins	10,000	1,000	10.0
D. W. Kendall	4,000	0	0
J. F. Kerigan	20,000	15,000	75.0
A. G. Loofburrow	10,000	0	0
I. J. Minnett	16,000	8,000	50.0
T. F. Morrow	12,000	5,486	45.7
B. J. Nichols	32,000	0	0
W. M. O'Brien	4,000	2,000	50.0
W. J. Simmons	8,000	5,400	67.5
All officers reporting to SEC	436,800	142,458	32.6

[1] Equivalent number of $6.25 par value shares, after adjustment for stock splits, Apr. 19 and Dec. 20, 1963.

[2] Does not include gifts.

Source: Chrysler Corp. and SEC reports.

TABLE 7.—*Gains realized on sale of option stock by principal officers, Jan. 1 to Dec. 31, 1963*

	Number of shares sold [1]	Capital gains realized before tax		
		At time of exercise	Between exercise and sale	Total
Officers who are directors:				
Paul C. Ackerman	18,000	$147,176	$175,982	$323,15
R. S. Bright	12,000	198,030	178,500	[2] 376,530
John D. Leary	3,400	57,439	43,550	100,989
F. W. Misch	15,600	310,284	196,950	507,234
E. C. Quinn	21,372	342,802	283,180	625,982
Lynn A. Townsend	24,000	451,980	292,020	744,000
Total	94,372	1,507,711	1,170,182	2,677,893
Other officers reporting to SEC:				
Robert Anderson	6,000	$74,602	$100,538	$175,140
George T. Higgins	1,000	10,124	21.222	31,346
William M. O'Brien	2,000	33,005	25,375	58,380
Walter J. Simmons	5,400	73,739	94,012	167,751
Irving J. Minnett	8,000	129,520	104,000	233,520
Total	22,400	320,990	345,147	666,137
All officers as a group	149,262	(3)	(3)	4,217,576

[1] Equivalent number of $6.25 par value shares, after adjustment for stock splits Apr. 19 and Dec. 20, 1963.

[2] Not identified as option stock.

[3] Not available.

Source: Chrysler Corp. and SEC reports.

TABLE 8.—*Realized and unrealized gain on option stock purchased by officers-directors during 1963 and value of options exercisable at Dec. 31, 1963*

	Unrealized gain on option stock held Dec. 31, 1963			Gain realized on sale [1]	Total gain on options exercised	Value of options exercisable, Dec. 31, 1963 [2]	Total realized and unrealized gain on options Dec. 31, 1963
	At time of exercise	Between exercise and Dec. 31, 1963	Total				
Officers who are directors:							
Paul C. Ackerman	$51,184	$119,831	$171,015	$323,158	$494,173	$491,315	$985,488
R. S. Bright	302,145	216,000	[3] 518,145	[3] 376,530	[3] 894,675	850,795	1,745,470
John D. Leary	106,261	84,788	191,049	100,989	292,038	483,070	775,108
George H. Love	1,281,614	977,186	2,258,800		2,258,800	331,860	2,590,660
F. W. Misch	322,334	155,562	477,896	507,234	985,130	1,350,646	2,335,776
E. C. Quinn	443,630	178,523	622,153	625,982	1,248,135	0	1,248,135
Lynn A. Townsend	256,122	154,812	410,934	744,000	1,154,934	1,317,600	2,472,534
Total	2,763,290	1,886,702	4,649,992	2,677,893	7,327,885	4,825,286	12,153,171

[1] Before income tax.

[2] Based on options granted Oct. 25, 1962, and earlier that could have been exercised by Dec. 31, 1963, under the terms of the grants. Except for Mr. Love, they were precluded from further purchases of company stock by the SEC 6-month waiting period because of sales in August and December. The 30-day, short-sale provision of the Internal Revenue Code was also applicable. The price at Dec. 31, 1963, was $41.625, adjusted for the Dec. 20, 1963, stock split.

[3] Reflects sale of 12,000 shares not identified as option stock.

Source: Chrysler Corp. and SEC reports.

Table 9.—*Earnings, dividends and market prices per share of Chrysler stock, 1952–63* [1]

	Earnings	Dividends	Price range	
			High	Low
1952	$2.26	$1.50	$24⅜	$17
1953	2.15	1.50	24⅛	14⅝
1954	.53	1.125	18⅛	14
1955	2.88	1.00	25⅜	16⅛
1956	.58	.75	21⅝	15
1957	3.44	1.00	20⅝	13
1958	d .97	.375	14⅞	11
1959	d .16	.25	18⅜	12⅝
1960	.91	.375	18	9⅛
1961	.31	.25	14⅛	9⅜
1962	1.81	.25	18⅞	9⅝
1963	(2)	1.00	49⅞	19

[1] Equivalent number of $6.25 par value shares, after adjustment for stock splits Apr. 19 and Dec. 20, 1963.

[2] Not available.

Table 10.—*Chrysler stock* [1] *held by officers at Dec. 31, 1963, and prior to 1963*

	Number of shares held [1]	
	Prior to 1963	Dec. 31, 1963
Officers who are directors:		
Paul C. Ackerman	2,200	8,000
R. S. Bright	14,000	31,334
John D. Leary	2,000	8,242
George H. Love	4,800	84,800
F. W. Misch	4,840	20,960
E. C. Quinn	3,028	24,170
Lynn A. Townsend	4,800	16,840
Total	35,668	194,346
Other officers reporting to SEC:		
R. Anderson	0	3,972
W. S. Blakeslee	288	8,288
B. W. Bogan	1,016	1,372
H. E. Chesebrough	400	20,400
E. P. Engel	4,000	16,800
E. N. Graham	84	3,084
G. T. Higgins	420	9,420
D. W. Kendall	0	4,000
J. F. Kerigan	400	5,400
A. G. Loofburrow	1,120	11,120
I. J. Minnett	172	8,138
T. F. Morrow	196	6,600
B. J. Nichols	848	32,850
W. M. O'Brien	188	2,188
W. J. Simmons	3,600	6,154
Total	12,782	139,786
All officers reporting to SEC	48,400	334,132

[1] Equivalent number of $6.25 par value shares, after adjustment for stock splits Apr. 19 and Dec. 20, 1963.

Source: Chrysler Corp. and SEC reports.

Mr. GORE. Mr. President, in summary, the report shows that within one 7-month period seven officers of Chrysler Corp. received option benefits of some $4 million. On that they either paid a lower tax on the capital gains or, in the case of the largest beneficiary of all, no tax at all.

Mr. President, it is my view that if I pay a person for working for me $1,000 by check and another $1,000 by selling him stock in the amount of $1,000 which he can on the same day sell on the market for $2,000, then I say that person has been compensated in the amount of $2,000, the same as the man who has worked for 1,000 hours on a lathe at $2 per hour.

The question is whether the man who receives one-half of his compensation in stock option benefits is to pay taxes in the same manner in which the majority of American taxpayers pay on their wages, salary, and the income they receive.

In many ways the officials of corporations constitute a privileged group. Not only do they have expense accounts and many other benefits, but in this instance a special tax benefit by which a whole crop of new millionnaires is made every year with the payment of only a small or, in many instances, no tax at all.

I ask unanimous consent to have printed at this point in the Record an article published in U.S. News & World Report entitled "The Stock Option Comes Under Fire," and an article published in the Harvard Business Review entitled "Are Stock Options Getting Out of Hand?"

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From U.S. News & World Report, July 11, 1960]

THE STOCK OPTION COMES UNDER FIRE

(Do stockholders and their companies get anything in return for the expense of stock options granted to key executives?

(That question, for the first time, has just been laid before a Government agency, the Securities and Exchange Commission.

(Answer given in an SEC staff report: Such options do "not necessarily produce anything of value to the stockholders.")

The favorite fringe benefit of corporation executives, the stock option, is under heavy fire from the Government in Washington.

The Securities and Exchange Commission, policeman of the securities industry in this country, has just received from its division of corporate regulation a report which argues that stock options offer nothing good—either for shareholders or for the public.

This official assault on stock options comes at a time when increasing thousands of corporations are using this method to give their executives added pay in a tax-favored form. Industry managers fear the report—a brief in the case of a public utility holding company pending before the Commission—could raise shareholders' resistance to stock options.

THE KEY: HIGH TAXES

To see how stock options work, and why executives like them so well, take the example of an executive with a $100,000 salary, a wife and no young children.

If this executive's firm gives him a salary raise of $10,000, the Federal income tax will take away $7,200 of it. That leaves him $2,800, or little more than a fourth of his pay raise, to spend or invest for himself.

Suppose, instead, that under an option plan the firm issues to the executive for $15,000 a block of shares that sells on the market for $17,500. The executive pays a tax of something over $600 on his $2,500 profit, and keeps a bit less than $1,900. Cost to the corporation, says the SEC report, is the $2,500 discount at which it sold the stock. And that cost, not to be deducted in figuring the corporation's tax, is greater than the $2,400 that it cost to give the executive an added $1,900 in after-tax salary.

What all this means, says the SEC report, is that only where executives have incomes of around $65,000 or more is it true that added pay can be granted more cheaply through stock options.

HOW INVESTORS FARE

Do the owners of a corporation, the shareholders, get their money's worth from options?

The SEC report says there is no assurance this will be the case.

Stockholders lose, claims the report, when corporations sell shares to their executives at prices substantially below the market price, at which the stockholders themselves can buy. Such sales "dilute" the worth of the stockholders' shares "in terms of investment value and net earnings per share," and affect shareholders "adversely," the report says.

The brief also contends that, where shareholders have a "preemptive" right to buy any shares issued by their company, this right is lost to the extent that a company issues stock to executives at special discounts.

What do the owners get in return for the cost of stock options?

Here is the SEC report's answer: "The 'compensation' given the employee by way of stock options does not necessarily produce anything of value to the stockholders."

[P. 2140]

[From Harvard Business Review, November–December 1960]

ARE STOCK OPTIONS GETTING OUT OF HAND?

(By Erwin N. Griswold)

(EDITOR'S NOTE.—Dean Griswold has prepared his views on stock options for two different audiences. Late last year, at the request of the House Committee on Ways and Means, he wrote a paper entitled "The Mysterious Stock Option" for tax specialists and lawyers. It was published in "Tax Revision Compendium." In the present article, written at our request, he develops the implications of his views for businessmen.)

Stock options have become a part of American corporate mores—to such an extent, perhaps, that it is not possible to think very wisely about them without considerable effort. In some quarters they are taken for granted, without any real thought being given to all of the factors involved. Quite generally, they have become status symbols. The corporate executive either has a stock option and thinks it is fine, or he wants to have one and thinks it would be very fine indeed if he did.

It is hard to put one's finger on the problems in the area of stock options. Few things in the tax law are as vague and intangible as the provisions relating to these grants. A recent commentator has summarized the matter in these words:

"The following quotation, usually attributed to Lincoln, best appears to sum up the policies for and against the restricted stock option provisions of the Internal Revenue Code: 'People who like this sort of thing will find this the sort of thing they like.' "[1]

It is time, it seems to me, for some very careful thinking to be done about stock options. There are very definite signs that they may be getting out of hand; and they should certainly not be taken for granted. They tend to provide their own anodyne for the pains of thought and fiduciary responsibility, particularly among corporate managers.

OPTIONAL ILLUSIONS

In some respects, the stock option problem is primarily a tax problem. However, it also becomes a problem of corporate management—and to a very considerable extent, or so it seems to me, one of corporate morality.

Let us look at some of the aspects of stock options under the existing tax law.

INHERENTLY DISCRIMINATORY?

The provisions granting tax benefits to pension, profitsharing, and stock-bonus plans must, by the terms of the statute, and within limits fixed by Congress, be nondiscriminatory; that is, they must be proportionately available to a substantial number of the employees of an enterprise, reasonably classified, and all within the Treasury Department's rules for an approved pension plan. In technical terms, they must "qualify" under the mildly stringent terms provided in the statute for such plans.

But the provision of stock options, by sharp contrast, may be as discriminatory as the employer desires. They can be limited to one employee or a few employees, and ordinarily they are. Even among the group of employees who are granted options, some may receive options for a large number of shares and others for a small number. In the case of pensions, Congress sought to assure that the plan would be a genuine plan for pensions by requiring that it be nondiscriminatory. In the case of stock options, there is no such assurance at all.

Thus we see that stock options fall outside the general safeguards provided in the case of other employee-benefit plans. They are in a special class, though just why this should be is far from clear, and has never been stated by the congressional committees which developed these provisions. In a tax law which seeks generally to impose taxes on a basis of equality and fairness, it seems odd that there should be this special provision which stimulates discrimination, and on a rather grand scale.

TAXABLE OR NOT?

A stock option holder may buy shares of stock at the price stated in the option. Obviously, the option is attractive only if the price is lower than the fair market value of the stock at the time of exercise. Thus, when the stock option is useful, it enables the employee to make a bargain purchase of the stock.

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[1] Edward S. Schlesinger, "Selected Problems in the Use of Restricted Stock Options," 36 Taxes 709, 756 (1958).

Ordinarily, bargain purchases made by an employee from his employer result in income, taxable at ordinary rates. They are simply a form of compensation for services rendered. When most people receive something of substantial economic value as compensation, they have to pay a tax on the value of the benefit received, regardless of its form.

In the case of stock options, however, Congress has provided a peculiarly complex scheme:

If the option price is at least 95 percent of the market value at the time the option is granted, no "income" is realized on the exercise of the option. Thus, a substantial economic benefit may be obtained, and retained indefinitely, without the payment of any tax. The economic benefit—often substantial—obtained on the exercise of the option is wholly tax-free. If the stock is sold, then there may be tax, but income realized on the sale of the stock is taxed as a capital gain. If the stock is simply held until death, though, there is no income tax at all, at any time, no matter how much the actual gain may have been. The stock, in such an event, as in the case of other property, passes to the estate or beneficiary, taking as its basis in the new owner's hands the fair market value at the time of death.

"Where the option price is between 85 and 95 percent of the fair market value of the stock at the time the option is granted, a more complicated rule becomes applicable. In such cases, no income is realized on the exercise of the option, but the spread between the option price and the fair market value at the time of grant is taxable as ordinary income on any disposition of the stock, though not before such event. The death of the holder of the stock is treated as a disposition, so this amount—the spread up to the fair market value at the time of grant—does become taxable as ordinary income on a sale or in the event of the death of the holder of the stock.

"As a matter of fact, there is now going through Congress an amendment to the stock-option provisions under which the transfer of stock on death to the widow of the employee will not be treated as a disposition, so that no tax will be due not only while the employee is living but while his wife is living, too. For some reason it seems to be fairly easy to get legislation extending tax benefits in this area. It is, of course, not surprising that there does not seem to be a very effective lobby against stock options.

"There are further complexities in the case of a person who possesses more than 10 percent of the stock of his employer. In this case he gets the tax benefit only if the option price is at least 110 percent of the fair market value on the date when the option is granted. In such a case, the option can be exercised only within a period of 5 years. In cases of employees with lesser stock interest, the option can be exercised over a period of 10 years.

"In all cases, the benefits cannot be obtained unless the stock is held until at least 2 years after the date the option was granted, and for at least 6 months after the option was exercised.

"These time limits were obviously designed to insure that the employee would have some stake as a shareholder for at least an appreciable period of time. However, there is often a way around requirements of this sort, and there appears to be one in this instance. The Treasury has recently ruled that a person who has exercised a stock option may purchase a "put"—that is, a right to sell the stock at a fixed price at a future date—and that this purchase of a "put" will not constitute a "disposition" of the stock he has acquired on his option.[2] Thus, at relatively small expense, he may in many cases completely hedge his position, and assure himself that he will not suffer from future declines in the price of the stock."

Truly, this is a fairyland. The ground is strewn with quite a bit of gold. But this is only for a select few, and in somewhat special cases. With care, though, and in a sufficiently stable and prosperous company, the benefits can be very great. The benefits can be received without any present income tax, and often without any income tax at all (in cases where the stock received is held by the employee until his death).

IN SMALL COMPANIES?

Because of the limits to 95 percent or 85 percent of market value—in some cases, 110 percent—a curious consequence develops. It is in small and closely held companies that the stock option device may have its clearest justification. It is in such companies, perhaps in need of better management, that an outsider can be brought in and given the real incentive through a stock option of sharing in the improvement of the company. It is in such companies, too, that the efforts of an individual can have some impact on the value of the stock.

Yet it is in just these smaller companies that determination of the fair market value of the stock at any particular date is most troublesome and uncertain. The Treasury has recently ruled (and quite properly) that it will not undertake to fix the value of stock in order that a stock option may qualify as a restricted stock option.[3] For this reason, it is extremely difficult to use stock options in the case of a closely held company. If the stock goes up in value, the employee is always subject to the risk that it will be eventually determined that the value of his stock when the option was granted was higher than was then contemplated, with the result that the option price is outside the charmed circles of 85 percent or 95 percent.

On the other hand, in the case of a publicly held company whose stock is listed on the big board, there is no such problem. The fair market value of the stock can always be determined with considerable accuracy, from day to day. As a result, it would appear that stock options are most widely used by employees of such companies. Yet these are the very circumstances where use of the device is least justified, where the contribution of any individual employee has much less to do with the value of the stock than do such

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[2] Internal Revenue Bulletin, Revenue Ruling 59–242, July 20, 1959, p. 18.

[3] "Internal Revenue Bulletin," Revenue Ruling 59–243, July 20, 1959, p. 11.

factors as general market conditions, and where the option benefit is most clearly a form of compensation.

JUSTIFIABLE CAPITAL GAIN?

Is there any real justification for treating the spread between the option price and the fair market value on the date of exercise of the option as a capital gain? Capital gains are taxed at a special rate for a variety of reasons. One of these is that a person holding a capital asset has made a capital investment which is at risk during the period he has held it. He takes the chance that the value will go down, in which case he will suffer a loss. Such losses are not fully de-

[*P. 2141*]

ductible from income taxes, and one recompense is that capital gains, when realized, are taxable at special rates.

But the employee who has a stock option has no capital investment before the option is exercised. He has nothing at risk. He loses nothing if the value of the stock goes down. He is on a one-way street. If things go well, he gains. If things go badly, he loses nothing.

Accordingly, there is not here a true justification for the allowance of capital gain rates. Capital gain rates should be applicable to people who have capital at risk. An employee with an unexercised stock option has nothing at risk. He has made no investment. He has hopes for profit, but no risk of loss. It is a very happy situation, which hardly seems entitled to special tax treatment as well.

Of course, once the employee exercises his option, he does have capital at risk, assuming he has made bona fide payment. Any fluctuation from the fair market value at the time he acquires the stock is a true capital gain or loss, and should be treated accordingly. But this is not applicable to the gain inherent in the stock at the time he receives it through the exercise of a favorable stock option.

INCENTIVE VALUE?

The basic reason given for the allowance of tax benefits in the case of stock options is that they will provide incentives to corporate employees. Generally speaking, there is little doubt that tax-free income is highly attractive to anyone, but in this case there are real difficulties in the way of realizing on the incentive.

Where an employee has a stock option, he must in some way provide the funds to meet the option price in order to take up the grant.[4] From gossip in the luncheon clubs, one gets the impression that this sometimes presents a real problem. Indeed, a number of instances have appeared in the papers where an employee had to sell stock he already owned in his employer company in order to raise the money needed to take up stock at a favorable price under an option. Considering that one of the arguments presented in favor of stock options is that they enable an employee to acquire a stake in his company, this is surely an odd result. What is more, it seems likely that a considerable amount of the sales of shares by "insiders" reported to the Securities and Exchange Commission may actually be sales which are made in order to raise cash to take up stock options. If this is true, it serves to emphasize the essentially compensatory nature of the stock option scheme.

In other cases, apparently employees have real difficulty in taking up their options with cash because they are allowed to pay for the stock by giving a note. It may even be that in some cases such notes are canceled if the market value of the shares goes down. This may involve returning the shares, but the net result is favorable to the employee.

All of this emphasizes the fact that the incentive involved in stock options tends to be very uncertain and haphazard. If we are really seeking to provide incentive, it would seem that there are at least two things that we might do:

(1) We might learn a lot more about what really are the incentives which lead people to engage in productive and useful work.

(2) We might find a tax device which would provide financial incentive in a far less discriminatory and haphazard form.

It is no doubt generally true that men are acquisitive, and that they like to acquire economic benefit. It is perhaps less clearly true that men will work harder to acquire a greater economic benefit after they are already fairly well paid. It is far from clear, though, that economic gain is the only objective for which men will work, or work hard. Large segments of our population work devotedly for relatively small economic benefits. It is also far from clear that the economic incentive is effective on a man who already has substantial means, say, many millions of dollars. Yet, if investigation were made, it might be surprising what a large proportion of the benefit from stock options goes to people who are already very well off in economic terms.

ENOUGH FACTS KNOWN?

It is hard to investigate matters of this sort, and particularly hard for the private citizen. About all that he can do is to rely a good deal on instinct and general feeling. The basic fact remains that we know virtually nothing about stock options—who gets them, who exercises them, the amount of the benefit that is thus obtained without current tax, and often without any tax at all, the relation of this benefit to the person's other income and wealth, and the actual amount of "incentive" which is provided by the stock option.

It would be a very fruitful thing, it seems to me, if Congress, through an appropriate committee or the Treasury, were to investigate this matter on a calm, dispassionate, and unprejudiced basis, simply for the purpose of developing the facts as to:

The extent to which stock options have been used.

The extent of the benefit which has been obtained, or is potentially realizable.

The amount of incentive provided by the gain from options which would not have been available without the options or the tax benefit, or from some other source.

It might even be the conclusion that the acquisitive instinct in Americans is not the one which should be encouraged by substantial tax benefits.

[4] See V. Henry Rothschild, "Financing Stock Purchases by Executives," HBR March–April 1957, p. 136.

HEADS OR TAILS LOTTERY?

The basic and appealing theory behind the stock option provision is the thought that a man might come into a company and by his own ability and efforts improve the firm's business so that its stock would greatly increase in value. In such a case, there is something to be said for the proposition that the man whose efforts have produced such a desirable result should share in the gain. Whether that share should be on a specially favorable tax basis is another matter. However, it might be that there should be tax concessions where it is clear that the employee's efforts have contributed substantially to the increase of the value of the company's stock.

In certain special, relatively small cases, one man's efforts may directly affect the value of his employer's stock. But, as has already been pointed out, many or most options are granted by very large corporations where general business conditions have far more to do with the value of the stock than do the efforts of one man or any group of men.

As an incentive device, stock options have a very large element of lottery in them. We have stringent provisions in our tax law aimed against gambling. Yet the stock option provision turns to a very large extent on what amounts to a gamble. When the market value of the stock goes up, it is very nice and interesting—and stock options may lead to very large amounts of economic gain, without any present tax, and with the real possibility that there may never be any income tax at all.

What happens, though, when the market value of the stock goes down, as it did in the case of many companies during 1957–58? As a matter of fact, this may merely increase the incentive. It [illegible]s to become a heads-I-win, tails-you-lose type of lottery. For when the market goes down, the old options may be canceled, and new options may be issued at the lower price. Thus, the employee may get the maximum incentive if the price of the stock is first depreciated.

As a matter of fact, a number of companies did do exactly this, in some cases canceling options and reissuing them at not much more than one-half their previous figure. How must stockholders feel when they see such actions by what one columnist called "a fairy godmother stock option committee"? Having suffered the humiliation of watching their holdings drop almost to one-half, they must have read with mixed emotions the decision of the corporation's top executives to spare themselves and other employees a similar indignity.

Now it was undoubtedly not essentially the fault of employees holding stock options that the fair market value of most companies' stock went down in 1957–58. This was due to general market conditions, and to forces quite beyond the influence of corporate employees generally. In this respect, the decline in value was not much different from the increase in value which occurs in boom periods. Yet the employee with a stock option is really sitting very well. When prices go up, he can exercise his option and get a substantial benefit without current tax—very likely without ever paying any income tax. On the other hand, when prices go down, he can, with a little difficulty, get a new option at the lower price, and thus have the prospect of a much larger gain at a later date, likewise without current tax, and with the prospect of no income tax at all.

HOW FIXED ARE PRICES?

These things are made even easier by provisions in the statute for options at variable prices. Instead of granting the option to buy stock at a fixed price, the option may provide a formula based on market value when the option is exercised. If this is carefully drafted, it can be an almost foolproof device—it will allow the greatest potentiality of gain at the time when the price of the stock is lowest. Just how this fits in with the general incentive philosophy behind the stock option provisions, however, is far from clear.

It is true that the statute contains provisions dealing with modification of stock options, which were apparently designed to make it impossible to substitute a new lower price for the original higher price specified when the option was granted. But this provision is largely negated by the authority also given in the statute for options with variable prices. It is negated, too, by the simple device of leaving the old option outstanding and granting new options to the favored employees at the new reduced price. This latter arrangement may present certain problems from the point of view of corporation law, but these problems do not seem to have been insuperable in many cases where new options have been granted in recent years.

DO THEY COST ANYTHING?

There is a sort of general assumption that stock options do not cost the stockholders anything. No money is paid out by the corporation. Indeed, the corporation receives money, in the amount of the stock option price. To conclude, however, that the benefit received by the employee on the exercise of the options costs nothing to anyone would clearly be most unsophisticated. It does not take much analysis to show that the exercise of the option at a bargain price does necessarily involve a dilution of the stock and has a direct cost for each shareholder.

This cost may be very great in the aggregate. Indeed, it may be far more than the shareholders would sustain from a direct sal-

[*P. 2142*]

ary payment in the same amount to an employee. Such a salary payment would, among other things, be deductible by the corporation on its tax return, and would thus reduce the corporation's taxes. But the issuance of stock pursuant to a stock option gives no tax benefit to the corporation, even though the market value of the stock may be far greater than the option price. This is true even in the cases where options are granted at prices between 85 and 90 percent of market value where there is a tax due from the holder, at ordinary income rates, upon the disposition of the stock.

In this respect, stock options may be most insidious, for they may involve a substantial cost to the shareholders, of which they are largely unaware. It is true that the grant-

ing of stock options is usually authorized by shareholders at a stockholders' meeting. But shareholders rarely know much about the exercise of stock options, and, in particular, they are given little direct information as to the actual amount of benefit derived from such exercise, either for individual employees or in the aggregate.

There are some corporations whose stock comes to a certain plateau, and rarely rises much above that. Some security analysts believe that this is due to the very large amount of stock options outstanding. In such cases, the costs to the shareholders may be very heavy indeed, and far more than they may ever realize. It seems odd that such hidden costs should be fostered by our tax laws and tolerated by our properly strict security laws.

We should know much more about how much options cost shareholders. In addition to tax information, the Securities and Exchange Commission should require that detailed information about stock options be furnished to shareholders, not only on the authorization of the grants but also on their issue and especially their exercise.

REACTIONS OF EXECUTIVES

Points like the foregoing have, understandably enough, stirred up a good deal of comment and controversy among people who are concerned about stock options. One of the interesting things about these comments has been the violence with which they have been presented, on one side or the other. Obviously, this is an area where emotions are quite heavily involved. When that is the case, we should be very careful. Emotions have their place, but they are not ordinarily conducive to good sound thinking.

SHARING THE INCREMENT

Over the past 20 years, enormous amounts have been made as capital gains in the United States. Some of this has been made in real estate, oil, and other ventures. A very large amount, though, has been made by the holders of corporate shares. There are many companies, listed on exchanges, whose shares now sell for from four to ten times what they did a number of years ago, and even more. This is, of course, also true of many unlisted shares.

In the case of listed companies many of the shares are now held by persons who make little or no contribution to the business. These include widows, children, and grandchildren of the founders. Some of the large holders of shares have developed reputations as playboys and playgirls. They have all the benefits of good dividends and huge capital gains, but do nothing to bring them about.

It is understandable that the executives of such a company, a new generation, should feel that it is really their work which has brought about this increment, and that they have more right to share in the increase than do the passive shareholders who never do anything more strenuous than endorse their dividend checks. Even though members of "management" do not have much "ownership," they are likely to think of the enterprise as "their" company, and to feel that the gains that are made really belong to them—not all of the gains, of course, but a goodly share of them, and much more than is reflected in their salaries.

Purchasing shares outright is hard to do with the amount which is left from salary after taxes. In this situation, the allure of stock options is very great. Options require no immediate payment at all; payment does not come until a time when the expenditure is very advantageous. Thus, the officer can feel that he is sharing in the increment. This seems very right and just to him, because he feels that he has borne a considerable share of the burden and responsibility of producing the increase. Whether corporate managers should have, by reason of their management, so great a share of ownership is not a matter with which they happen to feel greatly concerned.

This, then, is a reason why the stock option seems right and sound and agreeable to corporate executives. It does have a certain appeal. Whether it should be provided with the favorable tax discrimination that exists under the present law is another question. A puritan might observe, too, that one way to achieve ownership in the company for which he works is to buy shares in it, and that can readily be done on corporate salaries by living more simply, by driving smaller or fewer cars, by doing less to keep up with other executives, and so on. Whether corporate executives should have all this and heaven too is perhaps a question.

THE COMPETITIVE ASPECT

Some corporate directors tell me that they have become involved in more and larger stock option plans than they think desirable because everyone else is doing it. They say that they have found they cannot keep their executives unless they provide large stock option plans because other companies would lure the men away with such arrangements.

If this is the case, and it appears to be, then perhaps it is time to take a very careful look at the situation. Competition for executives is understandable and desirable. But if granting stock options, with the thought that, after all, it does not cost anything, leads to arrangements which are unwise or undesirable, then it should be reconsidered.

In the recently issued proxy statement of the Sperry Rand Corp., the following statement appears:

"Time and again within the last 2 years—even within the last few months—the ability of your corporation to offer attractive stock options in addition to proper salaries to highly talented and experienced individuals, employed to fill key positions within important divisional operations of the corporation, has played a major, if not a decisive, part in securing their services. In successfully bidding for the services of such key personnel against other corporations, the ability of this corporation to offer attractive stock options has, in the opinion of your board of directors, proved its worth to the corporation and all its stockholders."

No doubt it has been important to the company to get these people. But at what cost? No one knows. Is that good corporate management? Is it really sound for industry to rest an important part of its employment policies on so aleatory, so uncertain, a basis?

CONCLUSION

Stock option plans are usually developed by boards of directors, often on the recommendation of management. In some cases, there has been an effort to keep the actual award of stock options in the hands of a group or committee of the board that cannot share in the options. It is felt that this provides a fair and independent way of handling the matter.

It is far from clear to me, however, that real independence is achieved in the fiduciary sense. The persons on the stock option committees are often those who have received options themselves in the past and have benefited handsomely from them. They naturally have a bias in favor of the arrangement. In other situations, although the forms of independence and impartiality are sought for, the substance is not really achieved. This is brought out in the following passage from a letter I received:

"Options to outside people for top-level jobs in unusual situations are likely to be arm's length—e.g., United Fruit's arrangement with Mr. Sunderland. The great danger of abuse arises from conflict of interest where corporate officials participate in development of the plan or have such relation to 'outside experts' or 'outside directors' as to make objective administration difficult.

"The whole subject is so sensitive that those with the most information may be in no position to criticize."

It is the last sentence of this quotation which gives me the most pause. There are a number of factors in these situations which, in one way or another, emphasize the fact that "the whole subject is so sensitive" that many persons, including corporate directors, feel they are "in no position to criticize." When that is the situation, there is no real independence of judgment, and management action can become very unsound indeed.

Perhaps this discussion is enough to show that the field of stock options is filled with many problems and difficulties. My objective is not to denounce stock options generally, but to raise questions about them, to suggest that perhaps they have come close to getting out of hand, to urge that the whole area be thoughtfully and thoroughly reconsidered by persons responsible for corporate management and control.

Mr. GORE. I ask unanimous consent that an article published in Management Record, entitled "The Importance of Restricted Stock Options in Executive Compensation," be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE IMPORTANCE OF RESTRICTED STOCK OPTIONS IN EXECUTIVE COMPENSATION

(By George E. Lent and John A. Menge [1])

Studies of trends in executive compensation invariably have been limited to an analysis of two components of the direct remuneration of executives: current salary levels and current bonus payments. The compensation aspects of restricted stock option plans have been largely neglected, despite the rapid increase in their use since Congress granted them special tax treatment in 1950. Failure to take into account the value of these stock options has resulted in a very incomplete record of how corporate executives have fared in the postwar period. This article summarizes the significant findings of a recently completed study of restricted stock options as a form of executive compensation.[2]

It should be noted at the outset that there is no accepted measure of the "compensation" value of restricted stock options. Any of three measures of value might be used: (1) The difference between the option price and the market price at the time the option is granted; (2) the difference between the op-

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tion price and the market price at the time the option is exercisable; or (3) the difference between the option price and the market price at the time the option actually is exercised. As a practical matter, however, the first two measures are not satisfactory, since an executive does not realize the compensation implicit in the stock option award until he actually exercises the option. This is the critical point—the point at which the executive becomes an investor in the corporation, not simply an employee. Therefore, in this article the difference between the option price and the market value at exercise is used as the measure of the "compensation" received from a stock option. For convenience, this difference between the cost of the option stock to an executive and its market value at the time he purchases it is called the "option benefit."

In the following pages, these option benefits are analyzed in two different contexts. First, the benefits from options granted during 1950–60 by 350 corporations are measured, and their distribution between officers and other employees is shown. Also, the relationship of option benefits to the regular compensation of corporate officers during this period is analyzed. Second, a more detailed comparison of option benefits and compensation is presented for 215 top executives. This comparison covers the complete option record of these executives, including retention of option stock, capital gains realized on option stock sold and unrealized gains on stock still held.

RESTRICTED STOCK OPTION PLANS

A stock option plan is "restricted" when it conforms to the following requirements of section 421 of the Internal Revenue Code:

Option grants are to be limited to employees of the issuing corporation or its subsidiaries.

Stock is to be purchased by optionees while actively employed, or within 3 months after termination of employment or retirement.

Option grants are not transferable, except by inheritance.

[1] Mr. Lent is professor of business economics, The Amos School of Business Administration and Mr. Menge is assistant professor of economics, Dartmouth College.

[2] This study was completed under a grant by the Alfred P. Sloan Foundation to the Amos Tuck School.

Terms of options granted on or after June 22, 1954, are not to exceed 10 years—or 5 years in the case of optionees owning more than 10 percent of the outstanding voting stock.

Stock prices may not be less than 85 percent of the fair market value, or less than 110 percent of such value in the case of employees owning over 10 percent of the outstanding voting stock.

To be taxed at capital gains rates, stock may not be sold within 2 years from the date of the option grant, nor within 6 months from the date the stock is acquired.

BENEFITS IN 350 FIRMS, 1950–60

This analysis of aggregate corporate option benefits is based on data for 350 corporations with stock option plans in effect by 1957–58, under which options were exercisable before 1959.[3] Except for 27 wholesale and retail trade firms, and a few other nonmanufacturing companies, all are manufacturers (whose classification by industry group is shown in table 3, page 8). The size of these companies, based on total assets reported in 1959, was as follows:

Assets and number of corporations

$1,000,000 to $10,000,000	8
$10,000,000 to $25,000,000	40
$25,000,000 to $50,000,000	39
$50,000,000 to $100,000,000	79
$100,000,000 to $250,000,000	90
$250,000,000 to $500,000,000	41
$500,000,000 to $1,000,000,000	35
Over $1,000,000,000	18
Total	350

For each of these corporations, option benefits were computed for three groups of option recipients: (1) the three highest-paid officers, (2) all other officers and (3) all other employees except officers.[4] The data cover more than 5,000 officers plus a substantially greater number of other employees.

AMOUNT OF BENEFIT

Option benefits granted by the 350 companies rose significantly over the decade. As table 1 indicates, the difference between the option price and the market value at exercise of all shares exercised in these companies in 1950 was $3 million. By 1955 annual benefits realized on the exercise of options granted by the 350 companies were $160 million. After declining in 1957 and 1958 with a dip in stock prices, option benefits of these companies reached a peak of $200 million in 1959 and then dropped to $164 million in 1960.

WHO GETS BENEFITS?

Traditionally, stock options have been reserved for policy-making officers of the company. But company practices vary widely on how far down the line they should be extended. Although frequently limited to a few executives at the top, more generally they are used to reward additional key employees whose decisions are most important to the success of the firm.[5] Nevertheless their use is relatively restricted: a recent survey of large companies shows that options were offered to less than 1 percent of their 2,800,000 employees.[6]

Table 1 also indicates the extent of this concentration of option benefits at the top. About 44 percent of benefits since 1950 have been realized by "officers." The three highest-paid officials received about 18 percent of total benefits. Thus 57 percent of the option benefits were realized by other than "officers," including other key employees as well as general employees.

TABLE 1.—*Stock option benefits, 350 corporations, 1950–60*

	Total option benefits	Proportion of benefits received by—			
		Officers			Other employees
		Top 3	Other	Total	
	Millions	*Percent*	*Percent*	*Percent*	*Percent*
1950	$3	49	14	63	37
1951	3	18	20	38	62
1952	6	27	16	43	57
1953	12	26	25	51	49
1954	73	20	26	46	54
1955	160	16	24	40	60
1956	168	17	26	43	57
1957	95	15	26	41	59
1958	83	16	25	41	59
1959	200	19	27	46	54
1960	164	18	27	45	55
All years	967	18	26	44	56

[3] This group of corporations includes most industrial and trade firms listed on the New York Stock Exchange with plans in effect by 1957–58, under which options were exercisable before 1959. Also included are many others listed on the American Exchange, as well as a few unlisted companies.

[4] Data are from proxy statements and corporate annual financial reports (10–K) which are submitted to the SEC. Corporations registered with the SEC are required to report in their proxy statements the compensation of each of their directors and each of the three highest-paid executives with salaries over $30,000. For each of these executives, the number of options granted and exercised must be shown, along with the relevant option price and market price at exercise. Similarly, compensation data and option data must be shown for all officers as a group. In most cases it was necessary to estimate the total value of stock options for all employees from the total number of shares of option stock reported in annual financial reports, at the average spread reported for officers; however, in many cases, these data were taken directly the 10–K statement.

[5] At the end of 1958 only 11 listed companies were known to extend options below the executive level; see "Stock Options for Nonexecutives" Management Record, November 1959. Stock purchase plans typically are used for general employees, and such plans sometimes incorporate option privileges which qualify under the provisions of Sec. 421 of the Internal Revenue Code. In 1960, 111 companies listed on the New York Stock Exchange had stock purchase plans. See "Stock Plans for Employees," New York Stock Exchange. (1961.)

[6] "Stock Option Administration in 72 Leading Companies," McKinsey & Co., 1961, pp. 1–4.

RELATIONSHIP TO CURRENT COMPENSATION

The above data relate only to the size of the option benefits generated in these companies and their distribution among three groups of employees. A much more significant measure of the impact of stock options is the relationship of option benefits to the current compensation of option recipients. This relationship is shown in table 2 for officers in the 350 companies.[7] It is quite apparent that officers covered by stock option plans realized substantial increments to their current compensation. Over the entire period the value of options exercised by all officers in the 350 industrial companies averaged 21 percent of their salaries and bonuses.

Prior to 1954, stock-option benefits of the corporate officers covered by option plans were negligible. In 1954, they increased sharply to 23 percent of other compensation, before income tax, and by 1955 and 1956 they amounted to roughly one-third. After dipping in 1957 and 1958, benefits (before income tax) increased to 31 percent of salaries and bonuses in 1959 and 25 percent in 1960.

The value of stock options realized by the three highest-paid executives generally represents a higher percentage of salary and bonus than that realized by other executives. Table 2 shows that the benefits of the top three averaged 25 percent of current cash compensation over the 11-year period, while those of other officers averaged 19 percent. Since 1955, benefits of the top three averaged 29 percent of other compensation, while those of other executives averaged 23 percent. The differential reflects the relatively more generous options granted top officials. A recent study shows that the five highest-paid executives received options averaging 3.2 times their total compensation, while the five lowest-paid participants received options averaging 1.9 times salary and bonus.[8]

[7] Corporations are not required to file specific information on the compensation of stock option recipients who are not officers. It should be noted, too, that for the officer group as a whole, only the aggregate compensation of the group is available. The compensation of officers who actually exercised options in each year is not reported separately.

[8] "Stock Option Administration in 72 Leading Companies," op. cit., pp. 1–5.

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TABLE 2.—*Stock-option benefits of officers as a percent of current salary and bonus, before tax, 350 corporations, 1950–60*

	All officers	Top 3	Other officers
1950	9	19	4
1951	1	2	1
1952	3	4	2
1953	5	7	5
1954	23	27	20
1955	34	38	33
1956	32	35	30
1957	15	16	14
1958	13	15	12
1959	32	39	28
1960	25	32	22
Average, all years	21	25	19
Average, 1955–60	25	29	23

INDUSTRY VARIATIONS

Wide variations in the relative importance of option benefits are found among different industries (table 3). In the rubber industry they rose to 140 percent of other compensation in 1955 and 1956, and averaged 46 percent over the 11-year period. Benefits averaged 30 percent in the electrical machinery and transportation equipment industries, 25 percent in paper and primary metals companies, and 20 to 23 percent in stone, clay and glass, machinery (other than electrical) and instrument companies. On the other hand, they averaged about 10 to 11 percent of other compensation in the trade and food and beverage companies covered by the survey, and 5 percent in textiles and apparel.

The relative importance of stock-option benefits in different industries largely reflects the movement of stock-market prices after the plan's adoption. In general the greatest benefits are in companies with plans in operation by 1953. Over the period covered, industrial stock prices experienced their sharpest rise after 1953, when the Standard & Poor's index rose from a yearly average of 24.8 in 1953 to 30.3 in 1954 and 42.5 in 1955; by 1956 it had doubled to 49.8, where it leveled off through 1958. A further increase, to 61.5 in 1959, was sustained through 1960. (Greater variations of course were experienced within each year.)

TABLE 3.—*Officers' option benefits as a percent of salary and bonus,*[1] *by industry, 350 corporations, 1950–60*

Industry	Number of companies	Option benefits as a percent of salary and bonus											
		All years	1950 [2]	1951	1952	1953	1954	1955	1956	1957	1958	1959	1960
All industries	[3] 350	21	10	1	3	5	23	34	32	15	13	32	25
Manufacturing:													
Rubber	5	46	40	16	33	38	76	141	140	6	8	10	9
Transportation equipment	34	30	---	3	(4)	4	34	66	78	32	14	19	18
Electrical machinery and equipment	27	30	---	1	(4)	11	29	26	23	15	22	69	46
Primary metals	38	25	---	---	15	(4)	29	61	59	15	8	30	16
Paper	16	25	---	(4)	(4)	16	32	37	34	12	34	33	14
Instruments, etc	19	23	---	2	(4)	2	14	7	8	9	12	41	89
Machinery (except electrical)	42	22	---	2	(4)	(4)	36	34	23	11	12	29	33
Stone, clay and glass	13	21	(4)	4	(4)	3	13	13	12	12	9	68	35
Petroleum	23	20	272	(4)	9	4	22	37	43	34	11	14	6
Chemicals and drugs	37	18	2	2	(4)	(4)	5	18	11	7	17	50	33
Fabricated metal products	19	16	(4)	(4)	(4)	11	67	23	14	6	6	15	18
Food, beverages and tobacco	23	10	11	3	3	13	10	6	3	1	10	23	20
Textiles and apparel	15	5	---	1	(4)	2	4	6	3	2	2	17	3
Trade	27	11	---	---	(4)	5	4	18	13	7	11	21	24
Miscellaneous [5]	12	18	---	(4)	11	2	37	24	29	13	14	17	24

[1] Includes salary and bonus from year of adoption of plan.
[2] Includes prior-year plans.
[3] 1954–59.
[4] Less than 1 percent.
[5] Includes manufacturing companies not elsewhere classified and a few nonmanufacturing companies.

THE GROWTH OF STOCK OPTION PLANS

Prior to the restricted stock-option legislation, U.S. corporations made little use of employee stock options. Sweeney's survey of corporation reports to stockholders and to the SEC turned up only 75 stock-option plans in the 10 years and 9 months from January 1, 1940, to October 1, 1950.[7] A very large proportion of these (30 percent) were limited to one individual, and in only a few cases were more than five officers covered.

The 1950 stock-option legislation awakened new interest in this form of compensation. During 1951, 85 companies listed on the New York Stock Exchange instituted employee option plans—more than the number of plans adopted by all registered companies during 11 preceding years. By the end of 1955 about one-third of the companies listed on the NYSE had plans, and by 1957 about one-half. This period of rapid growth then slackened, but by mid-1961 about 63 percent of the 1,128 listed corporations had adopted restricted stock-option plans. Because the expiration (or cancellation) of old plans was frequently followed by new ones, these companies adopted an average of 1.4 plans over the period.

Restricted stock-option plans are much less prevalent among small corporations than among large firms. A 1958 study of 3,500 corporations by the American Management Association indicated that about one-third of these companies had a stock option plan in 1957, but only 12 percent of the corporations with sales of $10 million or less had option plans, against 60 percent-65 percent of the very large corporations (over $100 million sales).[8]

Studies of the Conference board show wide industry variations in the proportion of listed companies with stock-option plans.[9] The plans are most popular in trade and manufacturing: about 70 percent and 74 percent respectively, of listed companies in these industries have plans. Only about half of the listed mining, finance (other than insurance and banks), and railroad companies, and one-third of the airlines have option plans. On the other hand, about 20 percent of large gas and electric utilities and 10 percent of large stock insurance companies use restricted stock options. Commercial banks rarely use stock options, principally because of Federal and State restrictions on the use of Treasury and authorized but unissued stock.

COST TO THE CORPORATION

Despite the substantial benefits realized by employees on the exercise of stock options, corporations uniformly do not reflect any cost on their books. This practice at present is supported by the accounting profession, which treats as compensation the excess of the fair value of the stock over the option price on the day the option is granted rather than at the time exercised.[10] And since restricted stock options generally are priced at between 95 percent and 100 percent of the market, the difference is considered de minimus and virtually always is ignored.

Even though, for accounting purposes, the cost of the option is calculated at the time granted, it is its cost at the time of exercise—the critical point at which the corporation parts with its capital stock—that is most meaningful. The difference between the consideration (the option price) it receives and the market value of the stock represents, on the one hand, a cost to the corporation and, on the other, compensation to the employee. In economic terms, the difference represents an opportunity cost; that is, the amount of capital sacrificed as a result of selling the stock to the employee, rather than on the open market. While corporations typically use authorized but unissued stock for this purpose, the cost of the option is best understood if one thinks of a corporation purchasing its own stock in the market to cover the option at time of exercise.

Since no deduction of the cost of the option is allowed for corporate income tax purposes, the real cost to the corporation is actually more than double this spread at time of exercise. At a 52-percent corporate rate it costs the firm $2.08 for each $1 of executive compensation thereby granted. The $2.08 cost comprises the spread or initial cost to the corporation of $1 plus $1.08, which represents the income tax reduction it foregoes. This tax factor is not gen-

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erally recognized or understood, but it can make stock options a very costly method of compensating employees.[11]

The relative importance of this cost to the business can be shown by a comparison of option benefits and corporate earnings. Cost is measured by the total spread between the proceeds of sale (option price) and the market value of the stock at time of exercise. Since, as has been noted, this cost is not deductible, it must be related to net earnings after tax. The results of this analysis for the 350 corporations in 3 selected years is shown in table 4.

[7] D. L. Sweeney, "Accounting for Stock Options," Michigan Business Studies, vol. XIV, No. 5, Univ. of Michigan, Ann Arbor (1960), p. 36.

[8] "Executive Pay Trends Changing," Nation's Business, December 1958, p. 44.

[9] "Top Executive Compensation," Studies in Personal Policy, No. 179, 1960.

[10] The recognized authority for this position is found in Accounting Research Bulletin No. 43 (ch. 13, section B), issued by the American Institute of Certified Public Accountants in 1953. The designation of the date of grant represents a departure from the previously announced declaration in favor of "the date on which the option right becomes the property of the grantee." (Accounting Research Bulletin No. 37, issued in 1948.) In the case of restricted stock options this would appear to be the date on which they are exercisable.

[11] See "Probing the Record of Stock Options," by D. M. Holland and W. G. Lewellen, Harvard Business Review, March-April 1962, pp. 132–50.

According to these data, employee options can represent a significant cost to the corporation. In 1960, for example, they represented 5 percent or more of earnings for about one out of five companies.

EXPERIENCE OF TOP EXECUTIVES, 1958-60

These corporate data provide one measure of the importance of stock option benefits in the compensation of key employees; they cannot be used, however, to outline the varieties of individual executive experience, nor can they be used to answer other obvious questions about the way in which options have been used by executives.

However, by reference to proxy statements, SEC "insiders" reports and stock market data, a much more specific stock option record can be reconstructed for certain executives, generally for the three highest paid. This was done for a sample of 215 executives selected from the 350 corporations; data were available since 1954 for all of these executives and since 1950 for most of them. For the purpose of this analysis, option benefits for each executive have been prorated over the option period as though their value accumulated in equal annual installments from the time the option was granted until exercised.

TABLE 4.—*The cost of stock options, 350 corporations*

Option benefits as percent of after-tax earnings	Percentage distribution [1]		
	1956	1958	1960
Deficit	(2)	1	3
No options exercised	45	36	25
0.1 to 4 percent	10	17	12
0.5 to 0.9 percent	7	7	12
1 to 1.9 percent	8	11	11
2 to 2.9 percent	7	11	7
3 to 3.9 percent	4	4	5
4 to 4.9 percent	4	2	4
5 to 5.9 percent	7	8	11
10 percent and over	6	3	10

[1] May not add to 100 percent due to rounding.
[2] Less than 1 percent.

RATIO OF BENEFITS TO SALARY—BEFORE TAX

Over the 11-year period the average salary and bonus of this group of 215 executives rose from $75,000 to about $102,500—an increase of about one-third (see table 5). The exercise of stock options, however, increased their compensation by as much as 35 percent during 1954–56, and by about 16 percent in 1958–60. As a result, their average compensation rose very rapidly, from around $75,000 at the beginning of the period to a peak of $126,800 in 1956, and then leveled off at around $117,000. Including the value of options exercised, total compensation of this group of executives, before tax, thus rose more than 50 percent, against a one-third increase in current cash compensation alone.

Not all exercisable options actually were exercised during this period. Of the 215 optionees, 27 did not exercise any options and many of the others had additional exercisable options to purchase stock at favorable prices. Exercised and unexercised option benefits, prorated over the option period, rose to a peak of 43 percent of salaries and bonuses in 1956, then leveled off at about 30 percent.[12] Including these benefits, average executive compensation, before income tax, increased by over two-thirds during this period.

The wide range in the distribution of benefits among the 188 executives who exercised options is indicated by chart 2 (not printed in RECORD). In about 37 percent of the cases the value of options was less than 10 percent of other compensation before tax, and in 65 percent of the cases was less than 20 percent of before-tax compensation. At the other extreme, 14 percent of the top executives had option benefits in excess of 50 percent of their salaries.[13]

TABLE 5.—*Average salary and bonus, before tax, and option benefits, 215 top executives, 1950–60*

[Dollar amounts in thousands]

	Number of executives	Average salary (before tax)	Salary plus option benefits		Option benefits as a percent of salary	
			Exercised	Exercisable [1]	Exercised	Exercisable [1]
1950	142	$77.8	$78.1	$78.1	(2)	(2)
1951	174	75.7	79.7	79.8	5	5
1952	197	74.7	83.7	84.0	12	12
1953	208	81.5	100.5	102.0	23	25
1954	214	83.2	112.5	115.4	35	39
1955	215	89.8	120.9	124.6	35	39
1956	215	94.2	126.8	134.2	35	43
1957	215	96.6	118.0	127.2	22	32
1958	215	98.5	116.7	129.2	19	31
1959	215	102.1	118.3	133.3	16	31
1960	206	102.7	116.7	132.4	14	29

[1] Includes exercised and exercisable benefits at Dec. 31, 1960, values, prorated back to the year of option grant
[2] Less than 1 percent.

TABLE 6.—*Average salary and bonus, after tax[1] and option benefits of 215 top executives, 1950-60*

[Dollar amounts in thousands]

	Number of executives	Average salary (before tax)	Salary plus option benefits		Option benefits as a percent of salary	
			Exercised	Exercisable [2]	Exercised	Exercisable [2]
1950	142	$39.1	$39.4	$39.4	1	1
1951	174	35.5	39.5	39.6	11	11
1952	197	35.1	44.2	44.4	26	26
1953	208	37.1	56.2	57.6	51	55
1954	214	40.4	69.7	72.5	72	80
1955	215	42.5	73.6	77.3	73	82
1956	215	44.0	76.6	84.0	74	91
1957	215	44.6	66.1	75.2	48	69
1958	215	45.1	63.4	75.9	40	68
1959	215	45.9	62.1	77.1	35	68
1960	206	46.2	60.2	75.9	30	64

[1] Assumes that the executive is married, has no other dependents, no other income, and typical deductions.
[2] Includes exercised and exercisable benefits at Dec. 31, 1960, values, prorated back to the year of option grant.

[12] The value of unexercised options is taken as at Dec. 31, 1960, or the end of the corporation's fiscal period ending early in 1961, and spread back in equal annual installments to the year of the option grant.

[13] If unexercised benefits are included, the range is much greater. While about 30 per-

RATIO OF BENEFITS TO SALARY—AFTER TAX

Of greater relevance is the value of stock options in relation to ordinary compensation after income tax.[14] Because of the graduated rate structure, aftertax salaries of the selected executives rose slightly less than salaries before tax. However, if exercised option benefits are included, average aftertax compensation almost doubled between 1950 and 1956, and then tapered off by 1960 to about 50 percent above the 1950 level. By 1956, the prorated value of exercised option benefits amounted to about three quarters of the executives' salaries after tax, but then declined to about 30 percent by 1960.

The value of unexercised options further increased aftertax compensation. After hitting a peak of 91 percent of other compensation in 1956, total option benefits averaged more than two-thirds of salary and bonus after tax. As a result, total aftertax compensation of these men virtually doubled by 1955 and then leveled off.

About 16 percent of the top executives exercised options with a value in excess of their other compensation after tax. At the lower end of the scale, about 20 percent of the executives exercised options whose value was less than 10 percent of their salary.[15]

The preferential tax treatment of stock options thus made it possible for corporate executives to improve their economic position since 1950 far more than is indicated by the rise in aftertax salary and bonus alone.[16] While such stock-option benefits are subject to tax at capital-gains rates when realized by the sale of the stock, this rate is a maximum of 25 percent and thus still leaves a substantial tax advantage.

DISPOSITION OF OPTION STOCK

The decision to sell option stock may, of course, be determined by considerations similar to those influencing the sale of any other investment. But stock options, in addition, offer a unique opportunity to convert what is essentially ordinary income (i.e., a bargan purchase) into a long-term capital gain—providing the stock is held for at least 6 months. It is not unusual for executives to sell their shares in order to pick up newly exercisable options after the 6-month interval imposed by SEC regulations. In a rising market such acquisitions are thereby self-financing. Also, executives frequently are under pressure to liquidate their holdings in order to pay off bank loans incurred to finance the option stock, whether or not new options are exercised.

Although the special tax treatment of stock options has succeeded in greatly increasing the stake of executives in the business, substantial option stock is sold. Of the 188 top executives in the group who exercised options, only about 40 percent still held all their stock at the end of the period, and only half still held at least 80 percent (table 7). But one-quarter sold more than half their option stock, and 6 percent disposed of all.[17]

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TABLE 7.—*Disposition of option stock, 188 top executives,[1] 1950–60*

Percent of option stock sold	Executives	
	Number	Percent
None	73	39
Less than 10 percent	7	4
10 to 20 percent	16	9
20 to 30 percent	19	10
30 to 40 percent	9	5
40 to 50 percent	16	9
50 to 60 percent	12	6
60 to 70 percent	5	3
70 to 80 percent	12	6
80 to 90 percent	6	3
90 to 100 percent	2	1
100 percent	11	6
Total	188	[2] 100

[1] Excludes 27 executives who did not exercise options.
[2] Does not equal 100 percent due to rounding.

Thus, more than half (115) of the executives realized capital gains on the sale of option stock over the period. As table 8 indicates, somewhat more than half of these realized capital gains of less than 10 percent of beforetax compensation; and only a few realized more than 30 percent. However, because of the preferential tax rate, capital gains represented a more significant share of aftertax compensation. Over the entire period, more than 60 percent of the executives who sold stock realized net gains in excess of 10 percent of other aftertax compensation, and about one-quarter had net gains of over 30 percent; 8 of the 115 executives realized net gains in excess of 50 percent of their other aftertax compensation.

HOW OPTION STOCK ACCUMULATES IN VALUE

The preferential tax treatment of stock options has opened up a new avenue for the accumulation of an estate by executives that was little known or used prior to 1950. Executives not only have an unusual opportunity to take advantage of the rise in market value of unexercised options; they also build up substantial capital gains—realized as well as unrealized—on their investment in option stock. They, of course, assume the risks of an investor with respect to the option stock purchased, but they are partly protected against a market decline by the spread at the time of exercise.

cent of the executives had total benefits amounting to less than 10 percent of other compensation (including 7 percent with none), 20 percent enjoyed total option benefits in excess of 50 percent of their salaries; and about 5 percent had total benefits greater than their other compensation.

[14] Aftertax salary was computed for each executive without regard to possible other income, assuming the executive was married with no other dependents and had typical deductions.

[15] If all options had been exercised by the end of the period, about 21 percent would have received benefits in excess of their salaries and bonuses, and 7 percent would have received more than twice such compensation after tax. About 17 percent had combined exercised and unexercised benefits of less than 10 percent of other compensation after tax.

[16] The inclusion of various other forms of deferred income would show an even greater increase.

[17] These estimates are consistent with the McKinsey survey's reported average retention of 75 percent, op. cit., pp. 2–14.

In order to determine how executives have fared over the period, their total realized capital gains were added to unrealized appreciation on stock still held at the end of the period (table 9). Those who did not exercise options (13 percent) of course did not have any gains; 61 percent had total gains of over $50,000 and 28 percent gains of $250,000 and over. Finally, 13 executives had a total appreciation in the value of their stock (realized and unrealized) of over $1 million, and 1 in excess of $2 million.

The full potential of stock options is best revealed by the addition of unexercised option benefits at the end of the period to market appreciation in the value of option stock actually purchased, i.e., unrealized and realized capital gains after tax. Calculated this way, 73 percent of the executives accumulated an estate (after deducting the cost of the options) greater than $50,000 and 32 percent an estate of $250,000 and over. Of the 215 executives, 17 built up a net value in excess of $1 million, 4 in excess of $2 million and 2 a net estate of over $3 million.

TABLE 8.—*Realized capital gains on option stock, 1950–60, as a percent of compensation,[1] before and after tax,[2] 115 executives[3]*

Realized capital gains as percent of compensation	Before tax		After tax	
	Number	Percent	Number	Percent
Less than 10 percent	61	53	43	37
10 to 19 percent	30	26	29	25
20 to 29 percent	16	14	13	11
30 to 39 percent	4	3	10	9
40 to 49 percent	0	--------	12	10
50 to 99 percent	4	3	4	3
100 to 149 percent	0	--------	1	1
150 to 199 percent	0	--------	3	3
Total	115	100	115	100

[1] Cumulative salary and bonus since year of option grant.
[2] Assumes that the executive is married, has no other dependents, no other income, and has typical deductions.
[3] Excludes 100 executives who did not sell option stock.

TABLE 9.—*Capital gains[1] and unrealized options benefits, 1950–60, 215 top executives*

Amount (thousands of dollars)	Realized and unrealized capital gains		Capital gains and unexercised option benefits	
	Number	Percent	Number	Percent
0	28	13	15	7
Under $10	19	9	18	8
$10 to $24	18	8	11	5
$25 to $49	20	9	16	7
$50 to $99	36	17	34	16
$100 to $249	34	16	53	25
$250 to $499	29	14	32	15
$500 to $999	18	8	19	9
$1,000 to $1,999	12	6	13	6
$2,000 to $2,999	1	(2)	2	1
$3,000 and over	0	0	2	1
Total	215	100	215	[3] 100

[1] Realized capital gains taken after tax; unrealized capital gains and unexercised option benefits valued at end of period.
[2] Less than 1 percent.
[3] Numbers do not add to 100 due to rounding.

Mr. GORE. Mr. President, I should like to point out that throughout the report of the Department of the Treasury following its investigation of the Chrysler stock option deal, the benefits from restricted stock options are classified as "compensation."

Compensation is what Senators receive when they draw their salaries. Compensation is what the worker receives when he draws his check on Friday afternoon. Compensation is what the teacher receives when she gets her check at the end of the month. Compensation is what the newspaper reporter receives when the newspaper publisher sends him his weekly check. Compensation is what most Americans receive for their work.

But here is a very special privileged group to which preferential tax treatment is given. A large portion of the income of the members of that group is treated not as ordinary compensation, but with a preference.

I have long been interested in this instance of tax avoidance and favoritism. It is not my purpose to review all that I, or others, have said in the past about restricted stock options. On April 14, 1961, I discussed the subject quite thoroughly in an address on the floor of the Senate. On April 24 of the same year I offered additional views and comments. Again, on April 27, May 4, June 8, and August 8, I addressed the Senate on this matter.

In my remarks on these various occasions I pointed out several things which appeared to me to be unwholesome, immoral and inequitable with respect to restricted stock options, both in legal concept and in their administration and award by various companies.

Here is how the restricted stock option works: A corporation executive who is paid a large salary, and who is, therefore, in a relatively high income tax bracket, may wish to reduce his overall, effective tax rate while at the same time obtaining increased compensation. The executive persuades his board of directors to set up a generous stock option plan conforming to the statute, section 421 of the Internal Revenue Code, so that he can get the reduced tax treatment afforded the profits realized from the sale of stock he will acquire under the option. It may not be very difficult to persuade the board of directors to do this, since many of them will also be officers of the corporation and will be eligible for the same generous treatment. The stockholders sometimes go through the motions of approval by proxy, although this may not be required.

The option price must generally be within 95 percent of the market value of

the stock at the time the option is granted. After the market price of the stock has gone up, the option may be exercised. If the price does not increase, the option need not be exercised. Thus the holder of a stock option gets a free ride. Heads he wins, tails he does not lose.

All that then remains to be done is to hold the stock for 6 months so that the profit realized on the sale of the stock can receive the long-term capital gains treatment. The final sale of the stock must also be 2 years or more after the option has been granted. The option may be held for many years without being exercised. Then when the option is exercised, though it is then that the compensation is really realized, no tax is due under the present law. It is not until the stock is actually sold that any tax is due, and that may be never.

The advantage which the restricted stock option gives is twofold. In the first place, no tax accrues upon the exercise of the option. Ordinarily, when one exercises an option, he realizes a gain of some sort. If this were not so, he would not exercise the option. The gain,

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in the case of a stock option, is actually the difference between the price set out in the option and the market price of the stock when the option is exercised. If the option was granted in connection with employme[illegible] it is logically a part of the employee's compensation, and any gain should be taxed at ordinary income tax rates at the time the option is exercised. As I have said, this is not the case under present law.

In the second place, with the restricted stock option, when the gain is finally realized in cash upon the sale of the stock, the capital gains tax applies, even though the option was actually granted in the first place as compensation and was intended as part of the employee's compensation.

One might well ask how such an obviously inequitable provision as this became law.

The present law regarding restricted stock options is found in section 421 of the Internal Revenue Code of 1954, but this section was first enacted in the Revenue Act of 1950. Prior to that time, there had been various types of stock option plans; but the Supreme Court had held, in 1945, in the Smith case, that, where such options constituted compensation, the difference between the option price and the market value of the stock at the time the option was exercised was income, and was taxable at ordinary income rates.

Let me summarize a few of the objections which have been raised against restricted stock options:

First. Applying the capital gains rate to the spread between the option price and the market price at the time of exercise serves as a device to lower the effective income tax rate on the compensation of highly paid corporate executives.

Second. The granting of options in large amounts serves to dilute the value of stock in the hands of all other stockholders.

Third. The granting of options by large corporations serves to discourage capable management personnel from setting up companies which can compete against the Big Threes and Fours.

Fourth. A large block of stock reserved for options for corporate executives may cause these executives to engage in practices which will influence the market price of the stock of their company, both up and down, so that these executives may become enriched personally. These practices often are contrary to the best interests of the majority of the stockholders, the long-range growth and stability of the company, and the national economy.

Fifth. The compensation, incentive, or reward of the corporate executive is determined, not by his own efforts, or even by the success of his company, but primarily by the vagaries of the market.

On July 20 and 21, 1961, the Senate Finance Committee held hearings on the bill which I introduced in the 87th Congress, S. 1625, to terminate the favored tax treatment now accorded the compensation arising from the granting and exercise of restricted stock options under section 421 of the Internal Revenue Code. The testimony of witnesses before the committee would, I believe, be helpful and of interest to Members of this body and to others who might and ought to be concerned with tax equity. The record of this hearing makes worthwhile reading.

Three main pillars of support were erected by the organizations and special interests having a stake in the perpetuation of this tax loophole. Three chief witnesses not directly associated with the usual loophole-favoring organizations came before the committee to present the case for continuing this tax gimmick which has made fortunes for a few at the expense of the small stockholders in our corporations and the taxpaying public in general.

One of these three pillars of support for restricted stock options was a college professor. He, I suppose, was to present the case for restricted stock options from an academic point of view.

The second was the executive head of a company, a fairly good sized company, which had been rescued from failure, or mediocrity at best, back in the late thirties, and which was now booming. Stock options, presumably, were at least partially responsible.

The third was a representative of a small business which had supposedly prospered because of options. It is most important, of course, to have a facade of small business behind which any group interested in preserving a special privilege can hide.

Now, let us look at the testimony of this first witness.

Dr. Roger Murray, a professor at Columbia University, really succeeded in clarifying a point which had been bothering me a little, and some others a great deal. He succeeded admirably in pointing out the difference between the employee qua employee receiving compensation, or his "reward" as Dr. Murray expressed it, and the employee qua investor receiving a return on his capital investment.

There has been a good deal of confusion about just this point. When does the employee, receiving a restricted stock option, really become an investor and entitled to take capital gains on any appreciation in the value of his stock?

I pointed out to Dr. Murray that up until the time an employee actually exercised his option he was not an investor, he had undertaken no risk, but that when he exercised his option he had, at that time, as the witness had said, received "the incentive and the reward," and that he should at that point pay his taxes on that reward—compensation, if you will—just as any other taxpayer. The employee's role as an investor, of course, starts at that point, and any further appreciation in value of the stock from that point forward should properly be treated as a capital gain and taxed as such. It is only when the option is exercised that the employee assumes the investor's risk and thus becomes entitled to the investor's capital gains tax treatment.

Looking at this witness' testimony on this bill, it is obvious to me that he and others who share his views really are attacking the graduated income tax.

What the proponents of much loophole legislation are after is someway to convert ordinary income into something which can be classified as capital gains for tax purposes. This, of course, puts such income in the 25-percent maximum bracket rather than the 50-, 70-, or 90-percent bracket. I might also point out that the capital gains gimmick is of value primarily to the man who is in the 50 percent, and up, tax bracket. The man in the 20-percent bracket is not helped very much. Supporters of these capital gains gimmicks are really against the tax principle, followed in this country and at least partially in most other progressive countries, of taxation according to ability to pay. These people want the wage earner, farmer, clerk, stenographer, and small storekeeper to carry most of the tax burden.

The second pillar of support for stock options was Mr. Louis Ware, chairman of the board of International Minerals & Chemical Corp., a company of intermediate size, having sales of about $130 million per year.

Mr. Ware claimed that stock options were very helpful to him in building up his company.

Now, what are the facts about this company?

Mr. Ware took over this company in 1939, at which time it was struggling along rather unsuccessfully. Although it had been in existence for some 29 years, it had never paid a dividend on its common stock and sales were only about $10 million annually.

Mr. Ware revitalized the company. He brought in new management personnel, and sales began to move steadily upward. The strange thing about this corporate Horatio Alger is that Mr. Ware seems to feel that the restricted stock option should get the credit for the success story.

It is true that this company initiated a restricted stock option plan in 1951 and that the company has grown since that year. But consider the growth prior to 1951 when the company had no restricted stock option plan. In 1951 the company had sales of $66 million. This represents a growth, as measured by sales, of more than 500 percent during the period 1939–51. From 1951 to 1961, with the aid of this wonderful but "mysterious," to use Dean Griswold's term, stock option, sales increased by only a scant 100 percent.

Surely one could not look at this picture and say that the restricted stock option has been the saviour of this company. Indeed, stock options have rewarded those key executives—and Mr. Ware pointed out that he did not believe in giving out options much below the top 25 men in the company—who came with the company during the 11th hour, after success was assured, just as fully as those who labored in the vineyard from 1939 onward, when there was a real job of building to be done. And in either case, the reward has been received after the fact, in so far as the real needs of the company and the performance of the key tasks were concerned. Neither the re-

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ward nor the hope of this restricted stock option reward could possibly have influenced the rebuilding of this company from 1939 to 1951.

The third pillar of support for restricted stock options was a representative of a local, relatively young, and relatively small company. The representative of this company told the committee that stock options had been important to the growth of his company. Here are his words:

In my opinion, the importance of restricted stock options in making that growth possible, and in enabling CEIR to continue to expand its services, cannot be overestimated.

When I questioned this witness about some of the specifics as to his company's use of options and just exactly how they had helped his company, he indicated that his company had used options as a partial substitute for salary. But the witness became so vague that I asked him to furnish me with data on all the options which his company had issued. I was somewhat dumbfounded to learn, that no options had been issued prior to 1960, with one exception, and that no options whatsoever had ever been exercised except for that one employee who got an option in 1959. Even more peculiar, the employee who received the 1959 option received the largest block of stock under option of any employee to 1961, and he left the company very shortly after receiving his option.

It seems to me that the effect of restricted stock options on the growth of this young company was nil. The company has grown, it is true. But growth has come as a result primarily of numerous mergers.

All things considered, it does not seem to me that these three pillars support the restricted stock option very firmly.

Now, during the course of the Finance Committee hearings, an article by Mr. Henry Ford II, which appeared in the July–August 1961 issue of Harvard Business Review, and which supports restricted stock options, was mentioned several times. This is an interesting article, and a few remarks about it are in order.

I think the key to Mr. Ford's attitude is found on page 50 of this article. After speaking of the lag in executive compensation, the article goes on to say:

Inflation and highly progressive income tax rates have greatly aggravated this situation, which is shared, we have reason to believe, by other large companies. The restricted stock option has been an effective means of meeting this problem.

In other words, Mr. Ford really favors the restricted stock option as a means of lowering the tax rate for highly compensated top corporate executives.

Here again we have the complaint about the progressive income tax rates. Here again we find an attack on the principle of ability to pay.

Incidentally, Mr. Ford seems to feel that options have saved the Ford Motor Co. The facts hardly bear this out.

Let us look at some of the things Mr. Ford has to say about the Ford Motor Co. and restricted stock options.

Mr. Ford stated in this article that a "dozen or so skillful men" were brought into the company after Word War II, and that they transformed the company from "a bogged-down, antiquated, money-losing company into a modern, efficient, profitmaking enterprise." He also stated that these men came into the company upon his promise that he "would do his best to give them an opportunity to acquire a stake in the company as soon as it was feasible to do so." He went on further to state that, finally, in 1953, restricted stock options were granted "to 114 key employees." He then places the stamp of approval finally upon the restricted stock option with these words:

I am convinced that, in broad effect, stock options have helped materially to raise the company to third place among American industrial corporations in total dollar sales.

This makes an unassailable, step-by-step argument. The company was bogged down and losing money, the company instituted stock options, the company is now in third place in the entire country. No further proof is needed of the efficacy of restricted stock options. Quod erat demonstratum.

Well, let us see.

The Ford Motor Co. had a deficit in 1946, but it had a profit in 1947 and every year thereafter up to and including 1953, when it finally instituted a stock option plan. This "bogged down" company was in excellent condition before it started a stock option plan. How, then, can the stock option plan get credit for restoring the company to a profitmaking position?

As for the company moving up to third place nationally in sales, this exalted position was also reached in 1953, the same year restricted stock options were instituted, and prior to the time any effect from the restricted stock option plan could possibly have been felt.

With all due respect to Mr. Ford, who is a fine businessman, an outstanding executive, and a dedicated American, he is confusing a legitimate stake in the business with a tax gimmick. Mr. Ford, right after World War II, got from General Motors some experienced produc-

tion executives and, in addition, picked up a younger group of very capable men. Mr. Ford, as he said, promised them an opportunity to own stock in the company as soon as he could arrange it. The real difficulty, and the reason he could not arrange it at the time, was that there was no public ownership of Ford stock. According to my understanding, only the family and the Ford Foundation owned any stock in the company. The restricted stock option had nothing to do with this problem. It came into the tax laws in 1950, but even before that there had been all sorts of stock purchase and option plans.

Now, I would not want to accuse Mr. Ford of trying to mislead anyone, but a careful analysis of his article, plus a few key facts which are omitted from his article, tend to support the thesis that it is well for management to have a stake in the business, or the opportunity to purchase stock in their company. Few would quarrel with this thesis. If I were president of a large corporation and my executives were not buying stock in the company but were, instead, making investments in other enterprises, I would have a thorough conflict-of-interest investigation. I would probably chop a few heads on general grounds of disloyalty, at least.

But I submit that this is an entirely different thing than writing into law a tax gimmick which enables an executive to gamble on the stock market without an investment and to reduce his overall tax rate drastically. The experience of the Ford Motor Co. lends no support whatsoever to the desirability of this tax gimmick.

Now, Mr. President, in a sense I have been reviewing past history. But it is pertinent. I have been working on this subject for a long time.

But, let us now come to the pending bill. I must acknowledge that the bill makes some improvement in existing law. I shall continue my discussion of this matter on tomorrow and will show not only in what ways the pending bill represents an improvement in existing law, but how it falls far short of what is really required.

Mr. GORE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GORE. How much time have I consumed?

The PRESIDING OFFICER. The Senator has consumed 20 minutes of his allotted time.

[*February 7, 1964*]

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REVENUE ACT OF 1964

The ACTING PRESIDENT pro tempore. Under the order of yesterday, the Chair lays before the Senate H.R. 8363, the Revenue Act of 1964.

The Senate resumed the consideration of the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes.

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to the amendment of the Senator from Tennessee [Mr. GORE], numbered 418, upon which there is a limitation of debate, with controlled time.

The Senator from Tennessee has 20 minutes of his time remaining.

The pending amendment will be read.

AMENDMENT NO. 418

The amendment was read, as follows:

Beginning on page 121, line 23, strike out all through line 23, page 128.

On page 129, line 1, strike out "423" and insert "422".

On page 135, line 1, strike out "424" and insert "423".

On page 140, line 16, strike out "425" and insert "424".

On page 140, line 19, strike out "425" and insert "424".

On page 142, line 20, strike out "422(b)(7), 423(b)(3), and 424(b)(3)" and insert "422(b)(3) and 423(b)(3)".

On page 144, line 3, strike out "422(a)(2), 423(a)(2), and 424(a)(2)" and insert "422(a)(2) and 423(a)(2)".

On page 144, line 8, strike out "425" and insert "424".

On page 144, line 16, strike out "423 AND 424" and insert "422 AND 423".

On page 144, line 20, strike out "423 or 424" and insert "422 or 423".

On page 146, line 9, strike out "422(b)(6), 423(b)(9), and 424(b)" and insert "422(b)(9) and 423(b)".

On page 147, line 19, strike out "423" and insert "422".

On page 147, line 25, strike out "424" and insert "423".

On page 149, in the material following line 3, strike out "(1) The term 'qualified stock option', see section 422(b)."

On page 152, line 4, strike out "425" and substitute "424".

On page 153, lines 9 and 10, strike out "paragraphs (2) and (3)" and substitute "paragraph (2)".

Beginning on page 153, line 18, strike out all through line 2, page 154.

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REVENUE ACT OF 1964

The Senate resumed the consideration of the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes.

Mr. LONG of Louisiana. Mr. President, without prejudice to the pending amendment, I ask unanimous consent for the present consideration of a technical amendment in the nature of a clarification of a committee amendment.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered; and the amendment submitted by the Senator from Louisiana will be read.

The LEGISLATIVE CLERK. On page 75, in lines 7 and 8, it is proposed to strike out "with respect to property".

On page 75, line 9, strike out "such".

On page 75, line 12, after the period insert:

> For purposes of the preceding sentence, a debt which becomes worthless shall, to the extent of any deduction allowed under section 166(a), be treated as a loss.

Mr. LONG of Louisiana. Mr. President, the purpose of this technical amendment is to make it clear that the 10-year foreign expropriation loss carryover will apply to a taxpaper who incurs a loss because the stock of a 95-percent-owned subsidiary becomes worthless or because a business debt becomes wholly or partially worthless by reason of an expropriation of assets. The amendment would not create a new deduction or change the character of any loss from capital to ordinary.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Louisiana.

The amendment was agreed to.

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent that the amendment of the Senator from Tennessee [Mr. GORE] may be laid aside temporarily in order that the Senate may proceed to consider an amendment which I have cleared with members of the committee and the Treasury Department.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. WILLIAMS of Delaware. Mr. President, on behalf of myself, the Senator from Colorado [Mr. ALLOTT] and the Senator from Florida [Mr. SMATHERS], I offer an amendment and ask that it be stated.

The CHIEF CLERK. At the appropriate place insert a new section in the bill as follows:

> That section 165 of the Internal Revenue Code of 1954 (relating to losses) is amended by relettering subsection (i) as subsection (j) and by adding the following new subsection (i):
>
> "(i) Property confiscated by Cuba: For purposes of subsection (c)(3) losses of property which arise from expropriation, intervention in or confiscation by Cuba, shall be deemed to be losses from 'other casualty.'"

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware.

Mr. LONG of Louisiana. Mr. President, this is a matter with regard to which the Treasury Department would like to cooperate to reach a proper solution of problems relating to Cuban expropriation. While we have not been able to determine the matter conclusively, we hope to do so in conference. In the event we cannot arrive at an adjustment, I hope the Senator will not be intransigent about the matter.

Mr. WILLIAMS of Delaware. Mr. President, I talked with representatives of the Department of the Treasury. First they thought the desired result could be accomplished by regulation or that we should wait until a general bill dealing with this subject came over. This is too important to wait, and I hope the provision I am proposing can be inserted in the bill.

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I see no reason why individuals whose property is confiscated by Castro should not be allowed to claim such loss of property as a casualty loss in the same manner they would, should the property be destroyed by fire or flood.

Corporations or other business activities can claim their losses—why should individual property owners not be treated the same.

I urge the approval of the amendment.

Mr. SMATHERS. Mr. President, I am a cosponsor of the amendment. We have talked with representatives of the Treasury Department. The Treasury Department thinks the difficulty can be resolved. I believe it can. The amendment would provide simple justice for everyone.

The PRESIDING OFFICER. The

question is on agreeing to the amendment of the Senator from Delaware.

The amendment was agreed to.

Mr. SMATHERS. Mr. President, I ask unanimous consent that the amendment of the Senator from Tennessee may be temporarily laid aside.

The PRESIDING OFICER. Is there objection to laying aside temporarily the amendment of the Senator from Tennessee? The Chair hears none, and it is so ordered.

Mr. SMATHERS. Mr. President, I offer an amendment which I send to the desk and ask to have stated.

The legislative clerk read as follows:

SEC. —. EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX ON VALUE OF REVERSIONARY OR REMAINDER INTEREST IN PROPERTY

(a) EXTENSION UNDER 1954 CODE—Section 6163(b) (relating to extension of time for paying estate tax on value of reversionary or remainder interest in property to prevent undue hardship) is amended by striking out "not in excess of 2" and inserting in lieu thereof "or periods not in excess of 3".

(b) EXTENSION UNDER 1939 CODE—Section 925 of the Internal Revenue Code of 1939 (relating to periods of extension of time for paying estate tax attributable to future interests) is amended by striking out "not in excess of 2" and inserting in lieu thereof "or periods not in excess of 3".

(c) EFFECTIVE DATE:

(1) The amendment made by paragraph (a) shall apply in the case of any reversionary or remainder interest only if the time for payment of the tax under chapter 11 of the Internal Revenue Code of 1954 attributable to such interest, including any extensions thereof, has not expired on the date of the enactment of this act.

(2) The amendment made by paragraph (b) shall apply in the case of any reversionary or remainder interest only if the time for payment of the tax under chapter 3 of the Internal Revenue Code of 1939 has not expired on the date of the enactment of this Act.

Mr. SMATHERS. Mr. President, the proposed amendment to section 925 of the 1939 code and section 6163(b) of the 1954 code, identical in substance, are designed to lengthen to 3 years the present 2-year period for which the payment of the estate tax on a remainder or reversionary interest may be extended where earlier payment would cause undue hardship.

Mr. President, the proposal has been checked out with the Treasury on both sides of the aisle. There is no objection to it. No cost to the Treasury would be involved. It is more in the nature of a technical amendment.

Mr. WILLIAMS of Delaware. Mr. President, I concur. The amendment would in no way change the tax liability of this company. I am willing that we accept the amendment.

Mr. SMATHERS. Mr. President, I ask unanimous consent that an explanation of the amendment be printed at this point in the RECORD.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

MEMORANDUM IN SUPPORT OF AMENDMENTS TO SECTION 6163(b) OF THE INTERNAL REVENUE CODE OF 1954 AND SECTION 925 OF THE INTERNAL REVENUE CODE OF 1939 RELATING TO HARDSHIP EXTENSIONS OF TIME TO PAY ESTATE TAX ON REMAINDER INTERESTS

The attached proposed amendment to section 925 of the 1939 code and section 6163(b) of the 1954 code, identical in substance, are designed to lengthen to 3 years the present 2-year period for which the payment of estate tax on a remainder or reversionary interest may be extended where earlier payment would cause undue hardship. Under section 6163(a) of the 1954 code and sections 925 and 926 of the 1939 code, executors may, by posting an appropriate bond, postpone for 6 months the payment of that part of the estate tax attributable to the inclusion in the estate of a reversionary or remainder interest. If, after the period of postponement, the payment of the tax would result in undue hardship section 6163(b) of the 1954 code and section 925 of the 1939 code, as amended by the Technical Amendments Act of 1958, provide for a further 2-year extension of time for payment.

The provision for 2-year hardship extensions added by section 66 of the Technical Amendments Act of 1958 was designed to provide for situations in which payment of the tax could not be effected within 6 months after the termination of the precedent interest. It had been found that the settlement of the accounts of a complicated trust sometimes delays the executors' possession of the reversion or remainder interest. In some instances, a court construction of a doubtful trust instrument is required to determine the distribution of the trust corpus.

Unfortunately, experience has shown that the 2-year extension provided in 1959 is inadequate in certain cases. Accordingly, it is proposed that the period for which extensions may be granted be increased to 3 years.

Such an increase in the time period would not prejudice the revenue and would give the Secretary of the Treasury added flexibility in dealing with taxpayers who might otherwise be seriously prejudiced by the present limitations. The amendments would apply only to estates as to which the time for payment has not expired on their effective date.

The amendments give the Secretary authority to grant a series of extensions within the 3-year period thereby facilitating control of the length of such extensions and preventing any taxpayer's delaying payment

for a period longer than actually required by circumstances.

Prompt enactment of the amendments is urgently needed to prevent a substantial estate having an extension under present law which will shortly expire from being in default on payment of tax by reason of inability to conclude the litigation of relevant issues prior to the expiration of its extension.

Mr. LONG of Louisiana. Mr. President, we will take the amendment to conference and see if we can work it out.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida.

The amendment was agreed to.

Mr. KUCHEL. Mr. President, I ask unanimous consent that the amendment of the Senator from Tennessee [Mr. GORE], which is pending, be temporarily laid aside so that I may offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KUCHEL. Mr. President, I offer an amendment which I send to the desk and ask to have stated.

The LEGISLATIVE CLERK. It is proposed that at the appropriate place in the bill insert the following:

That section 6511 of the Internal Revenue Code of 1954, relating to limitations on credit or refund, is hereby amended by adding at the end of subsection (d) thereof, relating to special rules applicable to income taxes, the following new paragraph:

"(5) SPECIAL PERIOD OF LIMITATION WITH RESPECT TO SELF-EMPLOYMENT TAX IN CERTAIN CASES.—If the claim for credit or refund relates to an overpayment of the tax imposed by chapter 2 (relating to the tax on self-employment income) attributable to the retroactive effect of an agreement, or modification of an agreement, made pursuant to section 218 of the Social Security Act (relating to coverage of State employees), by reason of which the self-employment income (as defined in section 1402 (b)) of an individual is different from what it would be but for such agreement (or modification), and if the allowance of a credit or refund of such overpayment is otherwise prevented by the operation of any law or rule of law other than section 7122 (relating to compromises), such credit or refund may be allowed or made if claim therefor is filed on or before the later of the following dates: (A) the last day of the second year after the calendar year in which such agreement (or modification) is agreed to by the State and the Secretary of Health, Education, and Welfare, or (B) December 31, 1965."

Mr. KUCHEL. The amendment has been cleared with the Senator in charge of the bill. The Treasury Department has approved it. The Budget Bureau has approved it. The Department of Health, Education, and Welfare has approved it.

The amendment provides for the same treatment for the self-employed under the social security system with respect to refunds as the present law now authorizes for others in the system. I ask unanimous consent that the reports, on S. 1480 which I authored and introduced on May 8, 1963, submitted by the Secretary of the Treasury and the Secretary of Health, Education, and Welfare be printed in the RECORD at this point.

There being no objection, the reports were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., November 1, 1963.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request of May 9, 1963, for a report on S. 1480, a bill to provide credit or refund of self-employment tax in certain cases.

The bill would provide for a credit or refund of social security self-employment taxes

[*P. 2238*]

paid in cases where the retroactive coverage of State or local Government employees under the old-age, survivors, and disability insurance program extends to years for which refunds of such taxes are barred by statute.

Social security coverage for employees of States or their political subdivisions may be provided under agreements entered into between the States and the Secretary of Health, Education, and Welfare pursuant to section 218 of the Social Security Act. Section 218(f) of the act provides that an agreement, or a modification of an agreement, shall be effective with respect to services performed after the date specified in the agreement or modification, but such date may not be earlier than the last day of the sixth calendar year preceding the year in which the agreement or modification, as the case may be, is agreed to by the Secretary of Health, Education, and Welfare and the State.

Retroactive coverage under section 218 of the Social Security Act has been provided for employees who, in some instances, have paid taxes on self-employment income for years in the period of retroactive coverage for which they must also pay social security contributions on their wages from State or local government employment. This retroactive period of coverage can include years for which no refund of self-employment taxes can be made because the taxes were paid in the period for which refunds are barred by section 6511 of the Internal Revenue Code. Thus, when the total of wages and self-employment income credited for a year in the retroactive period exceeds the maximum amount of earnings that can be credited for social security purposes, the employee would have paid an excessive amount of social securty taxes; if the year is within the period barred by the statute of limita-

tions the worker can receive no credit or refund of the taxes, and the taxes paid on the extra earnings will not increase the social security benefits payable on his account. The extra taxes paid by a worker in these cases result from the implementation of statutory provisions authorizing retroactive coverage and not because of any action taken by the worker.

Substantially the same problem was encountered a number of years ago when State or local government employees had other wages on which social security taxes had been paid in the period of retroactive coverage. Relief from the payment of excess taxes in these cases was granted by Congress in the Social Security Amendments of 1954. S. 1480 would provide relief, in the form of a credit or refund of taxes, that is similar to that provided for employees whose excessive payment of social security tax relates to wages rather than self-employment income.

Since section 218 of the Social Security Act distinguishes an "agreement" from a "modification of an agreement," we believe that the bill should include a reference to such modifications as well as to the basic agreement itself. The situation for which the bill would provide relief can occur not only as a result of an agreement but also as a result of a modification to an agreement.

The bill provides that in order to get a refund of social security self-employment taxes paid for a barred year an application for a refund would have to be filed within 3 years from the time the agreement for retroactive coverage was entered into. Some State and local government employees have retroactive coverage under agreements made more than 3 years ago and therefore they could not qualify for a refund of taxes under the provisions of S. 1480, the time limit for filing having already expired. We believe the bill should be changed so that it would apply to these people.

We would have no objection to enactment of the bill subject to the modifications proposed above.

We are advised by the Bureau of the Budget that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

ANTHONY J. CELEBREZZE,
Secretary.

TREASURY DEPARTMENT,
Washington, D.C., October 22, 1963.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department on S. 1480, "A bill to provide credit or refund of self-employment tax in certain cases."

Social security coverage for employees of States or their political subdivisions may be provided under agreements entered into between the States and the Secretary of Health, Education, and Welfare pursuant to section 218 of the Social Security Act. Under section 218(f) of the act the agreement, or modification of an agreement, "shall be effective with respect to services performed after an effective date specified in such agreement or modification; except that such date may not be earlier than the last day of the sixth calendar year preceding the year in which such agreement or modification, as the case may be, is agreed to by the Secretary and the State."

It is our understanding that retroactive coverage under section 218 of the Social Security Act has been provided for employees who, in some instances, have paid self-employment tax on amounts earned from sources other than State employment (for example, by writing a textbook). Under section 1402(b) of the Internal Revenue Code, relating to the definition of self-employment income, an individual's maximum income subject to self-employment tax for a year is determined by subtracting his "wages" for that year from $4,800 (from $4,200 for the years 1955 through 1958). Thus, if a State employee is retroactively covered for 1961 and he received wages of $4,000 from the State in that year (and no other wages), his self-employment income, if any, for that year could not exceed $800 ($4,800 minus $4,000). If the individual paid self-employment tax on earnings in excess of $800 he would be permitted to recompute the self-employment tax and claim credit or refund of any overpayment. There is no barrier to the allowance of the credit or refund if the claim is filed before the expiration of the period of limitation prescribed by section 6511 of the Internal Revenue Code. In the cases to which S. 1480 is directed, however, such period expired, or will have expired, before the existence of retroactive coverage under section 218 of the Social Security Act. Under these circumstances, the individual concerned has no opportunity to avoid the duplication of coverage and taxes, and under existing law there is no remedy. The Treasury Department believes that in these circumstances an inequity exists and that a remedy should be provided.

S. 1480 would add a new section to the Internal Revenue Code (sec. 6424) which would provide for the allowance of a credit or refund in any case in which the amount of self-employment income for a barred year, before the retroactive coverage of wages under section 218 of the Social Security Act, differs from the amount of such income after the wages are retroactively covered. The credit or refund would be computed by multiplying the amount of such difference by the rate of self-employment tax applicable to the barred year. The credit or refund would be allowable, however, "only if claim therefor is filed within 2 years from the date on which the agreement under section 218 was entered into."

The Department would like to suggest a revision of the bill, as set forth in the enclosed draft, which is intended to accomplish the following changes:

1. Section 6402 of the code, providing general authority for credits or refunds of overpayments, is applicable to the cases in question, and the only additional provision

needed is an appropriate period of limitation in lieu of the period prescribed by section 6511(a). Accordingly, as a matter of code arrangement, it would seem preferable to place the additional provision in section 6511, rather than to state it as a new section 6424.

2. It is our understanding that the 2-year period of limitation proposed in S. 1480 may have expired, or that expiration thereof may be imminent, for some of the cases which S. 1480 is intended to remedy. The enclosed draft would open the period of limitation for all concerned until December 31, 1965, and would provide thereafter for a period ending at the close of the second year following the calendar year in which the retroactive coverage is agreed upon by the State and the Secretary of Health, Education, and Welfare. (This latter period is the same as the period provided for State employees in sec. 202(a)(2) of the Social Security Amendments of 1954, 68 Stat. 1090.)

3. Section 218 of the Social Security Act distinguishes an "agreement" from a "modification of an agreement." It appears necessary to include a reference to such modifications inasmuch as they may be a source of retroactive coverage. An "agreement," for example, would not necessarily be the only appropriate event from which to measure a period of limitation.

Subject to the changes referred to above, the Treasury Department has no objection to the enactment of S. 1480.

The Bureau of the Budget has advised the Treasury Department that there is no objection from the standpoint of the administration's program to the presentation of this report.

Sincerely yours,

STANLEY S. SURREY,
Assistant Secretary.

Mr. GORE. Mr. President, reserving the right to object, will the Senator in charge of the bill give us an explanation of the amendment?

Mr. KUCHEL. I believe the best way to explain it is to read a portion of the letter from the Secretary of Health, Education, and Welfare which refers to the amendment that I have offered:

The bill would provide for a credit or refund of social security self-employment taxes paid in cases where the retroactive coverage of State or local government employees under the old-age, survivors, and disability insurance program extends to years for which refunds of such taxes are barred by statute.

* * * * *

The bill provides that in order to get a refund of social security self-employment taxes paid for a barred year an application for a refund would have to be filed within 3 years from the time the agreement for retroactive coverage was entered into. Some State and local government employees have retroactive coverage under agreements made more than 3 years ago and, therefore, they could not qualify for a refund of taxes under the provisions of S. 1480, the time limit for filing having already expired. We believe the bill should be changed so that it would apply to these people.

* * * * *

We are advised by the Bureau of the Budget that there is no objection to the presentation of this report from the standpoint of the administration's program.

[*P. 2239*]

In addition, having listened to representatives of this Department, the House of Representatives has reported similar legislation in the House.

Mr. GORE. Mr. President, I have listened to the explanation, and I have also conferred with staff members. I am now familiar with the problem to which the amendment is addressed, and I have no objection.

Mr. KUCHEL. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that, without prejudice to the pending amendment, the Senate may proceed to consider certain amendments that are purely technical in nature.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana? The Chair hears none. The amendments of the Senator from Louisiana will be stated.

The CHIEF CLERK. The following amendments are proposed:

Page 33, line 7, strike out "amendment" and insert "amendments".

Page 47, in the second line following line 9, strike out "602(a)" and insert "6052(a)".

Page 66, line 5, strike out "tribution" and insert "tributions".

Page 67, line 20, strike out "intervening year" and insert "taxable year intervening".

Page 69, line 9, strike out "years" and insert "year".

Page 75, line 6, strike out "loss" " and insert "loss' ".

Page 75, line 13, strike out "such" and insert "any taxable".

Page 76, line 9, strike out "year." and insert "year,".

Page 76, line 13, after "expropriation" insert "loss".

Page 87, line 3, after "date of" insert "the".

Page 88, line 20, strike out "on or".

Page 92, line 6, strike out "year." and insert "year,".

Page 92, line 11, strike out ") relating" and insert "(relating".

Page 95, line 7, before "(c)" insert opening quotation marks.

Page 100, line 15, after "80a–2)" insert closing parenthesis.

Page 105, line 13, strike out "described" and insert "described".

Page 109, line 22, after "corporation" insert ", with respect to the plan described in subsection (a) (2).".

Page 110, line 7, strike out "plan" and insert "plans".

Page 116, line 1, after "poration" insert ", with respect to the plan described in subsection (a) (1) (A),".

Page 116, line 11, strike out "plan" and insert "plans".

Mr. LONG of Louisiana. The amendments are clerical.

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from Louisiana.

The amendments were agreed to.

Mr. CARLSON. Mr. President, I would like to inquire of the Senator in charge of the bill as to the application of the minimum distribution tables contained in section 123(b) of the bill, relating to minimum distributions from controlled foreign corporations under section 963(b) of the code.

Section 123(b) of the bill provides three separate minimum distribution tables to give effect to the new corporate tax rate changes. The first of these tables is provided for "Taxable years beginning in 1963" and is the same as existing law. The second table is provided for "Taxable years beginning in 1964"; the third for "Taxable years beginning after December 31, 1964."

Many U.S. corporations to which these tables will apply, may own one or more foreign subsidiary corporations having taxable years which differ from the taxable year of the U.S. parent. Is it intended that each of the references to taxable years in the revised minimum distribution tables is to the taxable year of the U.S. parent corporation receiving the minimum distribution and not the taxable year of any foreign subsidiary?

For example, is the table provided in section 963(b) (2) to apply in determining the amount of minimum distribution required to be received by a domestic corporation whose taxable year begins in 1964 irrespective of the taxable year of any of its foreign subsidiaries from whom the minimum distribution has been, or is to be received?

Mr. LONG of Louisiana. The answer to the question is "Yes." Similarly the table described in section 963(b) (3) is to be used for taxable years of the U.S. parent corporation beginning after December 31, 1964.

Mr. CARLSON. Mr. President, I appreciate very much the response of the Senator from Louisiana.

REVENUE ACT OF 1964

The Senate resumed the consideration of the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator from Louisiana yield?

Mr. LONG of Louisiana. I yield.

Mr. WILLIAMS of Delaware. I was talking with representatives of the Treasury Department yesterday, and I understand there may be technical error in the personal holding company section and that they might suggest an amendment.

It is my understanding that such an amendment would not in any way change the intent but would merely correct a draftsmanship error. I do not know whether the Senator from Louisiana is familiar with this or if he has the amendment.

Mr. LONG of Louisiana. As the Senator well knows, this bill is 379 pages long. It is extremely technical in nature. The Senator knows that the members of the staff are perhaps the most overworked persons in the United States, having been driven almost like slaves in a galley for the last 2 weeks, and, to a considerable degree, even for months preceding that. The staff has been working 16 hours a day, including Sundays, trying to do all the technical drafting necessary for the bill. People can be only human. They can make errors. No one is perfect. So if there have been a few oversights in drafting, we certainly wish to do away with any technical mistakes or any failures in language to carry out what was the intent of the committee when the staff attempted to carry out that intention. Our staff, and the Treasury staff, have performed Herculean tasks in drafting this bill in such a short time.

Mr. WILLIAMS of Delaware. I join the Senator in commending the staffs of both the committee and the Treasury.

Mr. LONG of Louisiana. It may well be that at some point in this lengthy bill of some 375 pages of technical drafting an undue hardship may have been inadvertently placed on someone. If that is the case, I will cooperate with the Senator in trying to correct it.

Mr. CARLSON. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. CARLSON. I wish to pay tribute to the staff and the Treasury for the outstanding service they have rendered to the committee in executive sessions as well as during the consideration of the bill on the floor. It was my privilege to serve for many years on the House Ways and Means Committee, and for the past 8 years on the Senate Finance Committee. This is the finest cooperation we have ever had. It was interesting to note that there were no problems this year in that connection. I think I should mention that previously there was discussion as to whether representatives of the Treasury Department should sit in with the committtee during consideration of the bill. This year there was no objection to the representatives of the Treasury Department continually sitting with the committee. I urged it. I think it was helpful.

I do not always support the views of the Treasury. At the same time, I think they can be helpful. This bill represents evidence of hard work. Some of the staff members worked on Sunday to get together a report in 2 or 3 days which might well have taken at least 10 days. They are entitled to great commendation.

Mr. WILLIAMS of Delaware. Mr. President, I join the Senator in congratulating the staff on the job they have done. It would be a miracle if we did not discover more errors before final passage of the bill.

Mr. LONG of Louisiana. We have found that the Treasury and the staff can be most helpful. On one particular occasion, the Senator from Louisiana did not prevail with an amendment when the Treasury did not agree with him on it. The Senator from Louisiana had not invited the staff to give views on what the result of the adoption of my amendment would be. That is what happens when we do not have the views of the advisers, and tell them to speak only when they are spoken to, when they are available for professional advice.

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Mr. CARLSON. Mr. President, I probably had more amendments that were opposed by the Treasury representatives and received less consideration or approval than any other member of the committee. Nevertheless, I appreciate their position and do not hold it against them.

Mr. SMATHERS. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. SMATHERS. I wish to join other Senators. I shall not prolong the tributes too long, but I wish to highly commend the staff for the wonderful work they have done. Without their help we could not have understood the bill, and the Treasury Department officials themselves, who, as the Senator from Louisiana has said, worked around the clock in order for us to consider the bill as expeditiously as we have.

I wish to ask the Senator from Louisiana certain questions for the purpose of clarification.

The first question is on section 216 of the bill, relating to interest on loans on certain insurance contracts. The general explanation of this provision, contained in the reports of the House Ways and Means Committee and the Senate Finance Committee, explains that "the interest deduction is not to be denied where the indebtedness actually is to finance business obligations, rather than to carry insurance." How would section 216 of the bill apply where life insurance is purchased by a business in the following situations:

First, a corporation which every year borrows substantial sums to carry on its business has agreed to pay employees an income after retirement. To fund this corporate obligation it purchases level premium life insurance but does not plan to borrow the funds needed to pay the premiums.

Mr. LONG of Louisiana. The answer to the first question is that the mere fact that the corporation purchased a cash value life insurance policy would not cause any disallowance of the interest paid on the corporation's normal indebtedness. This would be true even if the policy is later used as part of the collateral for the corporation's borrowings for purposes other than to carry life insurance policies.

Mr. SMATHERS. The second question is as follows: A finance company borrows money and lends it to customers. Is it correct that interest on the borrowed funds would not be disallowed as a deduction merely because the corporation also owned a cash value policy on the life of a key employee?

Mr. LONG of Louisiana. That is correct.

Mr. SMATHERS. The third question is as follows: A bank purchases cash value insurance on the life of one of its key executives.

Mr. LONG of Louisiana. The answer to that question is that no part of the deduction for interest paid to depositors

will be disallowed merely because the bank owns a cash value life insurance policy. Similarly, a corporation which has outstanding bonds will not have any portion of the interest paid on such such bonds disallowed as a deduction merely because it purchased cash value life insurance. In these cases, the interest deduction will not be disallowed unless there is a plan for systematically borrowing increases in the cash value of the policy, for example by increasing the amount of corporate indebtedness each year by the amount of increase in the cash value.

Mr. President, without prejudice to the pending amendment, I send to the desk another amendment, which I believe has been cleared with Senators on both sides.

The PRESIDING OFFICER. Without objection, the amendment offered by the Senator from Louisiana will be stated.

The legislative clerk read as follows:

On page 47, line 9, after the period, insert: "In applying section 79(b) of the Internal Revenue Code of 1954 (as added by subsection (a)(1) of this section) to a taxable year beginning before May 1, 1964, if paragraph (2)(B) of such section applies with respect to an employee for the period beginning May 1, 1964, and ending with the close of his first taxable year ending after April 30, 1964, such paragraph (2)(B) shall be treated as applying with respect to such employee for the period beginning January 1, 1964, and ending April 30, 1964."

Mr. LONG of Louisiana. Mr. President, this amendment has also been cleared with the Treasury and with both sides of the aisle. This amendment gives until April 30, 1964, for this 1 year, to give all rights to group term insurance over to a charity without the insurance giving rise to income to the taxpayer involved. This is to take into account the fact that the provision was not enacted by January 1, 1964.

Mr. GORE. Mr. President, reserving the right to object, the bill as it came from the House and as it was reported by the Senate committee moves to limit the amount of group term life insurance which can be carried on any employee without the employee having to include in his taxable income the value of the premium paid. Under present law, the employee is not subject to tax liability for the value of the premium paid but his employer corporation does receive a tax deduction. I am pleased, indeed, that, even though the limits are much higher than I believe equitable, the bill does contain a limit, as does the House version.

The Treasury advised us of instances in which corporation officers were given policies to the extent of $900,000, of coverage payable to their estates. The vast benefits which they receive under present law to the extent of the value of the premium paid go entirely without tax liability as to them. The premium payment thereon is entirely without tax liability, as to the employee, yet the premium payment is deductible as to the corporation.

So we have the case of an individual who is receiving a vast benefit without any tax liability thereon. Due to the corporate tax rate, the Treasury is financing a little more than half of the premium, for the total amount is deductible to the corporation.

Accordingly, I am pleased that we are moving toward a limit. The Treasury wanted initially a $5,000 limit; the House bill has a $30,000 limit. Unfortunately, the Senate committee recommends a $70,000 limit. I trust the conferees will agree to the lowest possible compromise.

The pending amendment, it seems to me, is all right, and I hope its adoption will assist in holding a good limitation in conference.

Mr. LONG of Louisiana. This is to prevent unintended hardship for persons who would have expected the law to have become effective on January 1, 1964, and found that they were prejudiced because it did not become effective on that date; so that date would be advanced to April 30.

Mr. GORE. Mr. President, I concur in the amendment.

Mr. SMATHERS. Mr. President, I congratulate the able Senator from Tennessee with respect to this particular amendment and the others in this field. There is no question that sometimes someone goes too far. In some instances companies bought too large policies for their executives; and I believe the practice was being abused. We owe a considerable debt to the able Senator from Tennessee for having called this situation to our attention. I believe we will arrive at a reasonable and sensible compromise, and I believe the Senator from Tennessee deserves the credit.

Mr. GORE. I thank the Senator from Florida.

Mr. WILLIAMS of Delaware. Mr. President, I should like to call up an amendment on behalf of the Senator from Iowa [Mr. MILLER], identified as Amendment No. 414, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The CHIEF CLERK. At the proper place in the bill it is proposed to insert the following:

SEC. . CROP INSURANCE PROCEEDS.

Section 451 of the Internal Revenue Code of 1954, as amended (relating to general rule

for taxable year of inclusion), is amended by adding the following subparagraph:

"(c) In the case of insurance proceeds received as a result of destruction or damage to crops, a taxpayer reporting on the cash basis of accounting may elect to include such proceeds in income for the year following the year of destruction or damage provided he establishes to the satisfaction of the Secretary or his delegate that, under his practice, income from such crops would not have been reported in the year in which raised."

Mr. WILLIAMS of Delaware. Mr. President, the purpose of the amendment is to provide a means to aid farmers who are accustomed to carrying a crop over and not selling it until after the first of the year.

Should their crops be destroyed, under existing law the insurance they collect for the damaged crops would be received in the same year they had sold their previous year's crops. This would result in a heavy tax in one year—the year of the crop damage—and a loss in the next year's taxes.

This amendment would allow the farmer to carry forward until the next year the amount he collects as insurance on the damaged crops.

[*P. 2241*]

I join the Senator from Iowa in urging its adoption.

Mr. MILLER. Mr. President, I thank the distinguished Senator from Delaware [Mr. WILLIAMS] for the courtesy in offering my amendment in my behalf during my unavoidable absence from the floor.

The Senator from Delaware has succinctly stated the purpose of my amendment.

I invite attention of my colleagues to the fact that the amendment applies only to farmers reporting on the cash basis of accounting. There is no need to cover farmers using the accrual or inventory basis of accounting. Let me give an example to illustrate this. Take an accrual-basis farmer who harvests $5,000 worth of corn in October, with the intention of not selling it until the following spring. He will have to include the $5,000 worth of harvested grain in his closing year inventory and compute his annual income accordingly. Now, if his crop is destroyed by hail and windstorm and he receives $5,000 in insurance proceeds, these proceeds will have to be reported when they are received in that year. In either case, whether his crops are destroyed or not, he is going to have $5,000 of income for the year the crops are being raised.

But the cash-basis farmer is in a different position. If his crop is harvested, and he does not sell it until the following year, he will not have to report the $5,000 income until the year of sale—the following year. If his crop is destroyed and he receives $5,000 insurance proceeds in the current year, however, he must report the $5,000 as income for the current year. This would mean doubling up income from crops from the previous year—which were not sold until the current year—with the $5,000 insurance proceeds. Thus, we have an abnormal amount of income thrown into 1 year as a result of a hardship over which the farmer had no control. My amendment would prevent this abnormality by giving the farmer an election to report the insurance proceeds in the following year, when the crops—had they not been destroyed—would have normally been sold.

My amendment requires that the taxpayer satisfy the Internal Revenue Service that it was his practice to sell his crop in the following year. This should not be difficult, because farmers who follow this practice can readily obtain records showing delivery of their crops in the spring or summer following the previous year when harvested.

If it be suggested that a farmer engaged in his first year of operations could not show an established practice, the answer is that it will not work hardship on him to report the insurance proceeds in the current year, since he will not have any crop income from a previous year to double up on.

A number of farmers seal their grain crop in the year of harvest. They have a choice of reporting the loan proceeds received from the Commodity Credit Corporation as income in the year the loan is received or in the year when the grain is actually sold. Once they make a choice of how they want to handle it, they are required to consistently follow their procedure until and unless they receive permission to make a change from the Internal Revenue Service.

In the case of a farmer who normally seals his crop in the year it is harvested, and reports the loan proceeds as income, he will not be adversely affected by having to report insurance proceeds received in the same year. My amendment would not affect him, because he does not need to be protected from the doubling-up problem. He already has a practice of reporting income from the crop in the year harvested, because he reports the loan proceeds received from sealing the crop in the same year.

In the case of a farmer who normally seals his crop in the year it is harvested, but does not report the loan proceeds as income and does not report the income until the crop is sold, he can readily show that income from the crop would not be reported in the year harvested under his practice, and my amendment would cover him and protect him from the doubling-up problem.

One other situation calls itself to mind. Take the case of a cash-basis

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farmer who feeds his raised crops. Normally he keeps enough feed on hand so that the crops raised in one year are not fed until the following year. But in one year the crops are destroyed and he receives insurance proceeds in that year which he must report as income. My amendment would not cover this individual, but it need not do so. He can already protect himself from an abnormality by simply taking the insurance proceeds, which he must report as income, and purchasing feed grain, using the purchase as an offsetting deduction. Thus he already can protect himself from an abnormality.

I have attempted to explain the various situations under which the application of my amendment might arise with a view to providing some legislative history to assist the Internal Revenue Service in the preparation of a regulation to cover this change in the law. I am confident that the equity of the amendment is readily apparent, and the only wonder is that the law was not changed long ago. I hope my amendment will be adopted, and I trust there will be no difficulty in having it approved by the Conference Committee.

Mr. LONG of Louisiana. I assume that this would be done with the understanding that if the amendment encounters any serious objection from the House the Senator will not be adamant. I should be glad to have the amendment considered in conference.

Mr. WILLIAMS of Delaware. That would be acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Delaware [Mr. WILLIAMS] on behalf of the Senator from Iowa [Mr. MILLER].

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee [Mr. GORE].

Mr. LONG of Louisiana. Mr. President, I yield 5 minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for 5 minutes.

Mr. SMATHERS. Mr. President, I thank the able Senator from Louisiana. With respect to the proposed stock option amendment of the able Senator from Tennessee [Mr. GORE], in this area I believe it is the general opinion of most members of the committee that there has been some abuse. In the case of the Chrysler Corp., which the Senator from Tennessee most eloquently pointed out some time ago, the president of that corporation was able to take company stock rather precipitately—I believe to his credit and business ingenuity—but in any event he was able to come out of the transaction with what would appear to be vast profits over the course of the years.

The stock option period has been carried out, and the option has been made, open end, so to speak, for such a long period of time that there have been cases where the profits have been inordinate, and I believe went too far.

There has been no abuse of the law. Nonetheless, I believe that some restriction should be placed upon the practice.

Mr. KUCHEL. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I yield.

Mr. KUCHEL. Do I correctly understand that no allegation is made in this debate that the present law has been violated?

Mr. SMATHERS. No allegation has been made that the present law has been violated.

Mr. KUCHEL. By any corporation?

Mr. SMATHERS. The Senator is correct.

Mr. KUCHEL. Then I understand that we have the present law; we have the recommendation of the committee changing the present law; and the Senator from Tennessee has a proposal now pending to change the provision in the committee.

Mr. GORE. The Senator is correct.

Mr. KUCHEL. I wish the RECORD to be clear that on this floor no one has alleged that any corporation in America has violated the present statute.

Mr. SMATHERS. The Senator is eminently correct. No one charges that. The only claim, which has been made—and verified to some extent by the recommendations of the Treasury, and the action taken by the House Ways and Means Committee, and now the action taken by the Senate Finance Committee—is that the law as it has existed, has been a little overgenerous with respect to the stock option features. Therefore, the Treasury, the House Ways and Means Committee, and now the Senate Finance Committee have tightened up in various respects on the stock option provision, which I shall describe in just a moment.

The Senator from Tennessee thinks we ought to go even further than the committee has gone. We have tightened up the situation in four major respects, which I shall enumerate. The Senator from Tennessee would like to go even further in tightening up the stock option provision.

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We had some very interesting testimony from the Secretary of the Treasury

and from many others with respect to the value of stock options, which are in the form of premiums that are given to young business executives who understand how to operate large business corporations.

Because of the high rate of taxes on large salaries, the only manner in which it is possible to attract talented young men to take over the guidance and operation of major business corporations, is to give them, in most instances, an opportunity to become part owners of the company. When such a man becomes a part owner in a company, an incentive is provided by setting a time limit and a price at which he can buy the stock, and the incentive is to make the company's profits bigger. As a result, everyone benefits. When the profits become larger, the price of the stock goes up. He can exercise his option, and take the stock. He can keep it for himself. If he wishes to increase his immediate cash income he holds it for 6 months, and then sells it. Of course, it then receives only capital gains treatment. Therefore, his taxable income in effect, is increased substantially.

Mr. GORE. Mr. President, will the Senator yield?

Mr. SMATHERS. I am happy to yield to the Senator from Tennessee.

Mr. GORE. The Senator makes a correct statement, in my view.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. SMATHERS. I yield myself 2 additional minutes.

Mr. GORE. I would not take from business and industry the flexibility needed to provide proper incentive compensation for employees. Of course, this can be accomplished through a bonus plan conditioned upon the success and profits of the corporation. The bonus plan can have an escalating clause. This was the incentive plan often used by business before the restricted stock option provision was placed in the law.

The Senator from Florida has given an example of how the salary of a corporate officer may be increased by the use of the restricted stock option, on which the employee would be taxed only at a low rate; or, if he wishes to keep his stock, pay no income tax at all.

Mr. SMATHERS. That is true of every stockholder. He does not pay anything until he gets something by the sale of the stock.

Mr. GORE. What the Senator has said is a fact. I agree.

Mr. SMATHERS. We are not in disagreement.

Mr. GORE. But if the salary of a teacher or bank clerk or grocery store clerk is increased, he pays more taxes. This illustrates the favoritism that is involved in this situation. The corporate insiders have a provision in the law by which they receive added compensation, but they do not pay taxes on this added compensation in the same way that ordinary American citizens pay taxes.

If we struck this provision out completely, business could still provide all the incentive necessary through a bonus plan. Under such a plan the ordinary employee or the officer would pay the same kind of taxes. They would be taxed alike on their reward.

Mr. SMATHERS. It seems to me that when a person is in the 70-percent bracket, there is not much incentive under the plan suggested by the Senator, when one sees 70 cents of every dollar taken out of one's salary to pay a tax to the Government. That is the reason, I suppose, for the stock option plan in the first place. Actually there are two reasons. I believe it came into existence in 1950.

It was done in order to get away from the very high personal income tax rate that was in existence. Even when a man's salary was raised, it was possible that he might get only 9 cents out of every dollar he earned. That did not provide very much incentive under the competitive conditions that existed with respect to attracting talented, bright business executives. Some plan had to be devised which would make it possible for them to buy into the company.

The second reason was that a person might own a little stock in the company. If he were an officer in a company, it would not look very good. For example, when I see how much an executive owns in a company, and I see that he does not own very much, I begin to think that it is not a very good investment to buy stock in that company, because the men who operate it apparently are not sufficiently interested in its success to own much stock in it. The officers may be working only for their salary, and that might lead me to believe they are not interested in making the company grow or expand.

It is something like the case of a professional baseball player, who goes from one team to another. In this case the man would probably go from one company to another, if he did not show enough interest in the company to buy stock in it. It would seem that he did not owe any great loyalty to his company. When a better offer came along, he would probably move to another company.

I am sure the Senator knows that from his own business operations. When a

man holds stock in a company he usually does a much more efficient job in helping the company become successful and in helping it to expand.

Mr. GORE. Mr. President, will the Senator yield?

Mr. SMATHERS. I am happy to yield.

Mr. GORE. In the beginning of his remarks a short time ago the Senator made what appears to me to be a peculiar but fair admission.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SMATHERS. I yield myself an additional 3 minutes.

Mr. GORE. The Senator expressed a too widely accepted view, namely, that we really do not believe in thc progressive income tax at all, because he said, in effect, that when a man receives a sufficient income, we ought to provide tax avoidance, or some way in which he can earn more money without paying additional taxes on it.

I dare say that many people hold that view. I am not one who does. I believe that we ought to have a federal income tax system based upon the ability to pay, and that we should measure every man by the same yardstick, and not give corporate insiders special treatment and make of them a privileged class.

That is what the present provision in the law, section 421, does, and the able Senator from Florida has just demonstrated what it does.

Mr. SMATHERS. I thank the able Senator from Tennessee. He states my position to some extent, and I understand his position. I believe that so long as a person works and produces, he is entitled to receive a reward for what he does. I believe in the progressive income tax, but I do not want it to get to the point where, when the person reaches a certain level of ability, he will receive nothing or practically nothing. That is what our present tax law has done. That is why incentive has gone out of a lot of businessmen. That is why we see, in many instances, men who do not work more than 3 or 4 days a week. That is why we are beginning to see some of the fortunes beginning to be reduced.

I had suspected all along that the able Senator from Tennessee believed that there should be a limit to what a person could earn; and when he reached that point, he should be cut off from earning more. I do not believe in that. I believe that if a person works and produces, he ought to have the right to receive compensation commensurate with the value of what he can produce.. Although the tax rate is high, I do not believe it should reach such a level that it would confiscate practically everything a person made.

The PRESIDING OFFICER. The time of the Senator from Florida has expired.

Mr. SMATHERS. I yield myself 3 additional minutes.

Mr. GORE. Mr. President, will the Senator yield?

Mr. SMATHERS. I shall be glad to yield, but first I should like to conclude my own statement.

Mr. GORE. I shall be glad to desist, but the Senator from Florida imputed to me views that he says I hold, but which I do not hold.

Mr. SMATHERS. Very well; I yield to the Sentator from Tennessee.

Mr. GORE. The Senator said he had suspected all along that the senior Senator from Tennessee thought there ought to be a limit to what a person could earn or hold or own. The Senator from Tennessee has never made such a statement as that. What I do believe, ardently, is that when we have a system of taxation based upon the income of the individual, we ought not to start to welsh upon the principle as soon as one gets into a bracket where he begins to pay in taxes a large share of his income. Unless one believes in that principle, we do not have a progressive system at all.

Mr. SMATHERS. While I do not wholly agree with what the Senator says, I shall use his argument with respect to

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stock options. Let us see what the committee has done along the line the Senator is describing. What we are really talking about at the moment is the stock option provision. The committee has tightened up on stock options. We believe, generally speaking, that stock options should not be eliminated. They are an important part of business operations; and they are needed in order to provide incentive to certain officials and certain employees. At the same time, we believe they afford an opportunity for employees to acquire a stake in the company for which they work. So we believe stock options should not be totally eliminated.

The section of the bill we are talking about requires a holding period for the stock of 3 years, as distinguished from the 6 months' period provided in existing law. That is a material change. Obviously, that provision had to be changed for the better, even in the mind of the able Senator from Tennessee.

Second, the maximum period during which the option can run is to be 5 years, instead of 10 years, as provided in existing law. In other words, it was for-

merly the view that a person who worked for a company for a period of 10 years during which he could exercise his option. If the price of the stock were to rise at the end of 9 years and 9 months, he could exercise his option, and there would be a great margin of difference, and he could take the stock, even at the interest price, and make for himself a large profit. We have shortened the time during which the option may be exercised by 50 percent. We have reduced the period from 10 years to 5 years.

Next, the stock option must be issued at the market price on the date of grant, as against 85 percent of that price under existing law. It should be remembered that stock options are not always made available only to the president, vice president, treasurer, and other officers. I know of many cases in which companies provide stock options to employees as far down as floor walker, janitor, elevator operator, and others.

If the stock were selling at $100, the company could let its employees buy it at $85. Under the committee's proposal, that would not be possible any longer. The option must be issued at the market price on the date of the grant, although the employee would not have to exercise the option at the moment. The date on which the opportunity to buy stock is fixed; and it must be offered at the market price on that day.

Those are three respects in which the committee has materially tightened up the stock option section.

Another respect in which we have tightened up is that the bill modifies the provisions so that the price of stock options can no longer be reset when the price of the stock goes down. That is self-explanatory. That is the fourth way in which we have tightened up the stock option provision. If the price of the stock goes down, the company cannot set a lower price. It must retain the price as of the first date of issue, if they exercise it, and wait until it reaches the price at which it was originally set. Obviously, if the price of the stock goes down, the employee will not use his option. That is another important way in which the stock option privilege has been tightened.

The fifth way in which it has been tightened is that stockholder approval now must be obtained for the option plans. Rather than to let a few executives of a company meet and set for themselves and their employees the kind of stock option plan they propose to allow their employees to have, it is now proposed to require the company executives, who obviously would previously have made the determination, to hold a regular stockholders' meeting. The stockholders, whether they own 1 share, 10 shares, 50 shares, or 50,000 shares, would in the future be called into meeting and advised as to what the new stock option plan would be. So if there is any stockholder who believes the proposed option plan would be a little too generous to persons in the higher echelons of the company, or if he did not like the way in which the company was operated, or thought it might cost too much money, he would have an opportunity to disagree with the proposed plan.

I have enumerated what the committee believes are five effective ways to tighten up the entire stock option provision. If it is agreed at the outset that stock options are necessary for incentive and to provide responsible management of business, the Committee on Finance, the Treasury, and the Committee on Ways and Means have provided five effective ways in which to tighten up the stock option proposals and to eliminate practically all the abuses, including the abuses about which the Senator from Tennessee has been speaking.

Mr. LONG of Louisiana. I can appreciate the arguments of both sides—the argument made by the Senator from Tennessee [Mr. GORE] and the argument made by the Senator from Florida [Mr. SMATHERS]. When this provision first became law, I voted for it. I did not understand it too well, but I was persuaded by the late Senator Kerr, of Oklahoma, that in view of the almost confiscatory rate of taxation in the upper income brackets, some relief should be provided as an incentive to energetic young men to go into management and stay with the corporation. It was felt that they should be encouraged to work, in the Horatio Alger sense, to make for themselves a substantial income, to be a personal success, to be a success in business and finance. It was designed, one might say, to enable a person to earn his way from rags to riches by becoming a great success as a leader or captain of industry.

Industry's argument today is that something of this sort is needed in order to attract and retain good management.

So the Senator from Louisiana voted for the provision at that time. However, I am frank to say that it was the confiscatory tax rates in the upper income brackets that caused me to vote for the provision when it became law in 1950.

When President Kennedy proposed tax legislation that would afford a large measure of relief, to overcome the confiscatory rates and provide a number of adjustments that business was well en-

titled to expect, it seemed to me that the case for the qualified stock option could no longer be justified, liberal as that provision is, for the benefit of those to whom it applies.

At that time I stated that I expected to vote for the Kennedy recommendation; and, in truth and in fact, I did vote for the Kennedy recommendation. In the committee, the Senator from Tennessee moved for adoption of the Treasury's recommendation, as originally made by President Kennedy; and I voted for it, for it seemed to me that it made good sense. However, that was not the view of the majority of the committee. The majority of the committee felt that we have substantially tightened up in this field, and that the amendment would result in going too far; and the majority of the committee feels that the incentive is necessary.

Mr. President, I feel that, all things considered, the amendment represents a fair compromise between the views of the contending sides. I hope that next year we shall consider the stock option situation, and shall determine whether we should improve or change this situation one way or the other. Perhaps we have gone too far.

It is contended that a requirement that a person must exercise his first option first would be unfair, in that a person might have two options, one selling below the market and the other selling above the market, and that it would be unfair to require him to sell the one on which he would lose money, instead of selling the one on which he would gain money.

Next year we can consider all those situations, and can determine whether we have gone too far in this field.

But insofar as the committee felt that the case for relief was justified, the committee did act to provide some flexibility.

I feel that it was most unfortunate that the name of the Chrysler Corp. was used extensively in the debate, for, so far as I am able to determine, it was by no means the only large corporation using the stock option plan in just the way it was intended to be used, in order to make it possible for the corporations to acquire good management.

If I may relate a personal story, my own mother was trustee for certain funds for her grandchildren; and she bought some Chrysler stock at a time when Chrysler had poor internal management and when all sorts of difficulties confronted it. For a while she thought she had made a bad decision—because of the situation then existing in the management of that corporation. However, we are told that the stock option incentive was one of the main reasons which caused the management of that company to improve and caused the stock to double or more than double in value. In fact, I think it actually increased in value five times. So, so far as my relatives are concerned, they do not have any objection whatever to the stock option plan, and they are not the least disturbed about the fact that the Chrysler Co.'s executives made a profit by means of the plan.

After all, Mr. President, if a friend proposed to one of use that he knew how to make some money by means of a good

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business deal, one of us might reply, "Fine, I will put up some of the money you need; and when you succeed, I will share in the profits."

So that development was a fine break for the Chrysler Corp., for in that way it acquired improved management; and I doubt that one would find that anyone who was holding 100 shares of Chrysler stock at the time when the Chrysler Corp. had poor management, and who subsequently found that the stock rose very greatly in value, now begrudges that development. In fact, many persons will contend that is exactly what Congress wanted to happen in connection with the stock-option plan. So if the stock-option plan was largely responsible for that result, I think they would bless us for voting that provision into the law and for letting the Chrysler Corp. take advantage of it.

I have referred to that great corporation because it happens to be one of the large employers in Louisiana, as a large contractor.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement from the president of that corporation, together with certain explanatory information which I believe was prepared by the information officers of that corporation. The material is in regard to that transaction.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

WHAT STOCK OPTIONS MEAN TO INCENTIVE

Incentive is a critical ingredient in any economic system. The chance to sharply improve their condition is the chief reason men work hard. This has been true for a long time, and in many kinds of societies (even the Soviets are now making increasing use of personal incentives for their managers), but it has been true to a unique extent of this country. The opportunity to make it big if you're good enough is an essential part of America.

For 200 years this has been perhaps the world's most open society—which is to say,

the one in which personal incentive has had the most hope of fulfillment. We have tried to encourage, not dampen, incentive through many devices; for example, through the development of a system of education which provides more opportunity—and personal incentive—than any other country, and by far. We have tried to encourage personal incentive, and protect the spark which it provides for the whole society, in many ways. These include the law, and it is with such a law that we are concerned here.

The incentives for hard work and good performance in American business are complex, but three, at least, are unmistakable. One is the satisfaction and self-esteem that comes from doing a job well. Another is the tangible reward of money; the hope of acquiring not only enough for the things one wants today, but for the establishment of an estate. The third is a sense of ownership; of being not an employee, but a partner; of feeling "I helped build it, and a part of it is mine."

Probably every highly successful man in American business seeks in some combination all three of these rewards. But basic changes in the nature of the American corporation in the years after the great depression sharply affected the hopes of their attainment by an important group of men. This was the period which crystallized the trend away from the family-run corporation which was not only owned, but directed, by individuals of great inherited wealth. A new kind of man took over the essential decision-making functions of industry. He was a manager, not a capitalist; he was a technician, a man who knew how to make businesses go. And he was almost invariably a salaried employee.

This fact sharply limited his personal incentive. The fact that his salary might be high—very high indeed, in some cases—did not solve the problem. Taxes on income were high enough that it was, by the end of World War II, impossible to build a personal fortune through salary alone. And, if the corporation was of substantial dimensions, it was equally impossible to accumulate—through salary—enough money to buy into the business in any sizable way. This left the new breed of executive with a comfortable way of life and, presumably, great personal satisfaction—but little else.

There was, in both business and in some circles in Government, particular concern about the lack of opportunity to share in ownership. Stock option plans were devised as a means of opening a shorter road to something beyond employee status.

Essentially, a stock option is the right granted to an employee to buy a specified stock in his company at a particular price. The price is the market price, or very near it, on the day the option is granted. The employee then retains the right to buy that amount of stock, at that original market price, over a period of time (the length of time varies, depending on the company; the legal limit is 10 years). If the price of the stock goes up during that period, he has, in effect, a bargain. If it does not, he normally wil not exercise the option.

This procedure obviously represented some encouragement for top management to build a deeper interest in their company's performance, but stock option plans did not become popular immediately. Until 1950, gains realized from the sale of stock purchased on options were considered compensation by the Treasury Department; they were regarded, in effect, not as profits, but as a part of salary, and were subject to standard income tax rates. Hence, the dampening effects of a high rate schedule on personal income tax continued, essentially, to operate.

In 1950 the law setting up restricted stock options was passed by the Congress and signed by President Truman. The law set forth new, and more restrictive, rules concerning the award of stock options, but its most important change was a redefinition of the philosophy for taxation. Senate Report No. 2375, 81st Congres set it out in this fashion:

"Such options are frequently used as incentive devices by corporations who wish to attract new management, to convert their officers into 'partners' by giving them a stake in the business, to retain the services of executives who might otherwise leave, or to give their employees generally a more direct interest in the success of the corporation."

To meet this need for a kind of incentive which could not be provided by treating option-stock gains as salary, the law of 1950—modified slightly, from time to time, by later Congresses—provides that profit from the sale of stocks bought under restricted option plans and held for at least 6 months shall be taxed as capital gains.

With this modification in the concept of taxation in relation to incentive, restricted stock option plans rapidly became more popular. By 1951, 85 corporations had adopted such plans; by 1958, some 800; and by 1961 well more than half (714) of the firms listed on the New York Stock Exchange alone were using restricted stock options as a primary incentive for managerial talent. One of these was Chrysler, which adopted a plan of this kind in 1952.

The reasons why so many major corporations found such plans attractive was put succinctly by Henry Ford II, who, after pointing out that he did not and would not hold any options in his company, said:

"We (had) developed a group of exceptionally able younger men who contributed materially to the company's growth and who were not being rewarded commensurately with their contributions. * * * Some outstandingly capable people left us for that reason.

"When Congress authorized restricted stock options by amending the Internal Revenue Code, it gave us an effective means to recognize and stimulate exceptional performance. * * * In 1953, when our only shareholders were members of the Ford family and the Ford Foundation, the board of directors made its first grants of restricted stock options to 114 key employees, thus breaking a tradition of long standing.

"We have had no reason to regret that decision. I am convinced that, in broad effect, stock options have helped materially to raise the company to third place among American industrial corporations in total dollar sales. Without stock options or some comparable

incentives, the same results would not have been achieved." (Harvard Business Review, July-August 1961.)

Restricted stock option arrangements work well for many kinds of companies, as well as for many kinds of employees; the fact that they are useful to small corporations as well as large ones, to middle-range executives as well as the top echelon, have helped increase their popularity. And such a plan was to be particularly useful to Chrysler. The way it operated in this corporation is described in the next memorandum.

RESTRICTED STOCK OPTIONS AND CHRYSLER

The fact that restricted stock options would play an important part in Chrysler's future was not apparent in the first years after the plan's adoption. The period 1952–58 was one of overall decline in the market price of the company's stock; there was little advantage in the option prices generally, and only about 20 percent of options granted were exercised. This decline became more precipitous and the general position of the corporation weaker in the 4 years (1958–62) which followed; no restricted stock options were taken up during this period.

Unable to meet its competitors on across-the-board salaries and bonuses to its top officers, Chrysler was able to put the restricted stock option law to work to do what it was designed to do: to provide incentive, to say to the men it needed and wanted most "come with us and stick with us; make the company's future your future, and you will be rewarded." The men who would be attracted by this kind of challenge, it might be assumed, were the kind who could meet it best.

The success of the Chrysler Corp. during the past 2 years has been spectacular, a story almost without parallel in terms of major modern corporations. And if the rewards of the men at the center of this massive corporate rebuilding have been substantial, it should be no surprise. This is precisely the way the system is supposed to work. Specific figures for Chrysler's top officers are shown on the following table:

	Number of shares purchased [1]	Difference between market value and option price [1]
Officers who are directors:		
Paul C. Ackerman	24,000	$194,535
R. S. Bright	30,000	500,175
John D. Leary	10,000	133,725
George H. Love	80,000	1,281,614
F. W. Misch	32,000	481,981
E. C. Quinn	43,200	632,298
Lynn A. Townsend	37,600	667,483
Total	256,800	3,891,811
All executives	876,000	13,658,979

[1] Equivalent number of $6.25 par value shares, after adjustment for stock splits, Apr. 19 and Dec. 20, 1963.

Source: Chrysler Corp. and SEC reports.

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The most important point is not that some individuals profited, but that a company which is a substantial force in the American economy is contributing to that economy with a vigor undreamed of 3 years ago. The evidence is striking:

Chrysler sales and earnings, 1958–63

	1963 [1]	1962	1961	1960	1959	1958
Net sales.....million dollars	2,212	2,378	2,127	3,007	2,643	2,165
Earnings (loss) before taxes on income.....do	148	126	21	66	(10)	(74)
Taxes on income (credit).....do	47	61	10	34	(5)	(40)
Net earnings (loss).....do	101	65	11	32	(5)	(34)
Per share (on present shares).....dollars	2.72	1.81	.31	.90	(.16)	(.97)

[1] 9 months only.

The rewards for incentive shown in table 1 would not have been possible without the corporate success shown in table 2; they are inextricably linked.

This point has sometimes been lost sight of in the past few months. Critics have pointed to the fact that many of the chief officers have taken advantage of the rise in the market value of the company's stock, as well as two splits, to obtain substantial personal gains. This is unquestionably true; once again, it should be pointed out that this is the way the system is supposed to work.

Some critics have gone further than this, however. They have charged that this is profit taking pure and simple, and that any presumed longtime interest in ownership is a sham. This is not true. An account of the operations of the Chrysler stock option plan is available in the report to the Senate Committee on Finance prepared by the Treasury Department and the Joint Committee on Internal Revenue Taxation, and comprehensive tables set out the activities of each of the officers as well as the general dimensions of the plan. At the end of 1963, the year in which more options were exercised than in all the rest of the company's history, Chrysler officers held almost seven times the amount of stock they held at the year's beginning. The willingness to reinvest in one's own company the profits just earned from it would seem the clearest kind of long-term commitment to partnership. There is another indication of that commitment in the fact that over half the options granted officers of the company since 1958 still have not been exercised. This hardly represents a cynical gutting for the sake of a fast dollar.

It has been said also that the utilization of restricted stock options is risk free; that

it is a game in which it is possible only to win and impossible to lose. This is hardly the case; in the first place, it is a naive view of the highly competitive automobile business in which much is constantly at stake for any officer. The slightest competitive advantage can have implications of millions of dollars. In Chrysler's case, the necessity to fight for its life in competition with two larger competitors has made the atmosphere of risk perpetual. This risk is made clear by the fact that 6 months ago there were 5 major automobile companies in the United States—and now there are 4.

Secondly, this is a naive view of personal finance. Options must be exercised for cash and in full. (This meant that most of Chrysler's officers had to arrange personal bank loans, at their own risk.) An officer must at minimum hold this stock for 6 months. If the stock goes down sharply in value, he can be wiped out—and this has happened in American corporations. If it declines substantially, he will be asked to provide more collateral. His debt, and his risk, are genuine indeed; and the pressure upon him grows as his participation increases. This is a major reason why, in the early stages of a profitable option cycle, many options are exercised; their holders pay off their debt so that in future purchases they will be working with their own, and not borrowed, money. Although the holder of restricted stock options has what is in many ways an advantageous position, it hardly can be described as free of risk.

Finally, there have been attempts to give the whole business of restricted stock options a vaguely tainetd air; as if it were a process which, if not illegal, is somehow unethical or unfair. It has been described as a "tax loophole," which it is not; a loophole is a defect unwittingly built into a statute through faulty drafting, or emergent because of changing circumstances. The law of 1950 has worked precisely as it was designed to work; the Chrysler experience demonstrates its full potential. The concept of capital gains taxation was deliberately built into the law to produce incentive—and incentive has been built into the American economic system to make it function increasingly well, to the benefit of all of us.

STATEMENT ISSUED BY GEORGE H. LOVE, CHAIRMAN OF THE BOARD, CHRYSLER CORP.

NEW YORK, December 20.—A lifetime spent in American business has made me proud of our system and of the businessmen which it fosters. A few days ago, as chairman of Chrysler Corp.'s board of directors, I commented during a special meeting of the company's stockholders on the remarkable progress Chrysler has made in the short space of 2 years.

Furthermore, I reported with some pride on the working of the stock option plan which, as an incentive to its vigorous management team, has helped that company write one of the finest comeback stories in the annals of American business.

I have been shocked at the reaction which my rather forthright statement seems to have aroused. I feel so strongly about the stock option plan and its value that I want to make certain things very clear. Two years ago Chrysler was floundering. The search for top management candidates outside the company was fruitless—no one wanted the job. We finally decided to entrust the fortunes of the corporation to the younger but experienced and aggressive men who were running it on an interim basis. By using stock incentives already approved by shareholders, and thus holding out the opportunity to share in the company's improvement, good men, both in and out of the corporation, were persuaded to tackle this really formidable task.

How well have they succeeded?

The company's earnings have gone from $11 million in 1961 to $65 million in 1962 to $100 million in the first 9 months of this year.

The value of the company's stock has increased by over a billion dollars in 2 years' time.

The dividend on the original shares has been doubled and doubled again.

The company's dealer body—each an independent and important business in itself—has grown to 6,000 and is still growing.

The company enjoys full employment—every man and woman laid off in the lean years has now been offered reemployment in a Chrysler facility.

The company's purchases are near an all-time high.

The company is now expanding vigorously at home and abroad. This expansion will mean thousands of additional jobs.

The company's tax payments for 1963 will be among the highest in its history.

Furthermore, from the stockholders' standpoint, the stock option is the most economical method of incentive. And it has the added advantage of making possible a significant investment by men who are not wealthy. It is important to get these young men out of debt so that they can devote full energy to their job, and pull themselves into the position of making additional purchases with their own earned capital.

It should be remembered that the total dispositions by officers of Chrysler Corp. since the end of February 1961, have amounted to less than one-third of their total purchases and that they today own over 10 times as many shares in their company as they owned at the end of February 1961.

Naturally, the personal investment situation varies from officer to officer. In my own case, having been in business for many years and having achieved a measure of financial security, I have neither the need nor intention to dispose of my option purchases of Chrysler stock. With younger men whose salaries are their principal income, the situation is of necessity different.

I feel so strongly that stock options are important to the successful management accomplishment we are seeing at Chrysler and also to the maintenance of national economic strength, that I will gladly make myself available at any time to anyone in our Government who wishes to discuss the workings of this plan in detail.

Mr. LONG of Louisiana. Personally, Mr. President, I am inclined to take their view that that was an intended use of the stock option plan; and I am in-

clined to believe that if they went too far with it, Congress should modify the law, after studying all the facts.

I think it unfortunate that the way the matter was handled caused a temporary decline in the price of the stock. However, all of us recognize that unfortunate events or developments often cause the price of stock to fall. I recall that on one occasion when an investigation was being made of stock market conditions and the situation with regard to a number of corporations, the result was a temporary decline in the price of the stock of the American Telephone & Telegraph Co.; but soon it recovered from that drop.

Mr. KUCHEL. Mr. President, will the Senator from Louisiana yield?

The PRESIDING OFFICER (Mr. KENNEDY in the chair). Does the Senator from Louisiana yield to the Senator from California?

Mr. LONG of Louisiana. I yield.

Mr. KUCHEL. As I understand the statement the Senator from Louisiana has made, he believes it inappropriate and inaccurate to describe as an abuse the stock-option arrangements which were entered into by the Chrysler Corp.

Mr. LONG of Louisiana. Yes. Of course, all that is a matter of opinion; but I would say that if the Senator had placed 100 shares of Chrysler Corp. stock in trust, for the benefit of his children, and if the stock was then worth $4,000, and if partially as a result of the stock-option provision which Congress passed, the market price of that stock increased to such an extent that the value of those 100 shares rose from $4,000 to $20,000, the Senator would be inclined to bless

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Congress and to bless the corporation, and would feel that he was happy to have the corporation's executives share in his good fortune.

Mr. KUCHEL. I have asked the question so that we can understand that the use of the word "abuse" in connection with that situation is not relevant.

Mr. LONG of Louisiana. Of course, it all depends on a person's point of view. From one angle, someone might consider that development an abuse.

Perhaps that situation is somewhat similar to a situation which developed shortly after a papermill was established at Hodge, La. When the mill began operations, some of the people in that community complained about the smell. But an old storekeeper there said, as he rang up purchase after purchase on his cash register, "You know, every time I push the button on this cash register, the smell from that mill smells—to me—just like Chanel No. 5." [Laughter.]

I think that is the average reaction. Of course, someone might feel resentful when he found that the officers of the corporation had made more money; but no doubt the stockholders feel tickled pink about that entire situation.

Mr. MORTON. Mr. President, will the Senator from Louisiana yield briefly to me?

Mr. LONG of Louisiana. I yield 3 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 3 minutes.

Mr. MORTON. Mr. President, I support the committee's position, and I am in opposition to the amendment offered by the Senator from Tennessee [Mr. GORE].

As has been pointed out by both the Senator from Florida and the Senator from Louisiana, the stock-option plan has developed in recent years, since World War II, during the period of high, confiscatory taxes. This plan would not have been developed if there had been more moderate income-tax rates.

Some economists say our country could get by with a maximum personal income-tax rate of between 35 percent and 40 percent, if Congress eliminated all tax-free obligations, eliminated all depletion, eliminated the credits for charitable contributions, and also eliminated this, that, and the other provisions. But we know that will not be done.

So we are reducing the rate from 91 percent to 70 percent; but 70 percent is still a very confiscatory tax rate for a person who has all his income come from his own earnings, and thus be subject to the full tax.

That is how this situation came about.

I also share the opinion of the Senator from Louisiana in connection with the publicity the Chrysler Corp. received. It happened to receive a considerable amount of publicity—whereas hundreds of others are using the same plan. Mr. Love became Chairman of the Board and reorganized the management—why? He was not necessarily trying to bail out the Chrysler Corp. stockholders. Certainly he is engaged in other important operations.

He is one of the leading management authorities in the United States. He did what he did because he had a personal reason to do so. If he were successful, he had an opportunity to make some money for himself. Is that so wrong? Who would try to straighten out that stack of worms if an incentive had not been provided?

Therefore, what the Committee on Ways and Means and the House itself have done to tighten the provision is

probably a good thing. We may have to tighten it further. We may have to relax it somewhat. We will have to see what happens. But basically there is nothing wrong in what occurred. What has made our country great is a fundamental will to produce. While America has many natural resources, it has also a great people. In 150 years we did more than any people in human history. Why? Because we had the will to produce.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LONG of Louisiana. Mr. President, I yield 1 additional minute to the Senator.

Mr. MORTON. We have an incentive system that generates and nourishes the will to produce. If we kill the will to produce, we will never take care of the 4 or 5 million who are unemployed today. We will never expand our economic horizons as we are hopeful of doing as a result of the bill. For those reasons, I believe the tightening up process has gone far enough. I trust that the Senate will support the committee and reject the amendment of the distinguished Senator from Tennessee.

Mr. KEATING. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield 1 minute.

Mr. KEATING. Mr. President, I desire to add a word to what the distinguished Senator from Kentucky has said. Frankly, I have not reached a conclusion yet as to whether I shall support the Gore amendment. I believe the stock option provisions should be tightened. The committee has done a good deal of tightening. There has been an increase in the holding period for capital gains treatment. The period during which options may be outstanding has been cut in half. Options would no longer be issuable at bargain prices. Very importantly, stockholder approval of option plans would be required. These are all substantial reforms, and should be given a chance in operation. Whether the committee has gone far enough is a question I have not yet resolved, and I can assure the Senator from Tennessee [Mr. GORE] of my earnest attention to his arguments.

However, on reading last night's RECORD, I was rather distressed to see that a particular company—the Chrysler Corp.—was singled out for criticism. I hope no intimation will be left that what has happened in the Chrysler Corp. is unique or unusual. Executives in a great many companies have been taking advantages of the stock option provisions. No one has alleged, and I do not believe anyone could properly allege, that there has been anything illegal about it. All these executives have lived completely within the letter of the law. For this reason, I very much resent seeing any one company made a scapegoat. After all, that company has competitors which have pretty much the same kind of stock option plans for their own executives. So, one company should not be singled out unless there should be a clear case of illegal transactions. I do not understand that the distinguished Senator from Tennessee [Mr. GORE] is making such a contention. If he is, I would appreciate the Senator clarifying it.

Mr. GORE. Mr. President, will the Senator yield?

Mr. KEATING. I yield.

Mr. GORE. I do not know why the Senator from New York raises the question.

The PRESIDING OFFICER. The 1 minute yielded has expired.

Mr. LONG of Louisiana. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Louisiana [Mr. LONG] has 8 minutes, and the Senator from Tennessee has 20 minutes.

Mr. GORE. I yield the Senator 1 minute of the time allotted to me. I do not know why the Senator from New York raises the question of using the Chrysler Corp. as a scapegoat. No one has attempted to do so. But this transaction is an example of abuse by the corporate insiders of the loophole that is in the law.

I do not mean to say that they acted illegally. As far as I know, and so far as the Treasury report after its investigation showed, the transaction was entirely legal. The point is that I am trying to correct the law. I am not charging that these people have acted illegally at all. The committee unanimously asked for that report, and I placed the report of the Treasury in the RECORD.

Mr. KEATING. Mr. President, will the Senator yield 1 minute?

Mr. LONG of Louisiana. I yield 1 minute.

Mr. KEATING. I was reasonably sure that the Senator from Tennessee was endeavoring to present his case without reference to particular companies, but this particular company was the only one cited in the RECORD. I felt that it would be unfair to any one company to have it appear that that company was unique in its operation. That is the only point I was making. As I have said, I am not yet sure where the merits in the amendment are, but in fairness, I did not want to permit the RECORD to be construed as an attack upon any particular company.

Mr. GORE. Mr. President, I have cited many instances in debate and in the course of the committee hearings in which this loophole of tax favoritism has been abused. In 1961 I used IBM as an example. I cited the stock option benefits received by the president of that corporation, Mr. Thomas Watson. I did not do so by way of criticism of Mr. Watson. I do not now mention his name

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in any critical way. But to cite the abuses which are legally available and the inequitable situation that is legally made possible, I have mentioned him. I desire to close that loophole. That is what I have been fighting for. President Kennedy asked that the loophole be closed.

Since I have referred to Mr. Watson—and again I say uncritically—I should like to cite the record.

Mr. Watson is a man of great talents. He has made great social contributions. I honor him for his contributions. But he is also a man who inherited a large fortune. I do not condemn him for that. But why should the Senator state that it is necessary, as an incentive to Mr. Watson, who already owns a very large share of IBM, to give him stock options on which he has a profit of more than $5 million?

I point out also that the record does not show that he has sold any of the stock. What he intends to do with it, I do not know. But there is an example of the president of a corporation who, through the entirely legal device about which we have been speaking, has been receiving and earning a fortune of $5 million on which he has not paid one dime in taxes, and on which the law does not require him to pay any income taxes. Yet every person who sweeps the floor pays taxes out of every check he receives.

Let Senators examine their consciences. Shall we continue to let corporate officers be a privileged class? Not only are they receiving compensation without tax liability, but we are also enticing them to increase their option benefits, thereby reducing the value of the stock which the ordinary stockholder holds.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. JAVITS. The Senator has been quite fair to Mr. Watson, whom I know as a constituent, and whom I regard very highly.

Mr. GORE. So do I.

Mr. JAVITS. I should like to add one point to the recital of the Senator from Tennessee which I think is important. Tom Watson is not only the president of the IMB Co., but also he operates the company in a very active way. I believe he spends about as many hours on the job as we do. That is important.

Second——

Mr. GORE. Before the Senator proceeds to his second point, I wish to say that I agree with everything he has said. I know Mr. Watson. I hold him in high regard. I say for the third time that I do not speak critically of him as a citizen or as an officer of a corporation. He has taken advantage of the law, and our eyes are open to it. So are his. True, he operates the company. I merely cite that example as an answer to the canard that we must provide stock option benefits for preferential tax treatment in order to give the officers of a corporation an incentive to run their business efficiently.

Mr. Watson would operate the business efficiently whether this loophole was in the law or not. He already owns a substantial part of it, and I think he would.

Furthermore, if I may allude once more to Chrysler Corp., the Senator from Kentucky made a statement earlier about how Mr. Love had increased the profits of that corporation. The truth is that last year was a great automobile year. The percentage of Chrysler's share of automobile sales has not significantly changed during the last 5 or 6 years. Six of the Chrysler Corp. officers who made a killing last year on stock options have been in the employ of the corporation for years and had options at least as early as 1958. They did not suddenly have to become activated. They did not suddenly have to be offered this premium or incentive to perform for Chrysler Corp. They had made a career in Chrysler Corp. Yet in a 7-month period last year they made a killing.

They receive compensation for their services, and they should pay taxes on their compensation the same as a man working on a lathe has to pay taxes every week from his salary.

Mr. JAVITS. As a friend of Tom Watson, let me say that he has not only operated the company well, but with phenomenal success. I do not know whether the stockholders vote on these options, but I am sure they would approve——

Mr. GORE. If I may interrupt, stockholders do approve most of them; but, as the Senator knows, the business of stockholder approval, with all the proxies that are held, is a mere formality. The corporate officers control the corporation, in large measure.

Mr. JAVITS. In my judgment, that fact cannot be used as an argument. A stockholder has a right to vote——

Mr. GORE. Let us not get into that argument. Let us say that the stockholders approved.

Mr. JAVITS. My next point is that I am sympathetic toward the Senator's position. I only suggest we would be better advised if we sought to spread the stock option doctrine to the man who works at the lathe than to penalize certain persons for helping to produce great results for the American economy.

Mr. GORE. The Senator has a suggestion that is on all fours with a provision in the bill. There is an employee purchase plan provision in the bill, but it must be nondiscriminatory, and I think it should be nondiscriminatory. Under this plan, every employee of a corporation can be given an option to buy $25,000 worth of stock annually at 85 percent of the market value the day he receives the option. This can go on year after year; but it must be nondiscriminatory. My amendment leaves that provision in the bill. But over and beyond that, the bill has this other category, the "qualified" opinion. This is the "top insiders" deal, and there is no limit on it. It can be $250 million. It can be any amount.

That is unconscionable. It is wrong. It sets up the corporate officers as a privileged class. We permit them to receive compensation on which they owe a very limited tax liability; and, if they are affluent, on which they will owe no income tax liability whatsoever.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. PASTORE. What does the Senator's amendment do?

Mr. GORE. My amendment would strike from the bill this new category of qualified stock option. It would in no way affect the stock purchase plan, which must be nondiscriminatory.

I would strike this qualified section on which there are no limits—to be specific, section 422.

If we are to permit under the law preferential tax treatment for stock options, there ought to be two conditions: First, it ought to be nondiscriminatory. The man who works by the hour should benefit from the profits of that corporation, the same as the man who works at the front office. Second, there should be some reasonable limit to the amount of the options.

There is in the bill a provision that does exactly that: First, it provides for nondiscrimination; second, it is limited to $25,000 a year. Third, the option can be granted at 85 percent of market value.

I think this is liberal enough for the man at the top or the man at the bottom. True, the man working on a machine will not be able to buy $25,000 worth of stock a year; but the man at the top may be, and it seems to me that is enough incentive for him to have.

The bill now contains section 422. This provides a new category, called "qualified" options to replace the present restricted stock option.

Mr. PASTORE. Mr. President, will the Senator yield further?

Mr. GORE. I yield.

Mr. PASTORE. I am sympathetic toward the Senator's amendment. My reason is simple, without mentioning personalities, which is regrettable, because Mr. Watson and I are cotrustees of Brown University. I have great admiration for him. I regret that anyone's name had to be used on the floor of the Senate. But that as it may, I have known cases in which ingenious and talented persons had been taken into large corporations and, within 5 or 6 years, became very wealthy men. Some retired from the corporations after only 10 years and had so much money that they could not spend it during the remainder of their lives. I heard that testimony in some of the committees on which I have served. I am not critical, because they are acting within the law.

Mr. GORE. But we are lawmakers.

Mr. PASTORE. There is abundant legal opinion to the effect that no man has to be embarrassed or apologize for doing what the law permits. But the fact is that something should be done about it. What disturbs me is the ceiling of $25,000. Why could it not be measured on a man's salary? Would that not be more effective? Suppose a man earns a quarter of a million dollars. Why should he be confined to $25,000? Why not base it on his salary or earnings? I think it should be based on a percentage of the salary that the board of directors are willing to pay him, rather than have it

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gaged arbitrarily at $25,000. To me $25,000 is a large sum of money, but I know that to some of my colleagues $25,000 is not much. I am looking at the Senator from Ohio [Mr. LAUSCHE].

Mr. GORE. In which category does the Senator from Rhode Island put the Senator from Ohio?

Mr. PASTORE. In my category.

I think it might be better if it could be measured in terms of a man's salary. In other words, no one could benefit to the extent of more than a certain percentage of his salary.

Mr. GORE. The Senator's suggestion has some merit. There should be some limit or some guideposts. But there are no limits in this "qualified" plan.

Mr. PASTORE. That is correct. I do not think we ought to measure it on that basis. A man may have the ability to earn $250,000 a year, for example. He has to pay a tax on it, sometimes amounting to 90 percent of his salary. I think we ought not to measure it by a ceiling which is arbitrary, because it is difficult to say that the ceiling should be $25,000. Perhaps it should be 25 percent, or 50 percent, or another percentage, of his salary. But it ought to be gaged upon a man's ability to earn rather than on an arbitrary ceiling of $25,000.

Mr. GORE. The Senator refers to a possible 90-percent tax rate. I point out that the maximum rate is, by this bill, cut to 70 percent. Senators have been saying here for years that what we should do is cut the highly progressive rates, but at the same time close the loopholes.

Mr. PASTORE. That is correct.

Mr. GORE. What we are doing here is cutting the rates and opening up more loopholes.

Mr. PASTORE. That is right. That is one reason why I have made the suggestion. It takes into account that 91 percent of a man's salary is rather much.

Mr. GORE. That is correct.

Mr. PASTORE. To cut out the cause of the abuse and reduce it from 90 percent to 70 percent is right. We should give consideration to what the Senator from Tennessee has in mind, but I would hope that we would gage it more on a percentage of salary, rather than on an arbitrary figure. That is the only reason I have made the suggestion.

Mr. GORE. Mr. President, may I inquire how much time remains to me?

The PRESIDING OFFICER. Five minutes remain to the Senator from Tennessee.

CORRECTION OF THE RECORD

Mr. GORE. Mr. President, the amendment at the desk is the correct amendment No. 418, but I notice that the amendment printed in the RECORD yesterday, on page 2133, is an incorrect amendment.

I ask unanimous consent that the permanent RECORD show the correct amendment which is at the desk.

The PRESIDING OFFICER. The correction will be made, as indicated.

Mr. GORE. Mr. President, I reserve the remainder of my time.

Mr. HART. Mr. President, will the Senator from Tennessee yield briefly?

Mr. GORE. I yield.

Mr. HART. The Senator from Tennessee referred to the RECORD of yesterday. I refer to page 2137 of that RECORD, where seven officers of the Chrysler Corp. are listed. I believe I understand the Senator from Tennessee perfectly. I am a friend of six of the seven officers listed. It is unusual to find ourselves in the Chamber talking about individuals whom some of us know personally. I should like to make myself clear on this point.

Each of these individuals is a contributing, responsible citizen in Detroit. Each would adhere rigidly to any requirement of the law with respect to a stock option, which, in the case of these friends of mine, the Senator from Tennessee has agreed is quite within the law.

Mr. GORE. Yes, indeed.

Mr. HART. I should like to have that made clear in the RECORD. It so happens that I support the amendment offered by the Senator from Tennessee, because I believe it moves in the proper direction, but when I see such phrases as "insiders dealings," and "making a killing," somehow this suggests in the minds of casual readers, perhaps, that it was in violation of law, or socially wrong. However, I wish to make it explicit and tell the Senator from Tennessee that I believe his approach is sound and his amendment should be adopted.

Mr. GORE. I am in disagreement with only one part of the statement of the Senator from Michigan. I believe it is socially wrong. Unfortunately, it is necessary to cite specific cases. We do not deal in a vacuum in our debates and we must bring things down to concrete reality.

I have referred to "restricted" options as "insiders deals." That is what it essentially is. Numerous instances have been cited to me of smaller corporations than Chrysler in which the value of a stock was deliberately manipulated to a low point at the time the options were granted and then, once the options are granted, once the options are in hand, the publicity begins to flow, the dividends are paid, and the stock goes up on the market—and then the corporation officers cash in.

I have had instances cited in which corporations were left almost bankrupt. I am not speaking now of big corporations, I am speaking of something almost——

Mr. PASTORE. I agree with the Senator from Tennessee. Of course it is socially wrong. If we look at the automobile industry, the automobile industry is controlled by the Big Three, namely, Chrysler, Ford, and General Motors. There was a time when Kaiser tried to inject himself into the automobile industry, but he did not last too long.

If we wish to buy an automobile today, unless we wish to buy a foreign import, we buy either General Motors, Chrysler, or buy Ford. We say that is competition. That is all among the Big Three. But this system is socially wrong. Who pays for it? The man who buys the automobile is paying for it.

If we allow these abuses, they will be reflected in the price, and when they are reflected in the price, the consumer is hurt. When we hurt the consumer by some loophole, it is socially wrong.

Mr. GORE. Mr. President, let me now review the changes made in existing law by the pending bill.

Under existing law, let me repeat, we have specifically recognized a certain method of paying employees additional compensation at a reduced tax rate. This is the so-called restricted stock option as now set out in section 421 of the code.

The pending bill terminates—albeit, very, very slowly so as not to upset the affluent—the "restricted" stock option. The Finance Committee has made some changes in this regard which I hope will be revised by the conferees. But these changes are relatively unimportant when viewed in the light of the main issue.

The pending bill then sets up a new stock purchase plan, with conditions very similar to the old "restricted" stock option plan, except that the ordinary employee must not be discriminated against, and a ceiling of $25,000 per year is set. This provision is modeled somewhat on the employee purchase plan now in effect at A.T. & T.

The pending bill then sets up a brand new type of option plan for corporate executives and insiders which is called the "qualified" stock option. This is similar to the old "restricted" stock option, with the following changes:

First. The stock must be held for 3 years. This is certainly a vast improvement over the corresponding requirement with respect to the "restricted" stock option, under which the stock must be held for only 6 months. This new requirement should discourage some of the quick profit operations, such as we have recently seen at Chrysler.

Second. An option cannot be oustanding for more than 5 years. The present requirement is 10 years. This is some improvement, although the 5-year period will be sufficiently long to allow the market to fluctuate through an economic cycle so the corporate insiders can at least get one good free ride during the life of the option.

Third. The new "qualified" options must be issued at 100 percent of market value. This is an ostensible improvement, but the corporate insider who is manipulating the market and looking for a 100- or 200-percent rise in the price of his stock, from low to high, is not going to be concerned over this rise from 95 to 100 percent in the requirement. Little use has been made by insiders of the present 85-percent limit.

Fourth. The new requirements are said to be tight enough to beat the present vicious practice of "resetting," that is reducing the price of outstanding options when the market goes down. The old requirements were thought by some to be good enough in that regard, but they were not. Whether these new requirements are good enough remains to be seen. Already, the experts are, I am sure, busy trying to see how best to circumvent these new requirements.

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Fifth. Stockholder approval is to be required under the new rules. This is a rather meaningless requirement. Corporate management uses the proxy system. It take something more exciting to the insiders, such as a battle for outright control, to upset the routine proxy system by which management always controls sufficient votes to carry any question at a stockholders' meeting such as a new option plan.

Sixth. Stockholders with more than 5-percent ownership in the corporation are not to be allowed to participate in new option plans. Few people who are still working own 5 percent of any publicly held corporation.

Mr. President, I would not belittle the improvements made under the new "qualfied" system over the old "restricted" plan. But the only real improvements are the first two, that is, the lengthening of the holding period, and the shortening of the option period. I am not so sure the latter is too important.

The first requirement, that is, the 3-year holding period, can perhaps be circumvented to some extent by setting up liberal loan plans or otherwise having the corporation set up some system for helping the insiders swing their deals. And, of course, with the backing of an option, the insider can still play the market, including puts and calls, straddles, strips and straps, and all the other manipulations.

It is to the credit of the Congress that something is being done to clean up this option mess. But what ought to be done is to put an end to this whole free ride at the expense of the taxpayers and of

the ordinary corporate stockholders.

Mr. President, let me advert to the Chrysler situation. I placed in the RECORD yesterday, and Senators will find it beginning on page 2135, the Treasury report. Let me emphasize that the Chrysler situation is not unique. There has been no violation of law. I do think there has been something of a violation of trust. The ordinary stockholder has not been properly dealt with by the insiders, in my opinion.

There are two things about the Chrysler situation which do seem to me to be worth emphasizing.

First, Chrysler has had a stock option plan in effect since 1952. If stock options guarantee top performance and top profits, why did Chrysler not prosper during the past several years? It should be quite obvious that Chrysler is really riding the crest of a wave of 3 good automobile years.

Second, most of the Chrysler executives who made such a killing on Chrysler stock during the past year have been with the company for some time. Of the top seven officers who figured so prominently in this current Chrysler deal, only Mr. George H. Love, chairman of the board, is a relative newcomer to the company. All the others have been with the company for years, and all had stock options at least as far back as 1958. Why did not options encourage these people to work harder, take more interest in their company's affairs, and pull it into a strong profit position years ago?

The plain truth, Mr. President, is that the stock option gimmick is nothing more than a tax dodge. It does not help the company. Any corporate executive who is paid upward of $200,000 per year, as is the case with these top seven Chrysler people, is going to do his best. He is going to take an interest in his work. He is going to try to make money for his stockholders.

The PRESIDING OFFICER. The time of the Senator from Tennessee has expired.

Mr. GORE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GORE. Mr. President, I ask unanimous consent that because of the official absence on important business of the distinguished chairman of the committee, the yea-and-nay vote on this amendment be postponed subject to the call of the Senator in charge of the bill, the Senator from Louisiana [Mr. LONG].

Mr. LONG of Louisiana. I was taken somewhat by surprise by such a request, but now the Senator has informed me of the purpose of his request. Will the Senator from Tennessee inform me as to what hour he would like to have the vote?

Mr. GORE. Whenever the Senator from Louisiana wishes to call it up. The Chairman of the Committee is necessarily absent and the distinguished majority leader, the Senator from Montana [Mr. MANSFIELD] has asked that the vote be delayed, and I am sure that all Senators will wish to comply.

Mr. LONG of Louisiana. I agree to that. Do we also reserve the time that is available prior to the vote under the unanimous-consent request of the Senator from Tennessee?

Mr. GORE. I would prefer that the debate be finished to be followed by the yea-and-nay vote at the pleasure of the Senator from Louisiana.

Mr. LONG of Louisiana. Mr. President, how much time remains?

The PRESIDING OFFICER. Four minutes remain.

Mr. LONG of Louisiana. Four minutes?

The PRESIDING OFFICER. Four minutes remain to the Senator from Louisiana.

Mr. LONG of Louisiana. Mr. President, I suggest that the time be reserved and divided, 2 minutes for each side; and that the Senate proceed to another amendment and take the yea-and-nay vote at a later hour—perhaps in one-half hour.

Mr. PASTORE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Rhode Island will state it.

Mr. PASTORE. Does whispering between Members get into the RECORD? I should like to know what happened in this whispering session, so that Senators may be informed. There is so much happening on the floor.

Mr. GORE. Mr. President, the chairman of the committee is now at the White House conferring with President Johnson, and I should like to have the vote on this amendment postponed until he returns.

Mr. PASTORE. When can we expect to vote on the amendment?

Mr. GORE. I understand that the chairman of the committee will return at 12 o'clock.

Mr. LONG of Louisiana. Mr. President, I shall defer the vote until the chairman of the committee has returned, and Senators can then vote on it.

Mr. PASTORE. Then, do Senators stand around waiting until——

Mr. LONG of Louisiana. We will proceed with other amendments. The chairman particularly wished to vote on this amendment offered by the Senator from Tennessee.

Mr. PASTORE. Then we will proceed with another amendment at this time?

Mr. LONG of Louisiana. Yes.

Mr. PASTORE. That is satisfactory.

Mr. LONG of Louisiana. Mr. President, I reserve the time for the yea-and-nay vote on this amendment when it is called up by the Senator in charge of the bill.

The PRESIDING OFFICER. Is there objection?

The Chair hears none and it is so ordered.

Mr. CARLSON. Mr. President, I offer my amendment No. 385 which I send to the desk and ask to have it stated.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. At the end of the bill it is proposed to insert the following:

TITLE IV—EXCISE TAX CHANGES

SEC. 401. REBUILT AUTOMOBILE PARTS.

(a) EXEMPTION FROM TAX.—Section 4063 (relating to exemptions from the tax on motor vehicles) is amended by adding at the end thereof the following new subsection:

"(c) REBUILT PARTS.—Under regulations prescribed by the Secretary or his delegate, the tax imposed by section 4061(b) shall not apply in the case of rebuilt parts or accessories."

(b) TECHNICAL AMENDMENT.—Section 4062 (relating to definitions) is amended by striking out subsection (b).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles sold on or after the first day of the first month which begins more than 10 days after the date of the enactment of this Act.

Mr. CARLSON. Mr. President, the minority leader, the Senator from Illinois [Mr. DIRKSEN], offers the amendment, which I am presenting it for him today in his absence. I shall read the statement which the minority leader had prepared for delivery.

The tax bill has been sponsored by the administration as a means of invigorating our economy. In this connection, epistles have been written and voices have rung loud throughout the Nation in concern over the plight of the small businessman. I take my place with those who believe that the small businessman has been considered the least while known to be one of the most important in the survival of our economic system. I think we should take steps to afford the small businessman the relief that he so richly deserves. Along with my colleagues, Senators BENNETT and CARLSON, I am offering amendment 385 to H.R. 8363 as a token of the recognition that the Congress must soon give to those whom we so eloquqently profess to protect. Lip service is no longer enough.

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I refer in this particular instance to the small companies that are rebuilding automotive parts and who have been so seriously and adversely affected by the imposition of an excise tax on their goods. They are not rebuilding luxury items, rather they are rebuilding essentials required by our Nation on wheels. And they do so at a low price with the quality of an originally manufactured automotive replacement part. The tax imposed on these restored parts is a double tax that is ultimately borne by the consumer twice—for the original part was taxed upon its manufacture and, under the code, is taxed again when it is restored.

There are over 1,200 of these small businesses in Illinois and if each Senator were to examine the rebuilders, machine shop operations, independent garage men, service stations and the various car and truck dealer services who operate in Senators' States and who deal in restored automotive parts, they would easily see that the removal of this tax will stimulate their small businesses and benefit the Nation as a whole.

The revenue derived from this tax is relatively small. The Secretary of the Treasury admits difficulty "even to obtain a reasonable estimate of the total revenue from rebuilt parts" but uses the figure of from 5 to 8 million as an estiamte. This revenue derived from this excise tax is almost completely offset by the indecision and confusion arising out of the uncertainty of the regulations of the Internal Revenue Service as to which rebuilding operations are taxable. The language of the regulations is at best difficult and elusive of interpretation. Over the years there have been constant negotiations with the Internal Revenue Service as to the application of the tax.

I believe Senators will find on their desks the basic regulation which is now being considered by the Internal Revenue Service. It would affect anyone who drove his car into a filling station to have his spark plugs cleaned. Such an operation would be subject to an excise tax. The cleaning of plugs would be treated as if the plugs were new.

The 8-percent excise tax as imposed is supposedly applied to manufacturing and is defined in the Internal Revenue regulations as "rebuilding of automobile parts and accessories as distinguished from reconditioning or repairing."

From this seemingly simple but illusory distinction have emerged interpretations full of potholes. Indeed the Internal Revenue Service has frolicked with the traditional definition of the courts that manufacturing means a transformation, the making of a new and different article with a distinctive name, make, and use.

Thus, in 1959, Revenue Ruling 58–620 was proposed which would have applied the tax to any rebuilding operation if there was merely a commingling of the components of automotive parts in the restoring process. This was finally withdrawn on June 29, 1959, after months of confusion and unrest.

Again, in 1961 the Internal Revenue Service proposed regulations based on another new theory—that would have labeled as manufacturing the simple cleaning of a commutator in a lathe operation.

After long negotiations with the Internal Revenue Service the proposed regulation in this respect was not promulgated.

Today, as in the past, we find the small businessmen who restore automotive parts unable to forecast their tax liability with any degree of accuracy. For example, the Internal Revenue Service has just issued Revenue Ruling 63-255 which would extend the manufacturers' excise tax on automobile parts to spark plugs under the unique theory that in view of the "totality" of the cleaning operation, it is somehow the same as manufacturing.

I have one of these spark plugs on my desk, as an example of what would be involved in this situation.

In view of the factors we have outlined; namely, the fact that rebuilding is not manufacturing, the adverse impact of the tax on the thousands of small businesses, and the very small revenue involved, I submit that this tax should be repealed entirely.

Having in mind the fervent plea of the administration to stimulate the economy through the tax cut, it would seem antipodal not to rescue the thousands of small businessmen engaged in these operations which involve the restoration of nonluxury, essential items which are made available to the consumer at low prices and original quality.

Mr. President, the Department of Commerce states that as of June 30, 1961, there were 240,431 filling stations in the United States. Of these, 203,960 were sole proprietorships, 30,554 were partnerships, and 5,907 were corporate owned.

When we combine the filling station operators with the regular rebuilders and jobbers we approach a total of 288,000 small businessmen who must file quarterly tax reports on the excise tax. This represents over a million tax reports to be prepared by the small businessman; these reports must then be processed and audited by the Revenue Service, and the total yield in revenue is between $5 and $8 million, far less than the cost of preparing them and probably less than the cost incurred by Revenue Service in processing them. In fact, the Revenue Service probably loses money in collecting and processing this tax.

Senators will find on their desks the proposed regulation 63-255 dealing with rebuilt spark plugs.

I sincerely hope that the Senate will give consideration to the problems of the great number of people who would be involved in this situation. Under the ruling, a person who drove into a service station to have his spark plugs cleaned would have to pay an excise tax on the cleaning of used spark plugs. That is what the ruling would provide. This is the ruling that the Internal Revenue Service is considering issuing.

I sincerely hope that the Senate will accept the amendment.

Mr. LONG of Louisiana. Mr. President, if the matter had been presented to the committee, the committee could have persuaded the Treasury to change its regulation insofar as the cleaning of spark plugs is concerned. I agree with the Senator from Kansas with respect to the clearing of spark plugs. Although the Senator's amendment involves a revenue loss of $8 million, it also involves commodities which are competitive with manufactured articles, which are also subject to a higher excise tax, and those articles yield tax revenue of $240 million.

The competitive nature of rebuilt parts as against new parts, and of new parts being more heavily taxed than rebuilt parts, raises a number of problems that should be considered. If an automobile is being repaired, no tax is imposed for the repair and rebuilding of the part, if the owner has title to the automobile while it is being repaired, contrary to the impression the Senator's statement may have left.

The adoption of the amendment would, again, mean entry into the excise tax field, in which the Senate thus far has avoided engaging.

In addition, the amendment is proposed by the Senator from Kansas [Mr. CARLSON] on behalf of the junior Senator from Illinois [Mr. DIRKSEN], who is not present. No member of the Committee on Finance was able to persuade the committee to adopt more amendments than was the Senator from Illinois. Actually, the bill contains amendments originally proposed by the junior Senator from Louisiana and disagreed to by the committee, which were subsequently proposed by the junior Senator from Illinois and then agreed to. [Laughter.] There is no stronger advocate of any cause in the Senate than the junior Senator from Illinois, who unfortunately is not present today for reasons of health. If there is merit to the amendment, he should have offered the amendment in committee. He did not. So far as I know, the Senator from Illinois has a better batting average for having amendments agreed to in committee than has any other member of the committee.

I hope the Senator from Kansas will permit the committee to consider this proposal further and to study it in connection with expected excise tax legislation. I assure the Senator from Kansas, even though I do not believe the junior Senator from Illinois needs help from the junior Senator from Louisiana, that if there is any help I can give, as the Senator in charge of this bill and as a member of the committee, I shall be glad to give it. I hope the Senator from Kansas will not insist on including the amendment in the tax bill. The Senator knows how fervently I insisted that ex-

cise tax amendments should not be included in the bill. When the question of revision of excise taxes comes up in a subsequent bill, I shall have no objection to considering such an amendment as the Senator from Kansas proposes.

Mr. CARLSON. The distinguished Senator from Louisiana has made a correct statement. When it comes to having amendments agreed to in committee, I am sure that the efforts of the minority leader, the distinguished Senator from Illinois [Mr. DIRKSEN], were much more successful than were those of the senior Senator from Kansas.

Mr. LONG of Louisiana. More than the efforts of both of us together.

Mr. CARLSON. In view of the opposition of the Senator from Louisiana, I assume that the amendment will not be agreed to today, thus keeping my batting average about where it was in committee. But I do say that the amendment has merit, in view of the proposed regulation of the Treasury Department, which, to say the least, is outlandish.

Mr. President, I ask unanimous consent that the text of the proposed regulation and also a list of the auto part rebuilders, by States, be printed at this point in the RECORD.

There being no objection, the proposed regulation and list were ordered to be printed in the RECORD, as follows:

REVENUE RULING 63-255, REBUILT SPARK PLUGS

The restoring of used spark plugs to serviceable condition by a process which consists of the washing, drying, sandblasting, filing the electrodes, plating, and packaging of the plugs constitutes a "comparable major op-

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eration" within the meaning of section 48.-4061(b)-3(a) of the Manufacturers and Retailers Excise Tax Regulations. Therefore, such operation is considered to be rebuilding (manufacturing), and the restored spark plugs are subject to the manufacturers excise tax on automobile parts or accessories, imposed by section 4061(b) of the Internal Revenue Code of 1954, when sold by the rebuilder (maufacturer).

For purposes of determining the applicability of the manufacturers excise tax on automobile parts or accessories, advice has been requested whether the restoration of automobile spark plugs in the manner and for the purpose described below is considered to be "rebuilding" (which contitutes manufacturing).

A company is engaged in the business of restoring and selling automobile spark plugs. The company purchases used spark plugs from garages and service stations. The spark plugs are then sorted and only the restorable plugs are retained and processed.

The first step performed by the company in restoring the used plugs is to wash them in detergent and water and dry them in ovens. After sandblasting the plugs to remove all carbon deposits, the electrodes are filed and the plugs are cadmium-plated to retard corrosion and make the plugs look new.

Finally, the plugs are sorted as to brand and type, stamped with the word "Repaired" and packaged eight to a box. These restored plugs are guaranteed for 10,000 miles.

Section 4061(b) of the Internal Revenue Code of 1954 imposes a tax on the sale by the manufacturer, producer, or importer of parts or accessories (other than tires and inner tubes, and other than automobile radio and television receiving sets) for any of the articles enumerated in section 4061(a) of the code.

Section 48.4061(b)-3(a) of the manufacturers and retailers excise tax regulations provides that rebuilding of automobile parts or accessories, as distinguished from reconditioning or repairing, constitutes manufacturing, and the rebuilder of such parts or accessories is liable for the tax imposed by section 4061(b) with respect to his sales of such rebuilt parts or accessories. Reboring or other machining, rewinding, and comparable major operations constitute rebuilding. The person owning the part or accessory being rebuilt is the manufacturer of the article and is liable for the tax on his sale of the rebuilt part or accessory. The tax attaches whether the machining or other operation is performed by the rebuilder himself or by some other person on his behalf.

The spark plug restoring process described above, when viewed in the totality of the operation, constitutes a comparable major operation within the meaning of section 48.4061(b)-3(a) of the regulations. Therefore, such operation is rebuilding (manufacturing) for purposes of the manufacturers excise tax.

Accordingly, it is held that the rebuilt automobile spark plugs are subject to the manufacturers excise tax on automobile parts or accessories, imposed by section 4061 (b) of the code, when sold by the rebuilder (manufacturer).

This Revenue ruling will not be applied to sales of the rebuilt spark plugs made prior to January 9, 1964, under the authority set forth in section 7805(b) of the code.

Auto part rebuilders: Independent garage men and service stations in the United States total over 288,000 small businesses.

In addition to the service stations, the count of rebuilders and jobber-warehousemen by States is below:

State	Rebuilders	Jobbers
Alabama	87	274
Alaska	7	11
Arizona	141	131
Arkansas	50	199
California	1,320	1,374
Colorado	113	173
Connecticut	167	160
Delaware	30	40
District of Columbia	43	57
Florida	237	569
Georgia	121	442
Hawaii	29	25
Idaho	33	85
Illinois	472	969
Indiana	311	340
Iowa	113	253

REBUILDERS AND JOBBER-WAREHOUSE-MEN—Continued

Kansas	113	198
Kentucky	61	278
Louisiana	127	212
Maine	22	70
Maryland	83	235
Massachusetts	221	255
Michigan	492	429
Minnesota	190	297
Mississippi	42	189
Missouri	253	411
Montana	33	76
Nebraska	74	153
Nevada	36	40
New Hampshire	30	33
New Jersey	336	334
New Mexico	56	91
New York	583	738
North Carolina	109	779
North Dakota	35	76
Ohio	441	1,121
Oklahoma	193	447
Oregon	148	238
Pennsylvania	473	985
Rhode Island	37	52
South Carolina	36	132
South Dakota	30	62
Tennessee	122	530
Texas	500	1,289
Utah	34	100
Vermont	20	35
Virginia	135	217
Washington	184	381
West Virginia	37	140
Wisconsin	151	247
Wyoming	25	42

Mr. CARLSON. Mr. President, in view of the statement made by the distinguished Senator from Louisiana, I shall not ask for a yea-and-nay vote on the amendment, but I urge that the Senate vote on it.

Mr. LONG of Louisiana. I appreciate the excellent argument made by the Senator from Kansas. I hope the Senate will not agree to the amendment. But speaking for myself, I promise the Senator my full cooperation to try to solve this problem when new legislation is considered.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Kansas.

The amendment was rejected.

Mr. MORTON. Mr. President, on behalf of the Senator from Illinois [Mr. DIRKSEN], I call up amendment No. 359, which was offered in committee.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 179, between lines 12 and 13, it is proposed to insert the following new subsection:

(b) INCREASE IN AMOUNT OF ORDINARY INCOME WHICH MAY BE OFFSET BY CAPITAL LOSSES.—Section 1211(b) (relating to limitation on capital losses of taxpayers other than corporations) is amended by striking out "plus the taxable income of the taxpayer or $1,000, whichever is smaller" and inserting in lieu thereof the following: "plus whichever of the following is smaller: (A) the taxable income of the taxpayer, or (B) $2,000, in the case of a taxable year beginning in 1964; $3,000, in the case of a taxable year beginning in 1965; $4,000, in the case of a taxable year beginning in 1966; and $5,000, in the case of a taxable year beginning in 1967 or any subsequent taxable year".

On page 179, line 13, strike out "(b)" and insert "(c)".

On page 180, line 22, strike out "(c)" and insert "(d)".

On page 203 (line 8, strike out "(d)" and insert "(e)".

Mr. SMATHERS. Mr. President, is this the amendment the Senator from Illinois [Mr. DIRKSEN] offered in committee?

Mr. MORTON. If the Senator will allow me to explain the amendment, the Senate will know what we are talking about.

The amendment deals with the stepup amount a person can carry forward on capital losses. The House language provides that $1,000 may be carried forward indefinitely. As I recall, the present law provides 5 years. The amendment would step that up. It would increase the $1,000 to $2,000 in 1964, to $3,000 in 1965, to $4,000 in 1966, and to $5,000 thereafter.

As members of the committee may remember, the Senator from Illinois stated that we were trying to encourage risk capital. He cited the example of one who might risk, perhaps $50,000, and then have no chance of ever recovering it if the venture went sour. The amendment is designed to encourage more people to invest risk capital and in that way create jobs.

Mr. President, I ask unanimous consent that a statement prepared by the Senator from Illinois may be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

INCREASE IN AMOUNT OF ORDINARY INCOME WHICH MAY BE OFFSET BY CAPITAL LOSSES

In his tax message to the Congress the President in commenting on capital losses said "More adequate capital-loss offsets will improve the investment odds, encourage risk taking on the part of investors, and stimulate economic growth." H.R. 8363 provided for an indefinite loss carryover period, repealing the 5-year limitation. This was deleted by the Finance Committee. It is doubtful that this provision alone would have the desired effect, asked by the President particularly among the small investors.

The amendment I am proposing increases the annual dollar limitation on the amount of capital losses which may be deducted from ordinary income. Presently the limit is $1,000.

This amendment increases the $1,000 to $2,000 in 1964; $3,000 in 1965; $4,000 in 1966; and to $5,000 in 1967 and subsequent taxable years.

1. DOUBLE STANDARD FOR TAXING GAINS AND LOSSES

Under section 1211(b) of the Internal Revenue Code the individual is permitted to

deduct capital losses to the extent of his capital gains plus $1,000 in any one year.

In the absence of capital gains, an individual who sustains a capital loss of $10,000 in 1963 could deduct only $1,000 on his 1963 return even though he paid capital gains tax on $10,000 of capital gains in the previous year.

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2. INDIVIDUAL MAY NEVER RECOVER CAPITAL LOSSES IN FUTURE YEARS

Under section 1212 of the Internal Revenue Code the individual is permitted to carry capital losses forward for 5 years. If the taxpayer does not have capital gains during this 5-year period there would be an opportunity to recover capital losses to the extent of only $5,000. In the case of a deceased taxpayer, it would appear that any capital losses not utilized on his final return could not be deducted thereafter.

The tax bill which passed the House of Representatives extended the 5-year limit to an indefinite period. This bill did not change the $1,000 limit above.

3. TAXPAYER DEPRIVED OF USE OF FUNDS EVEN IF HE RECOVERS LOSSES IN FUTURE YEARS

If an individual carries forward capital losses in the amount of $5,000 from the calendar year 1963, he would be deprived of the use of $5,000 for 1 year, $4,000 for 2 years, $3,000 for 3 years, $2,000 for 4 years, and $1,000 for 5 years in the absence of capital gains.

To carry $10,000 in capital losses forward under the House bill, in the absence of capital gains, would cost the taxpayer about $2,700 in lost interest on his money at 6 percent.

To carry forward nine-tenths of a $10,000 capital loss to future years results in a cost of $2,700 in interest when figured at the rate of 6 percent under the House bill. The figures are as follows:

$9,000 for 1 year at 6 percent	$540
$8,000 for 2 years at 6 percent	480
$7,000 for 3 years at 6 percent	420
$6,000 for 4 years at 6 percent	360
$5,000 for 5 years at 6 percent	300
$4,000 for 6 years at 6 percent	240
$3,000 for 7 years at 6 percent	180
$2,000 for 8 years at 6 percent	120
$1,000 for 9 years at 6 percent	60
Total	2,700

While we profess to encourage free competitive enterprise and risk capital, under the House bill we would be requiring that capital losses be carried forward to future years if these losses exceeded 5 percent of a $20,000 investment or 2 percent of a $50,000 investment or 1 percent of a $100,000 investment. The maximum dollar investment that one could afford under these restrictions would be very limited.

The percentage of income on securities is relatively small in comparison with earlier years. Once a price-earnings ratio of 19 times earnings was considered reasonable. This ratio has about doubled. This means that more savings and larger investments are required to buy securities that will earn the same number of dollars, and these dollars will buy even less. Therefore, investors cannot take an undue risk for themselves and their families.

4. INDIVIDUAL CANNOT USE DIVIDEND INCOME AS OFFSET AGAINST LOSSES

If an individual received dividends of $10,000 in 1963, and sustains capital losses of $10,000 in 1963, he could deduct only $1,000 of the capital losses on his 1963 income tax return and would be required to pay taxes on the total $10,000 in dividends received.

5. INDIVIDUAL NOT ALLOWED CARRYBACK ON CAPITAL LOSSES

If an individual had paid income taxes on $10,000 in capital gains in 1962, and the situation is reversed and he sustains capital losses of $10,000 in 1963, this taxpayer can deduct only $1,000 in capital losses in 1963.

6. CAPITAL LOSSES ALLOWED INDIVIDUALS COMPARES UNFAVORABLY WITH OTHER RESERVES FOR LOSSES

The $1,000 limit on capital losses imposed under section 1211(b) of the Internal Revenue Code amounts to 1 percent of a $100,000 investment, to 2 percent of a $50,000 investment, or 4 percent on a $25,000 investment. A $1,000 limit on capital losses does not provide a worthwhile incentive and it is inequitable on its face.

The Government is in effect stating to investors that on their future investments, in the absence of capital gains, an allowance of $1,000 will be made annually regardless of the size of the investment. This offer is being included in a bill that is designed to encourage risk capital. The limit of $1,000 permits a deduction of 20 percent of a $5,000 investment, of 10 percent of a $10,000 investment, or a mere 1 percent of a $100,000 investment. Instead of encouraging investment, the present law and the House bill discourages investment above $5,000 to $10,000.

Investors have avoided risk situations for some time. There are undoubtedly more risk situations in the over-the-counter market than are involved in securities listed on the New York Stock Exchange. An examination of the volume in these two markets would no doubt reveal the extent to which investors are avoiding risk situations at the present time.

Individual investors are entitled to an allowance for capital losses that is more in line with the reserves for losses that are set up by lending institutions.

7. REASONABLE OPPORTUNITY FOR PROFIT

It is ordinarily assumed that there should be some reasonable relationship between the opportunty for profit and the risk of loss in any given transaction. The individual who invests his money in the stock of a corporation recognizes that about one-half of the company profits will be paid to the Government in the form of corporation income taxes. It is essential that part of the remaining profits be retained by the business to maintain facilities that will continue to be profitable. The stockholder in the final analysis receives a fractional part of the total earnings as dividends. At an income level of about $16,000 the Government would again take about one-half of the dividends.

Of the total distributions made to the Government and to the stockholder, the Federal Government received about 75 percent and the stockholder about 25 percent. If there is to be any reasonable relationship between the opportunity for profit and the risk of loss, the Federal Government should assume about 75 percent of the risk and the stockholder about 25 percent of the risk. Yet, if the stockholder is unfortunate to sustain even a $5,000 capital loss, the Federal Government required the stockholder to bear 80 percent of this loss and to postpone the remainder to an uncertain future time.

8. DID THE $1,000 LIMIT ON CAPITAL LOSSES ACCELERATE THE 1962 MARKET DECLINE?

Assume that an individual had an investment of $20,000 in 1962. Assume further that the decline in the value of his securities amounted to an average of 20 percent on his total investment, or $6,000. On a mere 20 percent decline the taxpayer would have incurred all of the capital losses he would be allowed to utilize in future years in the absence of capital gains. Is it reasonable to conclude that the investor might consider it sensible to get out of the market without incurring additional losses which he might never recover?

9. IS THERE A RELATIONSHIP BETWEEN THE $1,000 LIMIT ON CAPITAL LOSSES AND CAPITAL INVESTMENT AND ECONOMIC GROWTH?

In past years the U.S. Government has offered various incentives when there was a desire to bring about increased industrial expansion. Tax incentives were the most widely used. If tax incentives constituted the most effective and widely used means of expanding the economy in the past, is it logical to conclude that the taxing of gains accompanied by the postponement or disallowance of losses would have the opposite result.

10. RISK CAPITAL

A new venture requires risk capital. At best these new ventures start on a shabby foundation. The probability of failure is frequently greater than that of success. Yet it is this very type of undertaking that must be encouraged, but it will not be encouraged if the present limitation of $1,000 is retained.

Every large business in this country started small—risk capital was required. If we are to encourage the formation of small businesses, if small businesses are to expand, a more favorable climate for investment and recovery of losses must be provided. This amendment to increase the amount offset, in stages from $1,000 to $5,000 marks a modest beginning, but one that must be made.

Mr. LONG of Louisiana. The Senate has voted to sustain the committee by eliminating entirely the capital gains provisions in the bill. It is the hope of the committee that there will not be any change in the capital gains treatment now.

This amendment would increase the amount of capital losses that could be deducted against ordinary income. The Treasury is vehemently opposed to the amendment, not only because of the revenue loss involved, but because the Treasury feels there is a considerable possibility for manipulation of capital losses to be used against ordinary income. Persons could bunch their losses in 1 year and bunch their gains in other years, to achieve substantial advantages at the option of the taxpayer.

Upon that basis, the committee voted, 11 to 5, against the amendment. I sincerely hope the Senate will sustain the position taken by the committee on the amendment.

Mr. MORTON. Mr. President, I yield back the remainder of my time.

Mr. LONG of Louisiana. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Kentucky [Mr. MORTON] on behalf of the Senator from Illinois [Mr. DIRKSEN].

The amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, and that there may now be a brief quorum call, but without charging to the time available under the unanimous-consent agreement the time required for the quorum call.

The PRESIDING OFFICER (Mr. BAYH in the chair). Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. Then, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 412

Mr. PROXMIRE. Mr. President, I call up my amendment No. 412.

[*P. 2253*]

The amendment was read, as follows:

At the end of the bill add the following new title:

"TITLE IV—EXCISE TAXES

"SEC. 401. Repeal of tax imposed with respect to amounts paid by patrons of cabarets, roof gardens, or other similar places.

"(a) IN GENERAL.—Section 4231(6) (relating to tax on amounts paid by patrons of cabarets, roof gardens, or other similar places) is repealed.

"(b) CONFORMING CHANGES.—Section 4323 (b) (relating to definition of roof garden, cabaret, or other similar place) and section 4232(e) (relating to performances for profit) are repealed.

"(c) EFFECTIVE DATE.—This section shall apply only with respect to amounts paid, on or after 10 o'clock antemeridian of the first day of the first month which begins more than ten days after the date of the enactment of this Act, for admission, refreshment, service, or merchandise on or after such time."

Mr. PROXMIRE. Mr. President, this amendment presents us with an unparalleled and unusual opportunity. Would Senators be willing to adopt an amendment that would reduce excise tax rates, but actually increase revenues? I think I can show that that will be the effect of the amendment.

In addition, would Senators adopt an amendment which they knew—and I say this on the basis of hard experience—would provide between 20,000 and 30,000 jobs? I can show that the reduction of this tax will have that result.

Mr. President, I speak of the so-called cabaret tax. Until 1940, that tax was 3 percent. During the war, it was sharply increased. In 1960, it was reduced from 20 to 10 percent.

On the basis of that experience, we can determine what would happen to jobs and to revenue by now reducing the cabaret tax still further, inasmuch as the previous reduction of this tax from 20 to 10 percent caused a marked increase in the number of jobs for musicians—in fact, an increase of more than 34 percent; and that has been certified to by the International Statistical Bureau, of New York City. So there is no question about that result—an increase of nearly 35 percent.

The tax loss was none. The Treasury estimated that there would be a tax loss of approximately 50 percent. Actually, the direct tax loss was 22 percent; but when the marked increase in employment for musicians and income of proprietors is taken into consideration, and the Federal tax on that income it becomes evident that there was an actual gain to the Treasury.

Mr. President, if Congress now reduces this tax from 10 to 3 percent, it is clear—on the basis of that experience and any kind of honest and fair assumption—that there will be a much greater increase in the demand for the services of musicians than there was when the previous reduction in this tax was made.

Most of us are old enough to remember the situation which existed before 1940—at the time when, if one went to a restaurant, there would be music and dancing. But that situation was killed cold by the cabbaret tax. Although there might have been some excuse for that tax during the war, it has gone now.

When the tax was reduced from 20 to 10 percent, musician employment made some comeback.

If the rate is now reduced to 3 percent, that experience clearly shows that there will be a great increase in the number of jobs. I estimate that the increased number of jobs will total between 20,000 and 30,000. However, those jobs will not be there if this particular tax cut is not made. For those who really want to stimulate employment with a tax cut, here is the way to do it. Right here, today, now, on this bill.

Some economists say the pending tax bill will not stimulate the economy very much. However, by means of this amendment—making music and entertainment far more readily available—we can persuade the taxpayer, who will get some of the benefit of the bill, to spend some of it, for then he will have a reason to feel an incentive, a real, living reason to go to a restaurant where music is played, and where he can dance with his wife or with his girl friend, and can enjoy himself.

What harm will be done? More jobs will be provided; more revenue raised for the Federal Government.

Mr. President, if the pending tax bill has any purpose at all—it is to stimulate the economy and to solve our No. 1 economic problem, which is the need for more jobs.

Mr. KEATING. Mr. President, will the Senator from Wisconsin yield briefly to me?

Mr. PROXMIRE. I yield.

Mr. KEATING. I congratulate the Senator from Wisconsin for his fine statement and fully concur in his position. I wish to emphasize the point the Senator made at the beginning of his remarks, namely—and I sincerely believe this to be the case—that reduction in the cabaret tax rate will not result in net losses of revenue to the Treasury. The previous reduction in the cabaret tax rate actually generated increased revenues. Experience has shown that the amendment now proposed will not result in a loss of revenue, and even more important, will result in many new jobs for musicians and other entertainers and kitchen and dining room employees.

Mr. President, many restaurants and hotel dining rooms have had rough times recently, for a variety of causes, including the 1962 revisions in the tax treatment of certain business expenses. At no sacrifice to the interest of the Treasury, we now have a chance to help this vital industry along and in the bargain give new jobs to thousands of unemployed. I have over the years supported reducing the cabaret tax and shall support this amendment.

Mr. PROXMIRE. I thank the Senator from New York.

Mr. President, I realize that the leadership—and I sympathize with them—have been trying hard to keep excise-tax cuts out of the pending bill. However, I think the situation to which this amendment applies is an extraordinary one, and is very different from the others to which consideration has been given, because I believe we can show, on the basis of the experience between 1959 and 1962, that this amendment, if enacted into law, will not bring about a loss of revenue.

Mr. President, I ask unanimous consent that the excellent report showing the impact of the cabaret tax on Federal revenues and jobs be printed in the RECORD at this point.

Mr. President, I reserve the remainder of the time available to me.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

IMPROVEMENT IN MUSICIANS' EMPLOYMENT FOLLOWING REDUCTION OF THE CABARET TAX

(Prepared for American Federation of Musicians, May 15, 1963)

SUMMARY

1. Reduction in the cabaret tax from 20 to 10 percent as of May 1, 1960, has been chiefly responsible for a marked improvement in the income and employment of musicians in establishments subject to the tax. On the basis of this study, it is estimated that between late 1959 and 1962:

Man-hours increased by 34.2 percent; income increased by more than 33 percent for local musicians playing local engagements; 5 percent for traveling musicians.

2. Despite the Treasury's prior contention that a 50-percent reduction in the tax rate would cause a 50-percent decline in cabaret tax revenue, the actual decline, from fiscal 1959 to fiscal 1962, was only 22.4 percent. After the tax was reduced, consumers increased their taxable spending by about 55 percent.

3. Relief provided by the tax reduction unquestionably improved the earnings of establishments subject to the tax, the income of their proprietors, and the income and employment of employees other than musicians. For musicians, it can be estimated on the basis of this study and information from other sources, the increase in income following the tax reduction ranged between $25 and $35 million. An estimate of income improvement for proprietors and other employees of these establishments was outside the scope of this study. It seems most likely, however, that the increase in income tax revenue following the tax reduction was more than enough to offset the decline in cabaret tax revenue.

4. An earlier and more extended study, conducted in 1955, described the depressed position of musicians, analyzed the causes, and estimated the extent to which complete elimination of the cabaret tax would relieve their conditions. The chief conclusions stated in this earlier report are summarized on the following page. The present study deals with an accomplished fact. The tax was not eliminated, but it was cut in half. What has happened since May 1, 1960, when this reduction took place, strongly supports the validity of the estimates made in 1955.

INTRODUCTION

An earlier study

A nationwide survey, conducted for the American Federation of Musicians in 1955, analyzed the depressive effects of the 20 percent cabaret tax on the employment of musicians in 1954. Complete results were made available to Members of Congress, and a detailed summary of results was published by the Federation in a brochure entitled "The National Crisis for Live Music and Musicians." The most important facts established and estimates made, as a result of this earlier study are as follows:

1. During the period of the 20 percent, cabaret tax, from 1943 through 1954, establishments subject to this tax reduced their employment of musicians by the equivalent of 25,000 man-years. This exceeded the losses due to technological changes between 1930 and 1940, estimated at 20,000 man-years.

2. Of the total shrinkage in employment opportunities for musicians between 1930 and 1954, from 99,000 to 59,000 man-years,

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the high cabaret tax level of 20 percent was a decisive factor.

3. Despite this retrenchment by establishments subject to the tax, these places in 1954 provided about 27,000 man-years of work for musicians, being the single most important source of employment.

4. It was estimated, therefore, that repeal of the 20-percent tax was bound to react favorably on the depressed condition of musicians, increasing both their employment and their income.

5. It was estimated on the basis of the survey that about 16,000 places were subject to the 20-percent cabaret tax, 63 percent of them being small businesses paying a tax of $1,000 or less a year. Repeal of the tax would increase the business income of these establishments and the personal income of their owners. It would also lead to increased employment and earnings for entertainers, waiters and waitresses, kitchen help, service help, etc.

6. It was conservatively estimated, therefore, that the loss of revenue following repeal of the tax would be more than made up by gains in personal and business income tax payments by those individuals and establishments who were favorably affected by the elimination of the cabaret tax.

Eventual tax reduction

The so-called cabaret tax remained at 20 percent until May 1, 1960, when it was reduced to 10 percent in line with other excise taxes which had been reduced from their war-emergency levels at various earlier dates.

During 1961, the American Federation of Musicians, by means of questionnaires which were returned by 426 locals, estimated that reduction of the tax had led to an increase of 34,861 work hours per week of employment for musicians. On the basis of this survey, the Federation also estimated

the increase in musicians' annual income at a little over $9 million. On the basis of this study, it was pointed out in official proceedings of the 64th annual convention of the American Federation of Musicians.

Foes of cabaret tax reduction had based a large part of their opposition on "the fact" that halving the 20-percent tax to 10 percent would decrease the yield to the Federal Government by 50 percent.

A realistic appraisal of income tax returns, compiled by the Internal Revenue Bureau in 1958, shows that wage earners in the $4,000 bracket pay approximately 10 percent of their gross earnings in income taxes. On this basis, the additional $45 million yearly cabaret workers' income made possible by the tax reduction would yield the Government an additional $4,500,000 annually in income taxes, or $1,125,000 per quarter.

When the additional business or income taxes paid by cabaret operators are added to employees tax liabilities, it is obvious that the annual yield in taxes to the Government has remained at least equal, while at the same time the general economy has been bolstered by making possible all this additional work.

Latest study of tax reduction results

Late in 1962, the American Federation of Musicians decided to employ the services of an independent agency to document any further improvement which had taken place in the position of musicians since reduction of the tax, and, incidentally, to confirm the earlier findings. The present study, conducted by International Statistical Bureau, Inc., is a result of that decision.

Musicians' report

The chief purposes of the present study have been to determine the extent to which man-hours of musicians' employment in establishments subject to the cabaret tax have changed since the reduction of the tax from 20 to 10 percent, and to gain some information about the income of musicians.

The present survey covers 202 locals, representing a musician membership of 122,266. This represents about 30 percent of the total number of locals and 46 percent of the union membership.

The survey was undertaken late in 1962, and covered man-hours of employment of musicians in establishments subject to the cabaret tax during a 4-week period ending December 16, 1962. The comparison period was the 4 weeks ending December 13, 1959. This choice of periods provided the latest possible information in 1962, and eliminated variations which might have been caused by seasonal factors or holiday periods.

The representation of locals includes those who had maintained contract files for both periods. From these it was possible to obtain the names of the establishments subject to the tax which employed musicians in one or the other or both of the two 4-week periods, and to determine from the contract files the number of musicians, the number of days per week, the number of hours per day, and the number of weeks during each of the two 4-week periods, from which could be computed man-hours of employment. The survey includes contract employment in 3,486 establishments.

Information on musicians' income was based on local tax information, covering both local and traveling musicians.

RESULTS OF THE SURVEY

The results of the survey, detailed in the following section, apply to the large and representative sample obtained. The gains for the entire union membership in actual man-hours would be two or three times as large; percentage increases would probably be of about the same magnitude.

Number of establishments

Of the 3,486 establishments subject to the cabaret tax in one or the other or both of the 2 years, 1,694 were in business in both years, and employed musicians in both years.

In addition, there were almost as many, 1,336, which either employed musicians only after the tax was reduced, or came into business (and employed musicians) only after the reduction. The number, 456, which either went out of business or stopped employing musicians after the tax was reduced, was much smaller:

Additional details about establishments subject to the tax are as follows:

Establishments in existence during both periods:	
Employing musicians in both periods	1,694
Employing musicians in 1959 but not 1962	219
Employing musicians in 1962 but not 1959	480
Establishments in business in 1959, but not in 1962	237
Establishments which came into business after the tax was reduced [1]	856

[1] A few of these establishments may have started or discontinued business between Dec. 13, 1959 (the date used in the survey), and May 1, 1960, when the tax was reduced.

Man-hours increased

The increase in man-hours which followed the reduction of the cabaret tax from 20 to 10 percent is indicative of the burden which the high tax rate had imposed. This is revealed by changes in the employment policies of the establishments involved.

The first establishments considered are the 1,694 which were in business in both 1959 and 1962, and which employed musicians in both periods. These establishments provided 494,926 man-hours of employment in the 4-week period in 1959, and this had increased to 541,031 in 1962, after the reduction in the tax.

In establishments in business in both periods, but which employed musicians in one period only, there were 43,541 man-hours in 219 establishments in the 4-week period in 1959, and 88,367 man-hours in 480 establishments in the corresponding 4-week period in 1962.

In addition, some establishments were in business in 1959 but not 1962, while others came into business only after the tax was reduced. The former provided about 75,000

man-hours of employment for musicians, while the latter provided about 194,000.

Details are as follows:

	Man-hours of musicians' employment in 4-week period [1] in—	
	1959	1962
In business both years:		
Hired musicians in both years	494, 926	541, 030
Hired musicians only in 1959	43, 541	
Hired musicians only in 1962		88, 367
In business in 1959 but not 1962	75, 565	
In business in 1962 but not 1959		194, 389
Total (4-week period)	614, 032	823, 786
Annual equivalent	7, 982, 416	10, 709, 218
Percentage increase		+34. 2

[1] 1959: 4 weeks ending Dec. 13, 1959; 1962: 4 weeks ending Dec. 16, 1962.

A comparison might be made here between an accomplished fact following the reduction of the cabaret tax from 20 to 10 percent, and the estimate made in the original study of the probable increase in musicians' employment in 20-percent establishments, if the tax were eliminated altogether.

The accomplished fact, following reduction of the tax from 20 to 10 percent is the 34.2-percent increase in musicians' employment cited above.

In the earlier study it was estimated that musicians' employment in these establishments would increase by about 68 percent if the tax were eliminated altogether.

Musicians' income

Traveling musicians are charged a payroll tax in behalf of the local in the area in which they are engaged. In many cases, there is also a small payroll tax based on the employment of local musicians in local establishments. Thus it was possible to obtain a sampling of what has happened to musicians' income, based on 18 locals which were able to report both local and traveling payroll tax, 15 locals which were able to report only the local tax, and an additional 27 locals which reported only the traveling tax.

The income estimate is not exactly comparable with the man-hour data, since the latter was limited to establishments subject to the cabaret tax, while the payroll tax covers all forms of musical employment. The estimated income is based only on the tax collected by the local, which in many cases is based on scale rather than on earnings. To the extent to which payment rates to musicians have increased more rapidly than scale rates, the estimates made here will understate the increases in musicians' income which have actually taken place.

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Income estimates for local and/or traveling musicians

[Thousands of dollars; 4-week periods [1]]

	Local musicians		Traveling musicians	
	1959	1962	1959	1962
18 locals	$6, 674	$8, 059	$1, 355	$1, 271
15 locals	25, 501	34, 663		
27 locals			961	1, 153
Total (4-week periods)	32, 175	42, 722	2, 316	2, 424
Annual equivalents	418, 275	555, 386	30, 108	31, 512
Percent change	+32. 8		+4. 7	

[1] 4 weeks ending Dec. 13 in 1959; 4 weeks ending Dec. 16 in 1962.

There are three points to note in connection with these income estimates:

1. The gain of slightly less than 5 percent for traveling musicians, based on 4-week periods in 1959 and 1962, is not far from the gain of almost 8 percent shown in national collections of the traveling tax during the 2 fiscal years ending March 31, 1959 and 1962.

2. Most of the increase in musicians' income has been accounted for by local employment. This is not surprising. Traveling musicians, in the main, are employed in the larger establishments in leading cities or resort areas. Reduction of the tax, although a relief for such establishments, was not so much a matter of life or death as it was for the scattered small places, which are a major source of local employment for local musicians.

In a very real sense, therefore, it can be concluded that the reduction in the cabaret tax from 20 to 10 percent has provided relief where it was most needed; i.e., among small establishments and for local musicians.

3. The present study has been limited to the impact of the cabaret tax reduction on the position of musicians. It is not unreasonable to believe, however, that the income of the affected establishments, and of other employees of these establishments, showed somewhat similar increases. There has, therefore, been a very substantial increase in related business and income tax revenue collected by the Treasury since the cabaret tax was reduced.

In the original study commissioned by the federation, it was estimated that loss of revenue caused by complete elimination of the tax would be more than offset by increased income tax revenue.

The Treasury, however, consistently took the position that a 50-percent reduction in the tax (from 20 to 10 percent) would result in a 50-percent loss in revenue. The tax was reduced nevertheless, and the results—a decline of 22.3 percent in cabaret tax revenue between fiscal 1959 and fiscal 1962—proves conclusively that the Treasury's contention was unrealistic.

If allowance is made further for the increases in income tax revenue since the cabaret tax was reduced (based on the higher income of musicians, establishments subject to the cabaret tax, and other employees of these establishments), the conclusions of the original study seem to be substantially validated.

TAX REDUCTION CHIEF REASON FOR IMPROVEMENT

Time has elapsed since the 20-percent cabaret tax was reduced to 10 percent as of May 1, 1960, and there has, of course, been some improvement in general economic conditions since then. It might be argued that this general improvement contributed to higher income and employment for musicians, even though, as pointed out in the original study, much greater economic gains in earlier periods had failed to do so. However, various comparisons can be made which justify the conclusion that the cabaret tax reduction was primarily responsible for the marked improvement in the economic condition of establishments subject to this tax, and of the musicians and others employed by these establishments.

Consumer expenditures

[In millions of dollars]

	1959	1961	Percent increase
Total	313,538	338,058	7.9
Food and tobacco	84,619	88,738	4.9
Purchased meals and beverages	16,456	17,374	5.6
Clothing, accessories, and jewelry	33,093	34,502	4.3
Personal care	4,927	5,790	17.5
Housing	39,646	43,928	10.8
Household operation	44,154	47,315	7.2
Medical and death	19,684	22,426	13.9
Personal business	18,789	21,615	15.0
Transportation	39,157	40,093	2.4
Recreation	18,309	20,638	12.7
Books and maps	1,353	1,721	27.2
Magazines, newspapers, music	2,309	2,534	9.7
Nondurable toys and sport supplies	2,378	2,621	10.2
Wheel goods, durable toys, sport equipment, boats, pleasure aircraft	2,017	2,169	7.5
Radio, TV, records, instruments	3,420	3,815	11.5
Radio and TV repair	784	909	15.9
Flowers, seeds, potted plants	905	1,058	16.9
Admissions to specified spectator amusements	1,875	2,049	9.2
Motion pictures	1,271	1,369	7.7
Legitimate theaters, opera, and entertainment of nonprofit organizations	339	400	18.0
Spectator sports	265	280	5.7
Clubs and fraternal organizations	744	799	7.4
Commercial participant amusements	868	1,041	19.9
Parimutual net receipts	473	523	10.6
Other	1,183	1,399	18.3
Private education and research	4,082	5,106	25.1
Religious and welfare activities	4,281	4,971	16.1
Foreign travel and remittances (net)	2,797	2,936	5.0

Source: Department of Commerce.

INCREASED SPENDING IN CABARETS

A measure of the extent to which the 20-percent carbaret tax inhibited taxable consumer spending in these establishments is the extent to which taxable consumer spending increased when the tax was reduced. This can be calculated directly from reports on cabaret tax revenue, since the tax rate was 20 percent in 1959 and 10 percent in 1961 and 1962. The increase in taxable consumer income amounted to 49 percent between fiscal 1959 and 1961, and to 55.3 percent between fiscal 1959 and 1962.

Consumer expenditures for goods and services are reported by the Department of Commerce, the last detailed information at the time of writing being for calendar 1961. The extent to which gains for other types of consumer spending fall short of the increase for taxable spending in cabarets is indicated in the table on the following page.

The relatively restricted gains for other forms of consumer spending indicate that it was the reduction in the cabaret tax, rather than an improvement in general economic conditions, which chiefly accounts for the marked gain in taxable consumer spending in cabarets.

Man-hours

Man-hours of work available to musicians, in establishments subject to the cabaret tax were affected, between 1959 and 1962, by the reduction in the tax from 20 to 10 percent.

That this reduction in the tax was chiefly instrumental in the 34.2-percent increase in man-hours is indicated by comparing with the much smaller gains (or declines) in other activities, which did not have the benefit of this special stimulus.

Percent change in employment[1] by major industry classifications

	Percent change
Mining	−10.7
Contract construction	−6.3
Manufacturing	+1.9
Durable	+3.9
Nondurable	−.9
Transportation and public utilities	−2.0
Wholesale trade	+3.0
Retail trade	+1.5
Finance, insurance and real estate	+7.3
Services and miscellaneous	+13.7
Government	+12.9

[1] Based on man-hours of employment per week, except for transportation and public utilities; finance, insurance, and real estate; services and miscellaneous; and Government, which are based on number of employees.

Source: U.S. Department of Labor.

Mr. LONG of Louisiana. Mr. President, so far those of us who have been trying to get the tax cut bill through the Senate have taken the position that if we were to agree to a single reduction in the excise taxes—any one of them—we would "pull the plug out of the dike" and all the excise taxes would flow through. It would cost us $10 billion. Once we repeal one of the excise taxes, a case is made for the repeal of the next. After that tax is repealed, the way is

open for the repeal of the next excise tax. Each proposal sounds good in its own right. Each excise tax that would be repealed would set the stage for the repeal of another excise tax. After a while we would discover that we had lost $10 billion of taxes, so that instead of having a tax bill which would result in a loss of revenue in the amount of $12 billion, we would wind up with a tax bill containing a loss of revenue in the amount of $24 billion. If we take that action, we might as well repeal the entire Revenue Code.

Mr. President, this is the first time that the junior Senator from Louisiana has been the Senator in charge of a tax bill on the floor of the Senate. I suppose it would be interesting to have the distinction of being the Senator in charge of the bill that repealed the entire Internal Revenue Code and removed all taxes.

Mr. President, the Government must operate. It must have some revenues. Senators have been required to remain in the Chamber and vote to hold the bill together, knowing that if we should load the bill down with many excise tax cuts, the President would be compelled to veto it, and we would have done a vain and futile thing in attempting to help the taxpayer. In the last analysis, we would have done nothing after having labored for 2 years on a bill.

Mr. SMATHERS. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. SMATHERS. To demonstrate the sincerity and at the same time the plight in which the junior Senator from Louisiana and the junior Senator from Florida find themselves, I point out the fact is that we were the original sponsors of a similar amendment.

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For 5 years we have been the ones who at various times when bills relating to excise taxes were before the Senate fought for a reduction in that tax. There are many cabarets in the State of Florida. In one city in Louisiana I suppose there are more cabarets than there are in the entire State of Wisconsin. I do not know. Certainly we have plenty in Florida. We sponsored a similar amendment for years.

Mr. President, I point out that we reduced the tax on cabarets from 20 percent to 10 percent. The amendment would not remove the tax entirely but would reduce it to 3 percent. As the able Senator has said, if we pull our finger out of the dike on the excise tax to which we are now referring, or any one of the excise taxes, instead of the cost being only $30 million, as the Senator has said, the final cost would be about $10 billion, because we would take off the excise taxes on lights, automobiles, tires, and all the other commodities on which excise taxes are imposed. So I hope the Senate will reject the amendment.

Mr. LONG of Louisiana. Mr. President, the junior Senator from Louisiana was the father of the amendment offered by the Senator from Wisconsin before the Senator from Wisconsin ever sought to adopt it. He is the one who made the fight to reduce the excise tax on cabarets from 20 percent to 10 percent. During the time that he was not fighting for it, the Senator from Florida fought for it.

The Senator from Illinois made the same fight. He joined us in the effort. We reduced the tax from 20 percent to 10 percent.

I hope we can do what the Senator from Wisconsin is trying to do, but not in the bill before the Senate. If we should adopt the amendment in the present bill, in my judgment, there would be no bill.

I do not know whether the musicians are as appreciative of the efforts of the Senator from Wisconsin to remove the excise tax in that industry as they were of the efforts of the Senator from Louisiana. Drew Pearson even wrote a column about me on the subject, stating that the musicians contributed to my campaign. The musicians bought an advertisement in the newspaper which read, "Thank you, Senator LONG, for cutting the tax on cabarets, because that is where we make our living playing music."

The Senator from Louisiana would be happy to cooperate with the Senator from Wisconsin in helping to repeal the tax, but not in the pending bill. When the Senator offered the amendment, he inflicted the crueliest wound of all. [Laughter.] He would like to be able to tell the people in the city of New Orleans that he had played some part in the repeal of that tax. To resist the amendment is doing the same thing as was done to certain other Senators who proposed repeal of the excise taxes on ballpoint pens, musical instruments, and certain other commodities in order to assure our obtaining a $11.6 billion tax reduction. Sometimes, when a Senator must resist that kind of amendment, such resistance can be cruel.

Mr. SMATHERS. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. SMATHERS. The able Senator from New Mexico [Mr. ANDERSON] is also one of those who has some paternity rights in the amendment, because at one

time he offered an amendment of the nature of the one proposed. The Senator from Illinois did also. I believe the Senator from Washington has done so. So as the able Senator from Louisiana has said, the amendment is a sort of cruel amendment because it would require us to do a 180° turn. But I cannot accept the amendment on the bill before the Senate.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. MAGNUSON. Though many of us have strong feelings about certain excise taxes, we have stayed with the recommendations of the committee for the very reasons which the Senator from Louisiana has pointed out.

The bill before the Senate is a different kind of bill.

The argument always stated by members of the Committee on Finance is that if one excise tax is removed, we would open the floodgates for almost $11 billion of excise tax reductions, and that all excise taxes should be treated alike.

Obviously, all excise taxes are not alike. Some are more unjust than others. Some are more inequitable. Some are more irritable. Different products sold by members of the public fall into different categories. I hope that when we again come before the committee, after staying with them on the bill, the Committee on Finance will not take the position that we cannot touch any excise tax or any one segment of the excise tax structure, because we would have to repeal $11 billion worth of excise taxes.

Excise taxes must be considered as they are presented. The Senator from Florida and I had a part in the repeal of the transportation excise tax because that tax affected the whole economy of the Nation.

I believe that we ought to have a little more assurance from the Finance Committee. I know their word is absolutely good, but I wish to make it a little more clear that when we come to the committee with some suggestions as to an excise tax program—for example, a repeal of the sales tax to which the Senator from Kentucky referred—we will not be met again with the argument that if it is done for one commodity, it must be done for $11 billion worth of commodities. That is not the correct way to get rid of excise taxes. I hope that is clear.

A few days ago the Senator from Virginia [Mr. BYRD] said that, as soon as the House sends a bill to the Senate, or after the Finance Committee itself examines the excise taxes, he would call the committee immediately and consider the question. The chairman of the House Committee on Ways and Means, Mr. MILLS, has said that he would hold hearings on excise taxes this spring, as I recall the statement in the press. Some of us will stay with the committee, but we are still not abandoning the belief that there are some excise taxes the repeal of which would not cost us anything but, in many instances, would actually bring money into the Treasury.

Mr. PROXMIRE. My amendment would, too.

Mr. MAGNUSON. Some would not.

Mr. LONG of Louisiana. Mr. President, who has the floor?

Mr. MAGNUSON. When we talk about one excise tax that we believe should be repealed, and it has the feature about which I have spoken, I hope we will not be met with the argument that to repeal the tax would result in the repeal of $10 or $11 billion of excise taxes.

Mr. LONG of Louisiana. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. MAGNUSON. I believe I am entitled to 3 minutes.

Mr. LONG of Louisiana. I appreciate that fact. I merely wished to make clear that I have the floor, and that I have yielded to the Senator.

Mr. MAGNUSON. I thank the Senator.

Mr. LONG of Louisiana. As chairman of the Committee on Commerce for a number of years, the Senator from Washington knows that when he makes a commitment that a certain measure will be considered, he cannot promise what his vote will be. But based upon the circumstances, he understands what the general effect of that commitment is, and he knows as well as I do that the chairman of the committee is as much a man of his word as any man in public life.

Mr. MORTON. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. MORTON. On Wednesday the Republican members of the Committee on Finance made their position clear on the subject of the repeal of excise taxes. So the Senator knows that he can count on Senators on our side of the aisle.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield to the Senator from Illinois.

Mr. DOUGLAS. I have great feeling and friendship for the junior Senator from Louisiana, and always have had ever since we both came into the Senate together some 16 years ago. I hope he will not take it amiss, when he says that he had been for the removal of the

original cabaret tax, but is opposed to it now, if I quote from Euripides, "The Hippolytus," as translated by Gilbert Murray:

> And to mine eyes, not in man's knowledge, not in wisdom, lies the lack that makes for sorrow.
>
> Nay, we scan and know the right, for wit hath many a man who will not to the last live, strive and serve.
>
> But some grow too soon weary and some swerve to other paths setting before the right the faint, far-off image of delight.
>
> And many are the delights beneath the sun.

Mr. LONG of Louisiana. The Senator has not borne the cross nearly as much as the Senator from Louisiana has in bringing this bill before the Senate. I am more concerned about those musi-

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cians than I am about Euripides. [Laughter.]

Mr. PROXMIRE. Mr. President, the argument for this amendment has not been disputed at all. Apparently it is agreed that the reduction of the cabaret tax from 10 to 3 percent would not reduce revenues. It is agreed that there will be new jobs, which will provide new taxes. The only argument that has come forth is that if we do this, all other excise taxes would have to be eliminated. The Senator made that argument in 1962, and led a successful fight in reducing excise taxes on transportation. The Senator from Louisiana states that he was responsible for cutting the excise tax from 20 to 10 percent on cabarets and that there has been a $10 million or $20 million cut in excise taxes. Of course that argument is not accurate. It is an argument that should not be made to an intelligent body—that if we vote to cut one excise tax, we will have to vote to cut all others. It is ridiculous.

This amendment has all kinds of fathers. Everybody supported it, apparently, under some circumstances; but Senators who really are interested in this kind of excise tax cut must vote now or not this year at all, because we know there is not going to be another tax cut this year. We are providing an $11.7 billion tax cut now. Does anyone think there is going to be another $5 billion or $10 billion tax cut later this year? Of course not. This is the only opportunity to give relief to those who need it, which will result in making more jobs and increasing revenues.

Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. LONG of Louisiana. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Louisiana has 7 minutes remaining.

Mr. LONG of Louisiana. Mr. President, New Orleans is one of the prime entertainment cities in the United States. It is sometimes known as the city that care forgot. The Senator from Louisiana could go as far as any other Senator in voting to take the tax off cabarets; but some Senators will have difficulty explaining why they voted against taking the tax off ladies' handbags, ball point pens, electric light bulbs, and spark plugs, and wound up by voting to take the tax off cabarets.

It is not a problem for me. I could get away with it. The votes I would lose in north Louisiana I probably would recoup in New Orleans. But certain Senators are going to have difficulty explaining why they voted against taking excise taxes off everything else but cabarets.

If the Senator from Louisiana has any influence, he would see to it that we look into the question of excise taxes. Excise taxes amounting to $1,900 million will have to be extended this June, or they will expire. I can assure the Senator that we will consider that item if I have any influence. But I do not think this is the time to do it.

Mr. President, I yield to the Senator from Kansas [Mr. CARLSON].

Mr. CARLSON. Mr. President, I think this is an opportune time to say that I agree with the Senator from Washington. I know when the chairman of the Commerce Committee says the committee is going to go into the matter of excise taxes this summer, he will do it, not only because his word is good, but because $1,900 million worth of excise taxes expire on June 30. But I do not vote for any excise tax in the illusion that there are to be reductions because there will be hearings. We shall be faced with a reduction of $11 billion in taxes this year. I voted against the handbag amendment last night. I shall vote against this amendment. But let us not vote against it with the idea that next summer there will be reductions in these excise taxes.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield to the Senator from Montana.

Mr. MANSFIELD. The point is not that there will be an expectation of great reductions, but that there will be hearings, and this subject will be considered on its own merits. In the words of the Senator from Louisiana [Mr. LONG], he is going to seek to avoid any excise tax reductions or abolitions in this bill.

Mr. LONG of Louisiana. Yes. Some persons may be unhappy over the fact that some excise taxes will be retained and perhaps some will not be. It may be the case that some excise taxes should be reduced, some eliminated altogether, and some continued. But the Senator from Louisiana does not propose to do that in this bill.

Mr. KEATING. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield 1 minute to the Senator from New York.

Mr. KEATING. Mr. President, I dislike to see all these "fathers" take to the hills. I commend the Senator from Wisconsin for standing up for the parentage of this amendment. One cannot say he is for an amendment and then vote against it. The American people cannot rely on any relief in this field this year unless the amendment is adopted. Employees in this industry—musicians, chefs, cooks, waiters, bartenders, and so on—employees who now have no jobs will find little solace in the views of those who say they favor the amendment but will vote against it now. Voting for it next year may make jobs next year, but what about this year? How about making jobs in this industry this year? Why not increase revenues this year?

This amendment would increase revenues, not reduce them, as shown by the results of excise taxes which were eliminated by similar amendments.

I am convinced of the difference in kind between this amendment and others that have gone before it, although I supported all the others, too, and in fact proposed the amendment on ladies' handbags. I think all should have been approved. But none had the peculiar status of the cabaret tax amendment. This one is entirely different from the other amendments. It would not result in losing revenues. It would create jobs and increase revenues at one and the same time.

Again, I express my admiration for the Senator from Wisconsin for sticking to his guns on this one.

Mr. PROXMIRE. Mr. President, I yield to the Senator from Hawaii [Mr. FONG].

Mr. FONG. Mr. President, I join the Senator from Wisconsin in urging adoption of the amendment. I think it is long overdue. It would give the same incentive to the economy that the bill as a whole is designed to provide. If the tax is reduced, it will stimulate employment for musicians, entertainers, waiters, cooks, and all the other personnel related to cabarets, roof gardens, and other places to which the tax now applies.

America is trying to induce foreign business people and visitors to come to our shores to view our scenic wonders, to visit our historic places, to sojourn in our vacation playlands and to enjoy oure entertainment facilities. A reduction in the entertainment tax would induce many more oversea visitors and many more Americans seeking relaxation to go to cabarets and similar places. I believe it would lead to a significant increase in patronage and thereby help create jobs. I hope the amendment will be adopted.

Mr. PROXMIRE. Mr. President, I yield to the Senator from Michigan [Mr. MCNAMARA].

Mr. MCNAMARA. Mr. President, I take the same position that has been explained by other Senators. I have consistently voted against repealing excise taxes in this bill because I think there is an unfair excise tax on automobiles.

However, I find the amendment now offered has so much appeal that I am going to vote for it despite my belief that I would not be able to vote for any repealers until there was an abolition of the unfair excise tax on automobiles.

Mr. PROXMIRE. I thank the Senator.

I yield now to the Senator from Tennessee.

Mr. GORE. Mr. President, every time an amendment is offered, whether it is to take a tax off women's handbags, or costume jewelry, or what not, we hear the argument that it is going to break the dike.

First, I should like to know who is breaching the dike. The $11 billion tax cut is not something to be stopped with a finger, exactly. The whole argument is unsound. There are those who advocate the $11.7 billion tax cut on the basis that it will be a wonderful thing to lose revenue that will bring prosperity and balance the budget, but if we try to do something for the people and remove Federal excise taxes, we are about to breach the dike.

Mr. PROXMIRE. I thank the Senator from Tennessee. That is particularly apropos in view of what happened to the amendment yesterday, when we had an opportunity to save $725 million a year by depreciation on the basis of 100 percent of the real cost of the asset. Where were the managers of the bill then?

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I yield to the Senator from Michigan [Mr. HART].

Mr. HART. Mr. President, each of these amendments to repeal specific excise taxes has great appeal. I have shared the concern of the Senator in

charge of the bill the Senator from Louisiana [Mr. LONG], that adoption of any one such amendment could jeopardize the income tax reduction bill itself by opening up all of the excise taxes. For this reason, I shall continue to support the committee on this and other excise reductions.

We need very much the same full committee's review, report and then legislative action on the excise taxes as we have now before us on the income tax. Reduction of automobile and cabaret excise taxes, among others, would then be within such review as so much needed.

Mr. PROXMIRE. Mr. President, I yield to the Senator from Montana [Mr. MANSFIELD].

Mr. MANSFIELD. Mr. President, we have heard the same argument time and time again during the course of this debate as it affects exercise taxes on this or the other item. I would hope Senators would not allow the dike to be breached. The Senator from Louisiana has done an extremely efficient and effective job in keeping the bill together. It has been no easy task, and I would hope that the amendment will be given the support to which it is entitled. I hope the Senate will vote down the amendment. If it is adopted, we shall find other proposals along a similar line, and the dike will really be breached.

Mr. SIMPSON. Mr. President, I am comforted by the knowledge that the excise taxes will be reviewed at a later time. I believe that.

We have a song out West that should dispose of this question. I do not ask Senators to join me in singing it. They do not have to do that, but there is a little ditty which goes:

> Come little girlie and let us fly away
> Far from the noisy, gay cabaret.

[Laughter.]

So I suggest that we get on with the business of doing away with this amendment.

Mr. LAUSCHE. Mr. President, the other day I opposed a proposal to remove the tax on jewelry and other items. I did so on the basis that the bill that was pending before us dealt only with income taxes. Each Senator has some particular type of excise tax in which he is interested. He believes that that excise tax is the one that primarily should be reduced.

When we encounter the "hobbies" of various Senators, each saying, "My State has cabarets," "My State manufactures jewelry," or "My State manufactures leather goods," where are we to end?

I should like to give support to those in the cabaret business, but I believe it should be looked at as to the whole unit. Comparison should be made——

The PRESIDING OFFICER. The time of the Senator from Ohio has expired.

Mr. LAUSCHE. Mr. President, I ask unanimous consent that I may proceed for 1 minute.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 1 minute.

Mr. LAUSCHE. Comparisons should be made as to which of the excise taxes should occupy the highest priority by way of getting a concession, and that cannot be done on the floor of the Senate.

Mr. PROXMIRE. Mr. President, I yield time on the bill to the Senator from Nevada [Mr. BIBLE].

Mr. BIBLE. I should like to ask the distinguished Senator in charge of the bill as to the timetable for the hearing on the excise taxes, as to whether that has been indicated.

Mr. LONG of Louisiana. The chairman of the Ways and Means Committee of the House announced that he will undertake hearings on this subject in May. The Senator from Virginia, chairman of the Finance Committee, has undertaken to assure the Senate that immediately after an excise tax bill reaches the Senate he will hold hearings on it.

Mr. BIBLE. I thank the Senator. As the Senator from Louisiana knows, we joined during previous debate on reduction of the carbaret tax from 20 percent to 10 percent. I believe it can be demonstrated that the reduction caused a great increase in employment. I believe it can be proved that it also resulted in an increase in revenue. I am inclined to believe that the same thing would occur again, but I am perfectly willing to defer to the entreaty of the Senator from Louisiana, and his assurance that it will be considered later in this session, at the time excise taxes are considered.

Mr. LONG of Louisiana. The Senator from Nevada was a great battler in the fight to reduce carbaret excise taxes from 20 percent to 10 percent. I look forward to joining forces with him in the future on this subject.

Mr. BIBLE. That is good, because I believe that the soundness of the reduction can be fully demonstrated.

Mr. PROXMIRE. Mr. President, I shall be brief, and take less than a minute. We all know, that no matter what Senators say here, there will be no excise tax reduction this year. The only way we can get this one through is to vote for it now. This is our only opportunity. We also know that there has not been a single word to dispute the statement that it would not deprive the

Treasury of one penny in revenue, and that it would provide thousands and thousands of jobs.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin. The yeas and nays have been ordered; and the clerk will call the roll.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the Senator from Illinois [Mr. DIRKSEN]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. HUMPHREY. I announce that the Senator from Louisiana [Mr. ELLENDER] is absent on official business.

I further announce that, if present and voting, the Senator from Louisiana [Mr. ELLENDER] would vote "nay."

Mr. KUCHEL. I announce that the Senator from Nebraska [Mr. CURTIS] and the Senator from Illinois [Mr. DIRKSEN] are necessarily absent.

If present and voting, the Senator from Nebraska [Mr. CURTIS] would vote "nay."

The pair of the Senator from Illinois [Mr. DIRKSEN] has been previously announced.

The result was announced—yeas 30, nays 66, as follows:

[No. 35 Leg.]

YEAS—30

Beall	Gore	Morse
Bennett	Gruening	Nelson
Cannon	Hartke	Neuberger
Case	Inouye	Proxmire
Cotton	Jackson	Randolph
Dodd	Javits	Saltonstall
Dominick	Keating	Scott
Douglas	Kuchel	Symington
Fong	McNamara	Williams, N.J.
Goldwater	Mechem	Young, N. Dak.

NAYS—66

Aiken	Hickenlooper	Moss
Allott	Hill	Mundt
Anderson	Holland	Muskie
Bartlett	Hruska	Pastore
Bayh	Humphrey	Pearson
Bible	Johnston	Pell
Boggs	Jordan, N.C.	Prouty
Brewster	Jordan, Idaho	Ribicoff
Burdick	Kennedy	Robertson
Byrd, Va.	Lausche	Russell
Byrd, W. Va.	Long, Mo.	Simpson
Carlson	Long, La.	Smathers
Church	Magnuson	Smith
Clark	McCarthy	Sparkman
Cooper	McClellan	Stennis
Eastland	McGee	Talmadge
Edmondson	McGovern	Thurmond
Engle	McIntyre	Tower
Ervin	Metcalf	Walters
Fulbright	Miller	Williams, Del.
Hart	Monroney	Yarborough
Hayden	Morton	Young, Ohio

NOT VOTING—4

Curtis	Ellender	Mansfield
Dirksen		

So Mr. PROXMIRE's amendment was rejected.

Mr. MORTON. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

Mr. ANDERSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair understands that the Senate is now ready to proceed to the further consideration of the Gore amendment. The Senator from Louisiana has 4 minutes remaining.

Mr. LONG of Louisiana. Mr. President, I yield 2 minutes to the Senator from Tennessee.

Mr. GORE. Mr. President, this is a very important amendment. Only 4 minutes remain. The distinguished junior Senator from Louisiana has kindly allotted 2 of those 4 minutes to me.

The bill contains two sections dealing with new types of stock options. One

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covers the employee purchase plan. My amendment does not touch that.

Under this new employee purchase plan, the officer of a corporation can be granted an option to buy $25,000 worth of stock each year at only 85 percent of market value.

There is another condition in the employee purchase plan. It must be nondiscriminatory. Any preferential special tax treatment of stock options should have those two requirements. Any such plan should be nondiscriminatory, so that the man who works on a lathe can benefit from the profit of the corporation the same as the man in the penthouse; second, there should be some reasonable limit to the amount. The employee purchase plan, which is found in section 423, has both of those qualities.

But there is another section in the bill that is without limit. It is section 422. This is for the officers of the corporation and is, I repeat, without limit. My amendment would strike out section 422.

I ask Senators to turn to my remarks of yesterday evening.

The PRESIDING OFFICER. The time of the Senator from Tennessee has expired.

Mr. LONG of Louisiana. I yield the Senator 1 minute on the bill.

Mr. GORE. I thank the Senator.

I placed in the RECORD yesterday evening the recommendation of the late beloved President Kennedy to the effect

that the existing "restricted" stock option be stricken from the law. This is one tax reform that I should like to see accomplished in the bill. President Kennedy asked for it. Secretary Dillon recommended it. That is what my amendment actually would accomplish. It is fair; it is right. We should not write into law any such special benefit without limit. Vast benefits can still be received under section 423—$25,000 of options a year at 85 percent of market value.

Mr. LONG of Louisiana. Mr. President, I yield to the Senator from Utah 2 minutes on the amendment and 1 minute on the bill.

Mr. BENNETT. Mr. President, the program of qualified stock options has become a component part of the pattern for the hiring of professional management executives. The company that finds itself in management difficulty and is under great pressure to find a man who can pull it out of trouble certainly cannot induce a man to buy stock in that company in limited amounts without some special incentive.

We have voted a 7-percent tax credit as an incentive to business. Here is a device which, in the management field, serves the same purpose. The amendment offered by the Senator from Tennessee [Mr. GORE] would eliminate it completely and would have exceedingly dangerous effects on publicly held corporations with respect to their opportunities to secure management.

The bill tightens existing law very much:

First. It requires a holding period for the stock of 3 years as against 6 months under existing law.

Second. The maximum period during which an option could run would be 5 years instead of 10.

Third. Stock options must be issued at the market price on the date of grant rather than at 85 percent of the market price under existing law.

Fourth. The bill modifies the provisions so that the price of stock options can no longer be reset when the price of the stock goes down. If a person has an option, he must live up to it before he can get another option.

Fifth. The stockholders themselves must approve any plans for stock options.

In my opinion, it would be tragic and dangerous to adopt the Gore amendment. I hope the Senate will support the Committee on Finance, which heard much testimony and studied the problem very carefully, that it will have faith in the committee's decision, and will vote to retain this feature in the bill.

Mr. LONG of Louisiana. Mr. President, I yield myself 1 minute on the bill.

It is true that the Treasury originally recommended the position now urged by the Senator from Tennessee. However, this matter was studied by both the House and Senate committees and both the House and Senate committees rejected the original Treasury recommendations and took different action. Now, Treasury has accepted the position taken by the committees. The Treasury recommends that we adhere to the position covered by the bill. Therefore, Treasury is not now supporting the Gore amendment.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment of the Senator from Tennessee [Mr. GORE]. The yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY. I announce that the Senator from Louisiana [Mr. ELLENDER] is absent on official business.

I further announce that, if present and voting, the Senator from Louisiana [Mr. ELLENDER] would vote "nay."

Mr. KUCHEL. I announce that the Senator from Nebraska [Mr. CURTIS] and the Senator from Illinois [Mr. DIRKSEN] are necessarily absent.

The Senator from Arizona [Mr. GOLDWATER] is detained on official business.

If present and voting, the Senator from Nebraska [Mr. CURTIS], the Senator from Illinois [Mr. DIRKSEN], and the Senator from Arizona [Mr. GOLDWATER] each would vote "nay."

The result was announced—yeas 39, nays 57, as follows:

[No. 36 Leg.]

YEAS—39

Aiken	Hill	Neuberger
Bartlett	Humphrey	Pastore
Burdick	Kennedy	Proxmire
Byrd, Va.	Lausche	Randolph
Cannon	McIntyre	Ribicoff
Church	McNamara	Russell
Clark	Metcalf	Smith
Cooper	Monroney	Sparkman
Dodd	Morse	Symington
Douglas	Moss	Thurmond
Gore	Mundt	Yarborough
Gruening	Muskie	Young, N. Dak.
Hart	Nelson	Young, Ohio

NAYS—57

Allott	Eastland	Javits
Anderson	Edmondson	Johnston
Bayh	Engle	Jordan, N.C.
Beall	Ervin	Jordan, Idaho
Bennett	Fong	Keating
Bible	Fulbright	Kuchel
Boggs	Hartke	Long, Mo.
Brewster	Hayden	Long, La.
Byrd, W. Va.	Hickenlooper	Magnuson
Carlson	Holland	Mansfield
Case	Hruska	McCarthy
Cotton	Inouye	McClellan
Dominick	Jackson	McGee

NAYS—Continued.

McGovern	Prouty	Stennis
Mechem	Robertson	Talmadge
Miller	Saltonstall	Tower
Morton	Scott	Walters
Pearson	Simpson	Williams, N.J.
Pell	Smathers	Williams, Del.

NOT VOTING—4

Curtis	Ellender	Goldwater
Dirksen		

So Mr. GORE's amendment was rejected.

Mr. McCLELLAN obtained the floor.

Mr. BENNETT. Mr. President, will the Senator from Arkansas yield for about 1 minute to me? I wish to offer a technical amendment, and its consideration should not require more than 1 or 2 minutes.

Mr. McCLELLAN. Mr. President, if I yield for that purpose, I shall have to yield for the submission of several other amendments.

However, Mr. President, at this time I yield for that purpose to the Senator from Utah, with the understanding that Senators will speak in their own time on their own amendments.

I yield first to the Senator from Utah; thereafter, I shall yield to the Senator from Iowa [Mr. MILLER].

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I offer the amendment which I sent to the desk.

The PRESIDING OFFICER. The amendment of the Senator from Utah will be stated.

The LEGISLATIVE CLERK. On page 168, in line 3, after the word "months," it is proposed to strike out "or," and to insert: "unless the loans, notes, or installment obligations are evidenced or secured by contracts of conditional sale, chattel mortgages, or lease agreements, arising out of the sale of goods or services in the course of the transferor's or borrower's trade or business, or."

Mr. BENNETT. Mr. President, this amendment arises out of an attempt by the Treasury to simplify the language of the law relating to finance companies. The Treasury has gathered up all the sections of the existing law and has shortened them very much; and in the process the Treasury wrote language which would make it impossible to finance house trailers.

The Treasury recognizes what it has done; and the language of this amendment has the approval of the Treasury, which recognizes that this change should

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be made. The Treasury considers this amendment to be a technical one. If the Treasury had realized the problem when it recommended the other changes in the law, the Treasury would have caught this error or oversight or complication; but the Treasury did not realize it.

Therefore, I ask that the Senate approve this amendment, and then have the amendment taken to conference as a technical amendment.

Mr. LONG of Louisiana. Mr. President, so far as I know, there is no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment was agreed to.

Mr. BENNETT. Mr. President, I thank the Senator from Arkansas for his courtesy in yielding this time to me.

Mr. McCLELLAN. Mr. President, have I the floor?

The PRESIDING OFFICER. Yes.

Mr. McCLELLAN. Has the time used for the last amendment been charged to the time available to me, under the unanimous-consent agreement?

The PRESIDING OFFICER. No.

Mr. McCLELLAN. Mr. President, I call up my amendment——

Mr. JAVITS. Mr. President, first, will the Senator from Arkansas yield 3 minutes to me?

Mr. McCLELLAN. Mr. President, I am perfectly willing to yield to the Senator from New York 3 minutes on the bill, provided the time he uses will not be charged to the time available to me.

Mr. JAVITS. Mr. President, I so request.

The PRESIDING OFFICER. The Chair understands that the Senator from Arkansas yields 3 minutes on the bill to the Senator from New York.

Mr. KUCHEL. With the consent of the Senator from Arkansas.

Mr. McCLELLAN. Therefore, Mr. President, at this time I yield for 3 minutes, with the understanding that the time which will be used by the Senator from New York will not be charged to the time available to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KUCHEL. Do I correctly understand that the Senator is yielding, but declines to yield any of the time available to him?

Mr. McCLELLAN. The Senator is correct.

Mr. KUCHEL. The time will be applied under the order to the bill.

Mr. McCLELLAN. With the understanding that I will not be charged with the time, I yield 3 minutes to the Senator from New York.

Mr. KUCHEL. I thank the Senator.

Mr. THURMOND. Mr. President, will the Senator yield a half minute?

Mr. JAVITS. I have only 3 minutes available.

Mr. THURMOND. Mr. President, I ask unanimous consent that my name may be added as a cosponsor of the amendment of the Senator from Arkansas. Several days ago I had asked that my name be added.

The PRESIDING OFFICER. Without objection, it is so ordered.

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REVENUE ACT OF 1964

The Senate resumed the consideration of the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, without the time required for the call of the quorum being charged to the time available to Senators on either side.

Mr. KUCHEL. Mr. President, reserving the right to object—and I shall not object because our able friend the Senator from Arkansas has cooperated with several Senators, and I believe the subject of his amendment is of sufficient importance to have a quorum call——

Mr. SMATHERS. Therefore, the Senator will not object.

Mr. KUCHEL. That is correct.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 37 Leg.]

Aiken	Clark	Hayden
Allott	Cooper	Hickenlooper
Anderson	Cotton	Hill
Bartlett	Dodd	Holland
Bayh	Dominick	Hruska
Beall	Douglas	Humphrey
Bennett	Eastland	Inouye
Bible	Edmondson	Jackson
Boggs	Ellender	Javits
Brewster	Engle	Johnston
Burdick	Ervin	Jordan, N.C.
Byrd, Va.	Fong	Jordan, Idaho
Byrd, W. Va.	Fulbright	Keating
Cannon	Gore	Kennedy
Carlson	Gruening	Kuchel
Case	Hart	Lausche
Church	Hartke	Long, Mo.

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Long, La.	Mundt	Smathers
Magnuson	Muskie	Smith
Mansfield	Nelson	Sparkman
McCarthy	Neuberger	Stennis
McClellan	Pastore	Symington
McGee	Pearson	Talmadge
McGovern	Pell	Thurmond
McIntyre	Prouty	Tower
McNamara	Proxmire	Walters
Mechem	Randolph	Williams, N.J.
Metcalf	Ribicoff	Williams, Del.
Miller	Robertson	Yarborough
Monroney	Russell	Young, N. Dak.
Morse	Saltonstall	Young, Ohio
Morton	Scott	
Moss	Simpson	

The PRESIDING OFFICER. A quorum is present.

Mr. McCLELLAN. Mr. President, on behalf of myself, the senior Senator from Ohio [Mr. LAUSCHE] and the junior Senator from South Carolina [Mr. THURMOND], who have joined me as cosponsors, I call up my amendment No. 407.

The PRESIDING OFFICER. The amendment offered by the Senator from Arkansas, for himself and other Senators, will be stated.

The legislative clerk proceeded to read the amendment.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and that it be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment offered by Mr. McCLELLAN, for himself and other Senators, is as follows:

On page 27, after line 24, insert the following:

"PART IV—TERMINATION OF TAX REDUCTION

"SEC. 141. TERMINATION WHEN ADMINISTRATIVE BUDGET EXPENDITURES FOR ANY FISCAL YEAR EXCEED $100,000,000,000

"(a) IN GENERAL.—If the net administrative budget expenditures made during any fiscal year ending on or after June 30, 1965, exceed $100,000,000,000, then—

"(1) with respect to taxable years beginning after the December 31 following the close of such fiscal year, the amendments made by part I (relating to individuals) and part II (relating to corporations) of this title and the amendments made by section 301 (relating to optional tax if adjusted gross income is less than $5,000) of title III shall not apply, and the provisions of the Internal Revenue Code of 1954 amended by such parts I and II and such section 301 shall apply as if this Act had not been enacted, and

"(2) with respect to remuneration paid and payments made after such December 31, the amendments made by section 302 of title III (relating to income tax collected at source) shall not apply, and the provisions of the Internal Revenue Code of 1954 amended by such section shall apply as if this Act had not been enacted.

"(b) ANNOUNCEMENT BY SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall, on or before September 1, 1965 (and on or before September 1 of each succeeding year, if the amendments made by parts I and II of this title and by title III have not been terminated under subsection (a)) announce and publish in the Federal Register the net administrative budget expenditures made during the fiscal year ending on the preceding June 30.

"(c) RATE OF CORPORATE NORMAL TAX.—For purposes of subsection (a), if the provisions of section 11(b) of the Internal Revenue Code of 1954 (relating to rate of corporate normal tax) apply as if this Act had not been enacted, the rate of the normal tax under such section 11(b) shall be 30 percent.

"(d) CHANGE IN RATES DURING A TAXABLE YEAR.—Section 21 of the Internal Revenue Code of 1954 (relating to effect of changes in rates during a taxable year) shall apply with respect to changes in the rates of tax which take effect under the provisions of this section."

When I introduced this amendment last Monday, I stated the purpose of it and what its effect would be. I restate briefly the objective of the amendment.

It provides that if the net administrative budget expenditures, made during any fiscal year ending on or about January 30, 1965, exceed $100 billion, then on January 1 of the calendar year immediately following, the tax rate for individual and corporate, as well as the withholding rates provided in the bill, would cease to apply and the rates would revert to those contained in the Internal Revenue Code, 1954, as amended and as now in effect.

Mr. President, simply stated, it means this: We are going to take a tax cut—and I say "take it"—and I will explain what I mean by that term later—we are going to take a tax cut without doing anything about expenditures.

I therefore propose that the tax cut that the bill provides shall remain in effect only so long as the expenditures of government—and I am not talking about trust funds, I am talking about administrative budget expenditures—so long as they remain $100 billion or less.

First, the net effect of the amendment would be to require the administration to exercise caution in its administrative budget requests.

Second, it would require the administration to come to Congress if it becomes necessary to exceed the limitation of $100 billion in any one fiscal year.

Third, it would place a brake on deficit spending by providing adequate tax receipts to meet increases in its administrative budget expenditures which exceed the ceiling of $100 billion.

I do not believe adoption of the amendment would result in any hardship or difficulty. The total estimated administrative budget for expenditures in 1964 is $98.4 billion. The amount requested in the budget before us now, for fiscal year 1965, is $97.9 billion.

Thus, it will be seen that the $100 billion limitation contained in my amendment still leaves a leeway of $2.1 billion.

I submit this amendment because I believe it will assist in a return to prudence and thrift in the operation of our National Government. It will help bring about a reduction in expenditures that will move us in the direction of a balanced budget.

I invite the attention of the Senate to the fact that although the pending tax bill has been accorded a preferred status, it is in no way tied to or conditioned upon a corresponding reduction in Federal expenditures. The President of the United States in his state of the Union message to the Congress mentioned many things that we must do. In that brief message he used the word "must" 40 times. He used "we must" 16 times to emphasize the need for new legislation for the expansion of existing programs and for expenditures in new fields of Federal responsibility, all of which calls for additional spending.

The President said:

> Above all, we must release $11 billion of tax reduction into private spending streams to create new jobs and new markets in every area.

Yes, Mr. President, this bill is a preferred bill. It is the one remedy above all others recommended by the administration as the medicine that the economy needs, the medicine and the treatment that we need for a healthy Government, for a healthy economy, for an expanding economy, for a growing country, but the President did not say anything in support of a balanced budget. That is the one thing that is missing.

Yes, Mr. President, the trouble with the tax bill is that it is in no way tied to or conditioned upon any corresponding reduction in Federal expenditures. It is not based upon nor is it subject to any contingency whatsoever or any requirement, not even to a "hold the line" budget. Instead it is accompanied by recommendations for numerous increases in proposed new fields of governmental expenditure responsibility.

Mr. President, a tax cut of such magnitude should be geared to a positive and appropriate reduction in the already exorbitant and constantly rising cost of government. At least such an unprecedented tax reduction as is proposed in the bill should be supported and justified by an enforcible ceiling on expenditures.

That is what I seek to do. In my judgment, under the conditions that now prevail, prudence and sound fiscal policy require a limitation on expenditures to prevent inflation and to protect the purchasing power of the dollar from further erosion and deterioration.

In my judgment, without this amendment or something comparable, the tax bill should not be enacted into law.

Mr. LAUSCHE. Mr. President, will the Senator from Arkansas yield?

Mr. McCLELLAN. I am glad to yield to the Senator from Ohio.

Mr. LAUSCHE. In accordance with my understanding that in the message of the President to a joint session of Congress he emphasized the purpose of indulging in economic cooperations of Government and the movement should be toward the ending of deficit operations and that that was done for the purpose of inducing Congress to pass the tax cut, in other words, he says we will cut expenses and therefore justify the cutting of taxes. Is it not a fact that the amendment offered by the Senator from Arkansas contemplates carrying that policy into effect?

Mr. McCLELLAN. Mr. President, in answer to the distinguished Senator from Ohio I say that in the tax bill we are reducing taxes. The tax cut is one which the President requested. But we are doing nothing at all to insure the balancing on the other side of the coin.

I should like to point out that the President in his first message to the Congress on November 27 said:

> I rededicate this Government to, among other things, the maintenance of military strength second to none.

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I wholeheartedly endorse that and I shall support it.

The President said further:

> To the defense of the strength and stability of the dollar.

Mr. President, is a $11 billion tax cut at a time when we have the highest gross national product in the history of the country and at a time when we are running deficits at the rate of about $8 billion a year—is a tax cut under those circumstances calculated to strengthen the dollar and to bring stability?

I say it is not, unless we do something at the same time about spending. That something should be done in this bill. We say we are going to do it in appropriations. We will, I believe, if we have a ceiling to work under. If we do not have a ceiling we will not.

The President went on to say:

> An in particular, I pledge that the expenditures of Government will be administered with the utmost thrift and frugality.

That is what I wish to help the President do. We must begin that thrift and that frugality right here in the Halls of Congress.

The budget is a guide. It is a request. We in Congress make the final decision as to whether the request will be granted. In the past 11 years, Congress has appropriated $32 billion less than was requested by the President of the United States in his budget requests.

That is pretty good work, but not good enough. Mr. President, look at the deficits, and look at the increasing debt. The record of Congress in reducing the budget has not been good enough. I say there can be further reductions. I also say we need the cooperation of the President of the United States, along with the coordinated activities of the two Houses of the Congress, to bring about the reductions that will be necessary to move toward a balanced budget and stability in our fiscal situation.

We did a better job in the past year than we did theretofore. We reduced the budget last year by $6½ billion. That is pretty good. That amounted to more than 6 percent. We had been reducing it during the other years, on the average, by 3.9 percent.

If we are to move toward fiscal responsibility, we will have to cut the budget by more than that.

If my amendment is adopted, it will touch every person who receives a tax cut. It will impress them. It will alert them. I am talking particularly about the little people.

I had a letter yesterday from the kind of person I am talking about. This little lady, whom I do not know, wrote to me:

> When I first learned of the $11 billion tax cut, I was pleased. I am no longer. My husband is regarded as making an average salary. But with two very fast-growing children we literally live from one Friday to the next. The only time we go out for entertainment is when my mother visits us and is available to babysit and give us the money. Most of our friends are in the same financial bind. We certainly do not want the little money that we save for the education of our children to disappear because of the value of the dollar being diminished.

What is happening to the dollar? It is depreciating all the time. It has depreciated 7 cents since the Korean war. It depreciated nearly 2 cents in the last 3 years. It has depreciated 55 percent in the last quarter of a century. A dollar today is a 45-cent dollar based on its value a quarter of a century ago. Who is going to be hurt? When the dollar is depreciated it hurts the little people who buy Government bonds, the widows, and elder citizens who draw social security. Also the fathers and mothers who are saving to educate their children—who are saving or trying to save enough money to provide an education for their children.

Let us go back 15 years. Let us take $5,000 that a mother and father have saved to send little Mary or little Johnny to college. Let us assume that they bought Government bonds 15 years ago. They have had to pay income tax on the interest they collected. They had saved that money to provide an education for their children. The cost of education has increased during the last 15 years.

A couple who had saved $5,000 15 years ago would now be able to buy only two-thirds of the education that they would have been able to buy for their children 15 years ago.

That is what we are doing to the dollar. That is what the little woman wrote me about.

We receive from the Budget and the President estimates of what the deficits will be. The estimate now is that the deficit will be $4,900 million this year. Let me give the Senate a little history. When we provide for a big tax cut it is a very weak reed upon which to lean. In the past 9 years the budget estimators missed in their estimates by $41.1 billion. Only $4.2 billion of that was on the plus side. They missed on the deficit side by $36.9 billion. In other words, we had deficits—we went into debt in those 9 years by $36.9 billion more than the budget calculators had estimated. So budget estimates like that are not very reliable.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. McCLELLAN. I shall be glad to yield in a moment. I should like to finish another point first.

Another argument for making an $11 billion tax cut is that the cut will put the money in the stream of public spending and into the private economy, and will engender financial growth that will provide revenues sufficient to offset any deficit, and to balance the budget. Let me give the Senate a little history on that. The last experience we had with reducing taxes, in 1954, by an estimated $7.4 billion shows what is likely to happen. Let us see what happened during the next 5 years after 1954—after a $7.4 billion tax reduction. What happened to the stimulation of our economy? In the next 5 years we had two surpluses. We had two balanced budgets, with a total surplus of $3.2 billion for the 2 years.

That was the total for 2 years. During the other 3 years, the deficits totaled $19.4 billion. Thus, a $7,400 million tax cut, as recently as 1954, produced in the next 5 years net deficits in the amount of $16.2 billion. Are we proposing now to duplicate that performance—I think something similar to that will be the result of the passage of this bill—I say we cannot rely on the budget estimates, nor can we rely on this kind of pump priming to stimulate the economy to the point where it will be dependable for a sound fiscal policy.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. LAUSCHE. I have before me the Budget in Brief for fiscal year 1965. On page 81 is a tabulation of the deficits and surpluses, respectively, that the Government has suffered and enjoyed from 1789 down to this year. According to the tabulation, in 1954, a $7,700 million tax cut was made in the Eisenhower administration, designed to stimulate the economy. In 1955, the first year after the tax cut went into effect, the deficit was $4,180 million. In 1956, the surplus was $1,626 million. In 1957, the surplus was $1,596 million.

Then we came to 1958. That was the year in which the greatest stimulating effect upon the growth of the economy was to take place. Yet in 1958 there was a deficit of $2,819 million. In 1959, the deficit was $12 billion.

Mr. McCLELLAN. Maybe some of our Democratic friends will want to blame that $12 billion on the Republicans. Those who want to spend may blame that on the Republicans. But follow through to the last estimate, that for 1963. The deficit under a Democratic administration was $6.7 billion.

Mr. LAUSCHE. The point I wish to make is that in 1954 the word was spread throughout the country that a $7.7 billion tax cut would be provided; that the result would be greater employment, greater investment in industry, a greater amount of purchasing of consumer goods, and a reduced outflow of gold. That was the argument in 1954.

But what happened in the 4 subsequent years completely demonstrated that that argument was false. There were 2 years when there were surpluses. In 1956 the surplus was $1,626 million. In 1957, the surplus was $1,590 million.

But in 1958, the deficit was $2,819 million. In 1959, the deficit was $12 billion.

What if such deficits should occur as a result of the proposed tax cut? What would be our situation? Instead of Heller being right in saying that the more we spend and the less taxes we pay, the better off we will be, he is proved completely wrong as to what would be the situation for the annuitant, the pensioner, the person who has a few dollars in the bank, the person who had bought Government bonds. That is what bothers me about the proposed tax cut.

Mr. McCLELLAN. That is what has caused us much trouble.

During the course of the debate, since the bill has been under consideration by the Senate, proposals to eliminate excise taxes have been rejected one after another. Why? Because the Government needs the money—and everyone

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has said so. Why is the money needed? Because there can be no spending ex-

cept on a credit without the money. There cannot be such great spending if there is a larger tax cut to include excise taxes.

Why, in view of the great injustice that has been cited to us with respect to some of these excise tax cuts, can we not have them? I will tell you why. It is because of too much spending. That is why there cannot be an elimination of excise taxes on ladies' purses, perfume, jewelry, ball point pencils, cabaret and theater tickets, and many other items on which there is an excise tax. Money is needed for spending; that is why the excise taxes are not removed.

What is the answer? If we want to do justice to those people, and enable them to buy more of the goods that are now taxed, it will be necessary to get rid of these excises, which are a nuisance, by reducing spending.

It is said that the excise taxes were imposed in a time of emergency. They were. But Congress continues to perpetuate the emergency, not because of war, not because of defense spending, but because of excessive nondefense spending.

Look at the record. Our spending problem today is not due to defense. Defense spending has risen only about 12.8 percent in recent years. I will place the exact figure in the RECORD. But nondefense spending has risen 113 percent in the same period of time.

If we want to have a sound economy, if we want a stable economy, an economy that can be relied upon, without peaks or valleys, let us start to reduce Government spending. That is where the start must be made. Cut out the fat in Government spending.

The rise in defense spending since 1954—a period of 10 years—has been 12.8 percent. Nondefense spending has increased by 113.7 percent in the same period. That is our real trouble, and it is in that area where reductions can and should be made.

We are told that it is the war scare that is causing so much spending and causing budgets to be out of balance. I say it is not; and the record refutes any assertion that it is.

Mr. LAUSCHE. Mr. President, will the Senator from Arkansas yield?

Mr. McCLELLAN. I yield to the Senator from Ohio.

Mr. LAUSCHE. I have always been impressed by the statement made by the arch designer of this modern approach to economics. I quote Mr. Heller:

> Yes, that does indicate an enormous need for public education in economics, economic policy, and tax policy. I think it is quite remarkable that the basic puritan ethic of the American people should be such that they want to deny themselves tax cuts because of their fear of deficits and additions to the national debt.

Mr. McCLELLAN. The public at large is a little smarter than Mr. Heller, when he advocates deficit spending and irresponsibility in order to create prosperity, for that is what it seems to me he is saying.

Mr. LAUSCHE. "Puritanical" means honest adherence to integrity. The American people want to adhere to integrity in the management of their public business. But the statement I just read seems to suggest a casting aside of puritanical morality and the acceptance of deficits an additions to the national debt without fear of complaint.

Mr. McCLELLAN. I will cite another illustration. It is said that the tax cut will result in an increase in the gross national product. The increase in gross national product between 1963 and 1964 was $31 billion. How much Federal revenue did that produce? Two billion dollars. Now it is said, according to the most optimistic budget estimate, the gross national product will rise to $623 billion. It rose $31 billion in 1963.

Now they say there will be a rise of $38 billion, and that it will take up a lot of the slack—by doing what? By making a tax reduction, and by pouring the money into private channels. They say—the budget and the administration's economists say—that the gross national product will increase by $38 billion—that is their figure, not mine.

Mr. President, if an increase of $31 billion in the gross national product produced only $2 billion in revenue in 1963, how can Senators expect $38 billion increase in the gross national product in 1964, with reduced tax rates, to produce any more?

I say we are going down the wrong road, and I will not vote to travel in that direction.

Mr. DOMINICK. Mr. President, will the Senator from Arkansas yield?

Mr. McCLELLAN. I yield for a question.

Mr. DOMINICK. First I wish to say I agree with the statement of the Senator from Arkansas.

I have been asked this question: If the Senator's amendment is adopted, how can people plan on what their overall or individual budgets will be, if they do not know what their tax rates will be, and if they have to wait until Congress determines them?

Mr. McCLELLAN. They will know them the next year.

Mr. DOMINICK. That is correct.

Mr. McCLELLAN. But, as I have said, the father of Little Mary, back home,

who is trying to save money for her education, and the pensioner, and the average wage earner and the average salaried worker will be very much interested, and they will be alerted, and they will be writing to their Congressmen and saying to them, "Hold down that budget. I do not want my taxes to be raised again." They will have that direct interest; and I am persuaded that they will manifest it, if that situation develops.

Mr. DOMINICK. Then I understand that the Senator from Arkansas believes his amendment will create an incentive to keep expenditures low, and thus make it possible to keep the tax rates low.

Mr McCLELLAN. Not only that, but I point out that the same will have to be done in connection with the debt-ceiling. If an authorization for an increase in the debt ceiling is justified, they will have to show that it is justified. If my amendment is adopted, we will require the administration to justify an increase in expenditures in excess of $100 billion and to make their case for it, before we will allow Federal expenditures to exceed $100 billion in any one fiscal year.

Mr. President, we need a reduction of expenditures as much as we need a reduction in taxes. A reduction in expenditures will help us move toward a balanced budget and stability; and that will do more to strengthen the dollar and to stimulate investment confidence than will a tax cut that spirals the national debt to dizzier heights, while excessive and improvident Government spending continues unimpeded and unabated.

Recurring heavy deficits, such as we have accumulated in recent years, can only produce hindrances and serious roadblocks to sustained progress and prosperity.

Mr. President, we need a tax cut; on that point, all of us agree. I am not just arguing against making a tax cut, for we do need one. But both spending and taxes are too high, and both spending and taxes should be reduced.

Unfortunately, it is not now proposed that we do anything about reducing the governmental spending; we are not proposing to treat the two problems equally and simultaneously, whereas in fact they are interrelated and inseparable, as we must realize and concede when we weigh or evaluate the soundness of the Federal budget and of our fiscal policy.

While we are trying to remedy the one situation—too high taxes—we are virtually ignoring the other—too high expenditures—and, in my judgment, the result will be to seriously aggravate the spending and deficit problem, particularly will it result in larger deficit spending. The impact of the tax cut could readily aggravate the spending problem by enlarging the annual deficits and, thereby, further pyramiding the national debt. Therein lies the danger.

So the pending bill will require us to take a big gamble; let us make no mistake about that.

Everyone knows that at the present time the national debt is $308 billion; and it is calculated that by the end of next year it is expected to be $317 billion. This situation has a definite impact on the value and deterioration of the dollar; it means that creeping inflation is a present and a nagging reality; and the seeds of spiraling inflation lurk menacingly in mounting indebtedness and deficit spending.

To the extent that we are charging this tax reduction into the Federal debt, we are increasing the inflationany pressures and are further depreciating the value of the dollar.

Any cut in taxes on borrowed money—and that is what we are proposing—is a shirking of responsibility that will saddle on future generations a cost of government that we ourselves would bear.

How can we have a legitimate tax cut? The answer is by earning it.

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That is the right way to do it. How do we earn it? We earn it by reducing Federal expenditures. Can that be done? Yes. Last year we reduced the budget $6½ billion; we reduced the appropriations for the State Department, the Justice Department, and the Commerce Department 15½ percent under their requests. So it can be done.

Undoubtedly this tax bill will be enacted into law.

As a result, we will be taking a tax cut without earning it. It is true that we have the power to take it, but it is also true that we have not earned it.

Mr. President, I say that we can yet earn it. How? By reducing spending and by refraining from enacting new laws that will create additional spending obligations.

The President's state of the Union message included 23 requests for new laws and for expanded programs. If Congress were to enact those laws in the first year they went into effect, they would require an increase of $2,500 million in Government expenditures. Over a period of 5 years, they would cost an additional $13,500 million—and those are underestimates, ultraconservative estimates.

Mr. President, I do not propose to go down that road. I will vote against this tax bill, unless we include a provision

that has meaning, be effective, and be a directive to hold down the expenditures to a level of our revenues and the economy.

Senators talk about economy; and here is their chance—if they still favor the tax bill and if they are going to vote for it—to vote for both tax reduction and economy.

But in my judgment, many Senators will turn away from economy in voting for this measure. If Senators vote to include in the bill an amendment which simply says, "We will allow the Government to spend $2,100 million more than it is spending now, as it could do under my amendment, then Senators will be voting for economy.

Mr. President, today this body will make a most important decision. Either the Senate will decide to go down the road to more reckless spending, or the Senate will begin to apply the brakes, here and now. Senators must make that choice.

Mr. HRUSKA. Mr. President, will the Senator from Arkansas yield for a brief question?

Mr. McCLELLAN. I yield.

Mr. HRUSKA. First, I wish to say that I support the amendment of the Senator from Arkansas, and I shall vote for it.

The amendment includes the phrase "the net administrative budget expenditures." Will the Senator from Arkansas explain the meaning of that phrase? Does it relate to the estimates for the 1965 budget?

Mr. McCLELLAN. The amendment would apply to the expenditure of funds which are appropriated each year by Congress. There are carryover appropriations and obligational authority. Those would come within the proposal. But trust funds and other similar funds would be excluded. The amendment applies to the money that Congress appropriates. The administration comes to Congress to obtain authority to make obligations.

Mr. HRUSKA. Does the amendment apply to the obligational authority or the cash expenditures during the fiscal year?

Mr. McCLELLAN. It applies to expenditures during the fiscal year.

Mr. HRUSKA. The present budget estimates Government expenditures of $97.9 billion.

Mr. McCLELLAN. That is what the President has said he would like to spend, not the amount for which he has asked obligational authority. The amendment is tied to the spending and not to the obligational authority.

Mr. HRUSKA. So if spending actually remained at $97.9 billion, it would be within the limits placed by the Senator.

Mr. McCLELLAN. Yes. If expenditures stayed at $100 billion on the penny, the tax benefits would remain; but if the amount should go one penny over $100 billion, the amendment would apply.

Mr. HRUSKA. We are told that capital assets to the extent of $2.3 billion will be sold during the fiscal year.

Mr. McCLELLAN. The amendment would not include those capital assets. The administration can still sell those. We are giving the administration a great deal of leeway.

Mr. HRUSKA. When the assets were sold, would not the money received be used to increase the income of the Treasury? Would it not be used to reduce the spending and, therefore, if that amount were added to the $97.9 billion, the total would exceed $100 billion?

Mr. McCLELLAN. The total would exceed that amount, but I have excluded those sales. The administration has said that in addition to what would be received from those sales, it wants $97.9 billion.

Mr. HRUSKA. My point is that the net administrative budget expenditures are now exceeded by the President's own calculations, because to the $97.9 billion there must be added the $2.3 billion.

Mr. McCLELLAN. That amount would not be included under the amendment. Those funds would be received from the sale of assets, and the money received from the sales of assets would not be included in the $100 billion figure contained in the amendment.

Mr. HRUSKA. Would items like the REA be included? The legislative authority will be asked of the Congress——

Mr. McCLELLAN. When the money is spent, it will be included.

Mr. HRUSKA. The money received by REA in repayment of loans already made will be available for expenditure by the REA without reporting them in the appropriation process. Would that be included?

Mr. McCLELLAN. No, it would not be included. I have in my hand a document setting forth a full explanation as to the trust funds. The amendment would not apply to them. The amendment refers to money resulting from appropriations which the President gets, or the obligational authority for which he gets us to grant an appropriation later.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. LAUSCHE. The fear I have about selling capital assets is that we would be selling capital to finance current operations. When the sale of capital as-

sets has been completed and we must then draw on current taxation, that is the time we will get into real trouble.

Mr. HRUSKA. I thank the Senator.

Mr. McCLELLAN. Mr. President, I should like to reserve a little time. I ask unanimous consent that certain charts supporting the figures that I have stated, and explanations of subsections of the amendment, be printed at this point in the RECORD.

There being no objection, the charts and explanations were ordered to be printed in the RECORD, as follows:

THE 1954 TAX CUT

Previously, the largest tax cut in history was $7.4 billion in 1954. At that time, as now, administration officials stated that this cut would greatly stimulate the economy and result ultimately in a better budget balance.

Let us examine the record for a 5-year period following that cut:

Calendar year	Total gross national product	Dollar gain over last year	Percentage gain	Actual budget surplus (+) or deficit (−)
1954	$363,100,000,000	(1)		−$3,100,000,000
1955	397,500,000,000	$34,400,000,000	9.4	−4,200,000,000
1956	419,200,000,000	21,700,000,000	5.7	+1,600,000,000
1957	442,800,000,000	23,600,000,000	5.6	+1,600,000,000
1958	444,500,000,000	1,700,000,000	.4	−2,800,000,000
1959	482,700,000,000	38,200,000,000	8.6	−12,400,000,000

[1] Declined from 1953.

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The chart above clearly reveals that in only 2 of the 5 years following the 1954 tax cut was there a Federal budget surplus, the total amount of which was $3.2 billion; whereas in 3 of the 5 years there was a deficit that totaled $19.4 billion, thus resulting in a **net deficit** for that period of $16.2 billion.

Past experience with budget estimates submitted by the administration forcefully demonstrates that estimates as to the anticipated budget surplus or deficits are often inaccurate. The chart below shows the differences between the budget estimates submitted by the President and the actual budget figures for the period from fiscal 1955 through fiscal 1964.

[All figures in billions of dollars]

Fiscal year	Budget as submitted by President			Actual budget figures			Differences, actual and estimated deficit or surplus
	Receipts	Expenditures	Surplus or deficit	Receipts	Expenditures	Surplus or deficit	
1955	62.7	65.6	−2.9	60.2	64.4	−4.2	1.3
1956	60.0	62.4	−2.4	67.8	66.2	+1.6	4.0
1957	66.3	65.9	+.4	70.6	69.0	+1.6	+1.2
1958	73.6	71.8	+1.8	68.5	71.4	−2.8	4.6
1959	74.4	73.9	+.5	67.9	80.3	−12.4	12.9
1960	77.1	77.0	+.1	77.7	76.5	+1.2	+1.1

Fiscal year	Budget as submitted by President			Actual budget figures			Differences, actual and estimated deficit or surplus
	Receipts	Expenditures	Surplus or deficit	Receipts	Expenditures	Surplus or deficit	
1961	84.0	79.8	+4.2	77.7	81.5	−3.8	8.0
1962 (J.F.K.)	81.4	84.3	−2.8	81.4	87.8	−6.4	3.6
1963	93.0	92.5	+.5	86.4	92.6	−6.2	[1] 6.7
1964	86.9	98.8	−11.9	88.4	98.4	−10.0	+1.9
1965	93.0	97.9	−4.9				

[1] Latest estimate.

Deficits $3.9 billion more than Budget predicted; nearly $4 billion per year average

Chart shows net error (or difference) of $36.9 billion—$41.1 billion on the minus side, $4.2 billion on the plus side. Period covered, fiscal 1955 through fiscal 1964.

Comparison of revenue estimates for 1965 and gross national product compared to actual revenue and gross national product for fiscal 1963 and 1964:

Year	Gross national product	Revenue
1965	$623,000,000,000	$93,000,000,000
1964	585,000,000,000	88,400,000,000
1963	554,000,000,000	86,400,000,000

Proposed legislation for user charges (passenger and freight air travel, jet fuel, increased tax rate on general aviation fuel, new tax on fuel used in inland waterways, and new motorboat fuel tax) would add $213 million to revenues, if enacted. Otherwise revenues would be almost quarter of a billion dollars short of the $93 billion estimate.

Reductions in appropriations requests made by the Congress in fiscal years 1954–64:

Fiscal year	Budget request	Appropriations	Reductions	Fiscal year	Budget request	Appropriations	Reductions
1964	$98,883,372,581	$92,433,123,132	$6,513,041,004	1958	$73,113,555,340	$68,070,096,556	$5,043,458,784
1963	95,639,477,405	92,266,154,659	3,373,322,746	1957	68,587,724,820	68,330,229,608	257,495,212
1962	91,597,448,053	86,606,487,273	4,990,960,780	1956	62,030,092,195	59,954,284,321	2,075,807,874
1961	84,011,974,490	83,800,335,992	211,638,498	1955	57,422,327,386	54,812,457,263	2,609,870,123
1960	83,452,687,259	81,572,357,732	1,880,329,527	1954 (Ike)	59,117,311,150	54,539,342,491	4,577,968,659
1959	81,737,060,999	81,119,818,276	617,242,723				

EXPLANATION OF SUBSECTION (C) OF AMENDMENT

Under the provisions of subsection (a) of the amendment, when net administrative budget expenditures exceed $100 billion, the sections of the Internal Revenue Code which are amended by the bill to provide rate reduction will again apply as if this bill had not been enacted; that is, as if those sections had not been amended. One of the rate sections amended by the bill is section 11(b) of the Internal Revenue Code which contains the rate of normal tax on corporations. Under the language of that section as it now exists, the rate of normal tax for years beginning before July 1, 1964, is 30 percent, and for years beginning after June 30, 1964, is 25 percent. This 25-percent rate when added to the 22-percent rate of corporate surtax under existing law would give a combined corporate income tax rate of 47 percent, or a reduction of 5 percent from the combined 52-percent rate which has been in effect for many years under yearly extensions by the Congress of the 30-percent normal tax rate.

This subsection of the amendment provides that, if net administrative budget expenditures exceed $100 billion and the provisions of existing law apply as if the bill had not been enacted, the rate of corporate normal tax is to be 30 percent, the normal tax rate paid by corporations for many years. This, when combined with the existing surtax rate of 22 percent, would continue in effect the combined 52-percent corporate income tax rate.

EXPLANATION OF SUBSECTION (d) OF AMENDMENT

Section 21 of the Internal Revenue Code provides, in effect, that when income tax rates change during a particular taxpayer's taxable year, he determines his income tax liability for that taxable year according to the number of days in his taxable year during which the old rates were in effect and the number of days during which the new rates are in effect. Thus, if tax rates are reduced, such taxpayer gets the benefit of the rate reduction for the portion of his taxable year after the tax rates change, and he does not have to wait until his next taxable year begins. Likewise, if tax rates are increased, such taxpayer pays at the increased tax rates for the period of his taxable year after the rate increase.

This subsection of the amendment merely provides that these provisions of section 21 of the Internal Revenue Code shall also apply to the changes in the rates of tax which will take effect under the provisions of this amendment, if net administrative budget expenditures exceed $100 billion.

Mr. McCLELLAN. Mr. President, I yield the floor. I suppose the time is running and being charged against the other side.

Mr. LAUSCHE. Mr. President, I intend to suggest the absence of a quorum.

Mr. McCLELLAN. The time necessary for the quorum call will come from the time of one side or the other.

Mr. ERVIN. Perhaps some Senator will yield time to me.

Mr. MORTON. The Senator from Louisiana [Mr. LONG] is supposed to be in charge of the time available on the opposite side of the amendment. How much time does the Senator desire?

Mr. ERVIN. Not more than 15 minutes.

The PRESIDING OFFICER. The Senator from Louisiana [Mr. LONG] has 50 minutes remaining.

Mr. MORTON. Mr. President, at the risk of being criticized by my beloved colleague, I yield to the distinguished Senator from North Carolina 15 minutes.

Mr. ERVIN. Mr. President, Federal taxes are too high. They rob virtually every American of the economic right to retain a fair share of the fruits of his labor for himself and his family, and in that way, substantially impair the incentive which makes the free enterprise system work. For this reason, I would welcome an opportunity to vote for a bill which would reduce Federal taxes in a manner consistent with sound economics and good government.

The so-called tax reduction bill, H.R. 8363, undertakes to reduce Federal taxes. Candor compels me to confess, however, that this bill undertakes to reduce such

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taxes in a manner incompatible with sound economics and good government. The bill undertakes to reduce taxes when the Federal Government is operating in the red, and thus is repugnant to the sound principle that government should balance its budget in a time of comparative peace and prosperity. The bill ignores the obvious truth that Federal taxes are too high simply because Federal expenditures are too high and does not limit in any way the spiraling cost of Federal Government, which has increased by $30 billion since the end of the Korean conflict. Incidentally, the major portion of this increase; that is, $23 billion has been for civilian rather than military purposes.

The Federal Government can justify spending in excess of its tax revenues for necessary purposes in times of actual war or severe economic depression. No amount of economic or political sophistry, however, can erase the simple truth that it is folly for the Federal Government to do so in times of comparative peace and prosperity.

The tragic truth is that during 26 of the last 32 fiscal years, the expenditures of the Federal Government have exceeded its tax revenues. As a result, the national debt of the United States has increased to more than $300 billion and

now exceeds the combined national debts of all the other nations on the earth. The anual interest on this national debt now totals approximately $11 billion.

For these reasons, the financial house of the Federal Government is now in sad disarray. The Federal Government has available to it two—and only two—intelligent ways in which to set its financial house in order.

It should either increase its taxes to match its expenditures or reduce its expenditures to match its tax revenues. Unfortunately, however, the Federal Government apparently lacks the fortitude to do either of these things. The first would be too displeasing to taxpayers who are already overburdened, and the second would be displeasing to the individuals, groups, institutions, communities, and foreign nations who crave Federal dollars for purposes too numerous to mention.

Instead of attempting to sets its financial house in order in either of the two intelligent ways available to it, the Federal Government seeks what it conceives to be an easy and painless way of escape from its financial dilemma by means of the so-called tax reduction bill, H.R. 8363, which deepens its deficits and heightens its debts in a period of comparative peace and prosperity when its spiraling expenditures already largely exceed its tax revenues under existing laws.

When men engage in folly, they always lay the flattering unction to their souls that their folly will produce good.

To justify the passage of the so-called tax reduction bill, those who rule in Washington invoke the economic fallacy which has brought the Federal Government to its present unhappy financial plight. They assert that the Federal Government and the people can easily and painlessly spend their way to prosperity and increased revenues and balanced budgets.

If this theory had any substance, the Federal Treasury would be overflowing at this moment with tax revenues, for those who rule in Washington have followed it with constancy for a generation.

We are hearing once again—in increased tempo—the siren song which induced Congress to pass the tax reduction bill effective January 1, 1954. At that time, Congress was assured by those who assert the Federal Government and the people can spend their way to prosperity and increased revenues and balanced budgets, that the tax cut of January 1, 1954, would stimulate the economy to such an extent that lower tax rates would produce increased Federal tax revenues and enable the Federal Government to balance its budget. Unfortunately, however, those who made these rosy predictions at that time are now numbered among the false prophets. This is true because the deficits incurred since the passage of that tax reduction bill and those prophesied by the Treasury for this fiscal year and next will total $46.4 billion.

The so-called tax reduction bill calls to mind an ancient story concerning a proposal allegedly made in the British Parliament a generation or more ago that an immense amount of bonds should be issued for immediate expenditure and that payments upon the principal of such bonds should not commence for 50 years.

One member of Parliament arose and opposed the proposal on the ground that it was not fair to posterity. The author of the proposal then arose and replied:

> Posterity has never done anything for me and I don't propose to do anything for posterity. Furthermore, posterity can't vote in the next election.

For the reasons I have given, I cannot reconcile the so-called tax reduction bill with sound economics and good government. Moreover, I do not believe that the bill is fair to posterity because it indicates that those who rule in Washington have no present intention to make any reasonable effort at any time within the foreseeable future to reduce our enormous national debt.

These things being true, I cannot vote for the so-called tax reduction bill, notwithstanding my conviction that Federal taxes are too high and ought to be reduced in a proper manner.

Mr. LAUSCHE. Mr. President, will the Senator yield for a question?

Mr. ERVIN. I am glad to yield.

Mr. LAUSCHE. I do not quite understand what application the failure of posterity to vote in 1964 has to the measure before us.

Mr. ERVIN. All I can say is that the most tragic discovery ever made by politicians was that unborn generations could not vote; that made the politicians willing to spend the money of future generations, because they could do so with impunity, knowing that future generations cannot vote at the next election.

Mr. LAUSCHE. Does the Senator feel that perhaps the political election of 1964 has some influence upon what is being done on this bill?

Mr. ERVIN. I believe this bill indicates an unwillingness on the part of those who rule in Washington to levy sufficient taxes to meet expenditures for fear they might offend taxpayers, and an unwillingness on their part to reduce Government expenditures to the amount of tax revenues for fear they might offend individuals, institutions, certain

groups, and foreign countries which crave tax dollars from the U.S. Treasury for purposes too numerous to enumerate at this time.

Mr. LAUSCHE. The argument has been made that if we spend more than we tax, that is evil; but if we tax less than we spend, that is a virtue. I would like to have the Senator from North Carolina comment on that.

Mr. ERVIN. I do not accept that as a correct theory, but I would have to admit that it is the economic theory that has been followed at the Washington level for a number of years.

Mr. MUNDT. Mr. President, will the Senator yield to me?

Mr. McCLELLAN. Let us see if the other side wants to use any time.

Mr. MUNDT. I am on the side of the Senator from Arkansas.

Mr. SMATHERS. We are going to speak on this side, but we do not want to yield time to those against us.

Mr. McCULLOCH. I suggest that someone on his side speak for a few minutes.

Mr. SMATHERS. I am willing to yield back the remainder of my time.

Mr. McCLELLAN. Let us hear from the Senator's side for 2 or 3 minutes.

Mr. President, I yield 2 minutes to the Senator from South Dakota [Mr. MUNDT].

Mr. MUNDT. Mr. President, will the Senator from Delaware [Mr. WILLIAMS] yield me 1 minute from the time on the bill?

Mr. WILLIAMS of Delaware. I yield 1 minute to the Senator from Arkansas.

Mr. MUNDT. That gives me 3 minutes.

Mr. McCLELLAN. Two minutes.

Mr. MUNDT. Two from the Senator from Arkansas and one from this side.

Mr. McCLELLAN. Did the Senator receive 1 minute from that side?

Mr. MUNDT. Yes.

Mr. McCLELLAN. Two and one make three.

Mr. MUNDT. That is the soundest economic observation we have had so far during the tax debate.

Mr. President, it seems to me that the opponents of the McClellan amendment must either have no argument to make against it or that they are reluctant to expose those arguments to the logic of the Senate and to the cross-examination of debate.

I am going to support the McClellan amendment as one who, while he has not had much to say during this debate, has listened to or read virtually all of the debate, and has finally persuaded himself to vote for the tax cut whether the McClellan amendment prevails or not.

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I do so, however, with grave doubt and considerable skepticism about the validity of the new, sophisticated argument about Federal financing which holds it wise and prudent to cut taxes and increase expenditures at the same time. I think the Senator from Arkansas [Mr. MCCLELLAN] renders a distinct contribution by providing a prudent safeguard whereby we can give this new, sophisticated concept of Federal financing a chance for a year to demonstrate itself. If it demonstrates itself with anywhere near the degree of success that its optimistic advocates assume it will, there is nothing to fear from the McClellan amendment, because it will never become operative. It becomes operative only if the predictions as they are presented to us by the advocates of tax reduction do not prove to be true. Those ardent advocates of this new and novel concept—budget balancing by cutting taxes and expanding expenditures—should support the McClellan amendment if they have confidence in their own arguments.

In addition, I support the McClellan amendment because it employs a tried and tested economic concept which is utilized, for example, by General Motors in the escalator clauses of their wage contracts; which tends to utilize the scientific concept of an index number which relates expenditures to taxes. I think there should be such a concept in this area of Federal fiscal policy. The amendment gives an index number of $100 billion, in order to preserve some semblance of economic precaution.

I can see how the adoption of the McClellan amendment could change the whole climate of public thinking in America, so that instead of Members of the House and of the Senate being besieged to spend money for certain projects in this or that community, or on this or that new welfare state proposal, generally across the land a sentiment for economy would evolve and cause every taxpayer—and every individual is a taxpayer—to continue to not want to do away with the advantage of reduced taxes. Every taxpayer would then be reluctant to advocate expenditures to pierce the sonic barrier which would destroy the benefits that the individual householder got from the tax cut. He would hesitate long before advocating expenditures which would automatically and directly increase his own personal taxes.

The PRESIDING OFFICER. The time of the Senater has expired.

Mr. MUNDT. May I have one-half of a minute?

Mr. WILLIAMS of Delaware. I yield one-half of a minute to the Senator from South Dakota.

Mr. MUNDT. I urge my colleagues who have been talking about economy and the necessity of budget balancing to vote for the McClellan amendment, which puts an emphasis of economy in the tax cut.

Mr. McCLELLAN. Mr. President, I yield 2 minutes to the Senator from Iowa [Mr. MILLER].

Mr. MILLER. Mr. President, will the Senator from Delaware [Mr. WILLIAMS] yield me 1 minute?

Mr. WILLIAMS of Delaware. I yield 1 minute to the Senator from Iowa.

Mr. MILLER. Mr. President, I commend the Senator from Arkansas and the Senator from Ohio for offering the amendment. I hope it will be adopted; and I hope a majority of Senators will adhere to the economic philosophy which it represents.

The economic philosophy which this amendment represents is that we cannot preserve the purchasing power of the people's hard earned money and continue to incur multibillion-dollar deficits.

Of course, the mere fact that there is a deficit in the Federal Treasury does not necesarily mean that there is going to be inflation. There are many factors to be taken into account. But the fact remains that during the past 3 years of the present administration, for every $1 billion that we have gone deeper into debt, there has been $1 billion worth of inflation. The record shows that during the past 2¾ years of this administration, while we were going $18 billion deeper into debt, there was $19 billion worth of inflation. That is roughly the equivalent of $7 billion of inflation a year.

I do not care what some so-called economists or columnists have to say about the wholesale price index being stable. Most of the American people buy retail. That is what counts. The retail price index has been going steadily upward. That means that the purchasing price of the dollar has been going steadily downward. The purchasing price of the dollar is down to 45.9 cents, as compared with 1939, when the dollar had 100 cents worth of purchasing power.

There is only way to stop that trend. and that is to come somewhere near a reasonably balanced budget. A $5 or $6 billion deficit budget will continue to produce inflation.

The tragedy is that under the tax cut bill the majority of the people who will benefit are not those who need the benefit, and who would be hurt by inflation. But the millions of people in the so-called poverty sector who do not have enough income to pay an income tax are the ones who will get no benefit under the bill, but they will be stuck with inflation.

Therefore, I hope that the amendment offered by the Senator from Arkansas [Mr. MCCLELLAN] and the Senator from Ohio [Mr. LAUSCHE] will be agreed to, because it represents sound economic principles.

Mr. President, I ask unanimous consent that an excerpt from an article entitled "An Avalanche of Figures," written by the distinguished columnist David Lawrence, and published in the Washington Evening Star for January 22 may be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

AN AVALANCHE OF FIGURES: STATISTICS WITH THE BUDGET ARE CALLED INCOMPLETE AND MEANINGLESS

(By David Lawrence)

For the last 3 days, the American people, and particularly the news correspondents in Washington, have been deluged with an avalanche of figures. This has been designed to prove that the United States from 1961 to 1963 has gone through a period of unexampled prosperity and that even better times are ahead for 1964. But the figures given are not complete and in many respects are meaningless, if not misleading.

Thus, the gross national product—the phrase supposed to describe the output of the whole economic system—is given in the President's Economic Report as reaching $623 billion in the year 1964. This is $259.9 billion above what it was in 1954, just a decade earlier.

But more than 40 percent of this rise is due to higher prices. If compared with the prices of goods and services in 1954 and the value of the dollar at that time, the gross national product this year would not be $623 billion. It would be $517.4 billion, which is $154.3 billion above what it was 10 years ago.

The President also points to corporate profits as having made a 44-percent rise in the last 3 years. This, however, is from a low point in 1961 and is not based on any annual figures. He says that a further rise will come with the tax cut. But a study of the fine print in the same volume of statistics handed to the press this week discloses that corporate profits are projected at 4.9 percent of the gross national product for 1964. This is less than what it has been in 11 of the 17 years since World War II. Corporate profits went up as high as 8 percent in those years. They were 6.2 percent in the 1949 recession year and stood at 4.6 percent in the economic setback of 1954, which is as high as they were in 1963 after 2 full years of expansion.

The sad truth is that corporate profits as a total figure are meaningless. The entire private enterprise system, even by the President's figures, will retain in 1964 only $30.5 billion after taxes. Profit margins are rarely

examined in Government reports, and the fact remains that the narrowness of many of these margins prevents the investment of capital and discourages the expansion projects through which jobs can be created for the people who need them.

Much of the difficulty in creating jobs is due to psychological barriers. There can, for example, be little confidence in the economic future as long as the dollar itself is unsound. Budgets have remained unbalanced almost continuously for many years now, and the cost of living has risen as the purchasing power of the dollar has gone down.

The assertion is made by the President that a tax cut now is necessary to stimulate the economy. But the economic report in some sections gives the impression that the economy is really riding high and doesn't need a tax cut as a stimulus. These viewpoints are contradictory.

Mr. LAUSCHE. Mr. President——

The PRESIDING OFFICER (Mr. McINTYRE in the chair). Who yields time?

Mr. WILLIAMS of Delaware. I yield 5 minutes on the bill to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 5 minutes.

Mr. LAUSCHE. In determining what the ultimate action on the bill should be, I believe it is necessary to take a look at historic experience to find out what the impact was of past tax cuts.

Secretary Dillon testified before the Finance Committee that as far as he knew, the theory that although we are in an annual operating deficit, by increasing the deficits we will improve the economic position of the country is a new theory which has never before been practiced in the history of our country.

Looking back into the past, I invite the special attention of the Senate to 4

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years in our history, the years 1926, 1929, 1948, and 1954. In those years, substantial tax cuts were given.

If we look into the years that followed those tax cuts we will be able to learn whether it always follows that tax cuts produce economic growth.

In the year 1926, a major tax cut for individuals was given, but instead of a growth in the economy resulting, there developed a minor recession. I point out what happened in 1926 to show what the situation was during that year. We had enjoyed 6 years of surpluses. The Government decided that with annual surpluses it could make a tax cut, so in 1926, with a surplus of $865 million, it introduced the tax cut. The next year the Government produced a surplus of $1,155 million. The following year the surplus fell to $939 million, and in 1929 it fell to $734 million. In 1930 it fell to $730 million.

Except for the first year after 1926, the gross national product fell in each succeeding year.

There was another tax cut given, and that was in December of 1929. This was the second major relief tax cut given to individuals. The result was that there was a depression which ripened into the great depression of 1929 to 1933. Beginning in 1920 and on through to 1931, there were 10 years of surpluses.

The PRESIDING OFFICER. The time of the Senator from Ohio has expired.

Mr. LAUSCHE. Mr. President, I ask unanimous consent that I may proceed for 5 additional minutes.

Mr. SMATHERS. Mr. President, I yield 5 minutes to the Senator from Ohio, to be charged to the time on the bill.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 5 additional minutes.

Mr. LAUSCHE. I thank the Senator from Florida.

Tax cuts were made in 1931. The depression which shook the Nation had arrived. So there were two situations, the year of the 1926 tax cut and the year of the 1931 tax cut. The tax cut of 1931, instead of producing prosperity resulted in the great depression of 1931.

I now come to the year 1948, when sizable tax relief to individuals was given in a tax cut, and a moderate recession began in December of 1948. In 1948 there was a surplus of $8,419 million. A tax cut was given, but the next year there was a deficit.

I therefore state that it does not follow that tax cuts produce growth in the gross national product.

I come now to the fourth year, August 1954, in the Eisenhower administration, when a $7,700 million tax cut was given to the people. What was the result? In 1954, when the tax cut was given, there was a deficit of $3,117 million. The next year, during the year the tax cut went into effect, the deficit rose to $4,180 million.

In 1956, there was an improvement in the economy. In 1957 there was a slide. In 1958, 4 years after the tax cut, there occurred the beginning of the great $12 billion deficit of 1959.

We are asked to pass this tax cut bill under the promise that there will be cuts in spending. Cuts in spending are now contemplated. My fear is that when the tax cut bill is passed, all thoughts of reducing spending will come to an end, and we shall resume the same type of operations in the future that we have had in the past.

The amendment of the Senator from Arkansas contemplates applying pressure so that the spending program will not be reinstituted to the point where our spending of the administrative budget will exceed $100 billion.

To that judgment I subscribe. I will support the amendment.

Mr. McCLELLAN. Mr. President, may I inquire how much time is left on this side?

The PRESIDING OFFICER. The Senator from Arkansas has 3 minutes remaining.

Mr. McCLELLAN. I will wait to see if other Senators wish to speak.

Mr. SMATHERS. Mr. President, I yield to the majority leader such time as he may desire.

The PRESIDING OFFICER. The Senator from Montana [Mr. MANSFIELD] is recognized.

Mr. MANSFIELD. Mr. President, I believe I can say what needs to be said in about 5 minutes.

I point out that the McClellan amendment would provide that if in any future fiscal administrative budget expenditures exceed $100 billion, on January 1 of the following calendar year tax rates would revert, let us say, to the levels of the year before—in this instance, the 1963 levels.

The purpose of the tax cut is to generate more money in the economy, for the purpose of modernizing and rehabilitating plants, for the purpose of providing employment, and for the purpose of preventing what has been an undoubted pattern since the end of the Second World War; namely, a recession at the end of every 44 months. The graphs will bear out that statement.

The Senator from Arkansas said earlier that during the past 11 years Congress had reduced the budget requests of the President by $32 billion. That is a correct statement.

I point out that last year's session of Congress reduced the budget request of the President by $6.3 billion.

Under the pending amendment we would pass the buck to the President, and create a situation which is the responsibility of Members of Congress to deal with.

Everyone knows that in recent years expenditures have been rising rapidly.

In the face of widespread expectations of further increases of up to $101 or $102 billion for 1965, President Johnson cut his proposed expenditures for that year below the level of the current year, namely, from $98.4 to $97.9 billion.

I recall the smile of pleasure which this news brought to the chairman of the Finance Committee when it was announced to him personally, I believe, by the President.

President Johnson's budget was only the second budget in 9 years to propose such a reduction below the previous year. His budget also calls for a substantial reduction in total civilian employment in the executive branch, the first budget to do this since 1956.

Again I refer to the distinguished chairman of the Finance Committee, who has reported that in the intervening period there has been a consistent rise in civilian employment in the executive branch. Here we have a trend in reverse. The present budget cuts the estimated deficit in half and carries us toward the achievement of a balanced budget.

The President has shown his complete good faith in his determination to hold expenditures at an absolute minimum.

Let us not pass judgment on all of President Johnson's future requests before he makes them. If we adopt the pending amendment, that is what we shall be doing.

As set forth in the Budget and Accounting Act of 1921, the President is charged with recommending the Federal budget, and it is up to Congress to pass judgment on such recommendations when they are made.

In the face of the President's fine record on expenditures, let us not assume that he is going to run expenditures over $100 billion. If he makes such a proposal in any budget he submits in the future, that will be the time to pass judgment on it.

In short, let us give the President an opportunity to make his record on expenditures. He has proved his determination to keep down the spending level. Let us encourage him to do so. Let us help him by carrying on the policies and procedures which have marked Congress for more than a decade in every year. Congress, under both Republican and Democratic control, has reduced expenditures below those requested by the President himself. I think we ought to keep that fact in mind.

I point out also that if we should adopt an amendment of this kind we would create a feeling and spirit of uncertainty in the business community. That would mean that there would be not as much business spending as there should be. It would mean that our economic equilibrium would be shattered to some extent. It would mean that fears would rise. Many times recessions have been based on fear rather than on fact. We ought to give our support to the President and encourage him in the procedures he has laid out. Let us assume our

own responsibility. Let us give business an opportunity to achieve something in the way of stability, and not adopt an amendment of this kind, which would apply not only to business, but also to income tax reductions which are planned in the bill.

In response to the distinguished Senator from Ohio [Mr. LAUSCHE], let me point out that on the basis of deficit spending Austria has been able to increase greatly its gross national product. It is a living example of what can be done under the proposal now before the Senate.

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It is my further understanding, based on talks with members of the executive branch, including two Presidents, that if the proposed income tax cut goes into effect it will generate something on the order of $40 billion, to be used for plant modernization, plant rehabilitation, and more jobs.

Whereas the gross national product is $600 billion, it is anticipated that under this proposal, if it is passed as is, it might well rise to $640 billion.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. LAUSCHE. I made a thorough study of the Austrian situation. An examination of the statistics shows that its practices have led to a state of inflation. However, over and above that, Austria collects 70 percent of its revenues through excises and sales taxes, and 30 percent through income and duties on imports. Austria's fiscal structure is not at all comparable to ours, and cannot be used as a basis for demonstrating that the tax cut will produce the economy that it is argued it will.

Mr. MANSFIELD. The facts prove that as a result of tax cuts inaugurated by the Republic of Austria, its gross national product has increased, and the result has been increased prosperity.

Mr. W. P. Gullander, president of the National Association of Manufacturers, has said that if unemployment continued to increase—the figure now stands at 5.6—in 1970 the unemployment figure in this country would be 12.7 percent.

Therefore, we must do something, in looking forward to the future, to give the youngsters coming out of schools an opportunity, and to give the people who are displaced by machines an opportunity in another field.

In the opinion of many who know far more about the subject than I do—and there is much about it that I do not know—we should pass a tax reduction bill of this kind, because it would benefit both corporations and individuals, and thereby give a lift to the economy and prevent the recessions which have marked the economy of this country since the end of World War II every 44 months.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. COTTON. I congratulate the Senator. I shall vote for the tax cut. However, I find myself confused by the distinguished majority leader's remarks. I have before me an article published in the Chicago Tribune of February 4, in which the distinguished assistant majority leader, the Senator from Minnesota [Mr. HUMPHREY] is quoted. The article states:

> Senator HUBERT HUMPHREY, Democrat, of Minnesota, predicted here last night that a congressional bill proposing a cut in taxes will intensify unemployment and act as a "powerful stimulus to automation."
>
> The Senator told 1,000 dentists attending the first general session of the 99th midwinter meeting of the Chicago Dental Society that the bill would release an additional $200 billion each year for capital investments.
>
> MORE JOIN LABOR FORCE
>
> He said a million more teenagers will join America's labor force this year and an additional 1.25 million teenagers will reach working age in 1965. He asserted that the present rate of 17-percent unemployment among teenagers will increase.

He said the present rate of unemployment would continue, and that the bill would not be the answer to this problem.

Mr. MANSFIELD. I remind my friend from New Hampshire that it was either Thoreau or Longfellow who said that consistency is not always a jewel. Differences of opinion exist on the Democratic side as, I assume, they also exist on the Republican side.

I spoke in Chicago on the 31st of last month, and on that occasion I addressed the Independent Grocers of Illinois on automation and taxes. What I said in effect was what I have said on the floor this afternoon. That is my understanding of the tax bill and what it will do. But I honor the honesty and integrity of the distinguished Senator from Minnesota. He may have been speaking from a different set of figures.

Mr. COTTON. Mr. President, will the Senator further yield?

Mr. MANSFIELD. I yield.

Mr. COTTON. I support the bill. I hope it will do what its supporters claim it will do. But I have discovered, after 17 years in Congress, that about the only way left to stop spending, to regulate spending, is to shut off some of the revenue.

I merely brought to the attention of the distinguished majority leader the remarks of the distinguished assistant majority leader to show that all these other hopes, while we all join in them, are a little nebulous.

Republicans are consistent. We are consistent in being frustrated and bewildered at the kaleidoscope of complicated and conflicting claims we see before us.

I agree with the majority leader. I will vote with the majority leader. But the problem is not plain black and white, as the Senator from Montana seems to present it. It would seem to me that if we could use the emergency, as the Senator from Arkansas [Mr. McClellan] suggests, to put an additional brake on the march into bankruptcy, of which we are, even today, aware, it would be of great advantage.

I hope the Senator will forgive me; I could not resist stating what the Senator from Minnesota said.

Mr. MANSFIELD. I am delighted to hear what the Senator has said. However, he was not listening closely to me, because I was not trying to paint the picture black or white. Some of this problem has been in the gray regions for me, too. I was trying to explain what I thought the effect of the amendment would be and what the effect of the passage of the bill would be.

Mr. GRUENING. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield.

Mr. GRUENING. I wish to comment on the alarming forecast that by 1970 we may reach 12 percent of unemployment in our labor force.

Although I have listened carefully to the debate, I find myself unable to find in the proposed legislation the panacea for our economic ills that is proclaimed for it by its sponsors.

When the late President Kennedy proposed legislation for tax reduction 2 years ago he feared greatly that the country would go into a recession. But conditions have changed since then. Since that time the Nation's economy has improved so much that it is difficult now to justify the proposed far-reaching tax cut. The reasons that actuated President Kennedy no longer exist, or at least exist to a much lesser degree.

Mr. MANSFIELD. Mr. President, will the Senator from Alaska yield at that point?

Mr. GRUENING. I yield.

Mr. MANSFIELD. In my opinion, the late President was worried more by the outflow of gold than by any other factors during the 3 years of his Presidency. He looked upon a recession as likely to occur on the basis of statistical evidence that one had occurred every 44 months. With the end of the past calendar year, I think the 35th month has passed. We are now in the 37th month. There is still a little while to go. If the tax bill is passed, it will be possible to bridge that gap and keep the economy on an even trend.

Mr. GRUENING. I am hopeful that the dire economic forecasts will prove to be not valid. I shall vote for the bill, although expressing, as I have at various times in the past and shall express again, grave doubt about its effectiveness to achieve the ends claimed for it by its proponents.

I believe that if we wish to stop the increase in unemployment, it will be necessary among other things to pass legislation such as a revived accelerated public works bill, which has proved its value in a brief time, and with a relatively small amount of money. In addition to the projects constructed or under construction for which $900 million was expended, we now have $700 million of approved projects, which cannot be started because the original appropriation of $900 million has been exhausted.

If I were making policy, I would seek express authorization of at least $2.5 billion for public works to put people back to work. At the same time I would propose a substantial appropriation for retraining those who, through automation and for other reasons, are thrown out of work and need to be trained in new skills for other jobs. That is the way to stop unemployment.

Mr. MANSFIELD. That is one way.

Mr. GRUENING. I am hopeful that the tax cut bill will have the effect that the President and others who support it say that it will have. I doubt very much whether it will have that effect to any substantial degree.

Mr. MANSFIELD. I hope so. They are more intelligent and know more about it than I do. I have to take their

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word. It seems to me to be a reasonable assumption.

Mr. GRUENING. Mr. President, throughout the consideration by Congress of H.R. 8363, I have had and have expressed great doubts that the legislation on which we are about to vote will provide an effective remedy for the unemployment problems of our economy and even graver doubts about the wisdom of enacting legislation which does nothing to correct serious inequities in existing tax law. I feel that in view of our prospering economy—at least on the

higher business levels—this is the wrong time to reduce taxes, and, further, I believe strongly that it will prove to be an error to pass a tax law that concentrates its benefits in the upper levels of income while doing nothing significant to reduce tax burdens of those wage earners in middle income levels. I doubt whether the deliberately sought loss of $11 billion in anual revenue and the resulting increase in our national debt will result in the benefits claimed for this legislation, and certainly not to a degree commensurate with so drastic a reduction in our tax revenue.

Further, and above all in importance, I am deeply fearful the expected tax cut of $11 billion will prevent enactment of badly needed legislation proven effective in supplying employment for workers now unable to find jobs. I would far prefer that a portion of the contemplated tax cut now planned to be taken from the tax liability of corporations and individuals with high incomes be used, instead, to appropriate an additional $3 billion for the accelerated public works program.

Last Tuesday, in the discussion of his amendment to increase personal tax exemptions at the expense of other revenue decreases, the distinguished senior Senator from Tennessee [Mr. GORE] expressed my feelings about this bill. I would like to quote from his remarks and again call the attention of the Senate to the views of this conscientious member of the Senate Finance Committee who has also expressed his serious doubts about the wisdom of the present tax bill. Senator GORE said:

I have said earlier that I thought there were times when there are economic conditions under which it was inadvisable to have a balanced budget. I am not one of those who thinks that the sole and only purpose of taxation is to meet governmental expenditures. I believe a fiscal policy can be used, and should be used, for the implementation of economic and social policies. When we are experiencing recessionary conditions, one of our most effective weapons is fiscal policy. If it is desired to describe it by an ugly word, call it deficit financing; call it spending.

But I do not think we are now in the kind of circumstances when a general, massive deficit financing program is justified. There are problems in our society, such as structural unemployment, which need specific treatment. There is the problem of vocational training of teenagers who are coming into the labor market without skills. But the bill does not provide for them. This is scattergun treatment, and such treatment is not called for.

The bill is tailored for economic recessionary conditions which do not prevail. The rationale on which the bill was based has vanished into thin air. That is why I say that even though my amendment were adopted, I would not then vote for passage of the bill, a bill which would make such a gigantic reduction in governmental revenue at this time.

Suppose, as a result of the hoped for stimulation, there were a repeat performance of the 1954–57 period. Suppose we used this great weapon of fiscal policy, and then find, 18 months from now, that consumer demand is not sufficient to utilize plant and facilities which are already in existence, and which would be augmented by the bill. What weapon would then be used? Would we cut taxes again, in order to balance the budget at some other time in the even more indefinite future?

I say that this is unsound fiscal policy. A tax cut is a powerful weapon, but it is being used at the wrong time and in the wrong way.

Senator GORE's analysis of the present law is amply sustained by the views of Mr. Leon Keyserling, who, on the basis of exhaustive economic research, came to a similar conclusion as to the shortcomings of the legislation we have been considering. Mr. Keyserling, demonstrating his remarks before the Senate Finance Committee with extensive data, explained his opposition to H.R. 8363 by pointing out:

Gross private domestic investment and also investment in plant and equipment, during the period 1953–63 as a whole, was indeed deficient, as almost everything was deficient in an economy expanding at little better than half the needed rate. But during each period of economic upturn * * * the expansion of investment in the plant and equipment which enlarge our productivity capabilities raced forward at a nonsustainable rate, very much more rapidly than the demand for ultimate products represented by the combination of private consumer outlays and public outlays at all levels for goods and services. To take the most recent illustration, from the first half of 1961 to the second half of 1962, this investment in plant and equipment rose 8.5 percent, while demand for ultimate products rose only 5.1 percent * * * by ample or more than ample after tax profits, savings, credit, and other sources of funds for these purposes. The sharp investment downturns which occurred periodically, and which sparked the recessionary movements, were not occasioned by any shortage of such funds, but were occasioned by the excess plant capacity which had developed in consequence of the inadequate growth in demand for ultimate products.

This summary analysis of the disequilibriating factors during the past decade and even now indicate unanswerably that changes in tax policies and in other national economic policies should be directed toward bringing the demand for ultimate products into better line with the growth in our productive capabilities. * * *

Investment trends during the past decade, when compared with other trends, provide no justification for the proposition that large tax concessions are needed now for the pur-

pose of stimulating investment, especially when the additional Federal deficits which these concessions would entail could be devoted to far more salutory programs in the interest of the national economy.

Actually, despite much misguided propaganda to the contrary, the increases in wage and salary rates during the morst recent years have lagged very far behind the increases in productiyity, and this of course has an important bearing upon the proper distribution of tax cuts. Thus * * * during the most recent 5-year period 1957–62, productivity per employee-hour in the whole nonfarm economy rose in an average annual rate of 3.1 percent, while the average annual increase in wage and salary rates was only 2.7 percent. And in manufacturing during this 5-year period * * * the average annual increase in output per man-hour was 3.4 percent. It is only very recently that these alarmingly disparate trends have begun to receive the notice they deserve. * * *

The last thing in the world that we need, under such circumstances, are large tax concessions to the investment process, on the ground that these are required to speed up productivity growth, to enlarge our economic growth rate at home, to make us more competitive overseas, and to improve our balance-of-payments and gold position. Insofar as unbalanced tax concessions would increase the disequilibrium between productivity growth and idle plant capacity on the one hand, and inadequate ultimate demand on the other hand, such tax concessions would be self-defeating on all scores. In the longer run, they would even repress the rate of productivity growth (as in recent years past), in consequence of the inefficiencies resulting from high economic slack.

Although I have been greatly persuaded by the views expressed by the senior Senator from Tennessee and by the cogent analysis of the economic impact of this legislation, as described in Mr. Keyserling's remarks quoted above, I have come to the reluctant decision to vote for H.R. 8363 on final passage. Having listened throughout the week to the able arguments of the Senator from Louisiana who has been presenting a lucid and helpful explanation of the position of the administration and its hope for a beneficial effect on the economy, as well as those of the senior Senator from Illinois—one of the Nation's outstanding economists, I have decided that it is only fair to give this measure a chance. Again, I emphasize my plea that the enactment of this bill not stand in the way of badly needed public works projects which could be paid for many times over with reductions in taxes to corporations and individuals in the high income brackets. Since it seems to be the majority opinion of the experts in the field of economics who have been employed by the President and since it is the judgment of the House of Representatives and the Senate Finance Committee that this particular tax cut is needed, I believe we should pass this legislation. Certainly, those who have not served on the committees of Congress having jurisdiction over the bill are not in as strong a position to urge its defeat as the able members of the committee are to advocate its passage.

I greatly regret that in the course of our debate on the floor we have not been able to remove from the bill the provisions that are especially obnoxious. I believe we should have adopted the amendments of the senior Senator from Tennessee [Mr. GORE] to allow higher personal exemptions. I think this would have moved the legislation in the direction of correcting the glaring inequities now present in our revenue laws. Having failed to increase exemptions, I believe it was most unfortunate that the amendment of the senior Senator from Illinois [Mr. DOUGLAS] to increase the minimum standard deduction was not adopted. This amendment would also have helped in obtaining a more equitable distribution of the tax burden.

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Of course, the most indefensible provision of this legislation, which, unfortunately, remains as it came to us from the House, is section 203(e) which will prohibit regulatory agencies from allowing consumers to gain the benefit of reductions in costs accruing to purveyors of services as a result of the investment credit provisions now in the law. There is no possible justification for this provision. As was thoroughly discussed on the floor last Wednesday, section 203(e). unjustifiably restricts regulatory agencies of the Government in the exercise of their responsibilities. Further, the way in which the regulatory agencies are restricted is unbelievably damaging to the people of the United States, who are dependent upon the services of those who provide telephones, power facilities, and commercial transportation of all kinds subject to regulation. Again, I deplore the action of this body in refusing to remove this iniquitous provision from the law.

The wartime excise taxes on furs and on toilet preparations, luggage and handbags should have been repealed. I regret we were not able to accomplish this improvement in the law which would have been a benefit to the rank and file of our citizenry. These taxes, which were imposed during a national emergency and to conserve materials essential to the war effort no longer serve any purpose in our tax system except as an added burden to individual consumers of the very necessary articles on which they are imposed. Further, these taxes are

discriminatory against manufacturers of the products affected since they are not levied on many similar items with which they are competitive. As far as furs are concerned, this is a depressed industry at present and the repeal of the excise taxes would have been helpful to it.

I hope separate legislation will be enacted soon to eliminate the excise taxes on items which were the subject of the amendment rejected by a very close vote of this body last Wednesday.

These are, unquestionably, the most serious sins of commission of the legislation we are about to enact. Its sins of omission may be found in virtually every section of the bill. As I stated on the floor of this body last Tuesday, it is tragic that a wonderful opportunity has been lost to correct the many deficiencies in the present internal revenue law which allow special and more generous treatment for those in the upper income brackets than is available to individuals who do not make a great deal of money. The legislation remains riddled with mistaken revenue policies of the past.

I hope another attempt will be made soon to enact legislation that will give us a truly fair tax law. Now that this bill is about to become law, I would urge the administration to execute its provision, insofar as possible, to insure the accomplishment of the promises that have been made for stimulation of the economy with resulting economic benefit to all of us.

Mr. SMATHERS. Mr. President, how much time remains to either side?

The PRESIDING OFFICER. The Senator from Florida has 24 minutes remaining.

Mr. SMATHERS. The best way for me to start my remarks is to speak about who favors the bill and whether those who favor it have had experience in the economic field, or have not. The majority leader, very modestly, said that there is much in this field that he does not know. I must make the same confession. Perhaps many other Senators also would have to make that confession. My experience in business has been rather limited. I wish it had been greater. But, as I understand, those who are for the bill are the finest group of economists that can be assembled in the United States. Four hundred of them got together and said that if we were to eliminate chronic deficits that have occurred in 24 out of the past 30 years, if we are to break out of the pattern of spending more than we take in, it is necessary to do something to enable free enterprise to operate with fewer restrictions. They did not take the position that has been advocated by the able Senator from Alaska [Mr. GRUENING], that what is needed is more public works. They said that what should be done was to leave a dollar in the pocket of the actual consumer. They said we should leave more dollars in the corporate treasury and let private enterprise spend them. It was their conclusion—and they have had a lifetime of study in this field—that if those dollars were left in the corporate treasuries, the multiplier effect would be 30 times greater than if the Government spent the money.

So I say to the Senator from Ohio [Mr. LAUSCHE] and the Senator from Arkansas [Mr. MCCLELLAN] that we have placed reliance on the free enterprise system to try to do the job of overcoming economic deficits.

Mr. AIKEN. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I yield to the Senator from Vermont.

Mr. AIKEN. Is it not true that of the 400 persons who promoted the tax bill, 397 represent corporations that made unprecedented profits last year?

Mr. SMATHERS. That is not true. Those 400 economists came from universities over the Nation. Customarily, they are not the most conservative group in the world. So the Senator from Vermont is not correct as to that.

Mr. AIKEN. Was not the group headed by Henry Ford II?

Mr. SMATHERS. That was a group of 2,500 businessmen. They have had some business experience, certainly more than I have had, and possibly as much as the Senator from Vermont has had, and possibly as much as some other Senators have had.

But the group of economists said that the only way in which we can break out of the pattern of deficits is to pass a tax reduction bill and make it possible for corporations to spend some of their money, rather than to have the Government take most of it, thereby enabling the corporations to modernize their plant and equipment, so that they can compete with one another, provide more jobs, buy additional equipment, and thus improve the economy. They are some of the people who favor the passage of the bill.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. SMATHERS. I should like to continue for a moment.

Mr. LAUSCHE. Will the Senator yield for half a minute?

Mr. SMATHERS. Very well; I yield.

Mr. LAUSCHE. What agency was it that met under the circumstances? I have the fiscal and monetary policy announced by the President's Advisory

Committee on Labor-Management Policy. Is that the one to which the Senator refers?

Mr. SMATHERS. I do not know about that. I said there were 2,500 businessmen, most of them of the other political persuasion from that to which the Senator from Ohio and I adhere. Yet all of them said they believed the passage of a tax bill was the way to accomplish an improvement in the economy. So we have reason to believe that competent, experienced people in this field have made a worthwhile recommendation. Certainly the way in which the Government had proceeded was not the way to move, because even during the Republican administration there were only 2 years of balanced budgets out of 8, and there have been none thus far in this administration.

Mr. LAUSCHE. Will the Senator answer my four illustrations showing that the program does not work?

Mr. SMATHERS. I will come to the Senator's point. The Senator has had his time to speak; let me have mine.

Mr. LAUSCHE. Very well.

Mr. SMATHERS. I have the deepest affection and respect for the Senator from Arkansas [Mr. McCLELLAN], but what we would be doing by adopting the Senator's amendment would be to pass the buck. Who actually makes an appropriation? Congress. Who levies taxes, under the Constitution? Congress. If we passed the Senator's amendment, we would give to the executive branch, by an order, authority to decide whether to spend a little more money or not. We would be abdicating our own responsibility.

The Legislative Reorganization Act of 1946 authorizes Congress to establish its own legislative Joint Committee on the Budget to determine these questions.

In 1947 and 1948, I believe, Congress tried it; but Congress found that it was so wrong on the estimates for January and the latter part of the year that Congress gave it up.

So we have the authority the Senator is talking about; we have it under the Legislative Reorganization Act, and we can use it if we wish. But I do not think we act in a very brave or responsible way if we decide to turn over this responsibility to the President and let him make the decision, and thereby give him authority to levy taxes and to pass

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on tax cuts, when that should be our concern.

Mr. McCLELLAN. Mr. President, will the Senator from Florida yield? I ask him to yield, because I do not think he wishes to make a misstatement.

Mr. SMATHERS. Certainly I do not wish to do so.

Mr. McCLELLAN. I point out that we are not turning it over to the President. We still have that responsibility, but we are inviting him to act.

Mr. SMATHERS. But if we decided to let the budget expenditures in any fiscal year exceed $100 billion, suddenly the President might have to raise the tax rates, whereas, under the Constitution, Congress is supposed to act in that field. It is one of the obligations and responsibilities of Congress to act in the field of taxation. So in that case Congress would really have abdicated part of its responsibility.

I should like to emphasize the point the majority leader made. How in heaven's name could businessmen, if they were required to operate under this system, determine what their future next year, would be, if the budget should happen to exceed $100 billion? In that case, instead of having the benefit of the tax cuts that the Senate is about to vote for, the businessmen would not have the benefit of the tax cuts. How can businessmen make plans to expand their plants, on the basis of a tax reduction—for example, to open a new plant in Oklahoma or in Arkansas, or in Virginia—on the basis of a tax reduction which may never be made?

So they would live under a cloud of uncertainty, in connection with any activities in which they might wish to engage. They would live with a Damoclean sword hanging over their heads all the time.

Furthermore, consider the situation of private individuals, some of whom might be planning to take trips to Europe—and we hope they do—or to Florida—and let us hope even more enthusiastically that they do that [Laughter]—or to make repairs on their homes. What would be their situation if the country got into a recession or if it were found to be necessary to increase defense expenditures, with the result that the budget might then exceed $100 billion. In that event, there would be no tax cuts.

If it is desired to create uncertainty in the private community, let the Senate adopt an amendment such as this one. In that event, no one will know what will happen—no one except the man in the White House, who is the victim of circumstances and has to meet them when they arise.

So I think it would be a great mistake for the Senate to adopt this amendment.

Suppose we encountered a depression. As the majority leader has pointed out, periodically since World War II, every 40 months—so he said, although I thought it was 36 months—there has been a depression of some kind.

The able Senator from Alaska, the able Senator from Tennessee, the able Senator from Illinois, and other Senators discussed the situation which might exist under such circumstances, and mentioned the steps which might then be taken. The Senator from Tennessee pointed out that in such circumstances the Government would take steps to increase employment and increase economic activities, by means of road construction programs, bridge construction programs, and so forth. A moment ago the Senator from Alaska referred to such activities.

At present, we are living on borrowed money and borrowed time.

The reason there is no recession at the present time is that both individuals and corporations expect to receive the benefit of the proposed tax cuts, with the result that $9,300 million will go into the pockets of individual taxpayers. But if we encountered a recession, what would we do? The only thing to do would be to commence a program of increased Federal expenditures. Then what would happen? When the Government borrows more money and puts it into road programs, retraining programs, WPA programs, and similar programs, what happens? As the government borrows the money and puts it into programs of that kind, on the one hand, taxes rise, on the other hand, and the result is to pull out of the economy $9,300 million. What would happen? There would be no way by which the executive branch of the Government or the Congress could do the necessary things in order to meet a recession, if we got into one.

Furthermore, as I have said, in addition, the amendment of the able and distinguished Senator from Arkansas is totally unrealistic, in view of the fact that it sets the figure of $100 billion as the limit above which the administrative budget could not go.

All of us would like to keep the budget down; there is no question that we need to eliminate every bit of waste, duplication, and fat that exists in the budget. And we are trying to do so. As the majority leader has pointed out, the President has made a magnificent effort toward eliminating waste and duplication. I am afraid that in some areas he has even cut into a little muscle. I hope that has not happened in the national security field; and I do not believe it has. But he may have done so in other areas.

At any rate, today the administrative budget is about 50 percent less than it was. So we have seen cost analysis result in a great measure, actually, from anticipation of the tax cut, I believe.

At any rate, let us remember that at present our country has a population of 191 million, and that the population grows at the rate of approximately 3 million each year. There is no way to stop that, even if we wanted to, or to make the Nation smaller, or to lessen the Nation's commitments or contract them. The Nation will continue to grow.

What will happen? It is obvious that as the Nation grows, even though we practice the greatest frugality and efficiency in connection with the operations of the Government, we already have programs which will require that additional funds be spent. I am sure the Senator from Arkansas would not want to have the Government renege in any fashion on the Veterans' Administration program. Certain hospital construction commitments have been made under the Hill-Burton Act; and in areas in which the population increases, with the result that more hospitals are needed, the Government will have to spend its share of the money required to build the hospitals. As the Nation grows, those needs will become greater; and as the population grows, it will be necessary to construct more highways. They will be constructed, and the Federal Government will provide its part of the cost. As the Nation grows, it will be necessary to construct more airports—for example, in South Dakota, in Honolulu, in Kentucky, and in Kansas; and the Federal Government will have to help pay for the cost of constructing them. Our Nation will not become smaller; it will continue to grow, and become larger and larger.

It seems to me that it would be totally unrealistic to limit the administrative budget in any fiscal year to $100 billion, and thus to say, "The budget will never be allowed to exceed that amount; but if it does, suddenly, instead of a tax reduction, taxes will increase."

Mr. President, how much time remains available to me?

The PRESIDING OFFICER. Eleven minutes.

Mr. SMATHERS. Mr. President, in support of the last statement I made, I wish to read from a statement by President Eisenhower. This may be of some interest even to Members on our side of the aisle, and I am sure it will be of great interest to Members on the other side of the aisle. President Eisenhower said:

> A growing nation requires a growing budget.

President Eisenhower recognized the inevitability of a growing budget with a growing nation. In his budget message for the fiscal year 1960 he said:

> Inescapable demands resulting from new technology and the growth of our Nation and new requirements resulting from the changing nature of our society will generate Federal expenditures in future years. We must not forget that a rapidly growing population creates virtually automatic increases in many new Federal responsibilities.

I hope that the amendment will be resisted in view of the points that I have made. I believe it would be restrictive. In many respects it might even be unconstitutional. I believe it is violative of the 1946 Reorganization Act. It does not recognize the growing population.

Moreover, I believe it would cause the Congress of the United States to abdicate its own responsibility. Members of the Appropriations Committee are sitting in the Senate Chamber. I see four of them. They have under their control appropriations. They will not permit money to be spent that Congress does not appropriate. No money will be spent that members of the committee do not approve for appropriation and that the Senate does not finally approve. Under the Constitution of the United States it cannot be done—and we still live under the Constitution. I do not wish to see a situation arise in which the chairman of the distinguished Finance Committee would lose his power and the

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committee itself would lose its power to determine what the tax rate for individuals and the corporations of our Nation should be. If we adopt the amendment, that is what would happen. He will have lost his authority and we will have lost our authority. We would leave it to the executive branch of the Government to make the determination as to when the proposed $11.6 billion tax reduction would go into effect and when it would not.

So I plead with Senators. While the amendment is directed toward economy, I suggest that we are all for economy. While it is said that we can have a tax cut on the one hand but we can have economy on the other, it will not work that way. It would be a terrible restriction not only on the Congress and on our authority but on the President of the United States. It would tie our hands in the event of a recession. It would tie our hands in the event that some kind of foreign situation would arise as a result of which the administration would come to Congress and ask for additional money.

I yield the floor.

Mr. LONG of Louisiana. Mr. President, the whole problem raised by the amendment of the Senator from Arkansas would not be a problem if Senators who are members of the Appropriations Committee would quit voting so much money for appropriations. We members of the Finance Committee have no control over that.

I talked to my senior colleague, who I believe will vote against the bill. If he votes against it, he will be expressing his honest conviction on the matter. He feels that the Government needs the revenue. I said to him:

> After all, there would be no problem about a tax cut if the Appropriations Committee would not spend so much money.

But I cannot control that committee's actions. I am on the Finance Committee. It is all I can do to discharge my responsibility on that committee.

The amendment would undertake to require me, as a member of the Finance Committee, to show members of the Appropriations Committee how to run their business. I do not feel very well qualified to do so.

I ask Senators to observe who the members of that committee are.

The chairman of the committee is Senator CARL HAYDEN. The Senator from Arizona has been in the Senate for many years. He was a Member of the Congress before I was born. Am I supposed to tell him how to conduct his business, as I would be required to do under the amendment? [Laughter.]

The next member of the committee is Senator RICHARD RUSSELL, a man whom I supported for President of the United States, a man who came to Congress the same year that my father did. Am I supposed to tell him how to conduct his business? I go to him for advice rather than he coming to me. [Laughter.]

The next member of the committee is Senator ALLEN J. ELLENDER, who I thought should have been Governor of Louisiana at a time when I was a mere boy. He is one of the most competent men I have ever known. Am I supposed to tell him how to perform his function? With the possible exception of Representative OTTO PASSMAN, also of my State, Senator ELLENDER has been the greatest economizer in the foreign aid program we could possibly have. Am I supposed to tell him how to economize and to save money? [Laughter].

Those men are experts in their field.

Should I tell Senator LISTER HILL how to run his business? Senator HILL is well qualified to run his business. I recall the day that, as a small boy, I listened over the radio to Senator HILL. He nominated Franklin D. Roosevelt for President of the United States. I can

recall those events. Those men do not come to me for advice as to what they ought to do.

Read down the list. Whose name appears next? Next we have the distinguished Senator from Arkansas [Mr. McCLELLAN]. [Laughter.] At times I have thought he was well qualified to be President. He is urging me to tell him how to discharge his responsibility. I have no doubt that, if I am required to do so, I would have to say, "Let your conscience be your guide." [Laughter.]

So we go down the list of the men who are experts in this field. They have made the appropriations and studied the budget. I have not studied the budget as they have. I have been working on the tax bill for 2 years. I have reached the point where I cannot sleep at night. I lie awake at night and mumble big numbers. [Laughter.]

After all that time of intensive work on this bill, trying to understand all of its complications, I am now asked to tell the Appropriations Committee how to handle a $100 billion appropriation bill. I have not had an opportunity to study the budget. I have been so busy on the question of taxes that I do not even know what is in the budget for flood control in Louisiana.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. PASTORE. Why has the Senator from Louisiana stopped where he did? Why does he not continue to read the names of some of the Senators who will vote for the bill, such as the Senator from Rhode Island?

Mr. SMATHERS. There is a time limitation.

Mr. LONG of Louisiana. The committee is a large committee, with many able Senators on it.

Mr. PASTORE. I should like to hear a little tribute to myself.

Mr. LONG of Louisiana. The distinguished Senator from Rhode Island, a former distinguished Governor of Rhode Island, author of many important bills that have been passed in this body, and one of the greatest statesmen of our time, has been a student of this subject.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. PASTORE. The Senator from Rhode Island wishes to say, "I love you, too."

Mr. LONG of Louisiana. I thank the distinguished Senator.

Mr. President, if the amendment is adopted, it may well be that next year we shall have, not a tax cut bill, but a tax increase bill. The amendment would seek to restore all the rates that presently exist and, in addition, would leave in effect those things in the law to which the committee bill has proposed structural changes. In other words we could get perhaps a $500 million increase in taxes. How do Senators like that as a disappointment? The taxpayer would be holding his sack out, waiting for a tax cut. What do Senators think he would get? A tax increase. [Laughter.]

Unless we are to give the American people the supreme disappointment of the century, we ought to vote the tax cut we have been talking about for 2 years instead of offering one with an amendment which would provide a "quickie" tax cut and a long increase, starting the first of next year.

Mr. McCLELLAN. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. Three minutes.

Mr. McCLELLAN. Mr. President, I have been saddened just a little, in spite of the humor, of my friends, which I have enjoyed. This afternoon we have seen a demonstration in which some of the supporters of this bill have broadcast to this Nation and to the people of this country that we are not serious about expenditures. They choose to ridicule anyone who tries to reduce expenditures.

As the distinguished majority leader has said, we are today telling the country that we will continue the old order of business. We will continue to spend and spend and go into debt. The old order is all we are promised.

The Senator talks about passing the buck to the President; and telling me what to do. The Senator stands on this floor and votes. The junior Senator from Louisiana said a moment ago that he votes without knowing what he is doing, if we are to interpret his language correctly. The Senate and the House of Representatives make the appropriations; it is the duty of the President to request what he needs. It is our duty to weigh the request. The Senator from Louisiana [Mr. LONG] talks about passing the buck. When the President sends that budget down here, and then some of his aids get on the telephone and get his people from the Budget Bureau on the telephone telling us they must have this money, where is the buck passed to? Right back to us.

Let us work together cooperatively. I feel a concern about what we are doing here today to our country. It is not laughable to me. I feel that we are making a mistake in driving this country into debt. The Senator maintains that we will stimulate the economy. The Senator has cited the experience of some

foreign country. I suggest that he cite our past experience here in the United States.

Tax reductions in the past have not greatly stimulated the economy. The Senator has said that we have some good economists now who know how to stimulate the economy. Who are they?

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Every one of those economists believe in deficit spending as a way of life. None of them are looking toward balancing the budget. No one cares today. We are invited to spend and spend.

I am asking only that a limit be set. Why? The Senator has said that we are restricting with this amendment. Of course we are; that is the purpose of it. It is charged we are passing the buck to the President. That is not correct. The President informs us that the money is spent; then we have to raise the debt limit. Here, with respect to this amendment the Congress would have to raise the $100 billion limit if an emergency arose or a real need developed and a proper case should be made to do so.

Of course, we would raise it, if we should. But it comes back to Congress for examination, decision, and action. It is said that this will be done in the Appropriation Committees. The Appropriation Committees work hard and long. They work against the pressures sometimes of the President and the administration forces. I say to the Senate and to the country today that we need the cooperation and the dynamic leadership of the President of the United States and the Congress working together. Congress can hardly do it without that leadership. Both Congress and the President should work together to do it.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MUNDT. Mr. President, I yield 3 minutes to the Senator from Arkansas.

Mr. McCLELLAN. I was interested in what the distinguished Senator from New Hampshire said when he stated he was going to vote for a measure to try to hold back the money so it cannot be spent. That will not be easy. They do not necessarily need the money in order to spend. We can continue to go into debt by operating on a credit as we have been doing. Someday the strain on our credit will cause it to break. There is a limit. We are marching toward that limit today.

Mr. President, we are not conducting this Government with fiscal responsibility. I plead that we, here and now, make a start toward economy, make at least a strong gesture that may have some meaning. My amendment will have a meaning if we adopt it.

Senators are not turning me down on this issue. There is nothing personal involved here. If we vote for continued spending, if we vote for the old order that has brought us to where we are today, if we perpetuate that old order, there will certainly be a day of reckoning. That day is coming sooner than we think.

If we are not willing to start holding the spending line, now, in a period of the highest prosperity we have ever had, with the highest national income in our history, if we are not ready to hold the line when making a big tax reduction, then we are surely plunging headlong toward insolvency and inflationary chaos. Is the Senate willing to make one gesture—just one—openly, publicly, and as an indication of congressional policy, toward reducing expenditures? If the Senators are not willing to do that, then, of course, vote against the amendment. And by so doing, let the country know we are going to continue going into debt; that deficit spending—increased deficit spending is the national—the senatorial policy. In my judgment we are going into debt too deeply and too fast.

Someday we will be called to an accounting for this folly.

Mr. LONG of Louisiana. Mr. President, when the Senator who is now speaking went to war for his country in 1942, this country was about $50 billion in debt. When I returned from the war, I came back to a country that was $258 billion in debt—an increase of $200 billion. That was an enormous increase. This Nation apparently had its choice at the time of war. It could have levied heavier taxes. It could have gone deeper into debt. It had a third choice—which happened to the Confederacy. It could have stayed out of debt, but it would have been under an army of occupation. So the country thought that the best alternative was to go into debt. Today we have a debt of about $300 billion. Our gross national product has increased from $266 billion to $493 billion, almost double what it was at that time.

It is true that, under both Republican and Democratic administrations, we are somewhat deeper in debt; but the Senator from Louisiana still thinks this is the greatest Nation on the face of the earth, with some of the finest people that the good Lord has put on this planet. The Senator from Louisiana feels that our children are at least as good as or better than he was at a similar age, that we are growing stronger, and that this country will be equal to the risks that face us. We must take risks in everything we do in life. There is a risk in cutting taxes, but, in my opinion, there

is a greater risk in not cutting taxes. There will not be a balanced budget until there is full employment.

For those reasons, I shall vote for the bill without the McClellan amendment, which says we cannot do that which I think is necessary to do for the progress of the country.

Mr. SMATHERS. Mr. President, I yield myself a minute and a half, and then I shall yield to the able majority leader.

Mr. President, the question is asked, Are we serious about economy? In all fairness; I think we have been.

The Senator from Arkansas knows that the President of the United States has recommended a budget which provides for a deficit 50 percent below what it was last year.

I think the Senator from Arkansas will agree that in every department of Government there has been a request for reductions in personnel. I think the Senator has seen 30 bases closed. I think he is going to see 30 more bases closed.

Throughout the Government we are seeing practiced an economy that is as stringent and hardheaded as any we have seen. So we have seen economy.

The Senator asks why Senators will vote for it. The Senator from Louisiana has referred to the fact that, because of the technicalities involved in the Defense appropriations—and this is true of other bills—we must rely on the Appropriations Committee. In the final analysis, it is the agency which makes recommendations.

The Senator has said that the economists say those who believe in deficit spending are for the bill. I do not think so. The chamber of commerce is for this bill; and I challenge anyone to show us that it believes in deficit spending. But it is for the bill. Henry Ford is for the bill; and he certainly is not in favor of deficit spending. The president of the Pennsylvania Railroad is for the bill; and he is not in favor of deficit spending. So I say, in all candor and honesty, that we who are in favor of the bill without the restrictive amendment of the Senator from Arkansas believe in the free enterprise economy and believe that the only solution for unemployment and for the future economy is to provide a tax cut.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield.

Mr. PASTORE. The RECORD should show that last year Congress cut the budget estimates by $6,300 million.

Mr. SMATHERS. I should like to respond to that observation with the statement that perhaps some President has called Members of Congress and has said we must do certain things; but I do not believe any Senator would say that there is any President who can "twist his arm" and make him vote against his conscience. He certainly is not able to do it with the Senator from Arkansas, or with any other Senator. It is up to Congress to decide. It is Congress that levies taxes and spends the taxpayers' money. When Congress wants economy, it can get it.

I now yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, I have listened with great interest to most of the debate this afternoon, and I wish to commend the distinguished Senator from Arkansas [Mr. MCCLELLAN] for making an attempt in the right direction; but I also wish to reiterate that so far as the Senate is concerned there is a line between the legislative branch and the executive branch, and that line should be observed. The President has his responsibilities, and he has carried them out admirably. We have our responsibilities, and I believe we have done a respectable job.

The Senator from Rhode Island has stated a fact, that in the 1st session of the 88th Congress we cut expenditures below the President's budget request by $6.3 billion. The Senator from Arkansas stated at the beginning of his speech that over the past 11 years the Congresses which were in operation during that period reduced the budget request of the President by $32 billion.

So we have done our share, and a little more. The President is doing his share. We should recognize that if we place a limitation of this kind upon

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the President, it will tie and bind his hands.

What will the President do if a recession comes along and he is forced to raise the ceiling above $100 billion? What will happen to the tax cut? We give and we take away.

There is nothing more that I can add to what the distinguished Senator in charge of the bill, the Senator from Louisiana [Mr. LONG] has said, and also his "first lieutenant" the distinguished Senator from Florida [Mr. SMATHERS]; but I believe, if we are to put a tax cut into effect that the way to do it is to stick to the bill as closely as possible, and give to both corporations and individuals the $11.7 billion cut envisaged in the bill, because it will help business, stimulate employment, and increase the gross national product.

Mr. McCLELLAN. I yield 1 minute to the Senator from South Carolina.

Mr. THURMOND. Mr. President, the pending amendment, which would make the reduction in income tax rates embodied in H.R. 8363 contingent on keeping the spending of the National Government below the level of $100 billion per year, is an absolute prerequisite to a sound fiscal policy for our Nation.

It is not enough to talk in terms of slowing the pace of mushrooming national expenditures. It is time to establish, by practical and effective means, an absolute limit beyond which we will not go. This amendment would partially provide such a limit, although it would not insure the elimination of continual deficit spending.

Only six times in the past 34 years has the budget of the National Government been balanced. This is nothing less than pure fiscal folly. Not only does such fiscal irresponsibility jeopardize the economic stability of our Nation, but it also constitutes an immoral deprivation of future generations of Americans of their right to decide how their own earnings will be spent. We are literally mortgaging the future of babes unborn, and if we continue at the rate we are going, we will completely dispose of their birthright.

This amendment will not, of course, prevent another deficit. It will, however, make the reduction in taxes, and, in my opinion, the reduction in receipts of the National Government enacted by this bill, contingent on expenditures being held to a reasonable level.

The level of expenditures set by the amendment does not even set the cutoff at the current or projected level of expenditures. It leaves room for an increase over current or projected level of expenses of more than $2 billion.

The bill which the Senate is now considering will reduce revenues, and thereby, it will inevitably contribute to the existing gap between receipts and expenditures. It is predicted by some, of course, that the revenues released into the economy by the tax reduction will go through multiplier and accelerator processes, and result in net increases in revenues even at the lower rates. This may be; but in the event this strange phenomenon fails to occur as predicted, this amendment would provide a very essential ceiling on expenditures above which the lower tax rates, and a larger margin of deficit, would not be effective.

This amendment is designed to effectuate in law the assurances that expenditures will be held within some range of reason. Its adoption would establish the intention of Congress to exercise a new and long overdue practice of fiscal responsibility. Its adoption would act as a welcome breath of fresh air and a basis of renewed confidence in the financial future of the United States.

Mr. McCLELLAN. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas [Mr. McClellan]. The yeas have been ordered; and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished minority leader, the Senator from Illinois [Mr. Dirksen]. If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. SALTONSTALL (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Arizona [Mr. Goldwater]. If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. KUCHEL. I announce that the Senator from Nebraska [Mr. Curtis] and the Senator from Illinois [Mr. Dirksen] are necessarily absent.

The Senator from Arizona [Mr. Goldwater] is detained on official business.

If present and voting, the Senator from Nebraska [Mr. Curtis] would vote "yea."

The respective pairs of the Senator from Illinois [Mr. Dirksen] and that of the Senator from Arizona [Mr. Goldwater] have been previously announced.

The result was announced—yeas 34, nays 61, as follows:

[No. 38 Leg.]

YEAS—34

Aiken	Hickenlooper	Proxmire
Allott	Hruska	Robertson
Beall	Jackson	Russell
Bennett	Jordan, N.C.	Simpson
Boggs	Jordan, Idaho	Smith
Byrd, Va.	Lausche	Stennis
Carlson	McClellan	Thurmond
Cotton	Mechem	Tower
Dominick	Miller	Williams, Del.
Eastland	Mundt	Young, N. Dak.
Ervin	Pearson	
Gore	Prouty	

NAYS—61

Anderson	Ellender	Kennedy
Bartlett	Engle	Kuchel
Bayh	Fong	Long, Mo.
Bible	Fulbright	Long, La.
Brewster	Gruening	Magnuson
Burdick	Hart	McCarthy
Byrd, W. Va.	Hartke	McGee
Cannon	Hayden	McGovern
Case	Hill	McIntyre
Church	Holland	McNamara
Clark	Humphrey	Metcalf
Cooper	Inouye	Monroney
Dodd	Javits	Morse
Douglas	Johnston	Morton
Edmondson	Keating	Moss

NAYS—Continued.

Muskie	Ribicoff	Walters
Nelson	Scott	Williams, N.J.
Neuberger	Smathers	Yarborough
Pastore	Sparkman	Young, Ohio
Pell	Symington	
Randolph	Talmadge	

NOT VOTING—5

Curtis	Goldwater	Saltonstall
Dirksen	Mansfield	

So Mr. McClellan's amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. SPARKMAN. Mr. President, I have three amendments, all relating to matters in which the Small Business Committee has been interested. I send them to the desk, and ask that their reading be dispensed with, but that they may be printed in the Record. I shall make a very brief explanation of them.

The PRESIDING OFFICER. Without objection, the amendments will be printed in the Record at this point.

The amendments, ordered to be printed in the Record, are as follows:

On page 14, line 7, strike out "$25,000" and insert "$50,000".

On page 27, strike out lines 8 through 23 and insert the following:

"(2) Corporations.—In applying subsection (a) to a taxable year of a corporation beginning in 1963 and ending in 1964—

"(A) the change in the surtax exemption of such corporation (including a change by reason of the application of section 1561, relating to surtax exemptions in case of certain controlled corporations), and

"(B) the additional tax (if any) imposed on the taxable income of such corporation for such taxable year by section 1562(b) (relating to additional tax in case of component member of controlled groups which elect multiple surtax exemptions),

shall each be treated as a change in a rate of tax taking effect on January 1, 1964."

On page 247, lines 9, 15, and 19, strike out "$25,000" and insert "$50,000".

On page 248, line 7, strike out "$25,000" and insert "$50,000".

On page 250, line 4, strike out "$25,000" and insert "$50,000".

At the end of the bill insert the following:

"TITLE IV—MISCELLANEOUS PROVISIONS

"Sec. 401. Extension of Time for Payment of Estate Tax Based on Undue Hardship.

"(a) Certain Circumstances Which Would Require Sale of Closely Held Business Considered To Constitute Undue Hardship.—Section 6161 (relating to extension of time for paying tax) is amended by redesignating subsection (d) as (e), and by inserting after subsection (c) the following new subsection:

"'(d) Forced Sales of Interests in Closely Held Businesses.—

"'(1) In General.—In applying subsections (a)(2) and (b) to any case in which an extension of time for payment of the tax imposed by chapter 11 has been elected, or could have been elected, under section 6166, if the executor establishes to the satisfaction of the Secretary or his delegate that the payment of an amount described in subsection (a)(2) or (b) on the prescribed date can be made only if there is a forced sale (within the meaning of paragraph (2)) of property constituting all or part of an interest in a closely held business (as defined in section 6166(c)), it shall be considered that such payment would result in undue hardship to the estate.

"'(2) Forced sale.—For purposes of paragraph (1), the term "forced sale of property

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constituting all or part of an interest in a closely held business" means—

"'(A) a sale to one or more individuals who are not members of the family of the decedent (within the meaning of section 267(c)(4)), or

"'(B) a sale at a time when the market for such property is depressed.

Such term does not include any sale which is required by law or is required under the terms of the will of the decedent or of an agreement entered into by the decedent.'

"(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to amounts of tax imposed by chapter 11 of the Internal Revenue Code of 1954 (including installments thereof) the date for payment of which (including extensions thereof) is on or after the date of the enactment of this Act."

On page 14, lines 8 and 9, strike out "or the amount determined under section 1561 (relating to surtax exemptions in case of certain controlled corporations)".

On page 14, line 20, strike out the closing quotation marks, and after line 20 insert the following:

"(f) Cross Reference.—

"For limitation on surtax exemptions of certain controlled groups of corporations, see section 1561."

On page 27, line 10, beginning with "if" strike out all through "tax," in line 22, and insert the following: "if a surtax exemption is not allowed to such corporation for such taxable year by reason of the application of section 1561 (relating to limitation on surtax exemptions of controlled group of corporations), such disallowance".

On page 246, line 20, strike out "reduction of surtax exemption" and insert "limitation on surtax exemptions."

On page 247, beginning with line 1, strike out all through line 19 on page 256, and in lieu thereof insert the following:

"PART II—CERTAIN CONTROLLED CORPORATIONS

"Sec. 1561. Limitation on surtax exemptions of controlled group of corporations.

"Sec. 1562. Definitions and special rules.

"Sec. 1561. Limitation on Surtax Exemptions of Controlled Group of Corporations.

"(a) General Rule.—If a controlled group of corporations on a December 31 consists of six or more component members, only five of such component members shall be allowed a surtax exemption for the taxable year which includes such December 31. The

component members which shall be allowed a surtax exemption for such taxable year shall—

"(1) be designated, in such manner and within such time as the Secretary or his delegate shall prescribe by regulations, by all corporations which are component members of such group on such December 31, or

"(2) in the absence of a designation under paragraph (1), be determined in accordance with regulations prescribed by the Secretary or his delegate.

"(b) CERTAIN SHORT TAXABLE YEARS.—If a corporation—

"(1) has a short taxable year which does not include a December 31, and

"(2) is a component member of a controlled group of corporations with respect to such taxable year,

subsection (a) and section 1562(b) shall be applied, with respect to such corporation, by substituting the last day of such taxable year for December 31."

On page 256, line 20, strike out "1563" and insert "1562".

On page 275, line 1, strike out "1563(e)" and insert "1562(e)".

On page 275, strike out lines 3 through 7, and insert the following:

"(c) COMPONENT MEMBERS OF CONTROLLED GROUP OF CORPORATIONS.—If the surtax exemption is disallowed to a transferee corporation for any taxable year for which it is a component member of a controlled group of corporations (within the meaning of section 1562), such corporation shall not be taken into account in applying section 1561 (relating to limitation on surtax exemptions) to the other component members of such controlled group."

On page 276, strike out lines 12 through 16, and insert the following:

"(d) COMPONENT MEMBERS OF CONTROLLED GROUP OF CORPORATIONS.—If the surtax exemption is disallowed to an acquired corporation under subsection (a) for any taxable year for which it is a component member of a controlled group of corporations (within the meaning of section 1562), such corporation shall not be taken into account in applying section 1561 (relating to limitation on surtax exemptions) to the other component members of such controlled group."

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

Mr. SPARKMAN. Mr. President, about 11 years ago the Small Business Committee made several recommendations relating to tax reform for the benefit of small business. Little by little over the years those suggestions have been written into law. When the pending bill was under consideration in committee four of the measures still had not been enacted into law.

The Senator from Nevada [Mr. BIBLE], the Senator from Massachusetts [Mr. SALTONSTALL], and the Senator from Kentucky [Mr. COOPER] are cosponsors with me of these amendments.

The first measure that we had recommended, which had not been passed at that time was with respect to reversing the surtax. Thank goodness, the bill carries that in it. The second one related to increasing the exemptions from the surtax from $25,000 to $50,000. I presented before the Finance Committee arguments in favor of increasing the surtax. It was not done. I understand why it was not done. It was because it would take considerable revenue from the Government.

However, there is real merit to the proposal. I invite the attention of the Senator from Louisiana [Mr. LONG], and the chairman of the committee, the Senator from Virginia [Mr. BYRD] to the fact that there is real merit in the proposal to increase the surtax exemption. Of course, it would apply to all businesses, regardless of size, but it would be particularly beneficial to small businesses, which have a hard time building up a sufficient base on which to operate.

Testimony was given on this subject before the Finance Committee. I shall not recite it, but I wish to read some tables which I believe are rather significant.

In 1960 the reports show—excluding 1120S returns—the number of businesses earning under $25,000 were 544,364, or 82.7 percent. Between $25,000 and $50,000—this is the group that is really caught in the pinch—there were 58,722, or 8.7 percent. Between $50,000 and $100,000, there were 26,464, or 3.9 percent. Over $100,000, there were 31,689, or 4.6 percent.

Mr. President, this matter deserves the most careful study and consideration by the tax-writing committees of Congress. I shall not insist upon a vote on the amendments. Small business has done very well in the bill.

First, the bill provides a deduction in the corporate tax. Second, it provides for a reversal of the surtax. The bill contains other items that are quite helpful. I know many of the practicalities of legislation, particularly the problem of writing a tax bill on the floor of the Senate. But I believe this is a matter that is deserving of attention.

I ask the Senator in charge of the bill, the Senator of Louisiana [Mr. LONG] and the chairman of the committee, the Senator from Virginia [Mr. BYRD], for their most careful and sympathetic consideration of this proposal at the earliest opportunity.

Mr. SALTONSTALL. Mr. President, will the Senator from Alabama yield?

Mr. SPARKMAN. I yield.

Mr. SALTONSTALL. As a member of the Small Business Committee, I join in

the statement of the Senator from Alabama. It is my understanding that the committee considered one amendment to increase the surtax, but voted it down for other reasons.

As to the second amendment, regarding the estate tax, we know that the estate tax provisions were not considered at all, so our amendment did not come up for consideration.

Mr. SPARKMAN. I shall say a word about that amendment later. That has been taken care of administratively.

Mr. SALTONSTALL. There was a third amendment.

Mr. SPARKMAN. It had to do with multiple-corporate exemptions.

Mr. SALTONSTALL. That is correct. If and when—and we hope it will be soon, although it does not seem likely to occur soon—the cold war ends and the need for procurement of material eases, we shall want to stimulate small business rather than to have it go out of existence. If business decreases, we would not want only the big corporations to be able to carry on. One of the purposes of the third amendment was to make it possible to create and maintain small business if there should be an overall decrease in the Government undertakings program.

So I hope, while the Senator from Alabama will not press his amendment at thep resent time, that the Senator from Louisiana [Mr. LONG] will give thoughtful consideration to it in the coming year.

Mr. SPARKMAN. And sympathetic consideration, as well.

Mr. LONG of Louisiana. It is a great honor to serve on the Small Business Committee under its chairman, the distinguished Senator from Alabama [Mr. SPARKMAN], and the distinguished Senator from Massachusetts [Mr. SALTONSTALL], the ranking Republican member of the committee.

Many times I have noticed that proposals have come not only to the Committee on Finance, but also to other committees—proposals which originated in recommendations of the Small Busi-

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ness Committee. As the Senator from Alabama knows, I am the ranking member of his committee, under his able guidance. Sometimes I have dragged my feet somewhat on recommendations made by the Committee on Finance, on the theory that as a member of the Small Business Committee I would want to reserve judgment until that committee made its own recommendations.

The bill contains one of the three important, forward-looking recommendations that have been advocated for many years by the Small Business Committee; that is, a reduction from 30 to 22 percent in the tax rate for small business.

The amendments the Senator from Alabama has in mind relate to matters which I am certain the Committee on Finance will consider in the days ahead on appropriate occasions. However, we do not feel that they should be a part of the tax bill.

I deeply appreciate the fact that the Senator from Alabama is not insisting upon a vote on his amendments at this time. I assure him that at an appropriate time I shall use my best efforts to see that they are favorably considered by the Committee on Finance.

Mr. SALTONSTALL. Mr. President, may we who are members of the Small Business Committee consider that we have a very good friend of small business as a member of the Committee on Finance?

Mr. SPARKMAN. I should think so. I thank the able Senator from Louisiana.

Mr. RANDOLPH. Mr. President, will the Senator from Alabama yield?

Mr. SPARKMAN. I yield.

Mr. RANDOLPH. It is my privilege to serve as a member of the Select Committee on Small Business under the capable leadership of the Senator from Alabama [Mr. SPARKMAN]. There is a feeling among small businessmen of West Virginia that the passage of the tax bill will help small business. Whether this will prove to be right or wrong——

Mr. SPARKMAN. I am sure it is right——

Mr. RANDOLPH. We need to give further assurance to the small business people of a State like West Virginia that the Administration and the Congress are at work to stimulate this vital segment of our economy.

Mr. SPARKMAN. That is correct.

Mr. RANDOLPH. I now read portions of a letter received from a West Virginia citizen. The communication comes from M. P. Michael, the owner-manager of Hotel Washington, Berkeley Springs, W. Va. He wrote:

As I am a small businessman in West Virginia, I am asking you all as one of the small businessmen in our State to support and fight in the Senate and House for the tax cut the President has recommended.

I only employ seven people in my business, but on the weekends of August 17 and August 24 (no holiday weekends) I was filled to capacity and had to turn people away. Therefore, I got curious and asked some of my guests why there were so many people traveling on these two weekends. Their reply was that the President is going to get a tax cut and therefore we can afford to spend this money we will save on taxes to see some parts of this beautiful United States.

I sincerely hope the House and Senate can see this tax bill the way I do and the rest of us small businessmen do.

This attitude, one of hope, indicates that the small businessman is intensely interested in the principle and purpose of a tax cut as a stimulation for business.

I congratulate the chairman of the Committee on Small Business for his continued effort to help small business.

Mr. SPARKMAN. I thank the Senator from West Virginia.

I shall now move on to the second amendment which I have sent to the desk. It relates to multiple exemptions for corporations. Under present law, and I believe under the bill as it will pass, there is no limit on the number of exemptions that may be given to corporations. I believe the Treasury Department recommended that there be only one. The Committee on Small Business felt that only one would not be harsh, but at the same time felt that there ought to be some limitation. We recommended that there be five exemptions, no more. I shall not press the amendment at this time. The committee considered it but did not see fit to recommend it. I hope that during the next year we may watch the operation of this provision with reference to multiple tax exemptions for corporations.

I believe we have made a wise recommendation. I hope it will be followed, and that at some time in the future the proposal will be studied again.

I have introduced a third amendment. I call the attention of the Senator from Massachusetts [Mr. SALTONSTALL] to it. It relates to the estate tax that might come due as a result of forced sales. A closely held small business of any kind would be the type of business that would really be affected in case of the sudden death of the operator, owner, or manager of the business. We have proposed that such a case should be considered as a hardship case.

We were able to secure a provision that in hardship cases the heirs might have as much as 10 years in which to pay the estate taxes. What we tried to do was to have such cases included as hardship cases.

I am pleased to say that the Treasury Department wrote me a letter only a few days ago, after I had discussed the situation carefully with them. I told them I thought they could take care of the situation administratively, and I have now been assured that it will be taken care of administratively. I shall read the last paragraph:

The Treasury has already directed the Commissioner of Internal Revenue to prepare an appropriate amendment to the regulations to solve this problem. The amendment to the regulations should be ready for publication in the near future. I assure you that the Treasury will take the necessary steps administratively to solve this problem.

Mr. President, I ask unanimous consent that the entire letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNDER SECRETARY OF THE TREASURY,
Washington, D.C.

HON. JOHN J. SPARKMAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: As I promised during our conversation of today, I have checked further with regard to our position on your amendment to H.R. 8363 which would allow a district director to postpone payment of estate taxes in any case where payment of the tax would require a sale of a family business.

As you know, we are in complete agreement with the substance of your proposal. We first raised it before the Ways and Means Committee in connection with our proposal to tax capital gains at death. Section 6161 presently allows payment of the estate tax in installments in any case where immediate payment of the tax would result in undue hardship to the estate. The problem arises because the definition of "undue hardship" in the regulations under section 6161 is unduly narrow. We are convinced that the problem can best be solved by an amendment to the regulations. An amendment to the statute is neither needed nor advisable. A precise statement in the statute of the cases to be covered will inevitably result in the exclusion of certain borderline cases which might well merit similar treatment.

Amendment No. 366 is itself somewhat more restrictive than we would consider appropriate. It would apply only "to any case in which an extension of time for payment of the tax imposed by chapter 11 has been elected, or could have been elected, under section 6166." Section 6166 gives taxpayers an absolute right to installment payments of estate tax if a closely held business constitutes more than 35 percent of the gross estate or 50 percent of the taxable estate. Presumably, any estate eligible for this treatment will take advantage of that section and does not need further relief. It is precisely the estates which cannot meet the requirements of section 6166 which may need relief under section 6161.

The Treasury Department has already directed the Commissioner of Internal Revenue to prepare an appropriate amendment to the regulations to solve this problem. The amendment to the regulations should be ready for publication in the near future. I assure you that Treasury will take the necessary steps administratively to solve this problem.

Sincerely yours,

JOE.
HENRY H. FOWLER.

Mr. SALTONSTALL. Mr. President, I commend the Senator from Alabama for having worked to secure this administrative change. It is one of the most fundamental needs, from the point of view of small business. If the Senator from Alabama, the Senator from New Mexico [Mr. ANDERSON], or I owned a small business, and suddenly we were no longer on this earth, it might become quite essential to provide time for our heirs to straighten out their affairs before they had to sell everything to pay the estate taxes.

Mr. SPARKMAN. The Senator is correct.

Mr. SALTONSTALL. The Senator has stated that the problem will be solved administratively. How many years is allowed now?

Mr. SPARKMAN. We succeeded in having it included among hardship cases. These amendments bring this category definitely under hardship cases. It should have been there all along; and these amendments put it there.

[*P. 2279*]

The PRESIDING OFFICER. The time of the Senator from Alabama has expired.

Mr. SPARKMAN. Mr. President, I withdraw the amendments.

The PRESIDING OFFICER. The amendments of the Senator from Alabama are withdrawn.

AMENDMENT NO. 390

Mr. SPARKMAN. Mr. President, I seek further recognition, for I have another amendment, which I can explain briefly. The Senator from South Carolina [Mr. JOHNSTON] and the Senator from New York [Mr. KEATING] are cosponsors of this amendment, which I offer and send to the desk; and I ask that it be read.

The amendment proposed by Mr. SPARKMAN, for himself, Mr. KEATING, and Mr. JOHNSTON, was read, as follows:

At the end of title II of the bill, add the following new sections:

"SEC. —. TRANSPORTATION OF DISABLED INDIVIDUAL TO AND FROM WORK.

"(a) DEDUCTION ALLOWED FOR EXPENSES OF TRANSPORTATION OF DISABLED INDIVIDUALS TO AND FROM WORK.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals), as amended by sections 203(a) and 212 of this Act, is further amended by redesignating section 219 as section 220 and by inserting after section 218 the following new section:

" 'SEC. 219. TRANSPORTATION OF DISABLED INDIVIDUAL TO AND FROM WORK.

" '(a) GENERAL RULE.—In the case of a disabled individual, there shall be allowed as a deduction expenses paid during the taxable year for transportation to and from work to the extent that such expenses do not exceed $600.

" '(b) DISABLED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term disabled individual' means an individual who is blind (as defined in section 151(d)(3)) or who has lost the use of a leg, "both legs," both arms, or is otherwise disabled, to such an extent that he is unable during the entire taxable year to use, without undue hardship or danger, a streetcar, bus, subway, train, or similar form of public transportation, as a means of traveling to and from work. A taxpayer claiming a deduction under this section shall submit such proof that he is a disabled individual as the Secretary of the Treasury or his delegate may by regulations prescribe. The regulations so prescribed shall include the following provisions:

" '(1) Proof of disability shall be certified by a physician authorized to do so by any county (or equivalent) medical society.

" '(2) The certifying physician shall specify the nature, cause, and physically limiting effects of the disability.'

"(b) TECHNICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 (as amended by section 212(a)(2) of this Act) is further amended by striking out—

" 'Sec. 219. Cross references.'

and inserting in lieu thereof the following:

" 'Sec. 219. Transportation of disabled individual to and from work.

" 'Sec. 220. Cross references.'

"(c) EFFECTIVE DATE.—The amendment made by this section shall apply only with respect to taxable years ending after the date of the enactment of this Act.

"SEC.—. ADDITIONAL PERSONAL EXEMPTIONS FOR DISABILITY.

"(a) IN GENERAL.—Section 151 of the Internal Revenue Code of 1954 (relating to allowance of deductions for personal exemptions) is amended by adding at the end thereof the following new subsection:

" '(f) ADDITIONAL EXEMPTIONS FOR DISABILITY.—

" '(1) FOR TAXPAYER.—An additional exemption of $600 for the taxpayer if he is a disabled individual.

" '(2) FOR SPOUSE.—An additional exemption of $600 for the spouse of the taxpayer if the spouse is a disabled individual and if the taxpayer is entitled to an exemption under subsection (b) for such spouse.

" '(3) DISABLED INDIVIDUAL DEFINED.—The term 'disabled individual' means an individual who, during the entire taxable year of the taxpayer, has a permanent loss or permanent loss of use of one or more of the extremities or is otherwise under a physical or mental disability which can be expected to result in death or to be of long-continued and indefinite duration and which renders him unable to engage in any substantial gainful activity. A taxpayer claiming a deduction under this subsection shall submit such proof that he (or his spouse) is a disabled individual as the Secretary of the Treasury or his delegate may by regulations prescribe. The regulations so prescribed shall include the following provisions:

"'(A) Proof of disability shall be certified by a physician authorized to do so by any county (or equivalent) medical society.

"'(B) The certifying physician shall specify the nature, cause, and physically limiting effects of the disability.'

"(b) CONFORMING AMENDMENT.—Section 213(c) of the Internal Revenue Code of 1954 (relating to medical, dental, etc., expenses) is amended—

"(1) by striking out '(c) or (d)' and inserting in lieu thereof '(c), (d), or (f)', and

"(2) by striking out ('age or blindness' and inserting in lieu thereof 'age, blindness, or disability'.

"(c) WITHHOLDING.—

"(1) Paragraph (1) of section 3402(f) of the Internal Revenue Code of 1954 (relating to withholding exemptions) is amended by adding at the end thereof the following new subparagraph:

"'(F) one additional exemption for himself if, on the basis of facts existing at the beginning of such day, there may reasonably be expected to be allowable an exemption under section 151(f)(1) (relating to the disabled) for the taxable year under subtitle A in respect of which amounts deducted and withheld under this chapter in the calendar year in which such day falls are allowed as a credit.'

"(2) Subparagraph (D) of such paragraph (1) is amended (A) by striking out '(B), or (C),' and inserting in lieu thereof '(B), (C), or (F),', and (B) by striking out 'and' at the end thereof.

"(3) Subparagraph (E) of such paragraph (1) is amended by striking out the period at the end and inserting in lieu thereof '; and'.

"(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply only with respect to taxable years ending after the date of enactment of this Act and the amendments made by subsection (c) shall apply only with respect to payment of wages made after such date.

Mr. ANDERSON. Mr. President, will the Senator from Alabama explain the amendment?

Mr. SPARKMAN. I shall do so briefly.

This provision would allow a deduction for the expenses of disabled persons for their transportation, when they are not able to transport themselves to and from work, and must hire transportation—in other words, a deduction of the actual expenses, but not to exceed $600 a year.

I have not yet been able to obtain the figures for the cost of the amendment.

Mr. SMATHERS. Mr. President, we shall take the amendment to conference.

Mr. SPARKMAN. And in the meantime I shall try to get the cost figures and give them to the conferees.

The PRESIDING OFFICER (Mr. WALTERS in the chair.) The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

Mr. JOHNSTON. Mr. President, this is a very important amendment; and it is very fair and equitable, because a person who is totally disabled should receive this assistance.

Mr. KEATING. Mr. President, as a cosponsor of this amendment, I associate myself fully with the remarks just made by the Senator from South Carolina [Mr. JOHNSTON].

I have heard this bill described many times during this debate as containing "something for everybody." Only time will reveal whether this is true. But until the amendment offered by the Senator from Alabama, the Senator from South Carolina [Mr. JOHNSTON], and myself finds its way finally into the Internal Revenue Code, that august body of law will certainly fall short of meting out justice and equity to those of our citizenry who suffer from physical disability or handicap.

Mr. President, this amendment is a tax break not for the taxpayers who would be in a position to take advantage of it in their tax returns, but a tax break for all the American people. Existing law, in discriminatory fashion, makes it exceedingly difficult for many among the handicapped and disabled to contribute their combined talents and skills to the well-being of all. Every one of us suffers when otherwise fully capable and competent citizens are deprived through the tax laws of that margin of finances that can spell the difference between enforced idleness and the ability to pursue gainful employment opportunities. Mr. President, I hope this amendment will be agreed to in conference and ultimately enacted to break the back of the existing inequity of the code.

AMENDMENT NO. 404

Mr. WILLIAMS of Delaware. Mr. President, on behalf of the Senator from North Dakota [Mr. YOUNG], who is unable to be present at this time, I submit amendment No. 404.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. At the proper place in the bill it is proposed to add the following new section:

SEC. —. TIME FOR FILING CLAIM FOR REFUND OF TAXES PAID FOR GASOLINE USED ON FARMS.

Section 6420(b) (relating to time for filing claim for refund on taxes paid for gasoline used on farms) is amended by inserting immediately before the period in the second sentence thereof the following: "; except that the Secretary or his delegate may allow a claim filed after such date if the claimant had good cause for failing to file on or before such date".

Mr. SMATHERS. Mr. President, the Senator from North Dakota and the

[*P. 2280*]

Senator from Delaware have talked with me and with other members of the committee about this amendment. We think it is meritorious; and we shall be glad to take it to conference.

Mr. WILLIAMS of Delaware. I thank the Senator from Florida.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a brief statement prepared by the Senator from North Dakota [Mr. YOUNG].

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR YOUNG OF NORTH DAKOTA

This is an amendment authorizing the Secretary of the Treasury or the Commissioner of Internal Revenue to allow claims filed late for a Federal gas tax refund to farmers.

Under the present law these claims must be postmarked by midnight on September 30 each year. Any application filed later is automatically disallowed even though it was filed late through no fault of the farmer. This amendment would give the Secretary in this instance the same authority as he has for permitting the filing of late income tax returns.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Delaware, on behalf of the Senator from North Dakota [Mr. YOUNG].

The amendment was agreed to.

Mr. SMATHERS. Mr. President, on behalf of the staff, I submit a technical amendment.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 11, in line 19, it is proposed to strike out "equal to 15 percent" and insert "equal to 17 percent, in the case of a taxable year beginning in 1964, or 15 percent, in the case of a taxable year beginning after December 31, 1964,".

Mr. SMATHERS. Mr. President, I understand from the staff that this is strictly a technical amendment, and that it does not involve any money.

I ask that an explanation of the amendment be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

The tax rate applicable to the retirement income credit under present law is 20 percent, or the bottom individual income tax rate.

Under the bill this rate is reduced to 15 percent to correspond with the reduction of the rate on individuals to 14, 15, 16, and 17 percent for 1965 and subsequent years.

However, the rates for 1964 are 16, 16.5, 17.5, and 18. This amendment provides therefore a 17-percent rate for the retirement income credit for 1964 (instead of 15 percent) to correspond with individual rates for that year.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida.

The amendment was agreed to.

Mr. JAVITS. Mr. President, on page 195, in line 21, and on page 198, in line 2, a change was voted by the Senate committee in the portion of the House version which relates to the opportunity for companies in the personal holding company category to liquidate. The House version used the words "the date of the enactment of this subsection." The Senate committee version uses the date "December 31, 1963." The Senate committee version would thus exclude the calendar year 1963, which many companies use as the basis for paying their taxes.

In short, the argument is that they will be discriminated against in this way, because a company which uses as its tax year a fiscal year ending in October or November would thus have an advantage.

Is it understood that this question should be considered in conference, because under the House version the effective date will be calendar year 1964, which thereby will exclude calendar year 1963; and is it understood that the conferees will give consideration to the equity of this situation?

Mr. SMATHERS. I have talked with the staff about this matter and with the others who are familiar with it; and they say this matter will be in conference and will be given earnest consideration.

Mr. JAVITS. I thank the Senator from Florida.

AMENDMENT NO. 416

Mr. SALTONSTALL. Mr. President, I offer an amendment on behalf of myself, Senators DODD, RIBICOFF, PASTORE, PELL, KEATING, and JAVITS.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. At the end of the bill, it is proposed to add the following new section:

SEC. —. EXCISE TAX ON CERTAIN SILVER-PLATED HOLLOWWARE

(a) Section 4001 is amended by striking out "silver-plated hollowware" and inserting "silver-plated hollowware not sold for use in the trade or business of the purchaser".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to sales occurring more than 10 days after the date of the enactment of this section.

Mr. SALTONSTALL. Mr. President, I shall not press for adoption of the

amendment. The ranking member of the Finance Committee in charge of the bill has stated to me that he will give consideration to the amendment at a future time.

The amendment has to do with repeal of the 10-percent Federal excise tax on silver-plated hollowware when it is used by a purchaser in his commercial business.

The present law works a hardship on the domestic silver-plated hollowware industry and places it at a serious and unfair disadvantage with respect both to foreign competition and to competitive products made in this country of stainless steel, bimetals, china, and glass, none of which is subject to the 10-percent excise tax.

I ask unanimous consent to have a statement on this matter printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR SALTONSTALL

I am glad to join the senior Senator from Connecticut and other Senators in sponsoring this amendment which would repeal the 10-percent Federal excise tax on silver-plated hollowware when it is to be used by the purchaser in his commercial business.

The amount of revenue involved is only approximately $200,000 annually, based on estimated yearly sales of $2 million of silver-plated hollowware to institutional users. Yet this is an unfair and discriminatory tax which places the domestic silver-plated hollowware industry at a serious disadvantage with respect to its foreign competition and to competitive products made in this country. It does not seem fair to levy a luxury tax on items purchased for commercial use or to discriminate against only one of a number of similar products which have the same purpose. I emphasize that this amendment would not grant hollowware any advantage with respect to competitive products of stainless steel, bimetals, china, and glass, none of which are subject to the 10-percent excise tax. It merely would provide equal treatment.

When wartime excise taxes were levied on many goods, the entire silver hollowware field was covered. As a result, although plated flatware used by hotels and restaurants is not taxed, the hollowware is. Thus institutions find themselves forced to use stainless steel, china, or glassware rather than silverplated ware which they feel is superior in many respects.

Another important point to consider in relation to the 10-percent tax on silver-plated hollowware is the fact that the manner in which it is collected makes it difficult for domestic producers to compete with foreign producers. The tax is collected by U.S. manufacturers and jobbers as they sell the products. When hotels, restaurants, schools and hospitals buy from foreign manufacturers, they are billed directly and the excise tax is not collected. Thus, not only do foreign firms have the advantage of lower wage costs, they avoid the burdens of the 10-percent excise tax.

Most U.S. hotels would prefer to buy silverware from the domestic industry since service and replacements are more easily available from the domestic manufacturer. Understandably, however, they have turned abroad for these products to avoid the tax. This is particularly true of some of the larger hotel chains which operate internationally. In a new hotel such as the Washington Hilton this can amount to a purchase of several hundred thousand dollars which means orders leaving the country, dollars leaving the country, and jobs for foreign industries rather than our own. The smaller restaurants and institutions may lack the facilities and organization to take advantage of this situation and thus may be placed at a disadvantage as compared to their larger competitors. Therefore, another defect of this tax is readily apparent. Small business is handicapped unfairly. For all of these reasons, the amendment before us is just and necessary. I hope very much that it will prevail.

Mr. SALTONSTALL. Mr. President, I withdraw the amendment at this time, because members of the Finance Committee have assured me that they will consider it carefully at a later date. I hope that it will be adopted at a future time as it would remove a basic inequity which is harmful to industry in Massachusetts and New England.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. LAUSCHE. Mr. President, I ask unanimous consent to have printed in the RECORD a statement of my reasons for opposing the pending bill.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

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STATEMENT BY SENATOR LAUSCHE

In statements previously made on the pending tax bill, I said that while I favored relief from oppressive and burdensome Federal taxes, I could not conscientiously vote for this bill because of a multitude of current economic factors, which, in my opinion, make a tax reduction at this time unsound and seriously threatening to our future fiscal stability.

I pointed out that:

1. A tax reduction should not be made without substantial reductions in Federal spending now and in the future. This has not been accomplished.

2. Past tax cuts, contrary to modern economists' theories, have not boosted our economy.

3. A tax cut under existing circumstances might breed serious inflation; weaken our dollar and affect our gold reserves and balance of payments, both of which are in dire circumstances now.

4. A reversal of our mounting deficit will not occur to the degree claimed by proponents of the bill, and, as a result, our national debt will grow to figures that could prove disastrous.

5. Proponents of the tax cut base their conclusions on "ifs," contingencies, assumptions, and expectations which may never be realized.

I now wish to enumerate additional reasons why I believe that a tax reduction now is not in the best interests of our country and citizenry.

The pending bill containing provisions for a reduction of the tax rates against income both personal and corporate and otherwise liberalizing the income tax structure, in my judgment, should not be adopted.

The opinion urging its approval is rooted completely is expectations and contingencies which may never happen and in a new and untried economic philosophy completely contrary to past practices.

It appears that a group of modern economists have come up with the idea that the cure for unemployment, under utilization of industrial capacity, and for annual operating deficits, and for the frightening drain made upon our gold reserves by foreign short-term creditors, is to reduce income taxes.

The Honorable Douglas Dillon, Secretary of the Treasury, takes the position that the need for a major program of tax reduction and revision is pressing; that any delay in its passage would incur serious economic risks. When the recommendation was originally made, it was contemplated to tax less in the income field and to spend more on the Federal governmental level—all of which would contribute to the economic growth of the country. Arguments have been and are being made that in the face of a $315 billion debt, the precarious position of our gold reserves, the cheapened purchasing power of the dollar—which has fallen from a purchasing value of 100 cents in 1941 to about 44 cents in 1964—the way to save the economy of the country is to spend more and tax less.

On the item of spending more President Johnson has changed the approach to that subject by submitting a budget of $97.9 billion for fiscal year 1965 compared to $98.4 billion budget of President Kennedy for fiscal year 1964. Though President Johnson's budget is $500 million less than President Kennedy's for the preceding year, the fact remains that the present budget is $4.7 billion in excess of the moneys which the Congress appropriated for the operation of the Federal Government in fiscal year 1964.

In the event the Congress acts in accordance with the President's budgetary recommendation, spending instead of being cut will be increased by $5 billion. Not one of the appropriation bills for fiscal year 1965 has been adopted; what the Congress will do with respect to those bills is uncertain.

The possibility exists that after the tax cut is approved, all objectives of reducing spending may be abandoned; if they are not abandoned for the fiscal year of 1965, what, if any, assurance is there that they will be kept for the fiscal year of 1966.

In each of the 7 years that I have been in the Senate, old subsidies have been increased, new ones established; functions, traditionally and historically performed by local and State governments have been assumed by the Federal Government; and functions never performed by Government but always by private enterprise have likewise been taken on by the Government in Washington. Money spending for projects which are desirable but not essential in the period of fiscal stringency confronting the Federal Government has been fantistically advocated and adopted.

If the novel idea of these mid-20th century economic advisers proves to be false, how calamitous to the people and to the country will the consequences of mistake be?

Let us not forget that the deficits for the fiscal years of 1961, 1962, and 1963 aggregated approximately $17 billion; and that the deficit for fiscal year 1964 which will end on June 30 will add another $10 billion provided the pending revenue bill reducing taxes will be enacted early this year. When Secretary Dillon testified before the Finance Committee of the Senate on October 15, he estimated the deficit for fiscal year 1965 at $9½ billion. According to Secretary Dillon, the deficit operations for the fiscal years of 1961 to 1965 inclusive will aggregate about $34½ billion.

With regard to the time when the balanced budget will arrive, Secretary Dillon testified:

"We have said that, with stringent expenditure control and allowing for the growth in the economy, the earliest possible date we foresaw for a balanced budget from this tax bill was 1967, and that it might be 1968. It is either 1967 or 1968. We are in that area. As you recognize, it is hard enough to estimate 18 months ahead."

We are now in the uncertainty and the guesswork which underlies these recommendations. It is thoroughly apparent when one recognizes that the principal proponent of this measure takes the position that it will not be until 1968—that is, 5 years from the time he testified—that the true fruition of his prediction will be realized.

Dr. Arthur Burns, an outstanding economist, did take the position that a balanced budget would not be achievable until 1972. Secretary Dillon in his testimony went on to explain that Dr. Arthur Burns assumed that spending would continue in the future as it has in the past and that on that basis he concluded that it would not be until 1972 that the budget would be balanced. In my judgment, Dr. Arthur Burns in his assumption about the spending program was right, and that Secretary Dillon is wrong.

We will probably have less spending in fiscal year 1965 but once the tax bill is passed, the spending train will be on the greased tracks and off we will go full-speed ahead without any realistic regard of the moneys available to finance the spending program.

The tax burden imposed upon the citizens is related directly to the spending program. The more you spend, the more you have to tax. To reduce taxes you have to reduce spending. To argue that the budget will be balanced if we tax less in the income field, runs contrary to every practice followed by our preceding Secretaries of the Treasury and Executives of the Nation.

If the pains and dangers of constant operating deficits were curable in the present manner suggested by the proponents of the pending bill, it would certainly be fair to assume that this nostrum now discovered by

Dr. Walter W. Heller would have been revealed to governments struggling with fiscal matters by some one of the many economists of the past.

If this recommended tax cut is the panacea for fiscal ailments confronting government, why shouldn't we then make the cut even greater than has been proposed.

The President in his budget message of 1962 predicted a $500 million surplus. In the message, he said:

"It is my current intention to advocate a program of expenditures which, including revenues from a stimulation of the economy, will not of and by themselves unbalance the budget."

The same fiscal advisers surrounded the President in 1962, when in his message it was said that for the fiscal year of 1963 a surplus of $500 million would be the result, who are now advising that an immediate income tax cut is necessary to remedy the unemployment problem, stop the outflow of gold, activate unused production facilities, and through the consequent increase in revenues to balance the budget.

The cold facts show that in fiscal 1963, instead of ending the year with a surplus of $500 million, the Government ended it with a deficit of $6.2 billion.

It is my belief that a great majority of the citizenry of our country would rather forgo a tax reduction at this time rather than to risk the possible consequences of perpetual deficits, a national debt that will plague future generations, and inflation that could wipe out many times the dollar value of the reduction.

AMENDMENT NO. 422

Mr. MILLER. Mr. President, on behalf of myself and the Senator from from Iowa [Mr. HICKENLOOPER], I offer an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. At the proper place in the bill, it is proposed to add the following new section:

SEC. . CORPORATIONS IMPROPERLY ACCUMULATING SURPLUS

Section 533 of the Internal Revenue Code of 1954, as amended (relating to evidence of purpose to avoid income tax) is amended by adding the following subsection:

"(b) If, during the taxable year on or before the 15th day of the third month following the close of the taxable year, a corporation—

"(1) distributes 60 percent or more of its taxable income, adjusted in the manner provided in subsection 535(b), or

"(2) invest 60 percent or more of its taxable income, adjusted in the manner provided in subsection 535(b), in land or property subject to the allowance for depreciation for use in the trade or business of such corporation, or

"(3) distributes or invests, in the manner provided in subsections (1) and (2), 60 percent or more of its taxable income, adjusted in the manner provided in subsection 535(b), the same shall be presumptive evidence that any accumulation was not for the purpose of avoiding income tax. The fact that a corporation has not distributed or invested 60 percent or more of its taxable income, adjusted in the manner provided in subsection 535(b), as above provided shall not be regarded as presumptive evidence that any accumulation was for the purpose of avoiding income tax."

Mr. MILLER. Mr. President, this amendment is for the purpose of setting forth guidelines for corporations in connection with what is known as the penalty tax for unreasonable accumulation of surplus.

[*P. 2282*]

The Senator from Louisiana will recall that a few years ago the Treasury established a policy that if there were a distribution of earnings and profits of 70 percent, this penalty surtax would not be imposed and there would not be an audit with the idea of imposing the penalty.

Unfortunately, this policy was interpreted by some people to mean that if 70 percent was not declared out, automatically the corporation would be in danger of a penalty surtax. Such was not the intention of the Treasury, but unfortunately it received that interpretation.

Down through the years there have been numerous cases involving this problem. There are many court decisions on the point. Unfortunately, most of them are ad hoc; they are all on the facts of a particular case. As a result, it is pretty difficult for boards of directors to determine whether they are in danger or not in danger of a revenue agent suggesting the imposition of this penalty surtax.

Much has been said in the Senate during the debate on this bill about uncertainty in business. Without fixed guidelines, there is an element of uncertainty which is not healthy. We do not want to see penalty surtaxes imposed on corporations which are genuinely retaining surplus for future investments in their business. On the other hand, we do not want to see a penalty surtax avoided by an unreasonable guideline.

My amendment would provide that if 60 percent of the corporation's taxable income, with certain adjustments, is declared out as dividends, or is invested in land or property, subject to depreciation, for use in the trade or business, or both, a presumption will arise that any accumulation has not been for the purpose of avoiding tax. This would be a rebuttable presumption. The Internal Revenue Service could go forward and offer evidence which could still result in the imposition of the penalty surtax.

I believe that this approach, providing some kind of guideline with a rebuttable

presumption, would not work a hardship on the Internal Revenue Service; nor should it work hardship on the taxpayer who does not see fit to declare out 60 percent. Therefore, my amendment provides further that the mere fact that the corporation has not distributed 60 percent of its taxable income, with certain adjustments, shall not be presumed to be evidence of intent to accumulate profits for the purpose of avoiding tax.

I do think that fixed guidelines are long overdue to take the uncertainty out of these cases.

Mr. LONG of Louisiana. The amendment did not reach the committee in time to be considered in connection with the tax bill. The amendment would take us into a very difficult and intricate field which would require more study. The Treasury Department is opposed to the amendment as it is presently drafted. They feel that while the amendment seems to meet certain problems, it raises additional questions, for which reason the Treasury cannot support the amendment and must oppose it.

The Senator from Louisiana would be willing to see that the question is considered when the committee can get around to it later. He discussed it with the chairman of the committee. The chairman concurs in that view. At an appropriate time we shall consider the amendment which the Senator has in mind. At the present time we could not agree to it, as the Senator realizes.

Mr. MILLER. I realize the fact that the amendment was offered at a late hour. I recognize that the floor of the Senate is not a desirable place to hold a hearing on a subject of relatively far-reaching import. With that assurance I shall offer an appropriate amendment to another bill at a later time.

Accordingly, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 410

Mr. YARBOROUGH. Mr. President, I call up my amendment No. 410.

The PRESIDING OFFICER. The amendment of the Senator from Texas will be stated.

The LEGISLATIVE CLERK. At the proper place it is proposed to insert the following new section:

SEC. —. ESTATE AND GIFT TAX TREATMENT OF EMPLOYEES' SURIVORS ANNUITIES UNDER STATE AND LOCAL RETIREMENT SYSTEMS.

(a) EXEMPTION FROM ESTATE TAX.—Section 2039 (c) (relating to annuities) is amended—

(1) by striking out "or" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; or";

(3) by inserting after paragraph (3) the following new paragraphs:

"(4) a pension, annuity, retirement, or similar plan established for its employees by a State, a political subdivision of a State, the District of Columbia, or an agency or instrumentality of any one or more of the foregoing; or

"(5) a retirement annuity contract purchased for an employee by an employer which is a State, a political subdivision of a State, the District of Columbia, or an agency or instrumentality of any one or more of the foregoing.";

(4) by striking out "paragraph (1) or (2) or under a contract described in paragraph (3)" in the second sentence and inserting in lieu thereof "paragraph (1), (2), or (4) or under a contract described in paragraph (3) or (5)"; and

(5) by striking out "paragraph (1) or (2)" in the third sentence and inserting in lieu thereof "paragraph (1), (2), or (4), or toward the purchase of an annuity contract described in paragraph (5),".

(b) EXEMPTION FROM GIFT TAX.—Section 2517(a) (relating to certain annuities under qualified plans) is amended—

(1) by striking out "or" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; or"; and

(3) by inserting after paragraph (3) the following new paragraphs:

"(4) a pension, annuity, retirement, or similar plan established for its employees by a State, a political subdivision of a State, the District of Columbia, or an agency or instrumentality of any one or more of the foregoing; or

"(5) a retirement annuity contract purchased for an employee by an employer which is a State, a political subdivision of a State, the District of Columbia, or an agency or instrumentality of any one or more of the foregoing."

(c) EFFECTIVE DATES.—The amendments made by subsection (a) shall apply with respect to estates of decedents dying after December 31, 1963. The amendments made by subsection (b) shall apply with respect to calendar years after 1963.

Mr. YARBOROUGH. Mr. President, the amendment is designed to eliminate a discrimination against State school teachers in State school systems and their retirement systems. Most State employees under State retirement systems receive benefits paid by public employee benefit plans. It appears that under certain rulings in some districts in this country, at least, annuities received by public school teachers may not be excluded from the gross estate of a deceased teacher. They do not qualify from exemption from the gift tax in the same manner as annuities purchased by private schools for their employees. The same statement would apply to other

State employees under State retirement systems. Federal employees receive the beneficial treatment.

Under section (c) (1) and (2) of section 2039 there is excluded from the gross estate annuities or payments to a beneficiary under an approved corporate pension plan, and section (c)(3) excludes annuity contracts purchased for an employee by a tax exempt religious or charitable organization.

The revenue rulings of the Internal Revenue Service extend the same treatment to beneficiaries under the U.S. Civil Service Retirement System. Section 2517 has the same general effect on gift taxes.

This is not merely some recently offered amendment. On January 25, 1963, the distinguished Senator from Alaska [Mr. BARTLETT] and I introduced the bill (S. 531).

Mr. President, I ask unanimous consent that the bill may be printed at this point in the RECORD.

There being no objection, the bill (S. 531) was ordered to be printed in the RECORD, as follows:

S. 531

A bill to amend the Internal Revenue Code of 1954 with respect to the estate and gift tax treatment of employees' survivors annuities under State and local retirement systems

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2039(c) of the Internal Revenue Code of 1954 (relating to annuities) is amended—

(1) by striking out "or" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; or"; and

(3) by inserting after paragraph (3) the following new paragraphs:

"(4) a pension, annuity, retirement, or similar plan established for its employees by a State, a political subdivision of a State, the District of Columbia, or an agency or instrumentality of any one or more of the foregoing; or

"(5) a retirement annuity contract purchased for an employee by an employer which is a State, a political subdivision of a State, the District of Columbia, or an agency or instrumentality of any one or more of the foregoing."

[*P. 2283*]

(b) The second sentence of such section 2039(c) is amended by striking out "paragraph (1) or (2) or under a contract described in paragraph (3)" and inserting in lieu thereof "paragraph (1), (2), or (4) or under a contract described in paragraph (3) or (5)".

(c) The third sentence of such section 2039(c) is amended by striking out "paragraph (1) or (2)" and inserting in lieu thereof "paragraph (1), (2), or (4), or toward the purchase of an annuity contract described in paragraph (5),".

(d) The amendments made by this section shall apply with respect to estates of decedents after December 31, 1962.

SEC. 2. Section 2517(a) of the Internal Revenue Code of 1954 (relating to certain annuities under qualified plans) is amended—

(1) by striking out "or" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; or"; and

(3) by inserting after paragraph (3) the following new paragraphs:

"(4) a pension, annuity, retirement, or similar plan established for its employees by a State, a political subdivision of a State, the District of Columbia, or an agency or instrumentality of any one or more of the foregoing; or

"(5) a retirement annuity contract purchased for an employee by an employer which is a State, a political subdivision of a State, the District of Columbia, or an agency or instrumentality of any one or more of the foregoing."

(b) The amendments made by subsection (a) shall apply with respect to calendar years after 1962.

Mr. YARBOROUGH. The identical subject was brought up under our Amendment No. 410, which includes the identical language contained in the bill (S. 531). Since the amendment was offered, we have been in conference with the Treasury Department. The officials of the Treasury Department have stated to us that they believe that the problem can be handled administratively under existing administrations, although the collector of internal revenue in my own district states that the law requires that the State employee retirement systems and the State teachers should not receive the same beneficial treatment received by Federal employees, employees of private schools, employees of private corporations, and employees of charitable and religious organizations. Everyone receives the beneficial treatment except the retirees under State and State schoolteacher systems.

From what we learn from the NEA and from a telegram which I have received today from Mr. Sturgeon of the Texas State Teachers Association, in about 48 States of the Union the beneficial treatment has not been extended by regulation. But on the assurance of the Treasury Department that it is believed the problem can be handled without legislation, I direct the following question to the distinguished Senator from Louisiana:

If the amendment is offered and then withdrawn at this time, and if the question is not administratively worked out

by the Treasury Department, as they think may be possible, will it not be possible to bring it up and offer it as an amendment to some subsequent revenue measure at the present session? I understand that there are about 30 more revenue measures expected from the House.

Mr. LONG of Louisiana. Mr. President, our investigation of the problem, since the Senator raised the question, indicates that there is a distinct possibility that the view at the national office, as contrasted with the view at the regional office, may be that which the Senator advocates. In other words, the national office view may be that the plans of which the Senator speaks are qualified. We will ask them to study the matter. In the event the Senator does not receive a satisfactory answer from the national office, we shall endeavor to look into the question for him and see if legislation is necessary. We will undertake to consider it at that time.

Mr. YARBOROUGH. The crux of the question is that the regional Internal Revenue Office has ruled that State plans should not receive the beneficial treatment because they are not irrevocable. State legislatures have reserved the right to amend their pension plans. Many plans are not irrevocable. The Federal retirement system is not irrevocable. We amend it from session to session.

Mr. LONG of Louisiana. We are not sure that because these plans are not irrevocable the teachers may be disqualified. In other words, they may be qualified anyway. If that is the case, the proposal of the Senator would not be necessary. If the proposal of the Senator should prove to be necessary, then would be the appropriate time for the committee to consider it. If that be the case, the Senator from Louisiana will move the proposed legislation as an amendment to some bill, if necessary.

Mr. YARBOROUGH. Later in this session.

Mr. LONG of Louisiana. Yes.

Mr. YARBOROUGH. The Treasury officials have assured us that they believe the problem can be reached administratively.

Mr. LONG of Louisiana. Yes.

Mr. YARBOROUGH. I ask unanimous consent that there be printed at this point in the RECORD amendment No. 401; a letter from Frank M. Jackson, the executive secretary of the Teacher Retirement System of Texas, dated December 29, 1962; and a telegram dated February 7, 1964, from L. P. Sturgeon of the Texas State Teachers Association, Austin, Tex.

There being no objection, the amendment, letter, and telegram were ordered to be printed in the RECORD, as follows:

AMENDMENT 410

"SEC. —. ESTATE AND GIFT TAX TREATMENT EMPLOYEES' SURVIVORS ANNUITIES UNDER STATE AND LOCAL RETIREMENT SYSTEMS.

(a) EXEMPTION FROM ESTATE TAX.—Section 2039(c) (relating to annuities) is amended—

(1) by striking out "or" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; or";

(3) by inserting after paragraph (3) the following new paragraphs:

"(4) a pension, annuity, retirement, or similar plan established for its employees by a State, a political subdivision of a State, the District of Columbia, or an agency or instrumentality of any one or more of the foregoing; or

"(5) a retirement annuity contract purchased for an employee by an employer which is a State, a political subdivision of a State, the District of Columbia, or an agency or instrumentality of any one or more of the foregoing.";

(4) by striking out "paragraph (1) or (2) or under a contract described in paragraph (3)" in the second sentence and inserting in lieu thereof "paragraph (1), (2), or (4) or under a contract described in paragraph (3) or (5)"; and

(5) by striking out "paragraph (1) or (2)" in the third sentence and inserting in lieu thereof "paragraph (1), (2), or (4), or toward the purchase of an annuity contract described in paragraph (5),";

(b) EXEMPTION FROM GIFT TAX.—Section 2517(a) (relating to certain annuities under qualified plans) is amended—

(1) by striking out "or" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; or"; and

(3) by inserting after paragraph (3) the following new paragraphs:

"(4) a pension, annuity, retirement, or similar plan established for its employees by a State, a political subdivision of a State, the District of Columbia, or an agency or instrumentality of any one or more of the foregoing; or

"(5) a retirement annuity contract purchased for an employee by an employer which is a State, a political subdivision of a State, the District of Columbia, or an agency or instrumentality of any one or more of the foregoing."

(c) EFFECTIVE DATES.—The amendments made by subsection (a) shall apply with respect to estates of decedents dying after December 31, 1963. The amendments made by subsection (b) shall apply with respect to calendar years after 1963.

TEACHER RETIREMENT SYSTEM OF TEXAS,
Austin, Tex., December 29, 1962.

Hon. RALPH W. YARBOROUGH,
U.S. Senate,
U.S. Courthouse
Austin, Tex.

DEAR SENATOR YARBOROUGH: Yesterday afternoon you discussed the Federal estate tax on benefits paid by public employee benefit plans with Mr. Marlin Bownds, our comptroller. This letter is written to follow your suggestions to him.

Subsections (c)(1) and (2) of section 2039 exclude from the gross estate annuities or other payments to a beneficiary under an approved corporate pension plan. Subsection (c)(3) excludes annuity contracts purchased for an employee by a tax exempt religious or charitable organization. Revenue Ruling 5-1, I.R.B. 1956-1,6 extends the same treatment to beneficiaries under the U.S. civil service retirement system. Section 2517 has the same general effect for the gift tax.

The beneficiaries of public employees under employee pension plans of the several States and their political subdivisions are generally denied this treatment. Texas has 250,000 public employees covered by pension plans. Their beneficiaries receive less favorable treatment for gift and estate taxes than employees of corporations or employees of the Federal Government. In my opinion sections 2039 and 2517 should be amended to extend to beneficiaries under public employee pension plans the same treatment

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which is accorded to beneficiaries under qualified corporate pension plans.

Sincerely,

FRANK M. JACKSON.

AUSTIN, TEX.,
February 7, 1964.

Senator RALPH YARBOROUGH,
Senate Chamber,
Washington, D.C.:

Texas teacher retirement system which includes 180,000 persons and the Texas State employees system which includes an additional 60,000 individuals do not qualify under section 403B Internal Revenue Code and are discriminated against under present Federal estate tax regulations. This same situation exists in all other States with possibly one or two exceptions. Adoption of amendment 410 to H.R. 8363 would do no more than give equal treatment to the teacher and State employees included in such retirement program. Additional information follows from officials of the teacher retirement system.

L. P. STURGEON.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. YARBOROUGH. I yield.

Mr. BARTLETT. I am heartened by what the Senator from Louisiana, the Senator in charge of the bill, has had to say on the subject. I trust it can be handled administratively. If it cannot be, the Senator from Texas and I will surely be calling upon our colleagues, seeking legislative action.

I joined the distinguished Senator from Texas as a cosponsor of the bill back in January a year ago, because I thought the State employees were being discriminated against. That discrimination continues, and the time has come, in my judgment, for remedial action, whether it comes through legislation or through administrative action.

I should say that Hon. William A. Egan, Governor of Alaska, has heartily endorsed the proposal.

I desire, in concluding, to commend the distinguished Senator from Texas for calling this matter, then and now, to the attention of the Senate.

Mr. YARBOROUGH. Mr. President, I thank the distinguished Senator from Alaska. He has been very diligent in discussing this matter with me since the proposal was introduced under S. 531 last year. I, too, am heartened by the statement of the Senator from Louisiana, the floor manager of the bill.

Mr. LONG of Louisiana. As the Senator knows, there are some problems in this field.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent to withdraw my amendment, but we plan to reoffer the measure later to some other bill, if it has not been worked out.

The PRESIDING OFFICER. The amendment offered by the Senator from Texas is withdrawn.

Mr. WILLIAMS of New Jersey. Mr. President, I have an amendment at the desk, which I offer and ask unanimous consent to have printed in the RECORD at this point, instead of being read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment offered by Mr. WILLIAMS of New Jersey is as follows:

At the proper place in the bill add the following new section:

"SEC. —. AMORTIZATION OF HOUSING FACILITIES FOR AGRICULTURAL WORKERS.

"(a) IN GENERAL.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 183. AMORTIZATION OF HOUSING FACILITIES FOR AGRICULTURAL WORKERS.

"'(a) ALLOWANCE OF DEDUCTION.

"'(1) ORIGINAL OWNER.—Any person who constructs a certified housing facility for agricultural workers shall, at his election, be entitled to a deduction with respect to the amortization of the adjusted basis (determined under subsection (f)(1)) of such facility based on a period of 60 months. The 60-month period shall begin as to any such facility, at the election of the taxpayer, with the month following the month in which the facility was completed, or with the succeeding taxable year.

"'(2) SUBSEQUENT OWNERS.—Any person who acquires a housing facility for agricultural workers—

"'(A) with respect to which a certificate has been issued by the Secretary of Agriculture under subsection (e) (whether such certificate is issued before or after the date such person acquires such facility), and

"'(B) with respect to which an amortization deduction under this section has been allowed for less than a 60-month period,

shall, at his election, be entitled to a deduction with respect to the adjusted basis (de-

termined under subsection (f)(2) of such facility based on a 60-month period reduced by the number of months with respect to which an amortization deduction under this section has been allowed to any taxpayer prior to the acquisition of such facility by such person.

"'(3) Amount of deduction.—The amortization deduction provided in paragraphs (1) and (2) shall be an amount, with respect to each month of the amortization period within the taxable year, equal to the adjusted basis of the facility at the end of such month, divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such adjusted basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction above provided with respect to any month shall be in lieu of the depreciation deduction with respect to such facility for such month provided by section 167.

"'(b) Election of Amortization.—The election of the taxpayer under subsection (a)(1) to take the amortization deduction and to begin the 60-month period with the month following the month in which the facility was completed shall be made only by a statement to that effect in the return for the taxable year in which the facility was completed. The election of the taxpayer under subsection (a)(1) to take the amortization deduction and to begin such period with the taxable year succeeding such year shall be made only by a statement to that effect in the return for such succeeding taxable year. The election of the taxpayer under subsection (a)(2) to take the amortization deduction shall be made only by a statement to that effect in the return for the taxable year in which the facility was acquired. Notwithstanding the preceding three sentences, the election of the taxpayer under subsection (a) (1) or (2) may be made, under such regulations as the Secretary or his delegate may prescribe, before the time prescribed in the applicable sentence.

"'(c) Discontinuance of Amortization Deduction.—

"'(1) Discontinuance by taxpayer.—A taxpayer who has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period. Such discontinuance shall begin, and may be terminated, as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary or his delegate before the beginning of such month.

"'(2) Discontinuance by secretary of agriculture.—The amortization deduction provided in subsection (a) shall be discontinued if the Secretary of Agriculture finds and certifies, after notice to the taxpayer and opportunity for hearings, to the Secretary or his delegate that the requirements of subsection (c)(2) have not been complied with. Such discontinuance shall begin as of the beginning of the taxable year in which such finding is made and certified and shall continue until the month following the month in which the Secretary of Agriculture certifies to the Secretary that the Secretary of Agriculture is satisfied that there is no longer any failure to satisfy such requirements.

"'(3) Where a discontinuance of such an amortization deduction shall have been terminated, as provided in paragraphs (1) or (2), the period with respect to which such deduction may subsequently be allowed shall be equal to 60 months minus the number of months with respect to which such deduction shall have previously been allowed.

"'(4) Depreciation deduction.—The depreciation deduction provided under section 167 shall be allowed with respect to any housing facility for agricultural workers beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction with respect to such facility.

"'(d) Definitions.—For purposes of this section—

"'(1) Agricultural worker.—The term "agricultural worker" means an individual (other than the taxpayer, his spouse and dependents, and members of his household) who is a citizen or permanent resident of the United States and whose primary employment is in agriculture, as defined in section 3(f) of the Fair Labor Standards Act of 1938, or performing agricultural labor, as defined in section 3121(g).

"'(2) Certified housing facility for agricultural workers.—The term "certified housing facility for agricultural workers" means any dwelling or dwelling unit for the housing of agricultural workers—

"'(A) the construction of which is completed after December 31, 1963; and

"'(B) with respect to which a certificate has been issued by the Secretary of Agriculture under subsection (e).

If any facility is converted, through alteration or remodeling, into a housing facility for agricultural workers, or if a housing facility for agricultural workers is altered or remodeled so as to increase the number of dwelling units in such facility, or to improve any of the dwelling units in such facility, such alteration or remodeling shall be treated as the construction of a housing facility for agricultural workers.

"'(e) Certifications by Secretary of Agriculture.—

"'(1) Applications.—Any person who after December 31, 1963, completes the construction of a housing facility for agricultural workers may apply to the Secretary of Agriculture for a certificate under this subsection, or, if the person who completes such construction has not obtained such a cer-

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tificate, then his successor in interest may apply to the Secretary of Agriculture for a certificate under this subsection. Such application shall be filed at such time, shall be in such form, and shall contain such information as the Secretary of Agriculture may prescribe by regulations.

"'(2) Requirements for certified housing facility for agricultural workers.—The Secretary of Agriculture shall issue a certificate with respect to a housing facility for agricultural workers if he is satisfied that—

"'(A) such housing facility has been constructed to provide decent, safe, and sanitary housing for agricultural workers;

"'(B) any rentals charged an agricultural worker for the occupancy of any dwelling unit in such facility will not exceed rates within the means of the probable occupants of such unit, due consideration being given to the income and earning capacity of agricultural workers in the area; and

"'(C) for a period of 5 years (commencing with the date of application for such certificate), the dwelling units in such housing facility (i) will be made available primarily for occupancy by agricultural workers, (ii) will, when rented, be rented at rates consistent with the provisions of subparagraph (B), and (iii) will be maintained in accordance with such safety and sanitation standards as may be prescribed by State or local law, or, in the absence of such standards, in accordance with such minimum requirements as the Secretary of Agriculture shall prescribe.

The Secretary shall not refuse to issue a certificate with respect to a housing facility for agricultural workers to any person solely by reason of the fact that such person intends to sell such facility to an agricultural worker within the 5-year period referred to in subparagraph (C).

"'(3) PRELIMINARY CERTIFICATION.—An application under paragraph (1) may be filed with respect to any housing facility for agricultural workers prior to the completion of the construction of such housing facility. The Secretary of Agriculture may, by regulations, provide for the issuance of a conditional certificate to any such applicant if it appears from the information contained in his application that upon completion such housing facility will fulfill the requirements for a certificate prescribed in paragraph (2).

"'(4) REGULATIONS.—The Secretary of Agriculture shall prescribe such regulations as he deems necessary to carry out the provisions of this subsection.

"'(f) DETERMINATION OF ADJUSTED BASIS.—

"'(1) ORIGINAL OWNERS.—For purposes of subsection (a)(1), in determining the adjusted basis of any certified housing facility for agricultural workers—

"'(A) there shall be included only so much of the amount of the adjusted basis (for determining gain), computed without regard to this subsection, as is properly attributable to construction after December 31, 1963, which the Secretary of Agriculture certifies is attributable to the provision of housing for agricultural workers; and

"'(B) if the facility is a certified housing facility for agricultural workers within the meaning of the second sentence of subsection (d)(2), there shall be included only so much of the amount otherwise included in such adjusted basis as is properly attributable to the alteration or remodeling.

"'(2) SUBSEQUENT OWNERS.—For purposes of subsection (a)(2), the adjusted basis of any certified housing facility for agricultural workers shall be whichever of the following amounts is the smaller:

"'(A) the basis (unadjusted) of such facility for purposes of this section in the hands of the person who constructed such facility, adjusted as if such facility in the hands of the taxpayer had a substituted basis within the meaning of section 1016(b); or

"'(B) so much of the adjusted basis (for determining gain) of the facility in the hands of the taxpayer (computed without regard to this subsection) as is properly attributable to construction after December 31, 1963, which the Secretary of Agriculture has certified is attributable to the provision of housing for agricultural workers.

"'(3) SEPARATE FACILITIES; SPECIAL RULE.—If any existing certified housing facility for agricultural workers (as defined in the first sentence of subsection (d)(2) is altered or remodeled as provided in the second sentence of subsection (d)(2), the expenditures for such alteration or remodeling shall not be applied in adjustment of the basis of such existing facility but a separate basis shall be computed as if the part altered or remodeled were a new and separate housing facility for agricultural workers.

"'(g) DEPRECIATION DEDUCTION.—If the adjusted basis of a certified housing facility for agricultural workers (computed without regard to subsection (f)) exceeds the adjusted basis computed under subsection (f), the depreciation deduction provided by section 167 shall, despite the provisions of subsection (a)(3) of this section, be allowed with respect to such facility as if the adjusted basis for the purpose of such deduction were an amount equal to the amount of such excess.

"'(h) LIFE TENANT AND REMAINDERMAN.—In the case of property held by one person for life with remainder to another person, the amortization deduction provided in subsection (a) shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant.

"'(i) LIMITATION.—No deduction shall be allowed under subsection (a) with respect to a certified housing facility for agricultural workers for any month during any part of which—

"'(1) if the taxpayer is an individual (other than an estate or trust), such facility is occupied by the taxpayer or by the spouse; any dependent, or any member of the household of the taxpayer,

"'(2) if the taxpayer is an estate or trust, such facility is occupied by a beneficiary of the estate or trust, or

"'(3) if the taxpayer is a corporation, such facility is occupied by any stockholder or officer of the corporation or by any employee of the corporation who is not an agricultural worker.

"'(j) CROSS REFERENCE.—

"'For special rule with respect to gain derived from the sale or exchange of property the adjusted basis of which is determined with regard to this section, see section 1238.'

"(b) CLERICAL AMENDMENT.—The table of sections for such part VI is amended by adding at the end thereof

"'SEC. 183. Amortization of housing facilities for agricultural workers.'

"(c) CONFORMING AMENDMENT.—Section 1238 of the Internal Revenue Code of 1954 (relating to amortization in excess of depreciation) is amended by inserting after 'section 168 (relating to amortization deduction of emergency facilities)' the following:

'or section 183 (relating to amortization deduction of housing facilities for agricultural workers)'.

"(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1963."

Mr. WILLIAMS of New Jersey. Mr. President, the purpose of my amendment is to encourage the construction of housing facilities for farmworkers which in many parts of the country today are in a deplorable, inadequate condition for human habitation. Since there is an important public interest in correcting conditions detrimental to the health and welfare of farmworkers and their families, it is appropriate that such construction be encouraged by a tax incentive similar to those used in other areas where an important public interest is served by private construction or investment. My amendment accomplishes this objective by permitting a farmowner to amortize over a 5-year period the cost of newly constructed farm labor housing which under present law is depreciated over the useful life of the property, which may be as long as 40 years.

The reduction in revenue resulting from approval of this amendment will amount to no more than $2.5 million in any year. It is pertinent to note that this reduction—a maximum of $2.5 million—is most modest, indeed, when compared to other revenue-reducing provisions, which the committee has recommended for encouragement of other types of business investment. I refer to two of the committee's recommended revisions of the investment tax credit.

First. The provision repealing the reduction-of-basis requirement will cause an annual revenue loss of $195 million.

Second. The provision allowing investment credit for elevators and escalators will result in a further $10 million annual revenue loss.

It is highly significant to note that these provisions, giving additional tax relief as an incentive to business investment, apply to types of investment which already receive valuable economic benefits under the special tax relief measure enacted in 1962.

In addition to new construction, the 5-year amortization would be available respecting the costs of alteration or remodeling to improve existing farm labor housing.

The special deduction, in lieu of depreciation, could be taken by a farmer or other owner with respect to housing completed after December 31, 1963, or by the purchaser of such housing. To qualify, the owner would obtain a certificate from the Secretary of Agriculture covering these three points:

First. That the housing facility has been constructed to provide decent, safe, and sanitary housing for agricultural workers.

Second. If the housing is to be rented, rather than being furnished to farmworkers rent-free, that the rentals will be reasonable in view of the occupants' probable incomes and earning capacities.

Third. That during the 5-year amortization period, the housing will be made available primarily for occupancy by domestic agricultural workers and will be maintained in accordance with applicable minimum standards on safety and sanitation.

JUSTIFICATION

The farmer who employs hired labor, and especially migratory labor, has a unique labor problem, in that he generally has to provide housing for his employees. This housing is, in effect, an extra item of labor cost; it has no economic value to the farmer beyond enabling him to attract the workers he needs. Further, the adequacy of the housing provided, the questions whether it is sanitary and safe for occupancy,

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have come under increasingly close scrutiny as more and more States and local governments have established housing codes and stepped up their enforcement in rural areas.

The farmer's costs are especially burdensome respecting migrant housing, because migratory workers are needed in large numbers, but for short periods; and the housing provided for them is likely to stand vacant for large portions of the year. Current developments in mechanization further increase the burden of providing good housing, for in numerous crops and areas the need for the migrant's labor may be eliminated entirely within a few years.

Despite the fact that many farm employers have performed exemplarily in providing good housing for their workers, there is still a great deal of housing for migrants that can fairly be described as deplorably wretched and totally inadequate for human habitation. Furthermore, the fact that the migratory worker may, at some future time, become obsolete is no answer to his need for decent housing now.

The need for better farmworker housing was stressed—not for the first time—at a recent hearing before the Housing Subcommittee of the Committee on Banking and Currency. In testimony for the Department of Labor, Under Secretary John F. Henning gave a vivid de-

scription of the living conditions of many migrant farmworkers in this country. I quote from Secretary Henning's testimony:

A field report by the State Services Division of the Bureau of Labor Standards on the living conditions of approximately 235 migrants in two camps in a Midwestern State is shocking. The first camp visited consisted of a group of six city buses and a trailer located in the middle of a field in the hot sun with no shade. According to the report, no water of any kind was available in the camp itself. Water was hauled in a large garbage-type can from a long distance; garbage and waste were collected in uncovered cans within 15 feet of the bus, which had no screens of any kind.

The second camp included 50 old buses parked in a grove of trees, where there were at least five pumps for water and a pit on the edge of the camp for disposing of refuse. Some of the buses had screens; more of them had burlap sacks on the outside of the windows. However, the three open doorways in each bus were not protected by screens of any kind and the windows for ventilation in the outside toilet were also unscreened.

A recent report from a regional consultant to the Bureau of Labor Standards on labor camps in a western State describes sanitary conditions in a particular camp as atrocious, with no bathing facilities in the camp and no running water in the cabins. Wood stoves were used for cooking purposes, making the cabins extremely hot in the summer.

Typical of a widespread problem are conditions disclosed in an investigation conducted by the Bureau of Employment Security in a southwestern State where the camp was found to have no hot water for bathing, improper drainage, and fire hazards. In other camps the investigator found stagnant water around outside water spigots, bath water seeping into a nearby well, screens in need of repair, and doors, floors, and seats from outside toilets missing.

Since this particular investigation was conducted under an international agreement imposing conditions on the use of foreign farmworkers, the workers could be removed from these unsanitary surroundings. The Federal Government can offer no such protections to domestic farmworkers.

We have long been cognizant of the housing needs of the farmer himself. We have only recently, however, begun to move on the housing needs of the farmer's employees. The President's housing message of this year addresses itself directly and constructively to the worker's housing problem, by proposing loan-grant aids for individual worker housing and low rent projects for workers who rent. These housing aids will be most valuable indeed in dealing with this acute part of the Nation's low income family housing problem. The gravity of this problem is so serious, nonetheless, that the Congress should seek every possible means for quick, remedial action.

The tax incentive which I have proposed to encourage construction of farm labor housing will work in logical harmony with our direct housing aids, to remove this blight from the American scene and to bring about improvements of which our Nation can be proud.

I may say to the distinguished Senator from Louisiana [Mr. LONG], that I have discussed this matter with the distinguished chairman of the Finance Committee, the Senator from Virginia [Mr. BYRD]. It could not be considered during the hearings, but it is worthy of committee study. It is my understanding from the chairman of the committee that the measure will be considered.

Mr. BYRD of Virginia. Mr. President, as chairman of the committee, I assure the Senator that, at the appropriate opportunity this measure will be given consideration.

Mr. WILLIAMS of New Jersey. I am deeply grateful. If the proposal is adopted, it will make a significant contribution to farmers and those who are housed on their land.

Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. DODD. Mr. President, with the indulgence of my colleagues, I should like to ask the Senator from Louisiana a question or two about an amendment which I have at the desk. I refer to my amendment No. 416.

Six of my colleagues, Senators RIBICOFF, SALTONSTALL, PASTORE, PELL, JAVITS, and KEATING, have joined with me in proposing this amendment to the tax bill to repeal the 10-percent Federal excise tax on silver-plated hollow ware when it is to be used by the purchaser in his business.

It is intended to correct an inequity which has been a part of our tax laws for over 20 years.

The exemption would place silver-plated hollowware on the same footing as its competitive products made of stainless steel, bimetals, china, and glass, none of which are subject to this 10-percent excise tax.

Certainly, no item which is essential to the proper serving of food in hotels, hospitals, restaurants, and schools should be taxed as a luxury item. And it is especially unfair to tax only one of a number of products that have identical end uses, as is the case with silver-plated hollowware.

Actually, silver-plated hollowware which in effect is used for commercial purposes, as in a hospital or a restaurant, should not be taxed as a retail sale in the first place.

But due to an oversight when these excise taxes were put into effect during

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the early part of World War II, this particular category of sales was not exempted.

I am sure it was not intended, because silver-plated flatware, for example, has not been subject to any excise tax whether sold for institutional use or directly to consumers.

Because of this provision in our tax laws, both domestic and foreign manufacturers of stainless steel, bimetal, china and glass serving items enjoy a competitive advantage due to the extra tax that must be paid on silver-plated hollow ware.

In addition, foreign producers of silver-plated hollow ware frequently do not have to pay the excise tax, because the purchasers in the United States can be billed directly from the foreign country. The collection of the 10-percent excise tax is avoided this way, whereas domestic manufacturers and jobbers are required to collect the tax on their sales.

This is a distinctly unfair situation, and one that has existed for far too long. For a very modest revenue loss, estimated to be about $200,000 a year, the Senate could correct this inequity.

I regret my amendment will not be adopted, not only because the loss of income to the Treasury would be small but because this particular tax should never have been put into effect in the first place.

Earlier this week, in a very close vote, we lost in our effort to repeal retail excise taxes. Most of the items subject to this tax are not luxury items at all, and the burden of paying them falls disproportionately on the lower and middle income families.

These taxes are used now strictly as a source of revenue. Admittedly, they are a good one, bringing into the Treasury approximately $450 million a year, and I can well understand the reluctance of the Treasury Department to lose such a large and steady income.

However, I believe this is the most just excise tax amendment that has been offered to the bill. I say that with due consideration, because I feel the legislative history demonstrates it was an accident that this item was included during World War II. I will put it another way—it was an accident that this particular category of sales was not exempted.

It involves only about $200,000 a year in Federal tax revenue. All of its competitors, such as stainless steel and china hollowware, were exempted. By accident, silver-plated hollowware was included.

I have talked with the distinguished Senator from Louisiana, the Senator in charge of the bill. I want to be sure that at the appropriate time, and before too long, he will give this matter his

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earnest consideration. It is a matter of simple justice that this mistake be corrected, and I hope the Senator will agree.

Mr. LONG of Louisiana. Mr. President, the junior Senator from Louisiana has discussed this matter at considerable length, during the past 2 days, on an informal basis, with the Senator from Connecticut, as well as the Senator from Massachusetts, who previously mentioned this question, and the Senators from Rhode Island and New York.

The Senator from Louisiana has been persuaded that there is much equity in favor of what they would like to do. He has pleaded with them not to offer the amendment on the floor because of the long legislative history made during the last 10 days to the effect that we must insist on keeping amendments on the excise tax out of the bill, because we have not had an opportunity to study that field, and we do not know where we would go if we got into it.

This is one of the proposals that might be considered in the event separate legislation were recommended at the time we moved into the excise tax field. Perhaps this would be a meritorious measure to be considered in connection with another bill.

I say to the Senator that at no later than the time when the committee reaches the consideration of excise taxes, will it consider the matter.

I appreciate the great interest that the Senators from Connecticut, Massachusetts, Rhode Island, and New York have in this matter. We shall seek to give every consideration to this amendment when we are in a position to get around to this question, either separately or in connection with excise taxes in general.

Mr. DODD. That is characteristic of the Senator from Louisiana, and I am grateful to him. I feel this is an equitable matter. I am glad to leave it in his good hands.

Mr. RIBICOFF. Will the Senator yield?

Mr. DODD. I am pleased to yield to my colleague from Connecticut.

Mr. RIBICOFF. I am a cosponsor of this amendment and I support the argument that my senior colleague has made. Imposition of this tax on silver-plated hollowware is a serious inequity. The tax certainly should be removed. The senior Senator from Connecticut has ably presented the case on behalf of this amendment and I join with him in urging its approval.

Mr. PELL. Mr. President, will the Senator yield?

Mr. DODD. I yield.

Mr. PELL. Mr. President, I compliment the Senator from Louisiana for his interest and his good offices in this measure, and to associate myself with the remarks made by the Senator from Connecticut.

Mr. KEATING. If the Senator will yield further, I join in applauding the Senator from Louisiana for his assurances, as well as in the observations of the Senator from Connecticut on the pressing need for abolition of the tax on silver-plated hollowware.

Mr. SALTONSTALL. Mr. President, will the Senator yield?

Mr. DODD. I yield.

Mr. SALTONSTALL. I wish to add my commendation to the Senator from Connecticut, who introduced this measure.

Mr. DODD. I am grateful to my very able colleague. This means much to us in New England.

Mr. LONG of Louisiana. Mr. President, not only today, but in the past 3 or 4 days, the Senators from the States I have mentioned have made me aware of how important this matter is to the economy of their States.

Mr. MILLER. Mr. President, I call up my amendment No. 421.

The PRESIDING OFFICER. The amendment offered by the Senator from Iowa will be stated.

The LEGISLATIVE CLERK. On page 344, line 8, it is proposed to change "more than" to "at least", and on line 10 strike the semicolon and insert the following: "computed without regard to operating losses since such ownership was acquired.

Mr. MILLER. Mr. President, in the bill there is a provision imposing an extra 6-percent tax on members of a controlled group of corporations. An exception exists in the case of so-called franchised corporations, and it is provided that where more than 20 percent of the stock is owned by the stockholders of an individual corporation, and 79 percent or less of the stock is owned by the parent corporation, then the 6-percent extra tax will not apply. Unfortunately, the line was drawn at "more than 20 percent" being owned by the stockholders of an individual corporation.

One of the major corporations has a franchise arrangement with many of its dealers throughout the country under which they own exactly 20 percent. They do not own "more than" 20 percent, they own just 20 percent. Some of these franchised dealers are in my State of Iowa and I am sure they are also in the States of many Senators present.

My amendment would provide that if they own "at least" 20 percent, then the individual corporation will escape this extra 6-percent tax; in other words, by changing the words "more than 20 percent," to "at least 20 percent," this inequity will be removed.

There is another point and that is that after some of these dealers acquired 20 percent of the value of the stock in their corporations, in good faith, they suffered operating losses. As a result, they do not own 20 percent of the value of the stock today.

My amendment would provide that the 20 percent of the value of the stock shall be computed without taking into account operating losses since the ownership was acquired.

I recognize the difficulty of drawing the line in the bill, but I suggest that consideration should be given to whether the company might be able to work out, within the framework of the bill, the stockownership needed to meet requirements of the bill; and if it cannot do so, I should like to suggest that the Finance Committee consider an amendment later on to take care of this inequity, because it will cause a difference in treatment between the franchised dealers of various competing corporations.

Mr. LONG of Louisiana. The making of tax laws and modifications to improve tax laws is the constant task of Congress, as Senators who have worked on the tax bill well know.

The amendments of the Senator from Iowa which he has already offered on the floor of the Senate today are one more indication of that fact.

This is a subject which must necessarily be studied. There are a number of problems in this field, and I should like to ask unanimous consent to have printed in the RECORD a memorandum pointing out the sort of problems that exist in connection with the amendment of the Senator from Iowa.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

MULTIPLE CORPORATIONS—PROPOSED AMENDMENTS BY FORD TO FRANCHISED CORPORATION RULES

The Ford Motor Co. has proposed two amendments, viz:

1. On page 344, line 8, the phrase "more than 20 percent" would be changed to read "20 percent or more", and

2. On page 344, line 10, in determining the value of the stock it is proposed to disregard the effect "operations" might have.

It is argued that the first amendment is merely "technical." This is not true, for a principle is involved. Under the basic rules of the multiple-corporation legislation, if a corporation owns 80 percent or more of the

stock of another corporation, such subsidiary is considered to be part of a controlled group. On the other hand, if the corporation only owns 79 percent of the stock, such corporation would be treated as separated and distinct corporation. Certain "shrinkage" rules were developed to prevent abuses whereby corporations would give, for example, 21 percent of the stock to an employee in a transitory arrangement, thus breaking the affiliation. However, an exception to the "shrinkage" rules was made to take care of the "franchised" corporation where it appeared that the ownership of the employee was not transitory but was pursuant to a bona fide plan to have such employee eventually own the entire stock interest in the corporation.

The franchised corporation rule is, therefore, merely an attempt to disregard what was an inappropriate tax avoidance rule. On the other hand, the proposal goes one step further and attempts to change the fundamental line that has been drawn to differentiate controlled and noncontrolled corporations. In effect, the line is changed from 80-percent ownership to 81-percent ownership.

The argument made by Ford is that they are going to be discriminated against because the other dealerships involved (Chrysler and GM will not be treated as members of a controlled group. This is because their dealerships start at a 25-percent ownership level. The answer to this, of course, is that anyone owning 80 percent of a subsidiary instead of 79 percent is being discriminated against. This unfortunately is the natural consequence of line drawing, and the obvious answer is that Ford ought to sell an additional 1 percent to its dealers.

The second proposal is still more troublesome. It is not clear what it really means. The problem is, how else does one compute the value of stock other than looking at the prior earnings history? It might be hoped that the Service could avoid market value determinations by looking at par or stated values or some other objective standard except in unusual cases. This amendment would seem to indicate that Congress did not intend us to do that, but wanted to measure the fair market value of the stock except in this one instance the maket value was to be

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determined without regard to the income record of the corporation.

Mr. LONG of Louisiana. Mr. President, in due course, when we have occasion to get back into the question of multiple corporations, we will take a look at the amendment and see if we cannot accord some relief.

Mr. MILLER. As I understand the memorandum to which the Senator from Louisiana has just referred, and which he has placed in the RECORD, the position of the Treasury is that the parent corporation can work the problem out with its dealers. Maybe it can and maybe it cannot; only time will tell. If it cannot be done in the near future, I would expect to offer an amendment to another bill which would cure the inequity.

Mr. LONG of Louisiana. The Senator from Iowa knows that the legislative branch is the final authority on the law; and we do not always have to agree with the executive branch.

Mr. MILLER. I thank the Senator from Louisiana.

Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment of the Senator from Iowa [Mr. MILLER] is withdrawn.

Mr. RIBICOFF. Mr. President, I call up my amendment No. 413 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

SEC. . FACILITIES TO CONTROL WATER OR AIR POLLUTION.

(a) IN GENERAL.—Section 46(c) (relating to definition of qualified investment for purposes of investment credit in certain depreciable property) is amended by adding after paragraph (4) thereof the following new paragraph:

"(5) Facilities to control water and air pollution.—

"(A) In the case of section 38 property which consists of facilities or equipment to control water or air pollution, the amount of the qualified investment shall be twice the amount determined under paragraph (1).

"(B) For purposes of subparagraph (A), the term 'facilities or equipment to control water pollution' means a facility or equipment used to control water pollution by removing, altering, or disposing of wastes from any type of manufacturing or mining process, including the necessary intercepting sewers, outfall sewers, pumping power, and other equipment, and their appurtenances.

"(C) For purposes of subparagraph (A), the term 'facilities or equipment to control air pollution' means a facility or equipment used to control atmospheric pollution or contamination by removing, altering, or disposing of atmospheric pollutants and contaminants from any type of manufacturing or mining process."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1963.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the Senator from Maine [Mr. MUSKIE], the Senator from New Hampshire [Mr. McINTYRE], the Senator from California [Mr. ENGLE] be included as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, this amendment is designed to provide an incentive for industry to purchase and install the equipment needed to combat air and water pollution. The amend-

ment doubles the investment credit with respect to the costs of such equipment. Under existing law, most companies purchasing pollution control equipment would be entitled to an investment credit of 7 percent. This amendment would provide a credit for such purchases of 14 percent. The amendment accomplishes this result by doubling the base on which the credit is computed.

On the basis of Treasury estimates of expenditures for pollution control equipment, the revenue loss of the amendment in the first full year would be $28 million.

We will never have a successful attack on air and water pollution until we recognize the vital role that industry must play in solving this problem. We cannot simply point a finger at industry and say "You must do something to end pollution." We have to recognize realistically that the money industry spends for this equipment produces no profit. These expenditures are made in the public interest, and there is some public responsibility to provide an incentive to purchase this needed equipment.

Congress has recognized the seriousness of the problems of air and water pollution by appropriating millions of dollars for Federal assistance in this area. Under the very able leadership of the distinguished Senator from Maine [Mr. MUSKIE], the attack on air and water pollution has been accelerated and is now moving ahead. We are now spending $130 million a year to end water pollution, and just last year we authorized $95 million for the next 3 years to speed the fight against air pollution. How shortsighted it would be for Congress to provide these hundreds of millions of dollars and not at the same time give some incentive to industry to spend the vast sums needed to purchase and install the necessary industrial antipollution equipment.

I know from my experience as Governor that we can design all the Federal and State programs we wish, but unless we have the active cooperation of the industries in each community that are doing the polluting, we are not going to have complete success.

This is not the type of amendment that seeks to help some industry or some companies increase the profits they are already making by creating some new loophole. This amendment is aimed at a serious public health and resource problem which must be solved in part by the expenditures of large sums of money on which no profit is made.

The Treasury Department has in the past opposed this type of amendment. Yet I must point out that the Treasury last year recommended to Congress that this tax bill include a provision to allow industry to deduct in the year of purchase all the costs of equipment for research and development. That amendment would have cost $50 million, twice as much as this one, and the tax break would have been given on profitmaking expenditures. I fail to see any logic whatsoever in the Treasury's support of that provision and its opposition to an amendment of this type. Furthermore, as I have said before, Congress has its own responsibilities to decide what provisions it wishes to support. We need not accept as binding the Treasury's disapproval in every instance. This is a needed amendment. It is far more meritorious than some urged upon us by the Treasury. It is far more meritorius than many provisions now in the bill.

This type of amendment has been before Congress since 1947. The need for the amendment has increased each year. Increasing even faster has been the pollution of our water and our air. Now is the time to combine the public attack we have successfully launched with the vast private effort that must be made.

Mr. LONG of Louisiana. Mr. President, this matter was discussed on a different basis in the committee. At that time the proposal would have had a much greater revenue impact. The committee could not agree to it. We have had an opportunity to examine the amendment of the Senator from Connecticut, as modified, with a much lower revenue estimate involved, and we will be glad to take it to conference and see what the House thinks about the amendment. Perhaps the House might not be willing to agree to it. The Senator from Connecticut knows that this is a new approach to the problem, and we are in no position to guarantee what the attitude of the House will be.

Mr. RIBICOFF. I appreciate the courtesy of the Senator in charge of the bill, the Senator from Louisiana [Mr. LONG].

Mr. HART. Mr. President, as the original sponsor of the proposal I wish to thank the Senator from Louisiana for accepting the amendment.

Mr. RANDOLPH. Mr. President, the 1st session of the 88th Congress was highly productive in the fields of air and water pollution control and the conservation of these vital resources.

The Congress enacted the Clean Air Act, of which the capable junior Senator from Connecticut [Mr. RIBICOFF] was the primary sponsor, and the Senate, under the vigorous leadership of the junior Senator from Maine [Mr. MUSKIE], passed S. 649, the Federal Water Pollu-

tion Control Amendments of 1963, which are now pending in the other body.

It was my privilege to be a cosponsor of both of these important measures, and as ranking member of the Special Subcommittee on Air and Water Pollution of the Senate Public Works Committee, I was actively involved in the hearings, the executive sessions, and the drafting of air and water pollution control legislation during the last session. Also, as a Senator from a State which has a concentration of industry in certain areas with unique topographic characteristics, I am acutely aware of the need for continued efforts in the abatement of air and water pollution.

However, I am also aware of the large capital investments being made by the industries in West Virginia, and in other

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States, in the voluntary effort to control waste effluents and air pollutants. It is for this reason that I associated myself with the junior Senator from Connecticut [Mr. RIBICOFF] in the cosponsorship of S. 736, and I commend him for his leadership in this attempt to grant corporate income tax deductions for expenditures for treatment facilities to control water and air pollution.

The pending amendment is consistent with the intent of the authors of the first Federal Water Pollution Control Act, the late Senators Alben Barkley and Robert Taft. It is consistent with the policy recommendations of the National Conference on Water Pollution held in 1960, and it would implement suggestions received by the Special Subcommittee on Air and Water Pollution during our hearings. Mr. President, it is not unlikely that the adoption of the pending amendment will accelerate the national program for air and water pollution control and will in many instances forestall the need for Federal abatement proceedings.

In view of the tremendous social and economic costs of air and water pollution, which responsible estimates place at $10 billion annually for air pollution alone, the pending amendment would appear to offer a financially prudent approach. Certainly, it is as justified as the granting of tax concessions for plant modernization or for research and development expenditures.

In October of last year, Mr. President, I toured the Kanawha Valley in the area near Charleston, W. Va., where the great concentration of chemical industries is located. This region, comprising a stretch of about 20 miles of the Kanawha River is often referred to as the "Little Ruhr" of America. I was greatly impressed by the active program of the chemical companies in that area in their construction of water pollution control facilities, with investments in excess of $20 million in recent years and operating costs of approximately $2 million a year. Since it is directly relevant to the pending amendment, I ask unanimous consent that an article in the Charleston Gazette setting forth the findings of this tour be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SIGNIFICANT PROGRESS ON KANAWHA: RANDOLPH HAILS RIVER CLEANUP

(By Thomas F. Stafford)

U.S. Senator JENNINGS RANDOLPH said Thursday after examining pollution abatement facilities costing an estimated $36 million that "significant progress" has been made in the effort to clean up Kanawha River.

RANDOLPH visited water treatment plants at several locations in the valley and afterward said:

"We cannot conclude that what's been done is enough or what's under construction is adequate. But I'm encouraged by the attitude and assurance of groups in the valley to clean up the Kanawha River."

RANDOLPH is ranking member of a special Senate subcommittee that has been studying air and water pollution problems nationwide for several months.

On Wednesday the Senate passed a bill designed to give new impetus to the campaign to rid the rivers and lakes of America of pollution. The legislation grew out of hearings by the special subcommittee.

After his tour of the Kanawha Valley Randolph observed that the public isn't aware of the tremendous pollution abatement effort that has been carried out during the past 10 years.

"After what I have seen today," he continued, "I have no hesitancy in saying that West Virginia should be proud of what has been accomplished in water pollution abatement here in the Kanawha Valley by the cooperative effort of the State governmental authorities and the principal chemical plants of the area."

He said he wanted nobody to try to tell him "nothing has been done, or is being done, about this problem."

The chemical companies have recognized the problem, have faced up to it and are achieving their goals, he said, adding:

"Today, I have seen upward of $20 million in chemical plant installations for water pollution abatement requiring approximately $2 million in annual operating costs. This is not all. There are plans for expanding the present effort."

Add to this, the Senator went on, the "tremendous effort" by municipal governments and it is evident that substantial progress has been made.

Here are the plans and municipalities that have been active in the field (with value of the facilities added) he said:

Union Carbide, $6.5 million; Goodrich-Gulf, $1.5 million; Monsanto, $1.5 million;

FMC Corp., $1.5 million; Du Pont, $6 million; American Viscose, $600,000; South Charleston, $2 million; Charleston, $12 million; and others, $4 million.

"The public is not aware," RANDOLPH said, "of the investment and the concern of industry, coupled with the responsible attitude in Government, which has brought all of this into being."

In an interview after he completed his tour, he said:

"People are inclined very often to make generalized charges that efforts to reduce water pollution and waste abatement have been neglected. In fact, certain persons I will not identify in this statement have said in essence. 'Nothing is being done. Nothing has been done. The Kanawha River is a dirty stream.' This is untrue."

Progress has been made and more is coming, he went on. But among the problems still remaining are those connected increasingly with the aspect of air pollution.

With the legislation passed Wednesday, he said, the dominance of the Federal Government in pollution abatement has been lessened.

At present the Federal Government can move into an area after a conference with local groups and start enforcement proceedings without regard for the contributions of fact, interest and expenditures being made by industry and local governing bodies.

The new legislation, he said, is more consistent with the total needs of the Nation and the communities in the pollution abatement field.

In a the face of a national population of 322 million by the year 2000, RANDOLPH said, the water pollution control problem cannot be solved within the framework of present laws.

Mr. RANDOLPH. Equally strenuous efforts, Mr. President, are being made by responsible industries in the abatement of air pollution in West Virginia. In a recent issue of the Charleston Gazette, it is reported that the Weirton Steel Co., a subsidiary of the National Steel Corp., in Weirton, W. Va., has embarked on a multimillion-dollar program of air pollution control. The total cost of the program has not been released, but it is estimated that it will exceed $1 million per furnace. I ask unanimous consent to have this article from the Charleston Gazette printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

POLLUTION PLAN PUSHED IN WEIRTON

WEIRTON.—A multimillion-dollar program of air pollution control by Weirton Steel Co. is proceeding here with the cooperation of the West Virginia Air Pollution Control Commission.

Progress of the program was viewed last week by Executive Director Carl G. Beard of the air pollution control commission and one of the commission members, Weirton businessman Sam Kusic.

After the inspection trip, Beard said the steel company "is setting an example for all industry in the State by tackling its air pollution problem head on and sparing no expense to push it to completion."

The program is scheduled to be completed by 1966. "The target dates as outlined to me are satisfactory," Beard commented.

In the company's open hearth department, work is underway to install electrostatic precipitators designed to remove dust effluents from air discharged from the steelmaking furnaces.

Fred E. Tucker, coordinator of industrial health engineering for National Steel Corp., has been conferring with the State commission since inception of the present program at Weirton Steel in 1962.

Beard reviewed final engineering drawings and specifications of the control system during his visit last week.

Construction of a new stack also is underway at furnace No. 13 in the open hearth department. This project includes installation of new waste heat boilers and electrostatic collectors.

Due to the complexity and cost of Weirton's steelmaking air control efforts, a step-by-step program of construction was developed with approval of the air pollution control commission.

Weirton didn't release a total cost estimate, but said last year that it was expected to come to more than $1 million per furnace.

Mr. RANDOLPH. Mr. President, all the expenditures referred to in these articles are nonproductive in the economic sense of the term. The companies involved receive no return on such capital investments in the public interest. These must be considered, in a sense, part of the social cost of production. But it is a cost created in part by the nature of our modern urban and highly technological civilization which is placing ever heavier demands on the limited resources of air and water. Thus, it seems entirely equitable that the industries affected by our Federal air and water pollution control programs should not bear the full burden of pollution abatement. Our society as a whole benefits from these programs. To that extent, therefore, the pending amendment is a fair and just one in that it would place a portion of the burden on our entire society for industrial air and water pollution control.

Mr. President, in final reference to the progress that is being made in the control of air and water pollution in the United States, I ask unanimous consent to have printed in the RECORD a comprehensive but concise article written by the junior Senator from Connecticut [Mr. RIBICOFF] which was published in

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the New York Herald Tribune on February 2, 1964.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

RIBICOFF HAILS PROGRESS TO A CLEANER UNITED STATES

(By Senator ABRAHAM RIBICOFF)

Critics of Congress, busy bemoaning delays on headline-making bills, have failed to notice that the 1963 session of the 88th Congress was the most successful in history in taking action to clean up our environment.

We acted to clean up the air you breathe—the water you drink and use—the food you eat. This is good news for you and your health. Here's the record:

Air: Congress passed the most comprehensive air pollution control law in our history—the Roberts-Ribicoff Clean Air Act—providing $95 million for the next 3 years to set up a national program combating dirty air.

Water: The Senate passed a major water pollution control bill introduced by Senator ED MUSKIE, Democrat, of Maine, to speed the attack on dirty water.

Pesticides: A Government Operations Subcommittee I am privileged to head began a year-long review of the entire field of pesticides—their use and their effects, beneficial and harmful. The Senate passed my bill to bar the sale of unsafe pesticides. Labeling of pesticides has been improved by Government order for greater consumer protection. We now have money to check the safety of mass spray programs and see which programs are worth continuing.

Measures like these—and those that will follow this year—are designed to deal with a great growing national problem.

Over the past decades, we have, strangely enough, become the victims of our own prosperity and growth. As factories have multiplied, as industrial plants have studded the land, as technology has perfected ways of protecting us from pests, the environment in which we live has become polluted.

Into our rivers, lakes, and harbors, into our swimming and even drinking waters, spew the wastes of modern industry and modern living. Into the air belches smoke laden with poisonous chemicals stunting or destroying crops, costing us billions of dollars a year and endangering our health and even lives. And manmade lethal poisons, sprayed indiscriminately from cans or planes, give us bug-free homes and more abundant food crops, but may be doing real harm to our bodies and to many of nature's processes.

Pollution. The word has become a hallmark of our age. Sometimes sewer-filled streams or rivers clogged with industrial wastes are simply disgusting sights. But they can also hold serious danger.

Last October, the New Hampshire Fish and Game Department's weekly newsletter said six people had come down with dysentery from eating raw oysters collected from the polluted waters of Great Bay, in the southeastern corner of the State next to Maine. Farther south, each drop of water crossing the Massachusetts-Connecticut State line has a bacteria count of 26—315 times over accepted water sport safety standards.

Still farther south, sewers converging beneath the surface spill out 50 million gallons of industrial and human wastes each day into a 30-square mile body of water called Raritan Bay. The people of New York and New Jersey use Raritan Bay for bathing, boating, and fishing and other recreational purposes as well as for the maintenance of a shellfish industry. In all, the sewage from 1.2 million people is pumped into this bay every 24 hours, along with large amounts of inorganic industrial wastes. A few years ago, an outbreak of infectious hepatitis was traced to clams taken from the bay. Bacteria standards had been set by the States around the bay—but they had not been enforced, and the Federal Government moved in under the Water Pollution Act of 1956.

Most water pollution problems across the country are the result of too little attention in the past. The States, by and large, lag behind in enforcing the clean water powers they already have. Cities and industries have resisted constructing needed waste-treatment works. They see such construction as good only for the other fellow, downstream—as needless or unbearable financial burden for themselves.

The public has an illusion: "Water purifies itself every 7 miles." It has been oversold on the cheapness and plentifulness of water and undersold on the value and necessity for pollution control.

So polluted waters often pose a threat to our health—to recreation and outdoor activities—and a deterrent to economic growth. Our efforts to clean up our water supplies will have a new lease on life under the new water pollution control act. This act:

Establishes standards of water quality for interstate waters:

Authorizes additional aid to comunities for the construction of adequate sewerage and treatment facilities;

Takes a long-overdue first step toward answering a worrisome question: What to do about the used detergents now bobbing up in our waters?

Air pollution is a newer concern, more recently called to public attention. But it is no less, and possibly more, damaging to human life and property.

In 5 days of dense, choking smog, during October 1948, 43 percent of the people of the heavily industrialized community of Donora, Pa., were made ill by the smoke and poisonous gases that streamed from factory smokestacks. The town's death toll: 20.

In November 1953, New York City suffered a similar "temperature inversion"—a lid of warm air overlaid cooler, heavier air at ground level. For 10 days, the stagnant mass trapped the metropolitan area's pollutants, and smog hung over the city. By the time it blew out to sea, more than 240 people were dead.

The full cost of the New York disaster was not realized until years later, when death records for the period were compared with those of years before and after the 10-day smog. The only factor to which the investigators could attribute the increased mortality rate was air pollution.

It was London, December 1962. A killer smog enveloped the city, taking more than 300 lives. At almost exactly the same time, a stagnant air mass over the northeastern United States caused a steady, alarming increase in pollution levels from Richmond to Boston. Sulfur dioxide levels in Philadel-

phia and New York averaged 3½ times normal, and were, for several days, over five times normal.

During this same period, levels of solid matter in the air rose correspondingly. In Connecticut, the 5-day average in Hartford and Middletown was over three times normal, with individual days of from four to five times normal. If we hadn't been lucky—if this mass of contaminated air hadn't been blown out over the ocean in time—the United States might have suffered the worst air-pollution calamity in history.

Scientific studies show we can't always be this lucky. They point to air pollution as the culprit to an increasing array of health hazards. They show that death rates for cardiorespiratory diseases of the heart and lungs are greater in our cities—where air pollution is greater—than in rural parts of the United States. In general, these death rates increase with city size. Within the last few years, this urban-rural difference has also shown up in the death of infants less than 1 year of age.

A recent study in a southern city shows that acute asthmatic attacks among susceptible patients were directly correlated with variations in total sulfate air pollution from time to time. And, according to the Public Health Service, 3-4-benzpyrene, a potent cancer-causing substance, is present in the air breathed by the inhabitants of 100 cities. The concentrations approximate or exceed the dosage people get from cigarette smoking.

This same dirty—"polluted"—air makes our livestock ill and so reduces meat and milk production, stunts and sometimes destroys our crops. It corrodes buildings, bridges, monuments, and structures of all kinds. By reducing visibility, it creates traffic hazards and poses a threat to air navigation.

Expert estimates of the high price we are paying for filth in the air today run into billions of dollars a year. Some of our metropolitan centers suffer damages of up to $100 million a year. The daily average of airborne pollutants in one of our largest cities is 25,000 tons. The cost to every man, woman, and child in this Nation is about $65 a year—and going up. The most important cost, of course, is to our health.

That is why the new Clean Air Act is of such great importance. Under it, cities and States will get financial help to establish their own clean air programs. Federal enforcement measures against interstate polluters are authorized for the first time. Expanded research programs on the nature, causes, effects, and control of air pollution will be started. They will seek especially to develop practical low cost ways of controlling air pollution—ways, for example, of removing sulphur from fuels or controlling automotive exhausts.

The use of chemicals in agriculture, the home, and industry poses the most recent and potentially most hazardous threat to our environment.

Pesticides have been of great value to man. They have increased food and fiber production. And they have helped control diseases carried by insects and other pests. But pesticide residues are now found in the bodies of people and animals and in the environment. They are in our water, in fish far out at sea, and in wildlife.

As the President's Science Advisory Committee put it: "Precisely because pesticide chemicals are designed to kill or metabolically upset some living target organism, they are potentially dangerous to other living organisms." This was true both in California and the State of Washington last summer. "Twenty-four Modesto Peach Pickers Ill of Pesticide Poisoning" read the San Francisco headline. But the orchard where the victims worked had been cleared as safe for picking. In the State of Washington, a dust cloud traveling downward to Toppenish carried the pesticides used in crop dusting. There people and cattle fell ill.

We know that people who have eaten or drunk or even touched large doses of pesticides—either normally at work or in accidents—become ill and sometimes dies. What we do not know is what total effect small quantities of pesticides have on our health as they build up in our bodies and environment over many years. We know very little about these long-range effects; we are not sure of the balance between the good these products have brought and the harm they may cause.

In 1963, we began the long search for the answers to these questions. First, the President's Science Advisory Committee issued its report on "Use of Pesticides," recommending increased research in the field, more public education to avoid haphazard use of pesticides, and a general statement of the benefit that we have gained from pesticides and the broad problems that now face us.

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Next a Senate subcommittee I head began a thorough discussion of the problem of pesticides and the whole problem of health effects of our environment.

For many weeks the subcommittee conducted public hearings, listening to dozens of expert witnesses on all aspects of the problem. The facts are not all in and hearings will continue this year. But we did pinpoint some of the needs, and we generated a great deal of new activity.

Summing up: this was the year we finally began cleaning up our country. The job is formidable—the permissive years have taken their pollution toll. But an aroused citizenry and Congress are taking action that will make our earth a healthier place for all of us.

Mr. RANDOLPH. Mr. President, it is my conviction that the pending amendment will accelerate our efforts to control air and water pollution in the United States. For this reason, I hope the Senate will accept the amendment, and that the House of Representatives will concur in conference.

Mr. RIBICOFF. I thank the able Senator from West Virginia for his cooperation and support on this amendment. The Senator is one of the Nation's leaders in the fight against water pollution and air pollution.

Mr. MUSKIE. Mr. President, I rise in support of the amendment proposed by the junior Senator from Connecticut and I compliment him for his leadership in this matter.

During the course of hearings held by the Special Senate Subcommittee on Air and Water Pollution, I have been impressed with the need for legislation to encourage industries to attack their pollution control problems. The reluctance of companies to invest in non-income-producing equipment is understandable. However, the threat that air and water pollution presents to the health and safety of every American is most serious and requires immediate attention.

I believe that the modest revenue loss contemplated by this amendment will pay dividends many times over. Unless industry is encouraged to make a substantial investment in pollution control equipment, we will never be successful in meeting this problem.

I have seen the ravages of pollution throughout the country. I have also seen what research specialists have developed and are in the process of developing to meet this threat. If we are to meet the total national need in this area, we must have the full cooperation of our Nation's industries. I am convinced that this bill would provide the incentive needed to encourage them to mount a concerted attack on this problem.

Passage of this amendment will contribute to the health and safety of every American, help to preserve our Nation's natural beauty, and eliminate property losses of thousands of dollars annually.

Mr. SMATHERS. Mr. President, I ask unanimous consent that Senators who have some comments to make on the Ribicoff amendment may be permitted to insert their remarks at this point in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, I should like to join as a cosponsor of the amendment because it is important to New York.

Mr. KEATING. Mr. President, I too wish to be a cosponsor of the Ribicoff amendment. It is important to the entire Nation as a device to contribute greatly to public health and safety.

Mr. PASTORE. Mr. President, reserving the right to object, I feel the same way. I should like to be a cosponsor of the Ribicoff amendment.

Mr. BARTLETT. Mr. President, reserving the right to object, I am glad I am a cosponsor of the Ribicoff amendment.

Mr. SALTONSTALL. Mr. President, reserving the right to object, this means much to us in New England. I am glad to be a cosponsor.

Mr. PELL. Mr. President, reserving the right to object, I should like to be added as a cosponsor to the Ribicoff amendment.

Mr. KEATING. Are we all on now, Mr. President?

The PRESIDING OFFICER. Is there objection to the request of the Senator from Florida? The Chair hears none, and it is so ordered.

The question is on agreeing to the amendment offered by the Senator from Connecticut and other Senators.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. PASTORE. Mr. President, I wish to have printed in the RECORD a letter which I received that is relevant to the amendment that was discussed by the Senator from Connecticut [Mr. DODD], and I ask unanimous consent to have it printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GORHAM CORP.,
Providence, R.I., October 23, 1963.

Hon. JOHN O. PASTORE,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR PASTORE: As you know, the excise tax of 10 percent on sales at retail of sterling silver wares and silverplated holloware works a great hardship on us because of the competition of other products to which it does not apply. However, this appeal to you has no bearing on this tax as it applies to the goods purchased by the retail consumer.

Under section 4001 of the Internal Revenue Code, hotels, hospitals, schools, restaurants, etc., are required to pay the excise tax of 10 percent on the purchase price of food-serving items, if such items are silverplated, even though they are essential to the adequate, proper, and sanitary serving of food and are not for resale. Since the tax is not applicable to the same items made of stainless steel, bimetals, china, glass, etc., it gives the manufacturers of these other wares a substantial competitive advantage. This advantage has been, and is being, aggressively exploited to the serious detriment of manufacturers of silverplated institutional ware.

As the tax now functions, the large hotel chains operating internationally can easily avoid the tax, whereas it is difficult for smaller operations to do so. The silverware for certain large hotels now building in the United States has been purchased abroad. Because this merchandise will be billed from a foreign country, the tax does not apply. This results in domestic manufacturers losing substantial volume and a further increase in the U.S. balance of payments.

We know most U.S. hotels and institutions would prefer to buy silverware from domestic industry. There are many advantages, but it is most unjust to require them to pay a 10-percent premium for the privilege of supporting domestic industry.

It is our understanding that Senator DODD is prepared to enter an amendment to section 4001 which would grant relief to domestic industry and correct an obvious inequity. We at Gorham would appreciate it if you would cosponsor this amendment.

Mr. Milton Warnstrom, legislative aid to Senator DODD, is spearheading this matter for him and he has full and complete details on this subject, in case my brief explanation is not sufficient.

Thank you in advance for any assistance you are able to give.

Sincerely yours,

BURRILL M. GETMAN.

The PRESIDING OFFICER. The question is, Shall the bill pass?

Mr. LONG of Louisiana. Mr. President, how much time remains on the bill?

The PRESIDING OFFICER. The proponents have 14 minutes and the opponents have 13 minutes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that an additional hour be allowed for debate on the bill with the time to be equally divided, 30 minutes to each side, to be controlled by the Senator from Kentucky [Mr. MORTON], and by the Senator from Louisiana [Mr. LONG].

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ELLENDER. Mr. President, at a time when the American people have more money to spend than ever before, at a time when we are riding one of the highest waves of prosperity we have ever known, and at a time when every sound economic theory dictates that we should be balancing the budget and reducing our obligations, instead of drifting deeper into debt, I can see no justification for reducing taxes.

The President's own statements, in his economic report transmitted to Congress in January of this year, attest to the vigor of our economy. On page 4 of that report, in a discussion of our current business expansion as it compares with earlier upswings in the economy, the President points out the following gains:

> The $100 billion rise in output in 2¾ years knows no parallel in our peacetime economic annals.
>
> The advance of $51 billion in labor income is also unparalleled. The average real income of nonfarm workers has risen by $345 a year, again not exceeded in any previous comparable period.

This is real money in the hands of our citizens, and means that their pockets are now better lined than at any previous time.

The report goes on to show that "corporate profits have climbed to an unprecedented height, from a rate of $38.5 billion early in 1961 to about $55 billion by the end of last year." So corporate pockets are also better lined than ever before, and the silver lining is being passed on and enjoyed by millions of our citizens who own shares in American business.

The President also notes that "American exports are in a better and stronger competitive position than in any period since the war, and our export position is better than that of any major industrial country."

I might say here, parenthetically, that should the tax cut prove inflationary, as I am convinced it will, irrevocable harm will be done to our balance-of-payments position, because inflation would inevitably worsen our competitive position in world markets.

Now, I ask: Does the economy I have been describing, using the President's own appraisal, represent an economy which is lagging behind the times—an economy which needs to be "hopped up" by the injection of a multimillion-dollar tax cut? I may be in error, but to me, it does not.

Let us now turn from the President's own Economic Report to an evaluation compiled by the U.S. Department of Commerce. In the January edition of the Department's "Survey of Current Business Statistics," we read these words:

> By most measures the performance of the American economy in 1963 was outstanding. Production and sales rose by sizable amounts to new records. The output increase was accomplished with comparatively little rise in the price level and led to new peaks in employment and a record flow of income—both wages and profit.

In other words, the American public has more money to spend, and is spending it. The Commerce Department report continues with this observation:

> All major markets shared in last year's output advance. No single element of demand was dominant, although durable goods, notably automobiles, and construction, especially residential building, were particularly strong. The course of activity was upward throughout the year, in spite of the dampening effects of a sharp reduction in steel production that followed the Spring wage settlement and lasted almost two quarters.

In other words, more people are buying new cars, more people are buying and moving into new homes than during any

comparable time in our history. Wages are higher, and the economy is so strong that even a weakening of so important an industry as steel production could not seriously affect the upswing.

The Commerce Department also provides some comparative statistics between 1962 and 1963, which give a very clear picture of how the financial condition of our people has changed for the better over the past 2 years.

The national income is up from $454 to $478 billion, an increase of 5.4 percent. Personal income is up from $442 to $463 billion, an increase of 4.7 percent. Corporate profits before taxes are up 10.5 percent. Retail store sales are up almost 5 percent, and steel production has increased 11.2 percent. In the light of such a glowing report, I again ask, Is a cut in our tax revenues warranted? I do not believe we should borrow more money in order to give tax relief.

Earlier, I referred to the fact that it is long past time for us to start balancing the budget and reducing the national debt. We have all heard lately that President Johnson has made such a beginning. I believe he is making a valiant effort in that direction, and I commend him for it. But in considerng the statements and claims that have recently been made concerning the budget and its balance, we should not forget past experience, and we must not overlook these salient facts: When the President refers to a reduction in expenditures in the current budget, he is referring to the administrative budget, and not to overall Federal spending.

The President pointed out that expenditures for fiscal year 1965 were estimated to be reduced by $500 million from the amount estimated for fiscal year 1964. To get the full picture of the Federal spending, it is necessary for us to look at the spending contained in all of the national income accounts.

In the President's 1965 budget, the total expenditures in the national income accounts will amount to $121.5 billion. For 1964, it is estimated that these expenditures will be $119.1 billion. For those who may be interested in finding out how the $121.5 billion will be spent in 1965, and how $119.1 billion will be spent in 1964. I direct them to special analysis A of the President's budget, particularly page 329 thereof. In this connection, I would like to insert into the RECORD at this point, table A-1, entitled "Relation of Federal Receipts and Expenditures in the Administrative Budget, Consolidated Cash Statement, and National Income Accounts, 1963-65."

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE A-1.—*Relation of Federal receipts and expenditures in the administrative budget, consolidated cash statement, and national income accounts, 1963-65*

[In billions of dollars]

	1963 actual	1964 estimate	1965 estimate
RECEIPTS			
Administrative budget receipts	86.4	88.4	93.0
Plus trust fund receipts	27.7	30.2	30.9
Less:			
Intragovernmental transactions	4.3	4.1	4.1
Receipts from exercise of monetary authority	(1)	.1	.1
Equals Federal receipts from the public	109.7	114.4	119.7
Adjustments for agency coverage: Less District of Columbia revenues	.3	.4	.4
Adjustments for netting and consolidation:			
Plus contributions to Federal employees' retirement funds, etc	1.9	1.9	1.9
Less interest, dividends, and other earnings			
Adjustments for timing: Plus excess of corporate tax accruals over collections, personal taxes, social insurance contributions, etc	.6	-.1	-.2
Adjustments for capital transactions: Less realization upon loans and investments, sale of Government property, etc	1.5	1.1	1.0
Equals receipts—national-income accounts	109.3	113.6	118.8
EXPENDITURES			
Administrative budget expenditures	92.6	98.4	97.9
Plus trust fund expenditures (including Government-sponsored enterprise expenditures, net)	26.5	29.3	29.4
Less:			
Intragovernmental transactions	4.3	4.1	4.1
Debt issuance in lieu of checks and other adjustments	1.1	.9	.5
Equals Federal payments to the public	113.8	122.7	122.7
Adjustments for agency coverage: Less District of Columbia expenditures	.3	.4	.4
Adjustments for netting and consolidation:			
Plus contributions to Federal employees' retirement funds, etc	1.9	1.9	1.9
Less interest received and proceeds of Government sales	.6	.6	.9
Adjustments for timing:			
Plus:			
Excess of interest accruals over interest payments	.9	.8	.6
Excess of deliveries over expenditures and other itmes	(1)	-.4	.6
Less Commodity Credit Corporation foreign currency exchanges	.3	.3	.1
Adjustments for capital transactions:			
Less:			
Loans—Federal National Mortgage Association secondary market mortgage purchases, redemption of International Monetary Fund notes, etc	.7	1.1	.2
Trust funds (including Government-sponsored enterprise expenditures, net) and deposit fund items	1.9	3.4	2.6
Purchase of land and existing assets and other items	.1	.1	.1
Equals: Expenditures—national-income accounts	112.6	119.1	121.5

[1] Less than $50,000,000.

Mr. ELLENDER. Mr. President, in point of fact, therefore, instead of a reduction of $500 million in Federal spending in fiscal year 1965, overall Federal spending will actually increase by $2.4 billion.

Consequently, Mr. President, if Congress approves this tax reduction at this time, we will be reducing estimated revenues over the next 2 years by an amount in excess of $11 billion, and at the same time, we will be pumping into our economy through increased Federal spending $2.4 billion more than was expended last year. I submit, Mr. President, that Congress is being sold a bill of goods, as usually happens each year, when the President submits his budget.

Even if we were to look at the administrative budget only, which, as I just pointed out, merely gives a segment of the total Federal receipts and expenditures, the Congress will find that

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in this relatively simple category the estimates are often unreliable. Over the past 17 years, there have been considerable differences in the original budget estimates and the actual amounts of receipts and expenditures.

During the period covered by fiscal years 1946–62 the differences in receipts, both plus and minus, totaled $87.1 billion, while the differences in budget expenditures during this same period totaled $84.2 billion. These differences by fiscal year are as follows:

[In billions]

Fiscal year	Receipts	Expenditures
1946	−$1.4	+$19.7
1947	−10.2	−5.1
1948	−6.5	+1.7
1949	+4.2	−2.4
1950	+3.8	+1.6
1951	−10.9	−2.2
1952	−6.9	+5.1
1953	+5.4	+10.5
1954	+3.4	+10.1
1955	+2.2	+1.0
1956	−8.1	−4.1
1957	−5.6	−4.4
1958	+4.5	−.2
1959	+6.1	−6.7
1960	−1.4	−.2
1961	+5.6	−2.4
1962	+.9	−6.8
Total	87.1	84.2

Will the $97.9 billion estimated expenditures in the administrative budget for 1965 be as accurate as estimates made in the budgets of the last two decades?

Mr. President, I believe it will be just about as accurate, and the chances are that the expenses presented in the 1965 administrative budget will be understated between $3 and $4 billion. It just does not make sense to reduce revenues, increase expenditures, and increase our deficit at the same time. This would be bad enough during a depression period, but during a period of prosperity, it should never happen.

As Senator BYRD of Virginia stated recently on the floor of the Senate, the Secretary of the Treasury has admitted that he does not expect the budget to be balanced before fiscal year 1967, and in that event, as my distinguished colleague pointed out, the National Government will have accumulated six consecutive peacetime deficits for a total amount in new debt of $35 billion. Our budget will not have been balanced since 1960, and I personally do not consider that a real or a true balance.

As I have shown here today, we are in a period of great prosperity. The only other time when the Nation has indulged in deficit spending for as many as 6 consecutive years was in the depths of the 1930 decade of the depression. Mr. President, I believe every Senator should understand that this tax cut will not eliminate deficits for future years, no matter what its proponents claim.

This tax cut, because it is coupled with an increase in expenditure, is highly inflationary. If granted at this time, we can rest assured that the purchasing power of our dollars, already down to 45 cents, expressed in terms of 1939 dollars, will go further down. This tax cut, Mr. President, will diminish and deplete the forces that are available to fight poverty in this country, because it is geared to bring more poverty to the pensioners, who are barely eking out a living on the fixed incomes they receive.

As a final point, Mr. President, I do not believe that we can get the Nation out of debt by borrowing more dollars. I do not believe that we can make the mountainous national debt disappear by cutting the ground out from under it by reducing the national revenue. In short, I do not believe that a tax reduction at this time will redound to the Nation's benefit. I only hope that it will not redound to our sorrow. I shall vote against the pending tax bill.

Mr. MORTON. Mr. President, I yield myself 5 minutes. First, I ask unanimous consent that a statement on the bill by the Senator from Maryland [Mr. BEALL] be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR BEALL

During the consideration of H.R. 8363, I have voted for several amendments which would have given additional relief to the

American taxpayer. These have included amendments to grant a tax credit for college costs; tax deductions for students working their way through college, reinstatement of the 4-percent dividend credit, and repeal of the various excise taxes. The adoption of these amendments, in my opinion, would have provided tax relief where it is most needed and most deserved.

We are now approaching final passage of the tax bill. This measure represents a reduction in revenue to the U.S. Treasury of some $11 billion. The deficit resulting from this loss of revenue will have to be financed with borrowed money. This brings us to the basic question facing the Senate. Will the tax bill stimulate our economy and provide more jobs, or will it set off an inflationary spiral, thus nullifying any possible benefits?

I have given to this question the most serious and deliberate consideration. I believe that this bill, if passed, can have a beneficial effect upon our economy. But, only if we set our minds to making significant reductions in Federal spending. Unless our annual deficits are reduced, this tax bill will do nothing more than trigger inflation.

I shall vote for H.R. 8363, believing that the net result will benefit the economy. In doing so, however, I recognize that I undertake an obligation to oppose all unnecessary expenditures which may be requested. During the current session of Congress, I am sure many proposals will be offered which have much merit. However, these proposals bust be considered in the light of fiscal priorities. We cannot reduce revenue on the one hand and continue to increase expenditures on the other. In voting for this bill, I pledge my continued efforts toward fiscal responsibility and reduction of Federal expenditures. I shall cooperate fully in the achievement of a balanced budget.

Mr. MORTON. Mr. President, I shall read a message from our beloved minority leader, who cannot be here today:

It has been my misfortune during this week of Senate consideration of the tax reduction bill to be confined to a hospital bed because of an indisposition important enough to put me there but not so serious to keep me there more than another day or so.

In misfortune there is frequently compensation and so it has been in my case. I have had time for reflection and contemplation on the wonders of the body politics, on the contradictions in which it exists, and on the vagaries of those who inhabit this most frail of human institutions.

My musings have impelled me to transmit to paper, and, through our esteemed colleague, Senator MORTON, of Kentucky, transmit to you, my fellow Members of the Senate, a few thoughts on the inconsistencies of the human mind when the benefits of a tax reduction are being weighed and apportioned.

Last year, when the late President Kennedy proposed the tax cut, he described it as the core of his program to reduce unemployment. Presumably the creation of jobs through a tax cut was to be achieved by (1) freeing of money for capital investment, and (2) increasing purchasing power for consumers.

This year, President Johnson cast the fight against unemployment in new terms by declaring war on poverty, and only this week sent to Congress a lengthy message on protection of consumers.

We Republicans are very literal, and frequently, literate people. When we read perfectly plain English we are invariably led into taking it at face value. If we read that capital investment should be encouraged, that consumer purchasing power should be stimulated, that consumers should be protected, or, for example, that higher education should be encouraged, who can censure us—except possibly for our innocence—for believing that any proposals we might make to hasten these ends would not receive White House approval, even active support?

So perhaps you can imagine my bedridden amazement, my pajama-ruffled consternation, yes, my pill-laden astonishment this week, to learn that three Republican-sponsored proposals to assist in achieving these laudable goals had been defeated by very narrow margins, victims of that new White House telephonic half-Nelson known as the "Texas twist."

To those of you on the Democratic side of the aisle who are still rubbing your bruised arms, I can only extend my sympathy and hope that you who must face the electorate this fall won't need it. To you on the Republican side of the aisle I happily extend my admiration and gratitude for the unanimous support you gave each of the three proposals. When Republicans stand together, without a single defector, on three crucial Senate votes, then the entire Nation must know we were right.

These three proposals were simple. They were all designed to do something for the little fellow and to limit severely any benefits which, by their adoption, might accrue to those in the higher income layers of our economy.

First, there was the amendment sponsored by Senator PROUTY, of Vermont, as amended by Senator JAVITS, of New York, to provide that students working their way through college could deduct the cost of their tuition, books, and fees from the tax on their earned income. This sizable benefit for those young people, coming from families of extremely limited means, but still determined to obtain a college education, was defeated by a 47 to 47 tie vote despite the unanimous Republican vote for it. I am told that even the boys who run elevators in the Capitol, so they may go to college in Washington in their off-hours, were rooting for its adoption. But the White House said "no."

Second, there was the Dirksen-Morton amendment to retain the present 4-percent dividend credit, but to put a ceiling of $300 on the credit so that its benefits would go mainly to persons having a dividend income of only $3,000 to $7,500 a year. This amendment provided two needed aspects to the tax reduction bill. It would have continued the alleviation for those of modest income from double taxation on dividends as

adopted by the Congress in 1954, thus encouraging the small purchasers to buy job-creating capital investments, while, at the same time, protecting those elderly retired persons who live on dividends coming from the savings of their years of work. What could possibly be wrong with those objectives? But the amendment was defeated by the narrow margin of 47 to 44, despite unanimous Republican support. The White House had said "no."

Third, there was another Dirksen-Morton amendment to remove retail excise taxes on luggage, jewelry, furs, and cosmetics and toilet preparations. These retail taxes were enacted in the war year 1941 to discourage consumer purchases of these commodities, and to impede their manufacture so that materials which go into many of the products could be diverted to the war effort. Congress gave its pledge to terminate these taxes at the end of hostilities. World War II ended 19 years ago. The Korean War ended 10 years ago. But these taxes are still on the books—still discouraging consumer purchases, particularly among low-income groups, still impeding manufacture, thus increasing unemployment. These retail taxes have been a tremendous burden to tens of thousands of small retailers and to millions of consumers, so why not get rid of them?

We all know that on January 23, 1964, the Senate Finance Committee by separate votes ranging from 13 to 2 to 10 to 5 adopted, during a forenoon session, provisions repealing these burdensome taxes. We all know that action was reversed by a 9 to 8 vote in an afternoon session the same day, thanks to that telephonic half-Nelson now discreetly referred to as the "Texas twist."

My poor bruised Democratic friends: You gave your all on the afternoon of January 23; you gave your all again on February 5 when, despite a unanimous Republican vote, the repeal of these regressive retail excise taxes was rejected 48 to 45. Again the White House had said "no."

Now I hope I can be pardoned if, from my temporary bed in a Washington hospital, I see a small cloud on the horizon, a cloud that doesn't quite shut out the sunshine or promise much rain—yet. But it is getting bigger.

Perhaps it could be a cloud that has never been very productive—the "both ways" cloud. You have bigger and better programs, but they cost less. You cut taxes, but Federal revenues go up. You stimulate job-producing investment with one hand, but discourage it with the other. You reduce deficits 1 week, but send the national debt up the next. You stop pounding your thumb with a hammer so hard; you just increase the blows on the index finger.

So much for metaphor. It proves nothing. But it is handy. And from here it is the only defense against the "Texas twist" and the "both ways" cloud.

If there is food for thought here, fine. All I can say is this: If a "both ways" sun shines on me I shall rejoin you in a week or so. If a "both ways" sun shines on my Republican colleagues who face reelection this year, they will return with others who will increase our ranks. Pending this day of voter judgment, my fondest regards to all of you. [Applause.]

Mr. President, I yield 1 minute to the Senator from Kansas.

Mr. CARLSON. Mr. President, I shall vote for the pending tax bill because I believe taxes, both personal and corporate, are too high.

I question very seriously whether the bill as it now stands will make a lasting and strong impact on unemployment. To cut taxes at a time of heavy budgetary deficits and an increasing rate of spending may temporarily produce favorable results in the economy, but it seems to me in the long run it will prove self-defeating.

I fully realize there is a difference of opinion as to whether an effective tax reduction should aim to strengthen consumer purchasing power or whether our tax laws should be so written as to provide additional incentive for investment in industrial plant expansion.

When we look at what has happened since 1956—when the rise in unemployment started and which is still plaguing us—we find that the lag was not in personal consumption—it was not in personal income and it was not in labor income, which has continued to increase. During that period corporate profits actually declined, ás did expenditures for new plant and equipment if converted into constant dollars.

I am fearful that the substantial tax reduction we are giving consumers—which I favor—will not greatly expand our industrial growth.

The second reason why I believe we may not receive beneficial results from this tax reduction is the ever-increasing rise in the consumer price index. Last year the consumer price index rose 1.7 percent. The increase was somewhat greater than in 1961 and 1962, though about equal to the advances registered in the 2 preceding years.

Since 1958 wholesale prices have maintained a level of approximately 100, but the cost of living has increased from 100 to 107½ percent. The cost of living advanced to another new high in December. Wholesale prices in industrial products during that month slanted upward 0.3 percent—the sharpest monthly gain since 1959. Practically every consumer commodity sold on the market today has risen in price.

The National Association of Purchasing Agents reports advances in aluminum, lead, steel scrap, tin, zinc, fuel oil, multiwall bags, corrugated containers, kraft paper and linseed oil, coffee, sugar, clothing, furniture, farm machinery, and many other consumer items.

Some economists have stated that a 2-percent rise in price spread throughout the economy would wipe out all the increased demand that the tax cut is designed to create. We cannot ignore the threat of inflation. If inflation worked out evenly, there would be a proportionate income tax and capital levy on rich and poor alike. It never works out evenly, but falls on those least able to protect themselves.

I do not want to appear as a prophet, but neither do I want to vote for this tax bill without stating that in my opinion, it will not greatly reduce unemployment. It will bring about increased costs to the consumer and thereby greatly reduce the benefits of the proposed cut.

If this tax cut fails to greatly reduce our unemployment, next year we will be confronted with demands for expenditures of billions of dollars for public works, which will result in further fiscal irresponsibility.

As I stated in the beginning, I shall vote for this bill because I believe both personal and corporate taxes are too high, but I have no illusions of the probable affect on our Nation's economy.

Mr. MORTON. Mr. President, I yield 3 minutes to the distinguished Senator from Wyoming.

Mr. SIMPSON. Mr. President, for well over a year, the American people have been told that a tax cut should be made immediately so that our Nation would not experience an economic depression. The depression did not come, but economic growth did. Then the Democrat administration started telling the Nation that we must have an immediate cut in taxes if we were to continue our business expansion. The objective never changed only the reasons and justification for the tax cut.

For many years, I have advocated a tax cut because Federal taxes are too high. When taxes are excessively high, as they are now, they stifle incentive and discourage economic expansion. In my opinion, if we are to meet the challenges of unemployment, deficit spending, gold outflow, and so forth, we must remove the excessive governmental regulations and controls which inhibit the free enterprise system.

However, overriding these considerations which encourage a tax cut is the basic fact which cannot be set aside or ignored—Federal taxes are levied to meet Federal expenditures.

Federal taxes are too high because Federal expenditures are too high. Reduction in both is long overdue.

Although the temptation is great for citizens to ask for a tax cut without regard for the need of a commensurate cut in Federal spending, the people in Wyoming have consistently asked that I oppose any tax cut unless there is a corresponding reduction in Federal spending. This I will do.

The question then must be asked, Will there be a commensurate reduction in spending in fiscal year 1965? The answer is an emphatic, "No."

The President has prepared a budget based upon many contingencies and a lot of happy thinking. The facts are clear. President Johnson is asking for $97.9 billion which is $5.5 billion more than Congress appropriated last year. In addition, the President has asked for new spending authority of $1.2 billion more than President Kennedy had requested for fiscal year 1964.

The President's budget request which is up $5.5 billion from last year's appropriations is based upon contingencies which include enactment of new legislation, favorable market conditions for the sale of Government-held assets, the effect of weather conditions on agriculture, reduction in the postal deficit, and so forth.

Many people blame war, the cold war, and the national defense for the steady rise in Federal expenditures. But the big increases in spending are in the domestic-civilian programs. These domestic programs are characterized by their self-perpetuating nature. Once they are inaugurated, they perpetuate themselves into huge bureaucracies which become a terrible drag on our economy.

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We need a tax reduction but until we can curtail the excessive expenditures we cannot afford the luxury of a tax cut.

The argument is made that a stimulated economy will make up in total revenues for the lower tax rate. This is a fine theoretical argument which can be pursued by the boys in the ivory towers. But when we are dealing with the future of America we had better be more practical than theoretical. The fact of the matter is that the effect of this bill is to charge the tax reduction to the Federal debt, which already exceeds $300 billion. This is fiscal irresponsibility.

The Federal debt has been increasing at the rate of more than $5 billion a year since 1961, and the new budget—with tax reduction—calls for another $5 billion increase in the debt next year. It cannot be said that increasing population compensates for the tremendous increase in total debt over recent years. Per capita debt has been rising at about $250 a year. Per capita debt is now $6,400.

The value of the dollar—on the 1939 index—has dropped to 45 cents. It dropped 23 cents during World War II. It has dropped nearly 7 cents since the Korean war. It has dropped nearly 2 cents since 1960. It dropped more than a half a cent last year.

Continuing inflation is a reality, and there is no doubt that the danger of spiraling inflation lurks in debt and deficit financing conditions which characterize the Nation's economy today.

The risks of massive debt and inflation incident to this tax reduction bill are inescapable. I question that its enactment at this time would contribute to sound and constructive progress.

Mr. President, I would like to be able to vote for this tax cut which is long overdue, but until the Federal Government can show itself to be fiscally responsible, I cannot vote for a measure which we cannot afford and which can have catastrophic effects upon our beloved country.

Mr. MORTON. Mr. President, I yield 3 minutes to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, I shall support the tax bill with no illusions. I shall do so because I think it is important as a minimum measure in connection with what needs to be done if we really want to meet the challenge of endemic unemployment and poverty. The evidence shows that the war on poverty will be a pretty slim war if all we seek to base it on is what the President has asked for in his budget specifications. Far more must be done if we are to make headway on either problem.

One of the most important elements of an effective progrom should be accelerated action in respect to retraining, far beyond what has been scheduled for fiscal year 1965. We are retraining only 15 percent of those who need retraining. It is essential that we enlist the full resources of the private enterprise system in this program, because only private enterprise can do that job and must be brought into it.

Next, there must be incentives for plant modernization and a tax incentive for exports. We must accelerate, extend, and expand Federal assistance to vocational and technical education programs.

A commission on automation must be established to make urgent recommendations in this critical area and to provide for the transition of workers and business to automation.

Legislation is needed to modernize the antitrust laws. Such legislation is pending. U.S. private enterprise must be brought effectively into foreign aid. A top committee to do this is called for by the Foreign Assistance Act of 1963, but has not yet been named.

Another incentive is a fair employment practices law to deal with discrimination in employment, which is contained in the civil rights bill that will soon be coming over from the House; and we must enact permanent Federal standards of unemployment compensation.

If we had all these incentives, there would be a reasonable chance to get on top of our balance-of-payments and other economic difficulties, including endemic unemployment. If we do not, then it seems to me the risk of a tax cut will not have paid off adequately.

Mr. ALLOTT. Mr. President, from the time that a tax cut was first proposed to Congress last year, I have taken the position that while expenditures by the Federal Government exceeded income by such a great margin, we simply could not afford to cut our revenues further by lowering tax rates. I have said that I would want to see some proof of the promises we have heard—promises that if the tax cut were adopted we would not be financing such a cut simply by increasing the public debt.

Last month Congress received from the President assurances that expenditures would be held down, and he transmitted to us a budget which—if we are to take it at face value—contemplates spending $500 million less in fiscal year 1965 than we will spend in fiscal year 1964. He tells us, too, that if the tax cut is granted, our economy will generate enough new growth to make up the difference in tax loss, over the long run. Hence, I intend to vote for the bill now pending. All of us realize that the high rates at which we are taxed have limited growth potential of our economy. We—all Americans—have carried this tremendous tax load for many years now. Accepting the President's promise to keep expenditures down, I feel the time has come to lighten that load. In doing so, I am hopeful that the predictions which we have all read and heard will come true—that releasing the economic growth potential from the drag of exorbitantly high tax rates will in fact lead to further solid growth of our economy, and eventually allow us to recoup the losses.

Perhaps we have seen some evidence that Congress, too, will do its part in keeping expenditures down. During the long session of last year we made substantial reductions in the President's budget requests, and this, I feel, was in some part due to an awareness that a tax cut was impending. I take this as evidence that if we seriously believe this tax cut to be worthwhile, we can keep expenditures down—for all of us must realize that we cannot continue forever on deficit spending.

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And let me serve notice here and now that I shall do everything in my power to see to it that those promises are made good—that spending is kept down. I feel certain that there are others in the Chamber today who feel as I do—that in reliance on the President's assurances to us, we will give the people the tax cut that has been requested, but that new programs, especially, and new requests for money, will be carefully scrutinized.

I do believe that there is great growth potential in our economy which has been stunted by the tremendous tax burden we have been carrying. Therefore, relying on the President's assurances that he will be fiscally responsible in the budgets which he asks us to approve, I shall cast my vote in favor of the pending bill based on the statements of the President, my own determination to hold costs down, and what I feel will be the determination of Congress to do the same.

Mr. DOMINICK. Mr. President, I have decided to vote in favor of the tax bill for two reasons: First, the present tax rates are confiscatory in character, restrict risk capital, deter expanding job opportunities and there is a real need for substantial downward revision.

Second, Congress has made progress in reducing the proposed budget of former President Kennedy and will carefully scrutinize the proposed 1965 budget of President Johnson. If we can continue to cut back spending, real progress will be made. I am, however, skeptical of this administration's so-called economy program particularly when viewed in the light of the vast new Federal program which the President is demanding. Even a quick review will show that if these programs are passed by Congress, the inevitable enormous deficit will sharply jeopardize the remaining 42 cents of value in our dollar.

In my judgment, Mr. President, four serious mistakes have been made in this tax bill. First it gives very little assistance to the middle income group, earning from $4,000 to $15,000 per year. A tax credit to assist these people in paying for the cost of higher education was urgently needed and the administration's opposition which defeated the proposal seems indefensible.

The retail excise taxes imposed as wartime emergencies should have been eliminated in accordance with our promises. Failure to do so is a breach of faith with the consumers who pay them, the retailers who collect them and the States which should be able to use this revenue for local projects.

Third, the tax cuts should have been coupled with a restriction on spending. This would have caused a far greater pressure from the people of the country to control the spending level which is presently absorbing so much of their earnings.

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Finally, the withholding tax rate is insufficient to provide for the average taxes to be collected from the vast majority of the taxpayers. Most taxpayers will find it difficult if not impossible, to pay the additional taxes which will be due in April 1965 over and beyond the amount which will be withheld. We in Colorado suffered through this once before on a State level. As before, this inequity will not show up until after the election this fall in the cynical hope that it will then be too late to change the election results.

I am hopeful that we can continue to pound these points home to improve the present tax structure while cutting down in Federal spending programs.

Mr. STENNIS. Mr. President, every Member of this body would like for every taxpayer to have the benefit of a true and lasting tax reduction. Every Member would like to support a bill for tax reduction.

The facts of the case, however, do not justify the willful cutting off of funds coming into the Treasury which are necessary to pay the bills and expenses of the Government which are incurred from month to month.

In times anything like normal I am convinced that the only honest way to reduce taxes is to first reduce expenditures. Until the reductions in expenditures are sufficient to justify a tax reduction, there should be no tax reduction.

Let us look at the facts.

According to the estimates for revenue for fiscal year 1964—with the proposed tax reduction in effect—we are going to take in $93 billion. During this same period we are going to spend $97.9 billion. This, of course, means that we must go out and borrow $4.9 billion—$4.9 billion which someone at some time will have to pay back, and with interest.

True, we have planned some reductions in expenditures—but at present estimates, these reductions will cause our expenses to be only $500 million less than for the last fiscal year. The Department of Defense, under Mr. McNamara's fine direction, has made some appreciable savings which have already been taken into account. In view of the enormous cost of weapons and the growing cost of each individual maintained by the military departments, I doubt there can be any appreciable further savings in the next few years ahead.

BUDGET DEFICIT FOR FISCAL YEAR 1962, $6.4 BILLION

Mr. President, the expected deficit for the current fiscal year—1964—is $11 billion. For fiscal year 1963, our deficit was $6.3 billion. This means that within only 2 years we have added $17.3 billion to our national debt. Further, this means that we have spent $17.3 billion which we did not have and which we had to go out in the markets and borrow. For the fiscal year 1962, our deficit was $6.4 billion. For fiscal year 1965, the estimated deficit is $4.9 billion. Witnesses before the committee estimate there will be a deficit in fiscal year 1966, and also a deficit for fiscal year 1967. Thus, the total deficit—estimating fiscal year 1966 and fiscal year 1967—for these 6 consecutive years will be more than $35 billion. During all of these years we of course have had the cold war. But we have not had a shooting war, and the gross national product has been progressively larger each year, and is now larger than at any time in the history of our Nation. This means that during this entire period business has been relatively good.

During these 6 years, many of us in the Congress have tried to do something about the ever-increasing Federal expenditures. We have tried to reduce appropriations. During the last calendar year, the Congress reduced the requests for appropriations and requests for authorizations by more than $6 billion. I am glad to have been a part of this effort. This is all creditable, but as yet the reductions effected have not been sufficient to justify a tax reduction.

The estimated income of $93 billion for fiscal year 1965 is the highest in all history. Still, we will nevertheless have a planned deficit of more than $4.9 billion. It is said that it is proper and wise to make the tax reduction and thereby increase the revenue. I seriously doubt that this result can be brought about at all. Certainly, it will not be brought about for any length of time—and we will fall back into even deeper deficits than heretofore.

During all votes on the amendments, I voted to protect the integrity of our fiscal affairs. Some amendments had merits that I would have liked to have supported but being against the bill, I felt compelled to vote against the amendment which would further increase the deficit.

What is actually needed is some belt-tightening. This is the very thing that we as a people are not willing to do. Furthermore, I am satisfied that this unending series of deficits will necessarily cause inflation, the injurious effect of which will far outweigh any relatively small savings in immediate reductions in taxes. In fact inflation and runaway prices are the grave and serious threat of our times.

We should be willing to slow down some and pay the price of sound financing in our national affairs. We must not continue to pass on the bills we are making to future generations to pay. Not only is this unfair and unsound, but as a nation we are thus falling into a habit that will eventually destroy us.

Our first duty is to maintain sound fiscal affairs. Upon this rest our integrity, our strength, and our security.

I shall vote against this bill as a part of maintaining the integrity of fiscal affars and the financial structure of our public debt which is already over $310 billion and still rising.

Mr. HRUSKA. Mr. President, for about a week we have been laboring on legislation in H.R. 8363 ostensibly designed to give the American taxpayer some measure of relief in the form of a tax cut. We have been told by the proponents of the bill that this is necessary to stimulate the Nation's economy and to provide additional opportunity for economic growth. The reasons stated have been many, but I have not been able to accept the reasoning offered by the proponents.

After thoughtful consideration of the problem under debate and the action taken by this body, I can only conclude that this is unwise legislation which will not achieve the objectives of providing incentive for future investment by individual taxpayers and industry to stimulate economic growth. Further, this bill is inflationary and will have an undesired effect on our economy. And most importantly, it will not solve nor appreciably relieve the unemployment problem.

Under these circumstances, I have no alternative but to vote against this bill. It is heartening in this regard to be able to report that heavy correspondence received from my constituents by vast majority bears me out in my decision to follow this course of action.

WORDS NOT DEEDS

Many of us were pleased to note the President's statement that substantial reduction of Government spending could be achieved under his administration. But the words have yet to be matched with deeds.

We are being told, Mr. President, that we must relearn our economic theories. We are being told that our Government can continue to spend more than it receives. We are being told that taxes can

be reduced and that through this action great benefits will accrue to our taxpayers and the Nation, that business investment will be stimulated causing an expansion in plant facilities and a consequent increase in job opportunities and of tax revenues.

This Senator does not care for the distinction between active and passive deficits. Such a distinction does not fool the people because they know that a deficit must be paid eventually and that, if it is not paid, our debt limit will have to be raised again. Also, as a consequence, the interest charges on the deficit will be increased. Inflation will continue to grow.

Many members of the public and many legislators believe that a tax cut might be appropriate if spending were cut back or even held down, but every indication today points precisely in the other direction. The simple fact is that we have not earned a tax reduction.

BILL LACKS REFORMS

The present bill does not provide reforms for our tax structure. This body at the insistence of the administration has defeated many incentive provisions sought by various amendments. Some of these provisions, such as the dividend credit and the excise tax cuts, would have directly and greatly benefited the consumer and the economy.

The present bill was originally conceived as a measure which would take effect in three stages over a period of several years. This was President Kennedy's plan. It has been abandoned. Now we find that the entire cut is to take effect immediately. There are grave and justifiable fears that we will regret our actions later on, for the impact of the bill will be felt too soon and in much greater measure than was earlier anticipated. The effect will be inflationary, bringing with it many other serious

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problems at a very early date after the first year.

If this bill is enacted, a large group of taxpayers will be eliminated from any tax whatsoever. Approximately, one and a half million taxpayers will go off the tax roll. I believe that almost all our citizens should bear some tax responsibility to the Federal Government even though it is a small amount of money.

Many have said in the debate that enactment of this legislation would be a step forward in that it would constitute a simplification of the tax laws. I regret this is not the case. To anyone who has studied the bill it is clearly apparent that the legislation is extremely complicated.

STEALING FROM OUR GRANDCHILDREN

Many citizens of Nebraska have been concerned about the size of our Federal debt, now in excess of $300 billion. This is a tremendous amount of money. Over the years no substantial effort has been made to decrease this debt. Recently, Mr. Maurice H. Stans stated that:

> The total of all present debts, commitments and accrued liabilities of the Federal Government—such as would appear on the financial statement of a business—is now in excess of $1 trillion. This is about $21,000 for every family of four in the country. Is it right to add to this each year for the sake of testing will-o'-the-wisp experiments that include semantic absurdities like calling a present deficit a down payment of future surpluses? Or is former President Eisenhower right in saying that "we are stealing from our grandchildren in order to satisfy our desires of today," and that it is "downright robbery for my Government to decide on policies that are merely certain to shorten progressively the monetary yearstick so that when I received my annuity or savings I would get 'dollarettes'—worth only half or a fourth as much as today's dollars?"

I agree with Mr. Stans and former President Eisenhower that we are leaving a legacy of heavy indebtedness to our children and grandchildren which is most undesirable.

We have continued throughout recent years to pile up deficit after deficit. We have actually planned these deficits. The time to meet this problem is now. We must achieve some measure of financial stability and integrity.

Tax relief is something which everyone hopes for, but taxes will remain high until we achieve greater progress in managing the fiscal affairs of our Government. We must reduce our high expenditures and we must strive toward a balanced budget. Under such conditions a meaningful tax cut could take place. A tax cut should be earned, but this one certainly has not been.

BROKEN PROMISES ON 1964 BUDGET

The American public has high on its list of requirements for our national fiscal policy the principle that Government expenditures be held down. Also high on the list is the requirement that a tax cut must be earned by actually practicing fiscal responsibility, not merely by words.

The administration recognizes this state of the public mind. Proof of this is found in the late President Kennedy's constant assurance to the public that expenditures in the present fiscal year, ending June 30, 1964, would not exceed the level of fiscal 1963 expenditures except in the fields of defense, space, and interest on the public debt. He stressed this point in his message on the budget. He

made repeated promises that it would be achieved.

The Johnson administration now comes forward with a spending budget of $97.9 billion with the claim that this figure is $500 million lower than the spending figure for the current fiscal year. It is upon this fact that great reliance is placed by President Johnson in insisting that a tax cut is is order. In effect, he is saying, "We are doing our share by holding the Federal expenditures down. Hence, we ask the public to accept our tax cut bill."

But the plain fact, Mr. President, is that the fiscal 1965 budget is higher, not lower than the current year. It calls for higher, not lower appropriations which the budget calls "new obligational authority."

Contrary to the President's claim that this 1965 budget is below the magic mark of $100 billion, the plain, in inescapable fact is that it is above that figure. The proposed fiscal 1965 budget calls for more expenditures than this fiscal year, not less.

These statements, Mr. President, are serious and they are far reaching. They are based not only on analysis of the present budget document but are supported by the keen, perceptive appraisals made by several outstanding authorities including the Honorable CLARENCE CANNON of Missouri, chairman of the House Appropriations Committee, and the conclusions which Mr. CANNON drew after he had carefully studied the fiscal 1965 budget document.

Speaking in the House of Representatives on January 21, Mr. CANNON documented his conclusions most thoroughly. With his experience of over 40 years in the House and his standing as perhaps the Congress' leading authority on appropriations, we can accord his words complete faith and credit.

CHAIRMAN CANNON'S WARNING

Mr. President, I recommend strongly to all of my colleagues the careful reading of Mr. CANNON's speech which appears, starting at page 681, in the CONGRESSIONAL RECORD for January 21, 1964. Here are a few excerpts:

> Contrary to impressions, this budget (fiscal 1965) is higher, not lower, than the current year. It calls for higher, not lower appropriations—the budget calls it "new obligational authority."
>
> Contrary to impressions, this budget is above, not below, the magic mark of $100 billion. This is the third straight year the asking price in obligational authority in the President's budget crosses the $100-billion mark.
>
> This budget, while commendable in many respects, does not point to any lasting reversal of the upward trend of Federal spending.
>
> This budget, if adopted as presented, sows the seeds of increased spending in the future by asking for higher appropriations.
>
> It is actively misleading to regard this budget as being below the $100 billion mark. To the contrary, this is the third successive one above that peacetime record amount. New obligating authority actually enacted for fiscal 1963 was above that—$102,283 million, according to today's budget. The President, in today's recommendations, proposes that we go over that mark for fiscal 1964—to $102,554 million. He also proposes, as noted, that we go on up to $103,789 million for fiscal 1965.

It should be borne in mind, Mr. President, those words were spoken by a man now in his 85th year and continuously a Member of Congress since 1923, who has devoted his entire adult life to facts and figures in this Federal fiscal and financial field. No one challenges the degree of truth and factual knowledge of Chairman CANNON. And these conclusions on his part certainly fly flatly and forcefully into the face of the statement by other high governmental officials that the fiscal 1965 budget is $500 million lower than the present fiscal year of 1964. It simply is not.

TAX CUT NOT JUSTIFIED

Mr. President, the point is not only that it is actively misleading to regard this budget as being below the $100 billion mark. The vital point is that the attempted justification for the tax cut—namely, that spending is holding the line in the Federal 1965 budget—is totally lacking in truth and in fact. It just does not exist.

There can be no question that the 1965 budget will meet the same fate as the 1964 budget, by a heavy overspending over its estimates.

Let us recall again that the original declaration and many subsequent promises of the late President Kennedy were that spending other than defense, space, and interest would be held below fiscal 1963 levels. This was apparently true for the first 5 months of fiscal 1964; from July 1 to December 1. But it is clear that the policy of holding below 1963 levels no longer obtains. The present estimate for spending in fiscal 1964 for all purposes other than defense, space, and interest is more than $650 million higher than fiscal 1963. Bear in mind in this connection that the total of supplemental appropriation bills on which the Congress will be asked to act for fiscal 1964 comes to a little over $4.25 billion.

Bear in mind also that the growth potential for the fiscal 1965 budget is even greater than the present fiscal 1964 budget.

THIRTEEN NEW SPENDING PROGRAMS

The 1965 budget proposes at least 13 new spending programs of fiscal significance which are identifiable by proposed new appropriations in the administrative budget, and for which basic legislation must be enacted if they are to be put into operation. The total new obligational authority commitment proposed in the budget for these 13 programs is over $3.3 billion. Only about $450 million of this vast sum is to be assigned through supplemental appropriations to fiscal 1964. About $2.9 billion would be assigned to fiscal 1965. It is estimated that the total expenditures for the initiation of these 13 programs for fiscal 1965 will come to at least $1.6 billion.

It is no wonder that in his speech of January 21, Congressman CANNON stated:

And from a brief look at the list of new propositions of legislation for new activities in today's budget (fiscal 1965), is there any

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doubt but that succeeding budgets will ask for still higher amounts?

New programs not uncommonly began modestly and then invariably accelerated.

Mr. President, this administration is committed to even greater spending this next fiscal year than ever before in our peacetime history. That spending will necessarily and inescapably occur at a much higher level than in last year's budget or the present year's budget. At the same time it proposes to reduce the taxes and the revenues of the Federal Treasury.

This is an unsound and unwise policy. It will be highly detrimental to all of the 191 million citizens of the Republic.

This Senator is opposed to such an irresponsible policy and unwise course. I shall vote against the bill.

Mr. BREWSTER. Mr. President, we are now concluding a long but fruitful debate on a measure of great importance to our national economic growth, and to each taxpayer of this great Nation.

I should like to join with my colleagues in a tribute to the distinguished floor leader of this bill, the junior Senator from Louisiana [Mr. LONG]. His skillful management of the most complex legislative proposal to be considered by this Congress deserves the highest praise.

Mr. President, on April 23 and again on June 6, I spoke here on the floor in support of the proposed program of tax reduction. I am as convinced now as I was then of the stimulating effect these reductions will have on consumer demand, capital investment, and economic growth. This encouragement to expansion promises to be the most effective attack we could make on the problem of chronic unemployment.

For the past 5 years, between 5 and 7 percent of our labor force has been unemployed, too large a portion of our existing plant capacity has been idle, and our Federal budget has been in deficit.

The cost of this underutilization of our manpower and productive capacity is staggering. Our gross national product is $30 billion below what it could be.

At long last, with the passage of this bill, the private sector of our economy will be freed of the stifling effects of tax rates that have consistently braked expansion, reduced potential, handicapped enterprise.

To catch up, we have now committed ourselves to strengthening the private sector of our economy. We did not take the costly pump-priming route by increasing Government expenditures, artifically generating economic activity. Instead, we reaffirmed our faith in the private enterprise system by giving it the opportunity to respond to our needs.

This tax program, as a result of the economic stimulus stemming from the reduction of individual and corporate income taxes by a net total of $11.6 billion, will raise the level of our economic activity. It will help to provide more jobs, more wages and salaries, more profits and, finally, more tax revenues to bring our Federal budget into ultimate balance.

In my own State of Maryland, total individual income is expected to rise by $580 million in 1964 as a result of these tax reductions.

The reductions in individual rates—amounting to $9.3 billion—will immediately create increased consumer purchasing power. This increased purchasing power will trigger expanded production. Idle plants will come back into operation. Idle manpower will be recalled.

With the increased production will come increased profits. Increased profits and the lower tax rates on corporations and unincorporated business—amounting to $2.4 billion annually—will provide additional funds and increased incentives for expansion and modernization.

Modern equipment and techniques are essential for a company, an industry, a nation, if it hopes to compete successfully in domestic and world markets. This tax bill, the investment credit provisions of the 1962 bill, and the revised depreciation schedules, will stimulate our lagging capital goods industry.

Finally, higher employment rates, expanded production, and increased profits

resulting from tax reduction will generate tax revenues which will make possible an attack on continued budgetary deficits.

I am proud to have given this balanced tax program my unqualified support. Where I have disagreed with the provisions of this bill as reported by the committee, I have done so on the basis of firm conviction that the amendments introduced were meritorious.

Two such amendments were those designed to allow a tax credit for expenses of higher education. In a floor speech earlier this week, I set forth in detail my reasons for giving these amendments my unqualified support. I emphasized my concern with the failure of this bill to stimulate investment in our Nation's No. 1 resource, the minds of our young people.

I regret the failure of these amendments, and hope that the Senate will give this proposal renewed attention at an early date. It seems obvious to me that we must promote investment in education, for only through education can we truly make progress in all fields in the years to come.

In addition, I supported an amendment to assist manufacturers in the battle against air and water pollution. The principle of Federal assistance in the control of air and water pollution has always had my support. Foul air is not contained by city or State boundaries; contaminated water flows over State lines on its way to the sea. Senator RIBICOFF proposed a means to assist manufacturers in controlling their output of corrupting materials by allowing them an extra 7 percent investment credit for purchases of pollution control equipment. I was pleased to support this incentive to industry to invest in the air and water pollution control facilities which are so desperately needed. That this amendment was accepted by the Committee and became a part of the bill was a source of satisfaction to those of us who supported it.

Nothing would have pleased me more than to vote for every amendment which would grant greater tax relief to all Americans. I am sure that all my colleagues join me in the fervent wish that every measure to further reduce the tax burden on individuals and corporations could have been supported by each of us.

But we are aware—as are most Americans—of the dreadful burdens which are upon us, and which must be supported by our tax dollars—the demands of our national defense, the necessities of a strong economy, the ever-present danger of inflation.

In the broad area of what might have been—let me select a few issues which were intensely debated.

We might have retained the 4 percent dividend credit provision in our present tax law. Instead, we voted its repeal. I do not feel that we have discriminated against taxpayers with dividend income. There is no doubt that the present 4 percent dividend credit favors those in the high-income brackets. Repealing the credit will mean an increase of $300 million annually in Federal revenues. Considering the other provisions in the measure benefiting shareholders—increasing the exclusion from $50 to $100 and from $100 to $200 for married couples, the 4-point corporate rate reduction, and the lowered tax rates the bill provides—this legislation should not mean a greater tax burden on the investor.

We might have repealed some $400 million in retail excise taxes. I opposed this attempt, even though I have often stated by basic belief that wartime excise taxes are no longer valid and should be repealed. From the very outset, the measure before us has been confined to a revision and reduction in income tax rates. At no time have we gone into the separate matter of excise taxes.

The entire excise tax structure is a complex one. Until such time as both Houses of the Congress have an opportunity to review carefully the whole structure, we should refrain from costly piecemeal adjustments. This was plainly neither the time nor the place to embark on a hastily considered revision.

I am pleased to note that Chairman MILLS, of the House Ways and Means Committee, has already announced his intention to hold public hearings on the excise tax structure later this year. I, for one, welcome the hearings and the analyses which will be made—and look forward to the time when I can vote "aye" on a repeal of these taxes.

We might also have adhered to the House bill in the treatment of capital gains. Instead, we voted overwhelmingly to accept our Finance Committee's version of this portion of the bill—to retain the present treatment of capital gains. We recognized that the rate reductions which are the backbone of this bill will be applicable in the case of capital gains, and that a substantial reduction in tax is provided with respect to these gains.

In one major area the Senate and the committee agreed on a much needed change—in that section of the bill dealing with the taxation of sick pay benefits.

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Through Senator McCARTHY's amendment, a compromise between the present law and the harsh provisions of the new bill was reached. It is an equitable solution—and one which had my wholehearted support.

One of the last amendments to be considered was that requiring that the entire program of tax reduction for our citizens be terminated if, in the future, the Federal budget exceeded $100 billion.

The present estimated budget for next year is $97.9 billion. Unpredictable emergencies, foreign or domestic, could lead to increases in essential spending, particularly for defense.

To tie an entire program for economic growth and unemployment reduction to these unpredictable exigencies would have been a very serious mistake. We would, in effect, place Khrushchev, Castro, and Mao in control of our domestic policies. By creating an emergency to which we must respond, they could torpedo our whole effort to strengthen our national economy.

This is an initiative we must not grant our enemies, no matter how deeply we are concerned with controlling Government expenditures.

I have continued to advocate reduction of nonessential Government spending. In this important matter, I congratulate President Johnson on the reduced budget he has submitted and the efforts he is continuing to make to further reduce the cost of Government.

We have finally broken the logjam of inaction on income taxes, Mr. President. We have written a balanced bill that will lift the repressive weight of income taxes on our national economy. In doing so, we have made clear our determination to move our Nation forward to greater economic strength, vitality, growth, and effectiveness.

Mr. FONG. Mr. President, I intend to vote for the pending tax reduction and reform bill (H.R. 8363).

I have long believed that Federal tax laws have been an obstacle to greater economic growth of our Nation. Income tax rates both on individuals and businesses have been too high too long. Other tax features have acted as a drag on economic expansion and job formation.

It seems to me as a general proposition that we need a two-pronged approach. Income taxes on individuals should be reduced so as to stimulate consumer buying.

At the same time, taxes on business should be lowered so that business can expand and new businesses will be formed. Other growth inhibiting features of our tax laws should be modified also to spur the economy.

In these ways, more jobs will be created for our growing work force.

In deciding how much to reduce tax rates and what other tax changes to make, we must consider the total financial picture of the Federal Government. And that picture has been one of steadily rising expenditures resulting in multibillion-dollar deficits. The deficit forecast by the President for the current fiscal year that ends June 30, 1964, is $10 billion. Another big deficit, $4.9 billion, is predicted for fiscal year 1965.

To finance tax reductions when the Federal Government is so deeply in the red means Uncle Sam will have to borrow money to pay its bills. If America is to maintain the value of its dollar and avoid the inflationary aspects of deficit financing, the upward Federal spending trend must be reversed.

Both Congress and the administration will have to exert strong efforts to stem the tide of unnecessary Federal spending to justify giving tax cuts of a size sufficient to stimulate the economy.

The combination of lower Federal spending and an economy stimulated by tax cuts would then work toward closing the dollar gap between Government income and Government outgo.

Thus, in supporting the pending bill, I do so in the full knowledge that a sizable calculated risk is involved—whether the economy will indeed be stimulated sufficiently to yield total tax revenues of $93 billion, large enough to produce a budget deficit no higher than $4.9 billion as predicted by the President and large enough eventually to get Government finances into the black once more.

This is based also on an assumption that Federal spending will be no more than the President's budgeted total of $97.9 billion in 1965. This, too, is a calculated risk and poses a challenge to the administration to hold the line.

After carefully considering the advantages and the risks, I have decided the risks are supportable.

I had hoped, however, that before the final vote on this bill is taken that the Senate would have amended it in several important respects.

First, instead of repealing the 4-percent tax credit on dividend income, as the Finance Committee recommended, I had hoped the Senate would vote to keep the tax credit but establish a reasonable maximum total tax credit that could be taken. Instead, by a close vote of 47 to 44, the Senate sustained the committee.

The dividend provision approved provides for raising the amount of dividend

income allowed to be excluded to $100—$200 if husband and wife each receive dividends—and for repealing the 4-percent tax credit on dividend income now allowed in two steps: reducing it to 2 percent as of January 1, 1964, and repealing it entirely as of January 1, 1965.

The Treasury Department states these new provisions would increase tax revenues by $300 million annually.

The Treasury Department further states that of the 6.2 million taxpayers who receive dividend income, 2.5 million would find their taxes increased under the House dividend provisions; 1.7 million taxpayers would not be affected as their dividend income is already excluded under the $50 exclusion; and only 2 million taxpayers would have their taxes reduced.

In other words, more taxpayers with dividend income would be hurt than helped by the new dividend provisions. Forty percent would be hurt, 27 percent would be unaffected, only 32 percent would be helped.

This fact, plus the fact that investors will have to pay $300 million more in taxes, is directly contrary to the claimed purpose of the bill to stimulate investments in business and industry so as to create jobs.

I am concerned that these provisions may work particular hardship on elderly persons who rely on dividend income to provide for their daily needs.

I am also concerned that raising the exclusion to $100 and repealing the 4-percent tax credit may impose a hardship on modest-income taxpayers receiving dividends. I call the attention of my colleagues to page 913 of the printed hearings of the Senate Finance Committee where it was testified that:

> The majority of the investors on the 2.5 million returns facing higher taxes are not high-income shareowners. Nearly 60 percent of them have adjusted gross income of less than $10,000. Indeed, a typical stockholder (with an average household income of $8,600) would pay 12 percent more tax on his dividends under the $100 exclusion proposal than with a 4-percent credit and $50 exclusion.

Still another provision which I believe belongs in this bill is the amendment, No. 229, offered by the junior Senator from Louisiana [Mr. LONG] adjusting the entertainment expense deduction provision of the 1962 law.

There is no question that the 1962 act has badly hurt many employees and industries dependent upon the spending of money by businessmen for business-related travel and entertainment expenses. The amendment is directed toward creating stability in these industries while at the same time providing needed protection against abuses.

I certainly do not believe the American taxpayers should pick up the tab for parties, lodges, yachts, and other entertainment for the personal benefit of businessmen.

On the other hand, some travel and entertainment expenses directly related to business should be allowable as business costs. As representative of a State where tourism is our largest income-producing industry next to agriculture, I am keenly conscious of the importance of business conventions and travel to large numbers of employees, hotels, transportation, restaurant, and associated industries.

The Finance Committee twice rejected amendments to ease the entertainment expense provision of the 1962 act. But I am encouraged that the committee recognizes the problem and plans to hold hearings later this year on this subject.

In all fairness to the committee, I should mention that the committee repealed the travel deduction provision of the 1962 act under which only the business costs of a combined business-pleasure trip could be deducted for Federal tax purposes. I hope this provision of the junior Senator from Florida [Mr. SMATHERS] will prevail in conference with the House. I believe it will be very helpful to the tourist industry and related in-

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dustries in Hawaii and in many other areas of the United States.

I was very disappointed that the Finance Committee did not have the time to perfect and include in this bill my amendment to permit real property tax deductions for land lessees. The amendment which I introduced—No. 338—is identical to S. 344, a bill introduced earlier this year by me with the cosponsorship of my colleague from Hawaii, Senator INOUYE.

The amendment would permit an individual who leases land and uses that land as the site for his residence to deduct real property taxes paid by him which are assessed against such land if the real property taxes must be paid by the lessee under the terms of the lease agreement. The lease must also be for a period of 20 years or more.

Under present provisions of the Internal Revenue Code, real property taxes are allowed as deductions to the taxpayer only if the tax is owed and paid by him.

Land in Hawaii is scarce. There are large tracts of land in Hawaii which have been subdivided and leased out as residential districts for periods in excess of 20 years. In many of the lease contracts, the lessees are required to pay all real property taxes. In such instances,

because the lessor owes the tax but the lessee is required to pay it, neither party is permitted to claim the payment as a deduction on his Federal income tax return.

My amendment would correct this inequity and allow the lessee who is legally oligated to pay the real property taxes assessed against his leased land and does pay it to claim such payments as tax deductions.

This would also apply to sublessees if their leases meet the requirements applicable to prime lessees—that is, if the land is used as his residence, the lease agreement covers a period of 20 or more years, and the sublessee is required to pay the real property taxes on such property.

I am pleased with the assurances of the chairman, the able and distinguished senior Senator from Virginia [Mr. Byrd], and of other distinguished members of the committee on both the majority and minority side, that the committee will look further into this question this year. I appreciate their expressions of sympathetic willingness to give earnest consideration to this important problem affecting many people in Hawaii.

I also regret that the Finance Committee and the Senate did not approve either the tax credit amendment of the junior Senator from Connecticut [Mr. Ribicoff] or the tax deduction amendment of the junior Senator from Vermont [Mr. Prouty] relative to college expenses. I suported both and voted for both, as I believe it is in the public interest, through our tax laws as well as through other measures, to encourage and enable more young people to receive advanced education beyond high school.

The most striking paradox of our time is that there are jobs available all over America; yet there are more than 4 million persons without jobs. One of the major reasons is that many of these persons simply do not possess the skills required by these vacant jobs. In the future, more and more jobs will require higher skills than today. Our young people must receive training to qualify for these jobs—through better vocational education and through higher education in colleges and universities.

I would hope that before the present 88th Congress adjourns the Senate will have another opportunity to consider measures for providing tax incentive for college training.

In a 300-page bill containing many complex and technical provisions, it would be impossible to satisfy every one in every respect.

Overall, I favor the bill and congratulate the members of the committee for their diligence and hard work in drafting an acceptable bill and bringing it before the Senate so early in this session.

In providing $11.6 billion of tax reductions scheduled over the next 2 years, the bill contains the two-pronged approach I deem necessary.

Of the total reduction, $9.2 billion applies to individuals; $2.4 billion to corporations. Tax rates for individuals will drop from their present range of 20 to 91 percent to a range of 14 to 70 percent. In the case of corporations, the 30-percent rate for $25,000 or under income goes down to 22 percent. The top rates applicable to business income drop from 52 percent to 48 percent. The present withholding rate of 18 percent is to fall to 14 percent 8 days after enactment of the bill.

Thus, it provides both increased consumer and business purchasing power to give a boost to individual and business incentives to spend, grow, and expand.

In addition, the bill is a major step toward greater equity and fairness in our tax system. Should inequities show up in the provisions of the bill, Congress can always take remedial action later.

I strongly support prompt enactment of the pending tax bill.

ON BALANCE, TAX BILL TO BENEFIT AMERICA

Mr. BARTLETT. Mr. President, I shall vote today for final passage of the tax bill. I do so with mixed feelings. It is not as good a bill as I would have wished; it is a better bill than I had expected. The benefits which it will bring to Alaskans and to all Americans are many. These benefits will be measured in more dollars in almost every purse in America. It is my hope, if not my confident hope, that this tax bill will also benefit the general economy over the long-term view.

Over a year ago when President Kennedy first requested the tax cut, the economic reasons for such a cut were substantial and compelling. The economy was making a slow and sluggish recovery from recession and an immediate injection of $11 billion of new spending and investment power would have given a mighty help to the recovery. The Congress did not choose to act last year upon the President's request and the recovery proceeded under its own power to the point where, in the fourth quarter of 1963, the gross national product exceeded for the first time $600 billion. The tax cut which we vote today will not pull our economy out of a recession although it will help to sustain a boom. For how long this high level of economic activity will be continued, how much it will be assisted by the tax cut, I do not know. I must say I am concerned, however, with what the reaction of the econ-

omy may be when the exhilarating effect of expanded consumption as a result of the tax cut has run its course.

President Kennedy and President Johnson have both emphasized their expectation that the tax cut will mean new jobs for Americans now out of work. I hope that it will. Our present national unemployment rate stands at 5½ percent; the unemployment rate in Alaska is higher still. In a country as rich as ours, as prosperous, it is unspeakable that over 4 million Americans are unable to find work. Even more distressing is the fact that this unemployment is concentrated among the underprivileged minority groups across the land.

I vote for this tax bill, Mr. President, because it will mean more jobs. I do not believe, Mr. President, that it will solve our unemployment problem. This will take education, job training, and job placement. The President has promised to work for such programs in his war on poverty, and I trust the Congress will give him its support.

As originally proposed, this bill was to embody not only tax cuts but tax reforms. Such reforms cry out for adoption. The inequities, the complexities, the confusions in our tax code are beyond comprehension. There is crying need for a complete overhaul of our tax laws and structure. Such an overhaul is certainly not in this bill. There are some reforms in the bill and they are useful. Among these I number the reduction in the tax benefits of Americans living abroad, the tightening up of the tax requirements on personal holding companies and group-term life insurance programs, and the revision of the sick-pay and casualty-loss provisions. There are, on the other hand, provisions which will serve to increase the inequity of our tax laws. Among these I include those dealing with revolving credit plans, those preventing regulatory agencies from passing on to the consumer the benefits of the investment credit, and the loosening of the expense-account rules approved by the Congress last year.

Mr. President, I do not vote for this bill because of its economic effect which is not certain, because of its effect on unemployment which is doubtful, because of its reforms which are negligible: I vote for this bill, Mr. President, because of the tax cuts which it will bring to every American.

Our present tax rates are as high as those of any industrialized country on earth. I cannot but feel that our level of taxation has had a continuing and persistent dampening effect on our economic growth, in recession and expansion, for many, many years. The people deserve a tax break and this bill will give it to them.

There has been debate as to the fairness of the distribution of the cuts. I

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believe they are reasonably equitable. The man with an income of $3,000 or less will have a tax cut of about 40 percent, the man with an income of between $5,000 and $10,000 will have a cut of about 20 percent, the man making more than $10,000 will have a cut of about 15 percent. The value of individual tax cuts will be about $9.47 billion. The remaining cuts will be made in corporate taxes and will serve to stimulate new investment growth in industry.

The families of America will be the beneficiaries of this tax cut. The poorer families will benefit to a larger degree than will the richer families.

The floor debate on this measure has been extraordinarily informative and valuable; particularly so was the discussion of the Ribicoff amendment to provide tax credits for higher education. The fervor with which this proposal was discussed, the closeness of the vote illustrates most clearly the strong desire of the Senate to see that real and substantial assistance is provided for students and their parents. The Senate knows the future of our country depends upon the quality and quantity of our higher education. Now as never before a college education is vital. We will be left on the launching pad in the space age if we do not now improve our college and technical facilities and make possible the education of every able and qualified student who desires college training.

The chairman of the Education Subcommittee has promised the Senate immediate hearings on this matter. I congratulate him and I congratulate the Senate.

In closing, let me add one additional word. The floor manager of this bill, the senior Senator from Louisiana, has performed a service to us all in the skillful and intelligent manner with which he has managed this bill. We are all in his debt.

The tax bill for which I will today vote is not a bad bill. It is not as good a bill as I would have wished. It is, however, as good a bill as it is now possible to have.

Mr. TOWER. Mr. President, I will not vote for this tax bill, although I have myself introduced legislation, in the present session of Congress as well as the last, to reform and reduce personal and corporate income taxes. I have long

felt that tax relief is needed and that the reduction in tax liabilities would be a necessary stimulus to our economic growth. I think that nearly everybody would agree that we do need a tax cut.

The tax legislation before us today, then, is legislation which most of us can support in principle as a stimulus to business, investment, and general economic growth. Not accompanied by a corresponding reduction in Federal spending, however, I am fearful the legislation may lead to economic chaos. Federal Government will have to borrow money in order to give this tax reduction.

The President's economic message for this year gives much cause for alarm, the budget figure itself relying far too heavily upon contingencies which may or may not arise. True, the message does talk of an eventual balanced budget, but seems to ignore the probable cost of numerous additional Federal programs being proposed.

Regardless of what has been said about the present administration's economy budget, it is not an economy budget. Total expenditures will be greater than those proposed by the previous administration, as many programs will receive approval in supplemental appropriations that will actually show up in the current year's budget.

The Secretary of the Treasury has predicted, in addition to the deficits of 1963 and 1964, further deficits in 1965 and 1966. Last year the deficit was $6.3 billion; it will probably be some $10 billion this year. The most conservative deficit estimate for the next year is $4.9 billion, giving us a combined 3-year deficit of $20 billion plus. This figure will most likely be several billion dollars higher. We must remember there is ever present the inherent danger of spiraling inflation in deficit government financing.

Federal expenditures are estimated for this year to be $98.4 billion. This is $22 billion higher than 4 years ago, for an average increase of about $5 billion a year.

The biggest increases are in the domestic field, and not attributable to the cold war and necessary national defense. Of the $30 billion increase in Federal spending since the Korean war, nearly $23 billion has gone to finance domestic programs.

Mr. President, I am of the opinion this bill should not be passed unless we are prepared to reduce Federal expenditures by a comparable amount. It is my belief that the Federal budget should be balanced in periods of peace and general prosperity, such as we are now having.

I am grateful that so many of my constituents, and so many other throughout the country have expressed concern, even outrage, that we should consider reducing taxes and going further and further into deficit spending. I do not feel we can continue to pile deficit upon deficit without a day of reckoning.

Mr. President, I cannot conscientiously support this reduction of taxation without a commensurate reduction in Federal expenditures.

Mr. KEATING. Mr. President, last week one of the most distinguished Members of the Senate, who shall remain nameless, summed up all of the reasons why she should not become a candidate for her party's nomination to the Presidency and then on balance announced her determination to seek it, notwithstanding all of the obstacles she had enumerated.

I take a somewhat analagous approach to the tax bill. It is, of course, not a perfect bill. It is far from that. There are many reasons why, at other times, or under other circumstances, it would not pass congressional muster. Despite its shortcomings, however, the times and circumstances now prevailing require action on it. It will receive my vote.

The need for tax revision is compelling. The present tax structure grew Topsy-like out of the emergency of the depression in the 1930's and out of World War II and the Korean conflict. But certainly after the cessation of hostilities in Korea, changes have occurred in the American economy. These changes, unfortunately, have not generated a complete adaptation of the Federal tax system. The Internal Revenue Code of 1954, which I supported, made a wholesome start. But it was only a start. The bill now before us will take us further along the road to fiscal sanity. But it is only a little further along, and the end of the road is still before us.

I consider the heart of this bill to lie in the schedule of reductions in both individual and corporate rates. There is no question in my mind that the present, steeply progressive and very high rates of taxation have contributed significantly to retarding the natural forces for growth in the American economy. They have acted to dampen individual initiative, to curb industrial expansion, to dam up consumer purchases, and as the most damaging consequence, have failed to produce the full employment conditions to which both parties are committed by the bipartisan Full Employment Act of 1946. Also, within the last 5 years, it has been recognized that the tax structure is inflicting great injury upon America's

position in world markets and has contributed somewhat, although there are a host of other factors, to the deterioration in the balance of our international payments.

Therefore, I have long regarded reduction in both individual and corporate rates as the single most important reform which could be made in the entire Federal tax structure. The cuts made in this bill will provide a measure of fair reform. Quite obviously, they are the produce of compromise and it is very easy to pick them apart on the basis that they may unduly favor certain brackets over others. They are not entirely satisfactory to me. But the short of the matter is that the rate reduction provisions of the bill are the same in the House-approved version and in the bill reported by our Finance Committee. Any attempt to change them in the Senate might result in touching off controversies productive of delay in the final enactment of this legislation. If there is one thing we cannot afford at this time, it is delay in bringing to bear upon the operation of our economic system the beneficial effects of the reductions contained in the bill.

Again, let me emphasize that the program of rate reductions is but a start. We have much farther to travel along the road of according fair income tax treatment to all our citizens.

When the revenue losses which will be incurred by rate reductions are offset by several revenue-raising reforms in this bill, the net revenue loss to the Treasury will amount to something on the order of $12 billion annually. Estimates in this area are very rough. They are based upon a great number of assumptions about the course the economy will take in the fiscal years immediately following enactment. It is difficult to predict the

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ultimate and permanent effect which enactment of this bill will have upon Government fiscal policy. It is hoped—and I certainly join in that hope—that after a reasonable transition period, the new tax structure will eliminate the chronic budget deficit position of the Federal Government. To do this, the economy must be counted upon to expand in all areas—production, employment, income, consumption, and investment—so as to yield higher and higher levels of revenue to the Federal Government, revenues necessary to maintain the gamut of Federal activities and services required in the interest of our national security and the well-being of all our citizens. Growth in the Federal establishment for its own sake must be discountenanced. But sane and orderly growth we must have to meet the inevitable demands of the world and times in which we live. Without the enactment of this measure we could not succeed in raising the revenues to meet these demands without imposing well-nigh intolerable burdens and inequities upon the American people.

One caveat is in order. In my judgment, there is a great deal of merit in recent observations that we may be trafficking with danger to the economy in 1965 by concentrating so much of the reduction in this bill to take effect in 1964. By contrast, the reductions of this bill to take effect in 1965 may not be sufficiently large to sustain the long upward swing of the business cycle which we have been enjoying. It will require a high degree of skill in using the tools of fiscal and monetary policy in 1965 to prevent a leveling off in the upturn which this bill is expected to generate.

Of the reform elements of this bill, there are many which I wholeheartedly endorse. The reversal of the normal and surtax corporate rates applicable to small business will provide a vital stimulus to this crucial sector of our economy, helping to create both jobs and new opportunities for gainful self-employment. The new income-averaging formula will give fairer treatment to large numbers of professionals and small businessmen whose incomes fluctuate widely from year to year. Liberalization of the child-care deductions, though not as generous as I would have cared to see them, will, nevertheless, be of great benefit to considerable numbers of women with valuable skills to contribute who otherwise could not meet their obligation to provide for decent care of their children.

The minimum standard deduction is a timely antipoverty device to help bolster the miserable standard of living of the underprivileged to a more tolerable level for an affluent society such as ours; but antipoverty measures cannot end there, and obviously, other programs must be enacted to help create better employment and living prospects for the poor.

The tax benefit to elderly citizens on the sale of their residence to furnish additional retirement income is a reform which I have sponsored in separate bills for many years, and it gives me the greatest amount of personal satisfaction and pride to witness its approval. Also, the removal of the unrealistic limitation on the deductibility of the cost of medicines and drugs for our elderly citizens is a long-overdue improvement in the tax treatment of our senior citizens.

Yet, several of the most important reforms, unfortunately, were defeated this

week. Repeal of the retail excise taxes, which I have advocated for many years, is an urgent necessity, both to remove ridiculous burdens on the purchase of commonplace necessities of everyday life, as well as to generate expanding levels of production, income, and employment in large segments of American industry. The failure to bestow even a modest measure of relief upon the parents and the students who must carry the burden of investing in education, the prime asset of any advanced economy, is a failure for which this Congress must take responsibility. I am hopeful, however, in view of the narrow margin by which several proposals in this area were defeated, that a new drive can be mounted in short order to supplement education bills with appropriate accommodations in the tax structure to the pressing need for relief. It seems to me the height of irony that Congress should have adopted such a niggardly attitude toward educational expenses while leaving in the tax structure blatant opportunities for avoidance of tax, through other exemptions and deductions, for segments of our society who are among the least needy.

One final note on reform. Congress did display its good sense in rejecting from the very start several of the more extreme among original administration proposals. Now is not the time to become embroiled in controversy over novel schemes to raise revenue which would have worked inestimable damage upon individuals and institutions who, over the years, have developed a reliance interest in the present structure that cannot lightly be disregarded. The plan to put a 5-percent floor under itemized deductions would have had an unwholesome impact upon the financing of charitable and educational organizations. So, too, the simplified tax method, although certainly we must continue to explore possible means of simplifying the process of making out returns to the Internal Revenue Service. A new capital gains levy upon unrealized appreciation of assets transferred by gift or at death would have represented a harmful incursion into time-honored incentives and traditions for building an estate to improve the lot of one's children. I am glad that reform did go in the opposite direction from these proposals by widening the scope of 30 percent charitable organizations.

Limitations of time prevent extensive comment upon each and every section of the bill and amendments which were offered, some of which were approved and some of which were defeated. I shall not dwell upon them.

In closing I will express my judgment that members of our Finance Committee have labored upon this bill as hard and as diligently as any committee has labored upon legislation in recent times. The country owes a debt of gratitude toward all Members, regardless of their own positions on the bill and regardless of party labels. If experience is the best teacher, the lesson should be gained from the events of the past year that perhaps in the future joint House-Senate committee sessions should be held for taking testimony, so that path-breaking revenue measures as this can be expedited when time is a crucial factor in the desirability and the efficacy of the legislation.

Mr. President, I shall vote for this bill, and I hope it gains overwhelming approval. It is also my hope that the differences between the Senate and the House can be resolved as fairly and as expeditiously as possible so that the measure may be signed into law without delay.

Mr. CANNON. Mr. President, the Senate has completed action on what is perhaps the major piece of legislation to come before the Congress in the last decade. Its significance is important for the Nation as a whole and for all individual taxpayers.

I am pleased to state for the record that I support this measure and, while I have voted for certain changes which were not accepted, I support the final bill.

It is difficult, Mr. President, to preassess the impact of such legislation as this. I believe, however, that the great majority of economists in the Nation are convinced that this bill will do more to correct the economic ills besetting this Nation than any other single type of legislative program. Our taxpayers have been long oppressed by a tax burden made necessary to keep this Nation free and strong. High tax rates were imposed not by choice, but by necessity. It is pleasing, therefore, when we can undertake a major program of tax reduction and reform without jeopardizing the Nation's strength.

In addition to the relief offered our taxpayers, this bill is designed to provide an impetus to the growth rate which must be stimulated if the Nation is to achieve a rate of production tantamount to its capacity.

As we move toward this goal, new jobs will be developed to provide employment for the too great number of the Nation's unemployed. This factor alone should be sufficient justification for the enactment of this tax bill.

I should interject here the fact that I do not suggest that this measure alone

will eliminate all the Nation's problems, that it will provide everything by way of stimulus, or that it will eradicate completely our unemployment problem. I believe, on the contrary, that many other programs, some of which have been proposed, will be needed; and I intend to support such measures. But this tax bill does afford the vehicle most needed and its early enactment at the beginning of this session of the Congress is a tribute to the distinguished floor manager of the bill, Senator LONG, and members of the Senate Finance Committee, to the leadership of the Senate, and, I think, to the Senate itself.

As the economy in this Nation accelerates, and as more people obtain employment, more taxable revenue is produced, providing for an increase in Fed-

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eral income and contributing to the budget balance which all Senators are so desirous of achieving. I believe that the record which was made in the first session wherein $6.5 billion was cut from appropriations requests illustrates that the Congress has more than a passive interest in balancing our budget and this possibility is enhanced by the action taken by President Johnson and now by passage of this tax bill.

The bill is more than a financial measure; it is also social legislation of the most farsighted nature.

I commend Members of the Senate for their support of this bill.

Mr. PELL. Mr. President, I would like to register disappointment that we seem to have missed the opportunity for a thoroughgoing reform of the tax structure. Indeed, if our administration had not so eloquently argued the current need for a tax cut, I would find it hard to support the bill as it now stands.

Not only do I mourn the $3.4 billion in offsetting revenues which would have helped reduce our deficit and which President Kennedy's package of reforms would have brought, but I am also sorry that we have seemingly strayed yet further from the goal of simplification of the tax structure. Instead of eliminating the countless special deductions, credits, and allowances which would permit a much lower range in personal income tax rates, the current approach has encouraged, in the name of equity, special tax concessions to be extended. If, instead, it had been possible to eliminate this host of provisions that reduce the amount of taxable income, inequitable excise taxes could have been eliminated or all tax rates could be cut further without any sacrifice of revenue.

If it has been impossible to reverse the trend with this piece of legislation which includes the sugar coating of tax reduction, but little of the bitter pill of tax reform, when can we get on the road to tax reform and simplification? To my mind I still feel that we would be lacking in foresight and shirking our responsibilities if we do not consistently give active consideration to proposals that would lead to the simplification of the tax structure. I think everyone is aware of the dreadful complexity of our Internal Revenue Code, which runs over 1,100 pages, not to mention the many rules and regulations associated with it. At the beginning it says gross income means "all income from whatever source derived," and virtually all the rest of the code is devoted to exceptions. If the proreform forces are "diffuse, inarticulate, politically impotent" and the Treasury "lacks the political leverage of a constituency of its own," as Philip M. Stern pointed out in a recent article, it is all the more important that care be taken. With several notable exceptions, such as the articles by Messrs. Evans and Novak, and J. A. Livingston, and other recent editorials, the general silence of the public on the subject of tax reform is surely due primarily to the complexity of the tax laws and the feeling of futility.

I sincerely hope that when this current piece of tax legislation is passed into law we will not sit back but rather take a fresh breath and start again with a bold approach to a more simple equitable tax structure.

THE TAX BILL AND THE ECONOMY

Mr. WILLIAMS of New Jersey. Mr. President, the tax bill now pending in the U.S. Senate is crucial to the solution of some of the major economic problems that confront this Nation—unemployment, idle industrial capacity, and persistent deficits in our budget and our international accounts. It is crucial because nearly every one of these problems has its roots in an economic performance that, over the long term, has fallen short of its potential.

No one imagines—and no one claims—that the tax bill, or the improved economic performance that it will engender, will, like some magic wand or formula, remove these problems from our economic life instantly, completely, and forever. Six or more years of economic slack cannot be taken up that easily. But the tax bill can get to the root of these problems.

In New Jersey, for example, it is estimated that the administration's bill now before the Senate will increase the take-home pay in our State by $352 million this year, if put into effect by March 1. In 1965 the take-home pay of New Jersey

workers would be increased by approximately $422 million.

Not only would this be a tremendous benefit to individual wage earners, the bill would have a much more important effect on the State's economy than these figures indicate, through the stimulus of increased industrial investment and expansion.

In addition, that Federal tax cut would also help alleviate the serious financial needs facing the State and local governments of the State. It is estimated that eventually, as these released funds work their way through the economy, the tax cut will result in an increase in State and local tax revenues of about $116 million—$36 million in State revenue and $80 million in local revenues.

Clearly this tax bill will have a profound and beneficial effect on the State of New Jersey.

It has been nearly a year now since the tax program was proposed—it has been even longer than that since tax reduction was proposed. And during that time our economy has been steadily advancing, with an unbroken forward stride which began nearly 3 years ago, as the economy emerged from the depths of our fourth recession since the Second World War.

But the best measure of what we have yet to do lies in what we have not yet succeeded in doing—not in what we have already accomplished. For if we do nothing but continue past progress—and ignore the failures that will continue to attend it—then those failures will dog our footsteps with increasing ferocity until they trip us and we fall headlong.

That is the conviction that lies behind the tax bill now before the Senate—that, and the simple fact that, while our economy has done comparatively well for nearly 3 years, it has not done nearly well enough for some 6 years.

Not once for more than 75 consecutive months has unemployment fallen below 5 percent. Over the 6-year period from 1957 through 1963, unemployment has averaged 6 percent—almost 50 percent more than during the 1947–57 period. Even during the past year—a year of steady economic upturn—unemployment has averaged 5.7 percent, and now stands at 5½ percent. Some 4 million Americans able to work, needing work, and seeking work, are unable to find it. That has been the plight of that many Americans for far too long—and that will be their prospect, and the prospect of millions more, unless our economy gathers even greater momentum. Already those millions of young people born in the early postwar years have begun to enter the labor force, and will enter it in ever-increasing numbers over the next few years—at a time when technological change will proceed at even more rapid a pace than today, and render even more jobs obsolete than it does today.

All it takes is a close look at the facts to realize how stubborn this unemployment problem is, and how urgently it requires that we take action now. A year ago last quarter, the American economy was turning out $565 billion of gross national product, and unemployment ran at an average of a little less than 5.6 percent. During the last quarter gross national product hit the $600 billion mark—$35 billion above the year before—and yet unemployment ran at an average of a little more than 5.6 percent. It took, in other words, a whopping $35 billion rise in gross national product merely to keep an already unacceptably high unemployment rate at about the same level.

Unemployment, therefore, is the most disturbing and dissonant factor that both mars the 3 years of unbroken economic progress that we will shortly complete and confronts our continued progress with its most urgent and insistent challenge.

Unemployment, however, is not the only area in which our economy has fallen short—and will continue to fall short unless it enters a new and sustained period of more rapid growth. The longrun investment picture is also disturbing.

For it reveals on the one hand, persistent inadequate levels of domestic investment and, on the other, too large and sustained an outpouring of investment funds to foreign fields where profits seem better. At home, business-fixed investment has fallen from 10 to 11 percent of gross national product in the earlier postwar period to 9 percent in recent years.

One corollary of this dwindling investment in plant and equipment—in contrast to the sizable growth in total output—is the increasing obsolescence of existing plant and equipment. The proportion of that plant and equipment 10 years or older—as pointed out last year by the American Machinists magazine—has climbed from 43 percent in 1949, to 56 percent in 1953, to 60 percent in 1958, to 64 percent in 1963. And when you contrast that current 64 percent with the ratios of other leading coun-

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tries—with 50 percent in the Soviet Union, 55 percent in West Germany, 58 percent in France, 59 percent in Great Britain—then it seems all the more serious.

As we all know, this lagging investment at home has been matched by a

dramatic upsurge in the flow of funds abroad, where economic expansions outpacing our own have given promise of greater returns.

These, and others, are the facts that lead to an inescapable conclusion: On the basis of its long-term performance, our economy needs some kind of stimulus.

The late President Kennedy, and President Johnson, therefore recommended a program to increase the role of the private economy by freeing private incentives and initiative, incomes and capital, from the grip of restrictive tax rates. That choice is represented in the tax bill now awaiting final decision—and that final decision is ours.

I do not think that—whatever reservations we may harbor about any aspect of the tax bill—most of us have any real doubt about what our decision must be.

I am told that the tax reduction will generate economic growth in the amount and kind that will create an estimated 2 to 3 million new jobs each year—2 to 3 million new jobs over and above those the economy would create if it merely maintained its current pace.

It will not of itself abolish unemployment. But I think it will bring unemployment closer to its so-called hard core level, and provide the prosperous and expansionary climate in which specific remedies can operate most efficiently and effectively.

By improving private incentives and freeing substantial private capital, tax reduction should also result in sharply expanded domestic investment in modern plant and equipment and new techniques of production.

And this kind of result should generate, not only economic progress at home, but the lower costs and greater productivity that will sharpen the competitive edge of American industry in both foreign and domestic fields. In this respect, as well as by making America a far more attractive magnet for foreign and domestic investment, tax reduction presents the basic long-range answer to our balance-of-payments problem. Arthur Burns—a chairman of the Council of Economic Advisers under President Eisenhower—made this point quite cogently in an interview not long ago with the Christian Science Monitor, in which he expressed his support for tax reduction of the general magnitude recommended by the administration. He said, and I quote:

> The most important single thing to do in dealing with the balance-of-payments problem is to create a climate in this country that is more favorable to investment and enterprise. * * * The proper way to keep American capital at home—and attract foreign capital to our shores—is to improve the climate for investment and profitmaking in our own country.

Tax reduction will thus radically improve our long-range economic picture in domestic employment and investment and in our international balance of payments. I think it also offers the best hope of getting us on the road to balanced budgets.

This is a goal which surely, in the light of our recent economic history, all of us can endorse wholeheartedly without, however, endorsing the view that it is all really a grandiose morality play in which deficits stand always for absolute evil and balanced budgets stand always for absolute good. For whether deficits are good or bad, or whether balanced budgets are good or bad, is a question that depends entirely on the actual economic conditions in which a given deficit or balanced budget occurs.

Surely, however, we can all endorse—emphatically and without the slightest reservation—the view that wasteful spending is intolerable, and that in a healthy and vibrant economy the Federal budget ought to be in long-term balance. The trouble with the deficits of recent years is that they are the unwanted, unwelcome children of a delinquent economy—an economy that has not lived up to its potential.

When we look, for example, at the first postwar decade—from 1947 through 1957—we see an economy nurtured and sustained in prosperity by the enormous unfulfilled demand that built up during the war. Employment was high and growing, incomes and output were rapidly expanding, and investment was running at continually high levels to keep up with the new high tide of demand. And during that same period—over the 11 fiscal years from 1947 through 1957—the Federal budget was in cash surplus seven times and in cash deficit four times, for a net cash surplus of $20 billion.

Then the tide began to fall—and we are all familiar with the results. We had not yet fully recovered from the 1957 recession, when recession struck again in 1960. And while, against that background, the recovery from the 1960 recession is an impressive accomplishment indeed—it has not been enough to make up for the ground already lost. In the 6 fiscal years from 1957 through 1963, the Federal budget has been in cash deficit five times and in cash surplus once—for a net cash deficit of $26 billion. About half of that net deficit occurred in the first 3 years—from 1957 through 1960—despite the fact that the deficit from 1961 through 1963 reflected large

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increases in expenditures for national defense and space.

Any objective analysis makes it quite clear, therefore, that our deficits since 1957 have their origin—not in wasteful or excessive Federal spending—but in an unsatisfactory economic performance that has failed to produce adequate revenues. Such an analysis also makes it clear that high tax rates have played a primary role in the economic difficulties we have encountered since 1957.

There is also little question that only an economy operating at reasonably full capacity can produce the Government revenues needed to bear the costs of the cold war as well as to meet urgent national needs—or that by helping expand economic activity the tax bill before this Senate will help increase Federal revenues. With the tax cut, we will, after a relatively short period, have greater Federal revenues than we will without it. This means that, with the tax cut and with the kind of expenditure control which the new budget represents, the administration estimates we can reach the point of balance in our budget within 2 or at least 3 years. Without the tax cut, the prospect is bleak indeed for a balanced budget within the near future—except at the cost of essential national needs and, very likely, of our continued economic progress.

Thus the tax cut has very great implications, not only over the long run, but for the relatively near future as well. It is very much this kind of consideration that has led men such as Prof. Raymond Saulnier—like Arthur Burns, a former Chairman of the Council of Economic Advisers under President Eisenhowever, and a man not given to agreeing with the fiscal policy of the last 3 years—to resolve their earlier doubts about the tax cut and support its prompt enactment. Professor Saulnier's major concern is that the tax cut be accompanied by rigorous expenditure control.

The new budget represents what I am convinced is the positive approach to expenditure control. It will produce real savings this year and in years to come. Yet it responds in new and forward-looking ways to real and urgent national needs. It is genuinely frugal and prudent, while at the same time refusing to pay homage to the dismal theory that between expenditure control and national needs—or between balanced budgets and national needs—there is some kind of war, that we cannot provide for one without sacrificing the other.

The tax cut and budgeted expenditures together will provide, in 1964, a net fiscal stimulus to the economy three times as great as in any of the last 3 years—greater, in fact, than that during any peacetime year in history.

With the new budget, and with prompt passage of the tax cut, I think our Nation can look forward in all sober confidence to an economic growth, throughout this year and beyond, of greater strength and magnitude than that of any comparable period in our history.

We can expect that, by the end of fiscal 1965, the current recovery will become the longest and strongest in our peacetime history. In dollar terms, the $38 billion rise in gross national product that—with a prompt tax cut—is expected this year, will represent as great a year-to-year increase in total national output as any in our peacetime history.

That, therefore, is the prospect that the tax cut holds out before us. And the importance of the tax cut becomes even more impressive when we recall that nearly all the recent forecasts by leading business economists have us verging upon recession levels by the end of this year—if we do not have a tax cut.

Thus, we stand at a historic turning point. And the tax cut will spell the difference between making economic history, or merely repeating it.

Mr. HUMPHREY. Mr. President, the Senate will take up hundreds of different proposals this session. Of all this legislation, only the civil rights bill will be as important as the tax reduction and

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reform bill that we have just finished discussing. H.R. 8363, the Revenue Act of 1964, will sharply reduce the taxes of almost every individual and business in this country. The impact of these tax cuts will be felt in every segment of the American economy. I would like to set forth my views on this vital piece of legislation and on the general economic conditions that make a tax reduction imperative if the American economy is to regain full health.

THE STATE OF THE AMERICAN ECONOMY

Our economy has made steady gains since the recession of 1960. In 3 years the gross national product increased $100 billion; personal income went up by 17 percent, and corporate profits by 44 percent. This is an impressive record, but it is only a progress report on the job that has to be done. We still have an unemployment rate of 5½ percent. Four million Americans, willing and able to work, are unable to find jobs. Many more people are underemployed, working fewer hours than they should and making less money than they need. The families of 30 million Americans have incomes under $3,000 a year—incomes far below the minimum necessary for health and well-being.

Unhappily, these are but the problems of the present. Unless changes are

made, the future will bring more unemployment.

The economy will have to provide jobs for mounting numbers of workers released by automation. That great generation of wartime babies will soon come of age. At present a million youngsters join the labor force each year and one out of six cannot find work. The wartime babies will increase the annual addition to the labor force by more than 50 percent. If the economy cannot provide more jobs, these children will become tomorrow's lost generation, and the number of unemployed will reach catatrophic levels.

Unemployment is more than a social problem, it is a drain on every taxpayer who has a job. Putting the unemployed back to work will also put them back on the tax rolls. It will restore not only their well-being and self-respect, but their ability to contribute to the general welfare. These are the goals of President Johnson's all-out war on poverty. Waging this war requires a healthy economy, instead of the limping progress we have had since 1957. At no time since that year has unemployment been under 5 percent. Business is producing at barely 87 percent of its capacity, like an 8-cylinder motor with 1 sparkplug missing. These idle productive facilities cost over $30 billion in income every year.

For 10 years successive administrations have tried to encourage full production. The most popular approach was to provide incentives to capital investment. We cut the excess profits tax, gave the stockholders the dividend credit and exclusion, liberalized depreciation schedules, and provided a 7-percent investment credit.

These measures gave tax relief of almost $5 billion a year. Despite this massive help, unemployment went up and investment declined. Capital investment is now down to 9 percent of the gross national product, compared to 12 percent a few years ago. This is not due to lack of capital—in 1962 corporate savings exceeded gross corporate investment by $3 billion. This money has not been invested because there is not enough consumer demand to keep our present productive facilities working to capacity, let alone stimulate new investment.

Demand for consumer goods is too low because wartime taxes cripple purchasing power. Despite price stability, despite a complete return to a normal peacetime economy, despite massive incentives to investment, the sizes of the Federal tax bite has gone up as fast as total national production.

This is the heart of the case for the present tax bill. Our current tax rates were set in wartime to finance the war effort and discourage inflation. Today we are at peace and inflation is no longer a problem, yet these old taxes remain, draining off needed purchasing power and saddling the economy with a burden that is as unnecessary as it is crippling.

MAJOR PROVISIONS OF THE TAX BILL

The Revenue Act of 1964, H.R. 8363, will reduce taxes by $11.6 billion a year. $9.2 billion of this amount will go to individuals, the rest to corporations. The tax cuts will result in an increase in gross national product of between $30 billion and $40 billion. In addition to lowering taxes, the bill will bring about a number of structural reforms—lightening unfair tax burdens, chiefly on the very poor, and closing loopholes that permit a few people to escape just levels of taxation.

The bill's most important provision calls for the reduction of every taxpayer's income tax rate. The rate cuts range from 28 percent for people making less than $3,000 a year to 17 percent for those with incomes over $20,000. The new rates will go into effect in two stages—on January 1 in 1964 and 1965. The withholding rate on individual incomes will be cut from 18 percent to 14 percent 1 week after the bill is enacted. The passage of this bill will produce an almost immediate increase in gross national product of about $2 billion a month.

Most of the individual tax cuts will go to the people who need them the most, those with incomes of $10,000 a year or less, who account for 85 percent of all tax returns. An average childless married couple making $6,000 a year will have a tax saving of $186, or 22 percent of its total tax bill. A couple with two children and an income of $10,000 would have a tax cut of $258, a saving of 19 percent.

The corporate tax rate will be cut from 30 to 22 percent on the first $25,000 of income, and from 52 to 48 percent on income over $25,000. Tax payments for corporations with incomes over $100,000 will be accelerated. At present such firms pay most of their taxes in the year after they are due. In fact, many corporations fund their tax liabilities by investing in short-term notes. H.R. 8363 provides for gradual changes which, over a period of several years, will put corporations on the same pay-as-you-go basis as individuals.

These rate cuts account for most of the tax reduction. The bill also contains a number of highly desirable reforms which will remove inequities in the present laws. The most critical of the structural reforms is the minimum standard deduction. Under present law persons who do not itemize their deduc-

tions are allowed a standard deduction of 10 percent of their gross income. This means that a single person with an income of only $667 has to pay income taxes. The bill provides that single taxpayers will get a minimum standard deduction of $300, married couples will get $400, plus $100 for each additional dependent. This provision amounts to only 2.6 percent of the total tax reduction, yet it will give relief to 13.5 million taxpayers, and will completely remove 1.5 million very poor persons from the tax rolls. Most of the benefits of this reform will go to people making less than $5,000 a year. Taking into account the rate cuts, the minimum standard deduction, and certain other reforms, the effective tax rate for persons with incomes under $3,000 will be reduced by 39 percent.

The other major humanitarian reform in the tax bill is a considerable liberalization of the provisions for deductions for child care in families suffering undue hardships. The maximum age of children for whom deductions can be claimed has been raised to 12, the maximum deduction increased to $1,000, and the maximum family income raised to $7,000.

There are other provisions that will relieve hardship and cushion the shock of economic dislocations. The present 1 percent floor for deductions for drug purchases has been abolished for people over the age of 65. The cost of moving to take a new job has been made a deductible expense, thus making it easier for workers to go from depressed areas to places where jobs are more plentiful.

The bill contains a number of reforms to prevent legal tax dodging by means of personal holding companies, artificial dispersion of corporations to evade the corporate surtax, and other devices. It prevents most of the shenanigans on stock options by tightening the provisions by which such benefits are eligible for treatment as capital gains rather than personal income.

There is one more reform that I would like to mention, because of its connection with my own State of Minnesota. This is the provision that political contributions may be deducted, up to $50 for single taxpayers and $100 for married couples. Minnesota was the first State to give such encouragement to popular financial support of the political process, and I am pleased that this progressive example is being followed by the Congress of the United States.

A PROGRESSIVE TAX BILL

I think that this is a sound and good bill. It combines urgently needed tax reduction with a number of highly desirable reforms. It does not include every necessary reform, but it would be unrealistic to expect perfection in any one piece of legislation. This bill may not be all that some of us would like, but it takes us a long way toward that goal.

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Since this bill has so much that is good in it, I am amazed to hear some of my distinguished friends complaining that it is a giveaway bill, favoring the rich and mighty at the expense of the humble citizen. I can find little to justify such claims. Most of the tax cuts in this bill go to individuals, not corporations. And small businesses get three times as big a tax reduction as larger corporations—27 percent as opposed to 8 percent.

On the individual level, the bulk of the reduction, either in absolute or percentage terms, goes to the smaller taxpayer; $7.621 billion, or 80 percent of all individual tax savings, goes to taxpayers making under $20,000 a year. People with annual incomes less than $3,000 will get a 39-percent reduction in taxes, compared to a 16-percent cut for people in the $20,000 to $50,000 class, and 13.5 percent for those making more than $50,000. This is not a regressive bill; it is a progressive one, and as such it deserves the support of all those who believe in progressive principles of taxation.

By the same token, this is not a soak-the-rich bill, either. One of the most important and controversial issues is the treatment of capital gains. At present gains held more than 6 months are taxed as follows: one-half of the net gain is not subject to taxation; the other half is taxed at ordinary income tax rates; however, the total tax cannot exceed 25 percent of the entire net gain. Less than 4 percent of all the taxpayers who report capital gains actually compute their taxes at this maximum rate of 25 percent. The overwhelming majority compute their capital gains taxes by applying the regular income tax rate to half of the gain. Since these income tax rates have been reduced so sharply, more than 96 percent of all holders of capital gains will have a tax reduction on those gains equal to the reduction on regular income. If the capital gains rate were also reduced, a small, wealthy minority would get a capital gains tax cut almost double the cut on regular income.

The present treatment of capital gains is hardly oppressive. It is the chief reason why the effective tax rate for the average man with a yearly income of over a million dollars is barely 30 percent which is a lower effective rate than is paid

by people making a tenth as much. We propose substantial tax reduction in every income bracket, and the largest rate reductions of all in the high tax brackets These cuts will be fully reflected in the taxes paid by 19 out of 20 holders of capital assets. They will also reduce substantially the taxes paid by the remaining holders of capital gains. If, on top of this, we gave yet another tax cut to the wealthy few, we would in fact be shifting an equal tax burden to people who are less able to pay. For this reason I am pleased that the Senate voted, by an overwhelming margin, to support the Finance Committee's decision to retain the present capital gains tax rates.

In another wise action, the Committee on Finance eliminated the 4-percent tax credit on dividend income. At the same time, the committee encouraged the small stockholder by increasing from $50 to $100 the amount of dividend income which is not subject to taxation. The dividend exclusion for married taxpayers was also doubled, from $100 to $200. These committee actions have been confirmed by the Senate.

As a result of these changes more than 60 percent of all people with dividend income will pay less or the same amount of tax on that income. In fact, a family would have to own almost $15,000 worth of stock before these changes would increase its taxes on dividend income. For most such large stockholders the loss of the dividend credit will be offset by income tax rate cuts and by the corporate tax reduction. This last change alone will increase after-tax corporate income by 8.3 percent.

The dividend credit was enacted in 1954 in hopes that it would stimulate investment in the stock market. But the Secretary of the Treasury, a man of vast experience in the financial world, has testified that the dividend credit did not stimulate such investment. In fact the percentage of private savings invested in stock has actually declined since 1954.

SOME DEFECTS IN THE TAX BILL

As I have said, this is not a perfect piece of legislation by any means. For all its excellent provisions, this bill has several unfortunate features that I voted against and that I hope will not remain in force for long.

One of these provisions will cost customers of public utilities billions of dollars. In 1962 the Congress gave businesses a tax credit to encourage new investment. In most businesses, this credit was 7 percent of the worth of the new investment. This represents a substantial saving in operating costs.

This provision has a special significance for public utilities, whose rates are set by regulatory agencies which take cost, profit, and capital needs for future expansion into account. Since the investment tax credit lowers costs, its benefits should be passed along to utility customers in the form of lower rates. In fact, the floor manager of the 1962 tax bill specifically stated that it was intended that utilities would pass along to their customers the savings that they received under the investment credit.

But section 203(e) of the current tax bill prohibits regulatory agencies from requiring public utilities to do this. In effect this provision forces the regulatory agencies to pretend that these tax concessions do not exist for purposes of setting utility rates. It has been estimated that this provision will cost American utility customers $618 million in 1964 alone. For this reason I regret the Senate's decision to uphold section 203(e).

Second, the Senate once again refused to take any significant action on the tax treatment to the oil industry. The depletion allowance permits oil companies to exclude up to half of their net income from taxation. Together with so-called "intangible development and drilling costs," this provision lets some oil producers escape income taxation altogether. To be sure the production of oil requires special consideration, and I am prepared to support such reasonable provisions. But I do believe there is a need for a modest revision of present depletion allowances.

Several attempts were made on the floor of the Senate to reduce this special treatment somewhat. These proposals were all defeated, despite the impressive documentation presented by Senator DOUGLAS and other Members.

There also was a valiant but unsuccessful attempt to increase the minimum standard deduction. While the bill's provision of $300 for a single taxpayer and $100 for each dependent represents a considerable reduction in the taxes paid by very poor families, this group still bears too great a tax burden. A minimum standard deduction of $400 and $200 for each dependent would give further tax relief to those people whose incomes do not permit them to maintain minimum levels of health and well-being. The revenue loss caused by this measure would be made up by a smaller reduction in the taxes paid by large corporations. I am sorry that this humane proposal was not adopted.

THE IMPACT OF THE TAX BILL

The major overriding goal of this bill is to stimulate a lagging economy by in-

creased purchasing power freed by lower taxes. From every indication the bill's impact on the economy will be immediate and profound. About 93 percent of the tax cut will go into personal consumption spending. This will result in a speedy increase in the gross national product of between $30 and $40 billion a year. This stimulus will be felt in every industry and every part of the country, by workers, farmers, and businessmen. For example, the Treasury Department has estimated that the tax cut will result in a personal income increase of $540 million a year in my own State of Minnesota. The Senator from New Hampshire [Mr. COTTON], has quoted me as saying that this bill will not increase employment. I'm afraid he has failed to quote me in full or has failed to understand that what I sought to emphasize was the importance of long-range planning to obtain the benefits of automation, automation that will be encouraged by the benefits of this tax bill. But, automation should create jobs provided that we have an economy that is propelled forward by expanded purchasing power. It is just this purchasing power that is provided in this measure.

The tax cut's impact on the Federal budget will come in several stages. A good deal of the tax loss will be made up by higher revenues produced by increased prosperity. While the total tax cut for fiscal year 1965 will be over $8 billion, the actual loss in tax revenues will be only about half this figure, since the higher level of business activity will return more taxes to the Government. Within a few years the economy, freed from the burden of wartime taxes, is expected to produce enough tax revenue to balance the budget.

The short-run budget deficit is like borrowing in order to finance future ex-

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pansion—a common practice in progressive corporations.

It is wise to remember that the actual amount of tax revenue received by the Treasury is a product of both the tax rate and the general health of the economy. A drop in the level of business activity is the surest way to deficits.

In 1959 a recession turned an estimated half-billion-dollar budget surplus into a deficit of $12 billion—a peacetime record. The important thing about the national debt is not its absolute size considered in isolation, but its size relative to the gross national product. In 1946 the national debt was slightly larger than the total of all goods and services produced in the United States in that year. Since then the GNP has grown so much faster than the national debt that today the debt is only 50 percent of the GNP. In fact, while the national debt has grown 11 percent since 1946, corporate debt has gone up by 400 percent, and State and local government debt has also increased by 400 percent.

In reducing the tax bite taken by the Federal Government, the tax bill is expanding the tax base of State and local governments. The prosperity resulting from the Federal tax cuts will provide almost $3 billion in additional revenues for State and local governments, without any rise in their tax rates. The effect of this tax bill in Minnesota will be to increase State and local tax collection by $62 million.

This bill had its inception in the careful and scholarly deliberations of the Council of Economic Advisers and the Treasury Department. The Committee on Finance and the Ways and Means Committee heard hundreds of witnesses and deliberated for months as they devised the specific legislation. They have produced a comprehensive and wisely conceived measure. This bill alone will not solve the unemployment problem. But, by freeing the great productive energies of the American economy, it holds out the promise of creating more than 2 million new jobs in the years ahead. We need those jobs, and we need this bill.

Mr. THURMOND. Mr. President, I cannot bring myself to vote for passage of H.R. 8683.

The National Government is operating almost every year at a deficit. Only six times in the past 34 years have revenues exceeded expenditures, and in most of the balanced budget years the margin of revenues over expenditures was narrow. On the other hand, in deficit years the margin of expenditures over receipts has soared. We are now faced with a deficit in years when the economy is booming. We cannot continue such fiscal irresponsibility without permanently impairing the economic stability of the Nation.

It is estimated that at constant levels of income, this bill, when fully effective, will reduce receipts of the National Government by $8.4 billion. The Treasury Department optimistically estimates that the resulting release of funds to the private economy will result in a mitigation of revenue losses, but even the Treasury's optimistic estimate concedes a net revenue loss of somewhere between $4 and $5 billion annually as a result of this bill. We have no guarantee that spending will be reduced

or held to present levels, for we have rejected amendments to insure controls on spending.

Even in the absence of a reduction in taxes, we are faced with mounting deficits in prosperous times. To reduce taxes under such circumstances is to invite inflation which is even harder to control than is the spending rate of the National Government. It is impossible, therefore, to reach any other conclusion than that a tax reduction without concurrent or prior reductions in expenditures constitutes the height of fiscal irresponsibility.

Mr. President, Federal income tax rates at present are exeessively high. They should be reduced. A reduction without a corresponding or greater reduction in expenses, however, constitutes a remedy for the problem with far worse consequences than the problem itself.

Generally, the structural changes made by H.R. 8683 improve the equity and operation of the tax structure. For the most part, they are long overdue. Were they to be considered separately from the reduction in rates, or were the entire bill to be considered under circumstances of assured reduction in expenditures, I would certainly support it. Under existing circumstances, I must vote against passage.

SMALL BUSINESS ASPECTS OF THE TAX BILL

Mr. FULBRIGHT. Mr. President, I wish to discuss briefly the significance of the tax bill to small business. As a former small businessman and chairman of the committee having jurisdiction over small business legislation, and as representative of a State whose economy is based on small business, I have a special interest in the implications of this bill for the small businessman. The overall effect of this bill—direct and indirect—should make this one of the most important small business-related measures ever to come before the Congress. It is especially gratifying to me that this bill proposes to reverse the corporate normal and surtax rates—an idea I have promoted for a number of years. This feature will probably prove to be the most significant provision of the bill for small corporations.

There is really nothing small about small business. Small business firms constitute about 95 percent of all businesses in the country, employ some 30 million people and account for about 40 percent of the total business volume.

They now bear the greatest burden of an economy that is operating below capacity. Larger, diversified firms are in a much better position to shift production emphasis during slack periods. Small, single-product firms with limited markets and sources of capital have little freedom to maneuver when economic conditions become unfavorable. The provisions of this tax bill should give much encouragement to small businessmen throughout the Nation who have been fighting a losing battle with bigness on every hand.

The tax bill will help small business in a number of ways.

First, the full reduction in the normal corporate tax rate from 30 to 22 percent will go into effect in 1964. I am pleased that the idea was adopted by the late President and made a part of his tax recommendations to Congress. Nearly one-half million small corporations, those with taxable incomes of $25,000 or less, will have their tax rates cut by almost 27 percent, as contrasted to an 8-percent rate reduction for those earning above that amount. The annual tax saving for these small firms will total about $230 million starting in 1964. In the case of single-proprietor businesses, the benefits from individual tax reductions will average nearly 20 percent.

Second, credit is a particular problem with the small corporation—because it does not have access to sources of capital available to big business. Lack of adequate capital to invest in new equipment, venture into a new product line is a prime factor inhibiting growth of most small businesses. Tax reduction, by increasing the volume of earnings that may be used for expansion and modernization, can help relieve dependence on costly short-term credit.

Continued borrowing of excessive amounts is no substitute for retained earnings. The tax bill will immediately increase retained earnings—permitting small businessmen throughout the country to expand, relocate, or purchase new machinery and equipment.

On occasion it will still be necessary for the small businessman to borrow in order to take prompt advantage of promising opportunities. But we must not lose sight of the fact that the ability to obtain such funds, at the right time, in the right amount, and on reasonable terms, depends on the outlook for profitable operations.

This tax measure will greatly improve the prospects for profitable operations for the small businessman. It can, in fact, well spell the difference between success or failure for existing small business, the difference between starting or holding back on a new venture. The tax bill will help unlock once again all the initiative and enterprise that U.S. businessmen, large and small, have always been able to call upon.

Finally, small businesses will benefit from liberalization of the investment credit provision. This will also foster expansion by encouraging acquisition of new equipment. This coupled with last year's liberalization of depreciation schedules should give great incentive for modernization that will make small businesses more able to compete for growing markets.

The present rate structure has undoubtedly contributed to the decline in the relative importance of small business in recent years. To the extent that our tax laws foster larger and more powerful business units, our political democracy is distorted and weakened. This tax bill

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should help insure that small business will be given a fair chance to grow and prosper under our competitive system. I can think of no action more vital to the maintenance of our system of free enterprise than the encouragement and development of small businesses. They are the very foundation of our national economy.

INFLATION AND THE TAX BILL

Mr. President, a number of points have been raised concerning possible inflationary aspects of the tax bill when coupled with restraints on Federal spending. Some argue that although the combination will bring about a high level of economic activity this year, the stimulus will "overheat" the economy and that it will create eventually inflationary pressures that will offset benefits of the tax cut. Others question the timing of the tax reduction and expenditure restrictions. They contend that the combination will cause rapid withdrawal of stimulus to the economy after 1964 and that the impact of tax reduction will be lessening at the same time Government expenditures are being lowered.

There is no doubt that inflationary pressures are likely when the economy is operating under conditions of full employment and full production. This is not the case now, nor is it likely to be in the immediate future. Although gross national product is increasing and the gap between actual and potential productivity is being closed, we have not come close to reaching our full employment level. Four million Americans are looking for work and the unemployment rate is over 5½ percent. The rate is not expected to go below 5 percent this year, even with the stimulating effect of the tax cut. It should also be kept in mind that some 3½ million new jobs must be created annually for the next decade in order to keep the unemployment situation from worsening. The labor force will also be increased by many workers returning to work who have temporarily dropped out of the labor market. Those leaving the unemployment rolls and others returning to work after a temporary layoff will also be consumers who will be in a position to help close the gap between our productive capacity and output.

Considerable excess capacity exists. It is estimated that the economy is fully capable of producing without strain at least $30 billion more in goods and services—but is not doing so because of insufficient demand. Production rates are well below maximum operating levels. The central purpose of the tax reduction is to remove these twin conditions of unemployment and unused capacity. In this sense the tax bill is a catalyst that will energize the private sector of the economy to eliminate underutilization of manpower and machines.

In considering the question of possible inflation it should be noted that a considerable part of the expansion now underway is a result of the proposed tax cut. Economists report that much of the recent rise in the level of fixed investment expenditure can be attributed to the expectation of passage of the tax bill. Actual adoption of the tax bill will not mean an entirely new factor for stimulating investment. Expectations on the part of businessmen that their own taxes as well as the taxes of consumers will be reduced undoubtedly have been significant factors in accounting for the $9 billion increase in expenditure for fixed investments over the past year.

Those who are so concerned over the possibility of inflation perhaps do not attach sufficient importance to the changes that have taken place in our economy since the end of World War II. During the late forties and early fifties, we had conditions conducive to creation of excess demand—with inflationary consequences. We are not now involved in a peacetime readjustment as we were in the late forties and we are not involved in a large-scale armed conflict as we were during the Korean period. During both periods, heavy demands were placed on the labor force which was already substantially at full employment levels. Businessmen and labor unions were not unduly concerned with pricing themselves out of the market. One reason was that we had no substantial competition from the rest of the free world at that time. But the situation is different today. Competition for markets is keen at home and abroad and workers are probably as concerned about jobs and job security as in increases in money wages. Increases in money wages and

prices since the late fifties have in fact been minimal. During the past year, for example, average hourly earnings of manufacturing employees have gone up by only 8 cents while the index for manufacturing production rose almost 8 percent.

We are experiencing a period of relative price stability. The wholesale price index has been quite stable for 5 years and is now actually below the level of 3 years ago. The Consumer Price Index has gone up by only a little over 1 percent a year in the last 3 years and most of that has been due to increases in prices of services. We have had a $100 million increase in gross national product with little inflation in the last 3 years. Of the 20-percent increase in gross national product in the last 3 years, only 4 percent is attributable to a rise in prices. The $38 billion increase in gross national product predicted for this year, which includes the stimulating effects of the tax cut, should not place any undue strain on our price-wage structure in view of the ratio of idle capacity to manpower.

Concern has been expressed about the dangers from timing of the tax reduction and spending curbs. Actually, the timing of the combination in the present form turns out to be much better than originally contemplated. Government expenditures for goods and services rose during the past year and part of the increase in gross national product is attributable to this factor. Rising Federal expenditures played an important role in the 1961–63 expansion. These expenditures accounted directly for 11 percent of the growth in GNP. The tax reduction and the President's budget for the next fiscal year shift the Government's emphasis from direct stimulation sharply over to the private sector. With the combination policy proposed there should be a slight increase in Goverment expenditures for the first half of the year and a leveling out at about the time the stimulus to the economy from the tax cut takes hold. This timing as a balance in the use of the two fiscal weapons should turn out to be quite beneficial.

As a last point, it should be noted that one of the most effective lines of defense against inflation is a sense of public responsibility exercised by labor and business leaders. Decisions made by these men will decide ultimately whether or not we will have another wage-price spiral. I do not think it is unreasonable to expect these leaders to exhibit that sense of responsibility. If they do not, the outlook for our economy is bleak indeed, with or without a tax cut. The President has appealed to labor and management to hold the line on prices and wages. As Members of this body know so well, the President can be most persuasive.

I can appreciate the fears of those who look over their shoulder at the results of the Nation's past experiences with runaway inflation. None of us is willing to agree to a measure that promises to set off another disastrous wage-price spiral, diminish further the value of the dollar, and wipe out the solid economic gains that have been made in recent years. We are not confronted with such a risk in this bill. As I have attempted to point out, the prime factors which feed the fires of inflation are not at worrisome levels today—nor can they be expected to be after the effects of this bill are fully operative. The only justification for the tax cut is to try to bring employment and production up to satisfactory levels. We should concern ourselves with taking necessary steps to reach this goal and maintain it rather than permitting vague fears to keep the Congress from taking constructive action. The soundest growth periods of the Nation were not founded on either fear of the future or on reckless gambling. This bill represents that middle ground of confidence in the basic strengths of our economy which has been the key ingredient in our Nation's growth.

Mr. SMATHERS. Mr. President, I should like to propound a unanimous-consent request that the Senate be permitted to vote on the passage of the bill, and that following the vote on the passage of the bill Senators who may wish to speak concerning the bill may do so and that their remarks may appear in the RECORD prior to the final vote. The reason for the request is that at least 20 Senators have plans to take airplanes in the next 35 or 40 minutes, but will be unable to do so if many Senators speak.

Mr. CLARK. Mr. President, reserving the right to object—and I shall not object—does the Senator intend to have the conferees appointed before or subsequent to the making of the speeches? I desire to say a word about the conferees, but I am wondering whether it is intended to wait until after the vote.

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I should like to say a word about the conferees.

Mr. SMATHERS. Mr. President, I should like to make the unanimous-consent request with the understanding that the Senator from Pennsylvania will be permitted to make this speech before the conferees are appointed.

Mr. PROXMIRE. Mr. President, reserving the right to object—and I shall not object. I informed the majority leader and the Senator in charge of the bill this morning that I desired to make a 15-minute speech on the bill. At their specific request, I agreed not to offer an amendment for that purpose, because they assured me that I would receive time on the bill before the vote if I deferred to their wishes.

Nevertheless, I will speak after the bill passes in view of the obvious desire to vote, and to vote now.

Mr. MANSFIELD. Mr. President, will the Senator from Wisconsin yield?

Mr. PROXMIRE. I yield.

Mr. MANSFIELD. The Senator from Wisconsin is absolutely correct. He was given that assurance; and, so far as I am concerned, I wish he would deliver that speech now.

Mr. PROXMIRE. No; I shall not do so.

Mr. MANSFIELD. I would appreciate it if the Senator would give his speech now, because when word is given, it must be kept.

Mr. TALMADGE. Mr. President, on the question of the passage of the bill, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk called the roll.

Mr. KUCHEL. I announce that the Senator from Nebraska [Mr. CURTIS] and the Senator from Illinois [Mr. DIRKSEN] are necessarily absent.

On this vote, the Senator from Illinois [Mr. DIRKSEN] is paired with the Senator from Nebraska [Mr. CURTIS]. If present and voting, the Senator from Illinois would vote "yea," and the Senator from Nebraska would vote "nay."

The result was announced—yeas 77, nays 21, as follows:

[No. 39 Leg.]

YEAS—77

Allott	Dodd	Javits	Monroney	Pell	Sparkman
Anderson	Dominick	Johnston	Morse	Prouty	Symington
Bartlett	Douglas	Jordan, N.C.	Morton	Randolph	Talmadge
Bayh	Eastland	Jordan, Idaho	Moss	Ribicoff	Walters
Beall	Edmondson	Keating	Mundt	Robertson	Williams, N.J.
Bible	Engle	Kennedy	Muskie	Saltonstall	Yarborough
Boggs	Fong	Kuchel	Nelson	Scott	Young, N. Dak.
Brewster	Fulbright	Long, Mo.	Pastore	Smathers	Young, Ohio
Burdick	Gruening	Long, La.	Pearson	Smith	
Byrd, W. Va.	Hart	Magnuson			
Cannon	Hartke	Mansfield			
Carlson	Hayden	McCarthy			
Case	Hill	McGee			
Church	Holland	McGovern			
Clark	Humphrey	McIntyre			
Cooper	Inouye	McNamara			
Cotton	Jackson	Metcalf			

NAYS—21

Aiken	Hickenlooper	Proxmire
Bennett	Hruska	Russell
Byrd, Va.	Lausche	Simpson
Ellender	McClellan	Stennis
Ervin	Mechem	Thurmond
Goldwater	Miller	Tower
Gore	Neuberger	Williams, Del.

NOT VOTING—2

Curtis	Dirksen

So the bill (H.R. 8363) was passed.

Mr. LONG of Louisiana. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives on the disagreeing votes thereon, and that the Presiding Officer——

Mr. DOUGLAS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator will suspend. Will the Senate please be in order?

Mr. CLARK. Mr. President, under the unanimous-consent agreement, I understood that I would be entitled to speak before the conferees were appointed.

Mr. LONG of Louisiana. The Senator is correct. I had anticipated that the Senator would speak on that subject.

Mr. CLARK. Mr. President, is the Senate still on limited time?

The PRESIDING OFFICER. It is not on limited time.

SUPPORT OF THE TAX CUT

Mr. CLARK. Mr. President, for more than 7 months last year the Subcommittee on Employment and Manpower plumed the depths of the Nation's unemployment problem. The subcommittee is now developing its reports and recommendations as a result of these studies. We are convinced that the solution to America's unemployment problem is not a simple one, but that it would be useless to try to resolve the many structural problems which lie at the heart of unemployment unless the economy is expanding at a rapid enough rate to absorb all who can be trained and educated for work.

The President's tax bill goes to the heart of this problem. It will provide a much needed stimulus which will encourage an increase in the consumption of goods and services and additional investments in modern plants and equipment.

In my judgment, this tax bill is the first step toward the intelligent use of tax and expenditure policy to achieve full

employment in the United States. Every nation of Western Europe has been using the tax and expenditure policies of government to maintain high levels of employment and growth. Yet here in the United States our Federal budget remains a horse and buggy document.

The Employment Act of 1946 declared it to be our national purpose to provide all those willing and able to work with employment. Congress has never given the President the tools he needs to make good on that promise. This bill is a step in that direction and I support it for that reason.

APPOINTMENTS OF CONFEREES

Mr. President, I should like to speak briefly in reference to the appointment of conferees. I am not too clear who the conferees on the bill will be. I do not make the request that I should be advised.

I wish to call to the attention of the Senator in charge of the bill and potential conferees the very clear rules about the appointment of conferees which are set forth in the book on Senate Procedure authored by Mr. Watkins and Mr. Riddick. Beginning on page 171 of that book, the following statements appear:

> Appointment by Chair under order of Senate: It is the universal practice in the appointment of conferees for the Presiding Officer to name the Senators suggested to him by the Member in charge of the particular bill—

That is the Senator from Louisiana [Mr. LONG]. Continuing to read—

> Under rule XXIV, "the Senate may elect its conferees, if it sees fit to do so. The Senate has a right to elect its own conferees. A motion to elect certain conferees is amendable by substituting other conferees."

Still quoting:

> The conferees in theory are appointed by the Presiding Officer but in fact are designated by friends of the measure, who are in sympathy with the prevailing view of the Senate, and with consideration for the usual party ratio. And the Senate, on motion, may elect its conferees as it sees fit.

Quoting from page 174:

> Resignation or declaration to serve: Senators have declined to serve as conferees in some instances because they were not in sympathy with the provisions of bills as passed by the Senate or, after a conference report was rejected, a Senator declined to serve on a second conference committee because of views not in harmony with the action of the Senate.
>
> Conferees have resigned because they were not in sympathy with the action of the Senate on the bill or opposed to the bill in question.

I shall leave to the conscience of every member of the conference committee whether or not he thinks he qualifies under the terms clearly established by the precedents of the Senate. A number of questions are in disagreement between the Senate and the House. Perhaps the most important is with reference to the capital gains tax. Another important issue is the amendment of the Senator from Tennessee [Mr. GORE] dealing with the foreign tax credit. It is essential for the orderly, proper and, indeed, honest conduct of business that a majority of the conferees on the part of the Senate should have supported by their votes the position taken by the Senate on the questions which are in disagreement with the House of Representatives.

I hope that each potential conferee will search his own conscience to determine whether he qualifies under that clearly established principle.

Mr. LONG of Louisiana. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives thereon; and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. BYRD of Virginia, Mr. LONG of Louisiana, Mr. SMATHERS, Mr. ANDERSON, Mr. WILLIAMS of Delaware, Mr. CARLSON, and Mr. BENNETT conferees on the part of the Senate.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the bill, H.R. 8363, be printed with the

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amendments of the Senate numbered, including a table of contents following the end of the bill; and that in the engrossment of the amendments of the Senate to the bill, the Secretary of the Senate be authorized to make all necessary technical and clerical changes and corrections, including corrections in section, subsection, and so forth, designations and cross-references thereto.

Mr. PROXMIRE. Mr. President, I want to pay my respects to the tax reduction bill which has just been passed—and I choose my words carefully—as an unprincipled, irresponsible, regressive, super budget buster. Furthermore, it is inflationary. It cruelly excludes the aged. It excludes 85 percent of those over 65. It excludes a majority of the farmers from tax benefits. But it hits them hard with inflation. It is a bad bill.

Make no mistake—this 1964 tax cut bill inaugurates a brandnew era in American economic policy.

What is the new policy in the bill? It is that the Government will deliberately unbalance the budget—by cutting taxes

or increasing spending in any year in which unemployment is more than 4 percent. We will do this regardless of how prosperous business may be, or how high profits are, or how rapid growth is.

As the President said in his economic message to the Congress, the fact is that this is the most prosperous peacetime year in peacetime history. It is a year of the greatest increase in personal income, savings, gross national product in our history. The stock market is at an alltime high—twice as high as 1929. The policy we follow in this tax bill is an explicit violation of the Democratic platform adopted in 1960 at Los Angeles. I read one passage from it:

> We believe, moreover, that except in periods of recession or national emergency, these needs can be met with a balanced budget * * * with some surplus for the gradual reduction of our national debt.

What we have done this afternoon is to repudiate that platform promise. We now have made it clear that it is the policy of this Congress—and I must say the policy of our party in the Congress—not to balance the budget in a period of our greatest prosperity. Suppose we had followed that policy since 1909, Mr. President.

Applied historically, this policy means that between 1908 and 1917 taxes should have been cut deliberately, or spending increased, to unbalance the budget every year, for unemployment exceeded 4 percent every year.

Then, between 1917 and 1919 when we were in World War I, and unemployment was low, we had an immensely unbalanced budget, of course, because of the huge war spending.

From 1921 to 1941—a 21-year sweep—we should have had, if we had followed this policy, deliberately unbalanced the budget in every year except three, 1923, 1926, and 1929.

During World War II and the Korean war we had an immensely unbalanced budget, because of our necessary military spending.

Between 1954 and 1964, if we had followed the policy which now has been made explicit and ratified by Congress, there would have been an unbalanced budget every year of the last 10 years with one exception.

To sum up, the policy of placing full and ultimate reliance for solving unemployment upon a fiscal policy of an unbalanced budget would if followed in the past 55 years have given us a fantastically huge national debt. If followed in the future, our debt and eventually our taxes will be immense. We are ignoring the real and proven methods of meeting our unemployment problem. We have done nothing about early retirement, or monetary policy. We have created a situation now where monetary policy is almost sure to be restrictive, and likely to offset whatever stimulative effect the tax cut may give us.

We have established the beginning of our reliance for meeting unemployment almost entirely on unbalanced budgets.

There are other elements in the tax bill which are almost as unfortunate as those which I have mentioned. This tax bill dictates to Federal regulatory bodies that they shall ignore full after-tax income in computing a fair return to utilities. It requires a super fair return.

As I have said, this bill is expressly inflationary. It is going to result in an increase in utility rates of $630 million for American consumers in the next year, and $6 billion a year within a few years. The American family's electric light bill, and its gas bill will climb and climb because of the express direction in this bill to regulatory bodies that they must permit utilities to earn more than a fair return, a super return that the full impact of Federal tax reductions specifically the investment credit cannot be considered in determining utility rates.

Another provision of the bill violates the cherished 175-year-old American legal precedent that a businessman can depreciate assets he buys only 100 percent.

It opens the door to tremendous future abuse because it provides for 114 percent depreciation. Every economist knows that when demand is deliberately increased by a $11.5 billion tax cut in a period of prosperity when prices are already high, the inflationary effect on our economy is going to be substantial indeed.

As I have said, this tax bill can be summed up as a principle-busting, financially irresponsible, inflationary, regressive monstrosity.

At the same time, it is popular. There is nothing a politician can do that is more popular than cutting taxes. Everybody wants to cut taxes.

We are entering into a new wonderful era for the politician. It means we are going to follow for the future the policy of cutting taxes regardless of what the deficit is, or how prosperous conditions are and if that does not work, increase the spending. The day of reckoning is in the long run, but as Lord Keynes has said in the long run, we are all dead.

Mr. LAUSCHE. Mr. President, will the Senator yield for a brief observation?

Mr. PROXMIRE. I yield.

Mr. LAUSCHE. I do not quite agree with the last statement made by the Senator. In Columbus, Ohio, the question was before the people as to what rate of fare should be charged on the local transportation system. The company wanted to increase it to 10 cents. The city council did not want to act upon the proposal. The mayor did not want to act. So the question was placed before the voters: "Shall you pay a 5-cent or a 10-cent fare?"

To the great amazement of everybody, after the arguments were made, the voters voted for the 10-cent fare, knowing that that was sound and just.

Mr. PROXMIRE. The Senator from Ohio makes an excellent point. If the people could know, or if they were told all the facts, I am convinced they would be against the tax cut. But the President of the United States, the great newspapers, AFL–CIO, the U.S. Chamber of Commerce, and many newspapers in the Nation have been arguing and pleading loud and long for lower taxes. They have publicized the case for tax reductions. They have done a remarkable job in the past year.

Mr. President, I had promised to yield to the Senator from Oregon [Mr. MORSE], who has an appointment to keep, and I shall do so after a very brief statement.

Unfortunately, the Senator from Louisiana [Mr. LONG], who has been the floor manager of the bill, has left the floor. I want to say that this not only may be a new era in economic policy or tax policy for this Nation, but it also embarks on a new era in Senate tax leadership. I think the Senator from Louisiana has done a superb job on the floor in managing this bill. I say it about him though he was the leader in fighting against every amendment I proposed. I have never seen a Senator who was more forceful and effective. He beat us, and beat us very badly. I regret very much that he has won and as I said yesterday won so smashingly. Never has a monstrous bill had such a remarkable champion.

Mr. President, if a man murdered a crippled, enfeebled orphan at high noon on the public square in the plain view of a thousand people, I am convinced after today's performance that if the Senator from Louisiana represented that guilty murderer, the jury would not only find the murderer innocent, they would award the defendant a million dollars on the grounds the victim had provoked him. The Senator from Louisiana not only made this monstrous tax bill appear good enough to win the votes of an overwhelming majority of Senators. He made those of us who fought it to the bitter end and suffered defeat grudgingly enjoy seeing an obvious legislative artist in action.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. PROXMIRE. Let me yield first to the Senator from Oregon.

[*February 8, 1964*]

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REVENUE ACT OF 1964

Mr. MILLS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. HALLECK. Mr. Speaker, reserving the right to object, and I shall not object, am I correct in my understanding that as chairman of the committee you discussed the matter with the gentleman from Wisconsin [Mr. BYRNES], the ranking minority member, and this meets with his approval?

Mr. MILLS. The gentleman is correct. I had hoped the gentleman from Wisconsin [Mr. BYRNES] would be here, but he has evidently been delayed in getting here this morning.

Mr. HALLECK. I withdraw my reservation of objection, Mr. Speaker.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas? The Chair hears none and appoints the following conferees: Messrs. MILLS, KING of California, O'BRIEN of Illinois, BOGGS, BYRNES of Wisconsin, CURTIS, and KNOX.