

EXECUTIVE SESSION

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FRIDAY, OCTOBER 19, 1979

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United States Senate,
Committee on Finance,
Washington, D.C.

The Committee met, pursuant to order, at 10:00 a.m. in room 2221, Dirksen Senate Office Building, Hon. Russell B. Long (Chairman of the Committee) presiding.

Present: Senators Long, Ribicoff, Byrd, Nelson, Bentsen, Boren, Dole, Packwood, Roth, Chafee, Heinz, Wallop and Durenberger.

The Chairman: Let me just start a discussion among the Senators here. The Republican members will be here in a few minutes. I have sent word; they are on their way.

Meanwhile, I would like the staff just to explain to the Senators who are here one or two of the things that they are going to have to vote on this morning because I would hope -- I think Senator Ribicoff has informed me he has to leave at 11:00 and I would hope that we will get our crucial votes done as soon as we can.

I would just like for the staff to explain for the members who are here, because part of us were here to hear it yesterday. I would like to have Mr. Shapiro explain what that

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1 Wallop amendment is that we deferred from yesterday over to
2 today that has to do with depletion.

3 Mr. Shapiro: The House bill has a provision in it which
4 denies availability of percentage depletion to the extent of
5 the windfall profits element of the tax. For example, on the
6 stripper oil where you have a selling price of \$22, the base
7 price of \$16, what it says is you can get percentage depletion
8 up to \$16.

9 There is no change in that; that is present law. But on
10 the windfall profit element, that is the amount that the tax is
11 posed on, the difference between \$22 and \$16.

12 That \$6 difference you cannot have percentage depletion
13 imposed on that under the House bill. What the House bill
14 does, in effect, is deny percentage depletion on the windfall
15 profit portion anything above the base price. You can continue
16 to have percentage depletion up to \$16 in that example, or with
17 this first tier, it is up to \$6, \$13. The windfall profit
18 element that will be denied the percentage depletion.

19 As you know, the present law already denies percentage
20 depletion to major oil producers. The percentage depletion is
21 only available to independents.

22 In effect, you are talking about independent producers.
23 The Wallop amendment, in effect, would allow percentage
24 depletion on the entire price of the oil which is not limited
25 to just the base, just limited to the profit portion.

1 Senator Ribicoff: What are we talking about in dollars
2 in the Wallop amendment? What do we lose?

3 Mr. Shapiro: Under the present revenue assumptions we are
4 dealing with approximately \$2 billion.

5 Senator Ribicoff: The Wallop amendment will take away \$2
6 billion.

7 Mr. Shapiro: Right. It has no effect on categories of
8 oil that are exempt for tax.

9 For example, newly-discovered oil, incremental oil, the
10 tertiary oil, the incremental tertiary oil; stripper oil which
11 is exempt, available to independent producers. The first 1,000
12 barrels, all that oil which is exempt from tax would not be
13 effected, meaning that they would get the percentage depletion
14 on the entire amount of the price. They are not cut back.

15 The Chairman: Well, now, we understand that. All right,
16 now. We understand what the amendment is. Would you mind
17 telling us about the sheet you have here that has to do with
18 assumptions. That will be very important and will help the
19 Budget Committee as some of the others. Maybe you ought to
20 pass that sheet out, that sheet that you have there that shows
21 the economic assumptions.

22 Mr. Shapiro: The sheet that has been passed out covers
23 the potential price assumptions that the Committee may want to
24 make with regard to the windfall profits tax, under different
25 assumptions.

1 The very first column shows you the original staff
2 assumptions which were \$22 and 1 percent. That staff
3 assumption was made -- this is in early June, prior to the OPEC
4 increases in June and, of course, the recent developments that
5 have occurred in the last several days with regard to prices.

6 The three columns on the left side are fiscal year 1980
7 impact. That is important for your budget consideration. On
8 the right side, the last three columns, are your eleven-year
9 totals, 1980 to 1990.

10 The Committee has already agreed to have a 2 percent
11 assumption. However, the next question is what will the price
12 of oil be on the fourth quarter this year? The price
13 assumption we are talking about is not the OPEC price, it is
14 the uncontrolled price of U.S. production.

15 The OPEC price has the effect of raising that uncontrolled
16 price in the U.S. but it is not the price we are looking at.
17 As you know, the OPEC price is varied. Saudi Arabia is at the
18 lower end, but many of the countries in recent days have the
19 price up to 10 percent, 20 percent more, anywhere between \$24,
20 \$25, \$26 for many of the OPEC countries. The effect of that is
21 to raise the U.S. price of uncontrolled oil -- that is the only
22 price we are talking about in these assumptions -- because the
23 windfall profits tax is imposed on U.S. production.

24 Also, when you have a limit on production, that is the
25 amount of oil that is available to be imported into the United

1 States. It also has the effect of raising the price because it
2 makes U.S. production, that is, stripper oil, and any
3 uncontrolled oil at a premium, and therefore can demand a
4 higher price.

5 The information that we have now is that the price of oil
6 in the U.S. is selling for close to \$34 a barrel. We have
7 asked a number of people in the industry and in the government,
8 although many of them have asked that their names not be
9 indicated -- let me give you some of the ranges to show you
10 what we are getting.

11 They range from a high of \$32 to a low of between \$25 and
12 \$27.50. Many of them are in the range of \$29 to \$31, in that
13 range. That was an estimate of a couple of days ago as to what
14 the price would be in the fourth quarter. We feel that what it
15 is today can very well be approximately \$30 a barrel.

16 Senator Ribicoff: Mr. Chairman, it seems obvious to me
17 with what is happening to the price of oil around the world and
18 the recent actions by major oil producing countries in OPEC
19 that the \$30 plus 2 is very realistic.

20 If we are going to plan on decisions here, I think that
21 before it is over it is going to go higher than \$30, but I
22 think that we ought to go with that much.

23 The Chairman: I think that is realistic. I think that
24 will wind up being low.

25 Senator Ribicoff: It is being raised before the two

1 months. It is very rapid.

2 As I listen to television, Sheik Amani, who says it is
3 going so rapidly with Iraq and Libya and Kuwait that it will be
4 impossible to hold. By the time OPEC meets, it will be all a
5 fait accompli. They are all in on it now.

6 The Chairman: Let me ask you this. Does that mean the
7 \$30 is the price at the beginning of the fiscal year, the
8 middle of the fiscal year, or the average price? What does it
9 mean?

10 Mr. Shapiro: That is the figure that would be in the
11 fourth quarter of 1979, in this quarter.

12 The Chairman: The fourth quarter of 1979:

13 Mr. Shapiro: The average price for this quarter, fourth
14 quarter 1979?

15 The Chairman: Average price in this quarter?

16 Mr. Shapiro: That is right.

17 The Chairman: The quarter is not half over yet. That
18 would be the average price for this quarter, right?

19 Mr. Shapiro: That is right.

20 The Chairman: You are getting advice that it is \$30
21 already?

22 Mr. Shapiro: We are not trying to indicate anything other
23 than what we are being told about what it is outside. That is
24 a price that has to be set.

25 What you have to do is find the people who are buying that

1 one.

2 Mr. Shapiro: Right. This is the revised administration,
3 not the original one. The revised estimate.

4 Senator Wallop: What was the original one.

5 Mr. Shapiro: \$110 billion.

6 This is their proposal they made to the Finance Committee.

7 Senator Ribicoff: Mr. Chairman, I would move that we go
8 on the price assumption of \$30 a barrel plus 2 percent.

9 The Chairman: All in favor, say aye.

10 (A chorus of ayes)

11 The Chairman: Opposed no.

12 (A chorus of nays)

13 The Chairman: The ayes appear to have it. The ayes have
14 it.

15 We were talking about the Wallop amendment. I would hope
16 that we just could go on ahead and vote, explain to those of us
17 here what the Wallop amendment was and Abe Ribicoff has to
18 leave at 11:00 and I have to leave before 12:00 myself. I
19 would hope that where we know we are going to vote, vote on
20 these things rather than debate them.

21 Call the roll on it. Tell us what the Wallop amendment
22 does again?

23 Mr. Shapiro: This is to delete the provision in the House
24 bill which denies percentage depletion on the windfall element.
25 All of the independent producers could continue to get a

1 percentage depletion on the entire price, no disallowance.

2 The Chairman: For the independents?

3 Mr. Shapiro: It deals with independents.

4 Senator Dole: The depletion allowance only goes to the
5 independents.

6 Mr. Shapiro: The oil companies today are not eligible for
7 the percentage depletion.

8 Senator Dole: Only on 1,000 barrels. It goes down to
9 1,000 next year, down to 15 percent next year. It used to be
10 27.5 unlimited. Now it is down to that rock bottom figure at
11 15 percent.

12 Mr. Shapiro: That is right.

13 Senator Bentsen: Now down to the same figure that many,
14 many other extraction minerals have, one of the lowest.

15 The Chairman: Call the roll.

16 Mr. Stern: Mr. Talmadge?

17 (No response)

18 Mr. Stern: Mr. Ribicoff?

19 Senator Ribicoff: No.

20 Mr. Stern: Mr. Byrd?

21 Senator Byrd: Aye.

22 Mr. Stern: Mr. Nelson?

23 (No response)

24 Mr. Stern: Mr. Gravel?

25 (No response)

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1 Mr. Stern: Mr. Matsunaga?
2 (No response)
3 Mr. Stern: Mr. Moynihan?
4 (No response)
5 Mr. Stern: Mr. Baucus?
6 (No response)
7 Mr. Stern: Mr. Boren?
8 Senator Wallop: Aye, by proxy.
9 Mr. Stern: Mr. Bradley?
10 Senator Bradley: No.
11 Mr. Stern: Mr. Dole?
12 Senator Dole: Aye.
13 Mr. Stern: Mr. Packwood?
14 (No response)
15 Mr. Stern: Mr. Roth?
16 (No response)
17 Mr. Stern: Mr. Danforth?
18 (No response)
19 Mr. Stern: Mr. Chafee?
20 Senator Chafee: Aye.
21 Mr. Stern: Mr. Heinz?
22 (No response)
23 Mr. Stern: Mr. Wallop?
24 Senator Wallop: Aye.
25 Mr. Stern: Mr. Durenberger?

1 Senator Durenberger: Aye.

2 Mr. Stern: Mr. Chairman?

3 The Chairman: Aye.

4 Senator Ribicoff: Mr. Moynihan, no.

5 Mr. Stern: Mr. Moynihan, no. Mr. Roth, Aye.

6 The Chairman: The yeas are nine and the nays are three.
7 The absent we will have to seek their vote to see how the final
8 count is.

9 Absent now are Messers. Talmadge, Nelson, Gravel,
10 Matsunaga, Baucus. Boren has been voted by proxy. Packwood is
11 not voting at this moment. Danforth, Heinz.

12 As of now, the amendmet carries. We will have to hear
13 from the absentees.

14 Now, let us take the Roth amendment. Mr. Roth is
15 recognized for ten minutes. The other side will have five
16 minutes.

17 Senator Roth: Senator Packwood hopes that my arguments
18 are not twice as bad.

19 Mr. Chairman, as I mentioned yesterday afternoon, this
20 committee has been concentrating on big oil companies,
21 independents, conservation tax credits and the poor. Could I
22 have the attention please?

23 The Chairman: Let us have order, please.

24 Senator Roth: The one group that we have really paid very
25 little attention to is the working people of this country.

1 I might point out that they are paying -- they are the
2 ones who are footing the bill. They are the ones who are
3 paying the higher energy prices, paying the higher taxes,
4 suffering from inflation and, I might say also massive tax
5 increases, and frankly, I do not think it is fair that the
6 working people be left out in the cold.

7 Mr. Chairman, we have basically two types of windfall.
8 One is the windfall for oil producers; the other one is for the
9 Federal government. Most of our discussions have been dealing
10 with the windfall profits tax. It addresses the oil producers
11 windfall, but unless we act, the Federal government stands to
12 gain billions of dollars in windfall profits from the increased
13 revenue resulting solely from decontrol.

14 I do not believe the Federal government should be allowed
15 to benefit from oil price decontrol any more than the oil
16 companies. I think that we must act, and I think that we must
17 act now, to return this government windfall to the working
18 people who will be paying higher prices under decontrol.

19 Therefore, I am proposing that we freeze the Social
20 Security tax increases for the year 1981 and do not permit the
21 projected increases to go into effect that year. Under present
22 law, the already high Social Security taxes are scheduled to
23 increase very substantially in '81. The tax rate will go up
24 from 6.13 percent to 6.65 percent.

25 The wage base will jump to \$29,700.

1 I might point out, Mr. Chairman, that the wage base is now
2 \$22,900; it will go up in '80 to \$25,900, but because the
3 fiscal year has started, it cannot be changed. My amendment
4 would freeze the tax rate at 6.13 percent and the wage base at
5 \$25,900, reducing the maximum Social Security tax by \$387.

6 Very frankly, if we do not do something now, we are
7 delivering a one-two punch on all Americans.

8 I point out that the Congressional Budget Office has
9 pointed out that my proposal will have a positive impact on the
10 economy resulting in less inflation and more jobs. According
11 to CBO, the amendment will reduce the inflation rate by .3
12 percent. That is inflation, .3 percent.

13 It will lower the unemployment rate by .2 percent and
14 prevent the loss of 250,000 jobs.

15 So it has a beneficial effect on the economy both from the
16 standpoint of inflation and unemployment.

17 According to the CBO, the direct budget cost of my
18 proposal would be \$11 billion, but because of the increase in
19 the number of taxpaying jobs and the reduction of unemployment
20 compensation spending, CBO estimates it would have a budget
21 cost of \$8.6 billion.

22 This payroll tax freeze would be financed by transferring
23 a portion of the billions of dollars in increased revenue from
24 decontrol to the Hospital Insurance Trust Fund.

25 The Social Security Advisory Council 1979 report endorsed

1 the approach of financing part of the Hospital Insurance
2 Trust Fund from the general revenue. By earmarking these
3 special funds from decontrol, we can insure the stability of
4 the trust fund.

5 I think it is important to point out that my amendment --
6 again, to repeat, would roll back the payroll tax increases
7 scheduled for '81 by putting the increased revenues from
8 decontrol into the Medicare trust fund. We are now proposing
9 to use general revenue financing for the retirement program
10 either the pension plan itself or the disability trust fund.

11 Those would not be affected in any way.

12 What my amendment deals with is the Medicare trust fund.
13 As I said, this has been endorsed by the Social Security
14 Advisory Council; by Robert Ball, former Social Security
15 Administrator; and Joseph Peckman of Brookings Institute, as
16 well as a growing bipartisan group of Ways and Means Committee
17 members.

18 Mr. Chairman, I do not think there is any question, any
19 question, that Congress will block the 1981 tax increase, but
20 if we wait until next year to do it, right before the election,
21 these revenues may have already have been spent, and then a
22 rollback raises some serious problems.

23 Oil price decontrol will raise a tremendous amount of
24 revenue over and above whatever windfall profits tax is enacted
25 and I think it is only fair that we earmark now -- and we want

1 to emphasize now -- a portion of these funds for the Social
2 Security freeze.

3 I will point out that this committee has already taken
4 action to help the poor in 1981 which I strongly support as
5 necessary, but I think it is also important that we tell the
6 working people of America that they, too, are going to benefit.

7 I pointed out that a number of different groups have come
8 out in support of this approach, Mr. Chairman. According to a
9 CBO study, a reduction in Social Security taxes will be
10 relatively easy to implement, would lead to a lower rate of
11 price increase, would reduce the adverse impact of high energy
12 prices almost immediately.

13 Dr. Walter Heller, on numerous occasions and again just
14 yesterday, has urged Congress to reduce Social Security taxes
15 in order to reduce inflation and to offset the recession.
16 According to Heller, payroll tax cuts are tailor-made to fit
17 the needs of an economy badgered by both inflation and
18 recession. He believes that a payroll tax will increase take
19 home pay, reduce business costs and help offset the OPEC oil
20 price drag.

21 Mr. Chairman, I would point out that on June 5, 1979 the
22 Washington Post editorialized if Congress uses the oil tax
23 money to cut payroll taxes as it ought to do -- let me read
24 that again. "If Congress used the oil tax money to cut payroll
25 taxes, as it ought to do, it will both hold down inflation and

1 soften the impact on consumers. The burdens of decontrol can
2 be mitigated by careful public policy."

3 I know there are going to be people who are going to
4 argue, why do we not wait? Why do we not do it sometime later?
5 Mr. Chairman, the same question could be raised by some of
6 these other provisions.

7 As I have already mentioned, we have taken a number of
8 steps to help the poor, which is essential, but I think there
9 is something wrong with this committee. If we are unable to
10 take action now to relieve this burden on the very people who
11 are paying the increased cost of oil, who are paying increased
12 taxes -- I want to mention again that the average medium
13 working family will pay an additional over \$900 in taxes in
14 1980 and '81 because of the increase in Social Security taxes
15 and because of inflation-induced taxes. It is over \$900; \$921,
16 I believe, is the figure for those two years.

17 It is about time that we pay some attention to the working
18 people who are paying both the higher prices and the massive
19 tax increases and I urge the adoption of my amendment.

20 Senator Ribicoff: The Chairman is not here. I would just
21 make a brief comment. I am sorry that Gaylord Nelson is not
22 here. Oh, here he is.

23 Gaylord, under the Chairman's ruling, you have five
24 minutes to respond.

25 Senator Nelson: Five minutes to respond?

1 Senator Roth: Or to join. .

2 Senator Nelson: I guess I am better responding to
3 something I did not hear than something I did not hear, so I do
4 not feel handicapped.

5 Some time ago Senator Roth, a couple of weeks ago, brought
6 this question up which I think may very well be a creative
7 approach to a serious problem. I said to Senator Roth at the
8 time, let me think about it, that we have planned to have
9 hearings early January on the whole question of Social
10 Security and its whole situation.

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1 I read the fact sheet, and I think I see, I am not
2 exactly sure, but I think I see what approach Senator Roth is
3 taking, but I think, Senator, we really ought to have hearings
4 first. It is far too complicated for me to make a decision of
5 this dimension, personally, as to where I would go. I am not
6 saying I am for it or against it.

7 Since we are going to have hearings anyway, it is in the
8 jurisdiction of the Subcommittee and I will get them on, if not
9 later this fall, at least in January or early February, so we
10 have plenty of time and I would be happy to have you as a
11 witness at any time you choose, the first witness if you want.

12 But I think it is so complicated and we have gotten into
13 so much trouble in the past by doing this stuff on the Floor
14 off the tops of our heads -- I do not mean to suggest that you
15 have not given this a lot of thought. The problem is, I have
16 not and neither has anybody else.

17 I would much prefer if you would withhold this and we will
18 schedule hearings, as we have intended to all along. I just
19 have not gotten around to selecting a date, and then hear you.
20 We may agree or we may disagree, but you will not be barred
21 from taking action.

22 Senator Roth: Let me point out that, number one, we have
23 voted \$30 billion of aid to the poor which I voted for. I
24 think it is highly desirable. There were no specific hearings
25 on that.

1 But what we are saying -- and what every person who does
2 not vote for this proposal is in effect saying is that the
3 working people are not entitled to any consideration, that we
4 have to delay it until tomorrow.

5 I think you are right. There is no question but that this
6 will be delayed to some time next year, but I think that is a
7 problem. At this very moment, we are telling everybody else
8 what we are going to do but for political reasons -- and I am
9 not referring to you, Gaylord -- that we are waiting to next
10 year where the real danger is that those who wanted to spend
11 these monies -- Mr. Chairman, this is the only amendment I know
12 that has any limitation of time, so I do object to any time
13 limit, but I will just point out that what is going to happen
14 that with the hard times upon us, there is going to be a great
15 desire for other groups, other committees, to spend this money
16 to make commitments for it, and we run a real danger that it
17 will be very difficult to give the kind of relief to the
18 working people that both liberals and conservatives have
19 endorsed, and endorsed strongly.

20 Senator Nelson: Mr. Chairman?

21 Senator Ribicoff: Mr. Chairman?

22 It could very well be that the Finance Committee will
23 adopt the Roth amendment, but I do have respect for the
24 position of the Chairman of the Subcommittee, Senator Nelson.

25

1 I would move to defer action on the Roth proposal until
2 hearings are held by Gaylord Nelson's subcommittee with the
3 understanding that those hearings would not be later than 30
4 days after we resumed session in January.

5 Senator Roth: In due deference to my esteemed colleague
6 from Connecticut, Mr. Chairman, in accordance with our
7 practices, I would like an up and down vote on my amendment.

8 The Chairman: I think in fairness to those of us who find
9 a lot of appeal to the amendment and might want to be for
10 it, that we ought to let it be considered in an orderly
11 fashion and it seems to me that it ought to vote on Senator
12 Ribicoff's amendment.

13 Senator Roth: Mr. Chairman, as I have said, we have taken
14 action on behalf of the oil companies. We have taken action on
15 behalf of the independents, we have taken action on behalf of
16 the poor, we have taken action on behalf of the conservation,
17 but all of a sudden we say, well, let us wait and see with
18 respect to the working people.

19 Again, I cannot emphasize too greatly that this is a group
20 that is suffering, in many ways, the greatest because they are
21 paying out of their earnings the higher energy prices. They
22 are also suffering from inflation and, as I pointed out, the
23 tax increase, the tax burden on them, during the next two years
24 is very, very substantial, well over \$900 for the median
25 family.

1 And these people, just like the poor, are having trouble
2 meeting their bills. I can tell you, come December and
3 January, it is going to be a very tough time for these working
4 people.

5 The local newspaper at home said, a couple of days ago,
6 when the Senate turned down the Javits amendment the first time
7 -- which I voted for -- that the poor were left out in the
8 cold.

9 Well, I regret to say, Mr. Chairman, that I think that is
10 exactly what we are doing today if we do not do some
11 relief to the working people.

12 The Chairman: This is not a Social Security bill,
13 Senator. I will be glad to have this identified as the Roth
14 amendment when we vote on it. It seems to me that we ought to
15 move in the orderly legislative process.

16 You are talking about repealing a tax that would go into
17 effect 15 months from now. We could at least take time to look
18 at it in connection, after we had had a hearing and looked at
19 it in connection with other matters.

20 I discussed it this morning with Senator Muskie, Chairman
21 of the Budget Committee, he said that would give them all kinds
22 of problems with the budget process.

23 Senator Roth: Mr. Chairman?

24 The Chairman: They think that this ought to be considered
25 in connection with the various other things that will have to

1 be done for the economy and that it ought to be next year's
2 business.

3 Senator Dole: Did we not already amend the Social Security
4 Act with aid to the poor?

5 Mr. Stern: Those are amendments to the Social Security
6 Act, yes, sir.

7 Senator Dole; This would not be any departure.

8 Mr. Stern: They do not affect the Social Security tax.

9 Senator Dole: We are talking about the Act.

10 The Chairman: The welfare part, and for the poor, is
11 Title II of the Social Security Act and SSI is Title III of the
12 Social Security Act, I suppose. We do not have anything about
13 the Social Security tax in there. We just have a provision in
14 there for the poor.

15 Senator Dole: I think we have probably used more than our
16 time.

17 Senator Nelosn: I think it is an important matter. I do
18 not think we ought to be cut off by time.

19 Senator Roth: Mr. Chairman, I would just point out that
20 yesterday we voted over \$1 billion for a dam in Alaska, which
21 had no hearings; on numerous other occasions --

22 Senator Dole: That was aid to the poor.

23 Senator Roth: -- we have taken action without hearings.
24 I notice that our good Chairman of the Budget Committee
25 went ahead and voted for the aid to the poor, despite the

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1 unusual procedures so that what I am asking here is not unusual
2 or unique. Other times, we have even stopped these hearings or
3 these proceedings to hold hearings, so whatever hearings were
4 necessary could be held and then we could vote on it.

5 The point I am trying to make, I think it is important in
6 a bipartisan way that this Committee shows that it also has
7 some concern about the working people.

8 You mentioned this does not take effect until '81.
9 Neither does our program for the poor take effect until '81,
10 but yet we proceeded on that. So that there is adequate
11 precedent.

12 What I would hope is that we could all agree that, by
13 giving this relief now, it gives us some time in the future to
14 take a more careful look, in a non-election year, as to what
15 needs to be done.

16 But I would just like to read to you again what the
17 Washington Post said, because I think it is significant. They
18 pointed out that, "if Congress uses the oil tax money to cut
19 payroll taxes, as it ought to do, it will both hold down
20 inflation and soften the impact on consumers. The burdens of
21 decontrol can be mitigated by careful public policy."

22 I just think that the time has come for us to show that we
23 have some real concern for the people who are paying the bill.

24 Senator Nelson: Mr. Chairman?

25 The Chairman: Senator Nelson.

1 Senator Nelson: I said early on, I know that Senator Roth
2 has given a lot of thought to this. I may very well end up,
3 when I understand it better, voting for it. I do not know.

4 I do know, as Chairman of the Subcommittee on Social
5 Security who has held hearings over a period of years, I found
6 it enormously more complicated than I thought it was. I saw
7 that we made many mistakes in the past that we would not have
8 made if we understood them and some of those mistakes I voted
9 for. They were dead wrong, and they were damaging to the fund.

10 We did it because we did not have careful enough
11 consideration.

12 There are several problems here. Of course, if this needs
13 to be done, we can do it for the working people prior, because
14 it does not go into effect until 1981. The reason on the
15 energy assistance to the poor is that we are acting for 1981 is
16 that we have already covered 1980. We have had an energy
17 assistance to the poor program for quite some time.

18 There is another major, I think, dangerous problem
19 confronting us at the time, and I am worried about it, and that
20 is why I have decided that we would have hearings a long time
21 ago. We will have hearings early next year because of the
22 inflation question.

23 I would like to point out I hope everybody will take -- I
24 do not want to say it until Senator Roth can hear -- everybody
25 will give it some careful thought.

1 One of the most expensive things in the program, but it is
2 correct, is that we index the benefits of the retirees for
3 inflation otherwise, when they retire in ten years, they have
4 enough to live on; they are bankrupt and on welfare in five
5 years or less.

6 We adopted a tax rate effective for 1980. In 1981, based
7 upon the actuarial assumption that the inflation rate will be
8 5.5. We are now hitting into a disastrous situation where it
9 is 14 percent and the retirees are pulling out of the fund
10 money that we had assumed would only be pulled out for that
11 purpose at the rate of the inflation rate of 5.5 percent.

12 So when we were looking at this a month or two ago, we
13 decided it would be better to have some hearings early next
14 year pull in the actuaries and take a look.

15 I would hope that no such situation arises. We may be
16 stuck with having to take the money Senator Roth is talking
17 about and putting it in the fund for 1980 or raise the taxes
18 again.

19 I have no notion. I think it is a dangerous situation.

20 When we levied our taxes as high as they are, 5.5 was the
21 inflation rate. We are now at 14 percent.

22 I respect the work Senator Roth has done on this. He may
23 be absolutely correct, but we may make a disastrous mistake by
24 proceeding now without having comprehensive hearings on the
25 most important social program that this country ever adopted,

1 affecting more people than any other program that this country
2 has got.

3 I will say to the Senator, Senator Ribicoff's motion was
4 made saying within 30 days after we began this session. I
5 think I can meet that easily enough. As a matter of fact, I
6 can get together with staff and select the hearing date, clear
7 it and be ready easily, have hearings on this proposition
8 within 30 days of our return, possibly even later this year, if
9 we get out of here -- which I do not think we will -- but if we
10 get out of here by the end of November, I would be happy to
11 hold hearings in December.

12 Senator Roth: Let me point out two things. First of all,
13 my proposal in no way affects the trust fund for the pension.
14 As I mentioned earlier, it in no way -- the same percentage
15 will be paid on my amendment to that pension trust fund that
16 would currently go into effect.

17 Senator Nelson: Let me ask a question. I was confused
18 about that for another reason. You are earmarking this?

19 Senator Roth: That is correct. The funds from the
20 decontrol would go into HI. We would, in no way, affect the
21 disability trust fund or the pension trust fund, both of which
22 are based upon the contributions that are made to it.

23 I agree with you that the most important program that we
24 have in effect is the Social Security pension plans and we are
25 not touching that in any way.

1 What I am proposing is that these additional corporate
2 taxes go into the hospital fund that is based upon need, rather
3 than contribution. And, of course, as I pointed out, many
4 people have come out in support of removing that, of supporting
5 that in general revenues.

6 Senator Nelson: I want to say to the Senator, I got beat
7 in this Committee in 1977 on a motion to move HI out of the
8 Social Security fund and go into the general fund so that, by
9 1985 or 1986 -- I have forgotten -- HI would be a general fund
10 function, since it is not wage related. Neither disability or
11 HI are wage related. I think it was a mistake to put it in
12 there.

13 I got defeated on this committee in 1977 on that precise
14 point. I am not disagreeing in principle about moving HI to
15 some other kind of support. I think it is necessary to do so.
16 If we ever do have a health insurance program, it will be a
17 part of that program in one way or the other. But if this goes
18 into HI, if this inflation rate continues, I do not know
19 whether the present tax rate will hold for 1980 and I think we
20 ought to have hearings before we make decisions about putting
21 \$11 billion into HI.

22 If my figures are right, HI is better off now than any
23 part of the fund -- I do not have it in front of me -- it is
24 gaining and in a year or two going up, more income than outgo,
25 in the next four, five or six years, is it not?

1 Senator Roth: This comes down to a matter of judgment, of
2 course. As I pointed out earlier, one of my concerns that
3 other committees and other committee goals, all of which are
4 meritorious, will seek to use these funds. So I think it is
5 important for the same reason we are allocating these windfall
6 profits for the poor and other people that we allocate this
7 additional corporate tax to help out the working people.

8 To me, it is just a question of equity and fairness.

9 The Chairman: Let me make one point here. You have an
10 awful lot of people in this country concerned on how you are
11 going to finance Social Security -- the workers, the
12 beneficiaries, the employers who are paying half of the money
13 in the fund, and they have a right to be concerned about it.
14 All of those people have a right to be heard. They have a
15 right to think about it, they have a right to study it, they
16 have at least a moral right to communicate about it.

17 And after they have had a chance to give it due
18 consideration to communicate to the Congress.

19 This is something that does not take place until January,
20 1981. All we are suggesting is that we give ourselves time and
21 give the American people time and everybody, every responsible
22 and every irresponsible group that has a way of thinking about
23 these things time to think about it and time to talk about it
24 and let themselves before we vote on this.

25 Here is a bill to put a windfall profits tax on. And we

1 talked about credits using for energy and urban transit in
2 connection with it and I know the Senator indicated he planned
3 to offer an amendment of this sort early in the game. As a
4 practical matter we will be voting at the last minute, without
5 hearings, on a major bill to overhaul the Social Security
6 program.

7 It just seems to me that that is not the responsible way
8 to do it.

9 Would the Chairman of the Budget Committee complain about
10 that approach, would the Chairman of the Subcommittee that
11 deals with Social Security saying that he would like some time
12 to hold some hearings and let people be heard and think about
13 it.

14 Senator Dole: As I understand it, we finish this bill
15 today. We met again next week. Then there will be a ten-day
16 period before it goes to the Floor. Maybe we could have the
17 hearings between now and that time and agree to offer it as an
18 amendment on the Floor.

19 The Chairman: It will be offered on the Floor, anyway.

20 Senator Dole: Maybe by Senator Kennedy or somebody who
21 has an interest in working people.

22 The Chairman: If it is going to be offered on the Floor,
23 I would prefer Mr. Roth to offer it on the Floor. As far as I
24 am concerned, if the Ribicoff motion carries -- I am not
25 seeking to deny the Senator recognition for his amendment. All

1 I am suggesting is that we just do it in the orderly
2 legislative process.

3 Senator Roth: Mr. Chairman, we did agree yesterday that
4 we would have an up and down vote on my amendment today. If it
5 were possible to hold the hearings and to have a vote on it
6 before we finally report the bill out, that would be on
7 alternative, but otherwise I think we ought to go ahead and
8 have an up and down vote now on my amendment.

9 Senator Byrd: May I ask a question/ Is this a one-year
10 deferrment?

11 Senator Roth: Yes, sir.

12 Senator Byrd: What happens at the end of one year?

13 Senator Roth: It would go into effect as otherwise
14 scheduled to do so now. It is a one year freeze.

15 Senator Bentsen: I do not know if you can vote up or dow
16 on it. I want it clearly understood that I may end up finally
17 being for this after appropriate study. If you do have an up
18 or down on it, want that interpreted is that I am opposed to
19 ultimately seeing that we delay the raise.

20 The Chairman: Frankly, that is why I think we ought to
21 have a vote on Senator Ribicoff's motion.

22 Senator Roth: Mr. Chairman, it is always the practice
23 to give people an up or down vote. I would like an up or down
24 vote on my amendment, as agreed to yesterday.

25 The Chairman: Senator, I asked that we put this matter

1 over until yesterday. I did not think I was foreclosing
2 anybody from deferring consideration of it.

3 Senator Roth: As you yourself have said during these
4 sessions that it has never been our practice to try to avoid
5 votes on an individual's amendments by parliamentary
6 procedures. I think that has been a very sound policy and, for
7 that reason I would respectfully insist that I do have vote.

8 Senator Ribicoff: It is up to you, Mr. Chairman. I agree
9 with Senator Bentsen.

10 My feeling is that if we deferred this and the Nelson
11 Committee had hearings, I would vote for Mr. Roth's amendment
12 after hearings by Senator Nelson because I think that there is
13 a basic problem here, but I would vote no today because my
14 feeling is that the points made by Senator Nelson are
15 absolutely sound and there are complications in this whole
16 Social Security fund and I think maybe we should be on the way
17 for a restructuring the entire Social Security program.

18 I do not know what inflation is going to do for potential
19 unemployment with the viability of the fund, and I think on the
20 side of responsibility, with no reflection on Senator Roth --
21 because I do not think there is a more responsible Senator
22 Roth. He is a constructive man with good ideas and I think he
23 has a good idea here.

24 But I would be a lot happier if Gaylord Nelson had those
25 hearings within a month after we returned, or maybe before, if

1 he can do so.

2 Gaylord Nelson is not the type of man who stalls and tries
3 to repress things.

4 Senator Bentsen: Mr. Chairman, the problem you run into
5 when you vote like this, in effect, for a cut on whatever was
6 going to be increased and you do that by itself, there are
7 things that we may have to do with the Social Security system
8 that will not be as pleasant and when you cannot put the whole
9 package together you may find it very difficult to accomplish
10 the things that are distasteful.

11 If you have some of the sweet with a package like this,
12 you can accomplish it. I am not concerned about just doing
13 what is politically popular and not doing some of the more
14 difficult things we have to do at the same time in restructuring
15 the Social Security system.

16 Senator Chafee: Mr. Chairman, there seems to be a good
17 deal of concern about hearings and yesterday, that was raised
18 in connection with another matter, the so-called Gravel
19 amendment, an amendment which nobody knew anything about, never
20 even heard of before it was raised yesterday.

21 It seems to me that those who are so concerned about
22 hearings ---how did that vote come out yesterday on the Gravel
23 thing?

24 Could you run down who voted aye?

25 Senator Dole: We had a chart on the board.

1 That is a \$2 billion chart there.

2 The Chairman: Let me see. The yeas, as of now, the yeas
3 are ten and the nays are five.

4 Senator Chafee: Could you inform us who voted how, Mr.
5 Chairman?

6 Senator Bentsen: I would be glad to say that I am one who
7 voted aye. Let me make a point, as long as this has come up.

8 Senator Chafee: If I could finish?

9 Senator Bentsen: If I may --

10 The Chairman: All the Republicans voted no.

11 Senator Bentsen: You are going to have a judgment of the
12 marketplace on those revenue bonds as to whether or not that is
13 a feasible project and there was some judgment behind that vote
14 and it was discussed. The question of whether you are going to
15 have Federal appropriations or you are going to have a tax free
16 bond.

17 If it is not a feasible project, obviously the marketplace
18 would not fund those kinds of bonds.

19 Senator Ribicoff: There is another problem. We were
20 dealing with the Gravel amendment on the problem of how do you
21 produce more energy which was germane to the legislation that
22 we now have.

23 The Chairman: I am going to rule that we will vote on the
24 Ribicoff motion.

25 Call the roll.

1 Senator Roth: Mr. Chairman, that is the first time in the
2 years that I have served on this committee where a vote on a
3 member's amendment has been avoided.

4 The Chairman: Senator, that does not mean it has been
5 avoided. We have a motion to postpone consideration of it
6 after we hold hearings. That has not been avoided.

7 Senator Roth: That is not what I am saying, Mr. Chairman.
8 I have a specific amendment proposing this freeze taking place
9 now and obviously that is what we are avoiding, a vote up or
10 down as to whether or not there should be some relief given to
11 the working people.

12 I think I am entitled, just as the other gentlemen -- I
13 have never objected to anyone else's ever having a vote on his
14 proposal, no matter how embarrassing it might be to me, and I
15 think I am entitled to that right.

16 Senator Nelson: Let me say a word on that, Mr. Chairman.

17 As Chairman of the Social Security Subcommittee, I do not
18 really understand his amendment and I read it for the first
19 time this morning. I think it is quite a bit to ask that you
20 make a decision involving \$11 billion a year, the whole Social
21 Security system, without any hearings at all. We have a
22 subcommittee for that purpose; I am guaranteeing the hearings.

23 I do not want to be in a position that voting against
24 Senator Roth's proposal, I might be for it. My point is I can
25 not make an informed judgment after reading a brief memorandum

1 this morning. I just could not. I do not want to be in a
2 position of saying I am against it. I may very well be for it,
3 and we have plenty of time.

4 So I think I agree with the motion by Senator Ribicoff.

5 The Chairman: Call the roll.

6 Senator Roth: Mr. Chairman, are we changing the practice
7 of this committee?

8 The Chairman: We are voting on Mr. Ribicoff's motion,
9 Senator.

10 Senator Roth: This came up, Mr. Chairman, two weeks ago,
11 and I have always played very fair with this committee and at
12 that time there was an effort made to avoid a vote on a
13 particular amendment and I believe the Chairman himself came
14 out and explicitly said we never use procedures to avoid a
15 vote.

16 Now, I am asking -- in that time, accommodation was made,
17 I think at your instigation, and I feel very strongly that we
18 should have an up or down vote on this amendment. As a matter
19 of fact, when we raised it yesterday you asked me if I would
20 wait until today and we discussed voting on it today and I
21 agreed with you. I said I would.

22 I feel I played very open and fair and I mentioned several
23 weeks ago that I was going to offer this amendment. So I
24 really feel that there should be an up or down vote on my
25 amendment.

1 The Chairman: Senator, I think you have made that clear.
2 It is a matter for the Committee to decide and the Committee
3 can either vote the motion up, or they can vote the motion
4 down.

5 Senator Dole: Mr. Chairman? I move to table the Ribicoff
6 motion.

7 The Chairman: Let's vote on that.

8 Fine. Let's vote on that. Call the roll. It is not
9 debatable.

10 Mr. Stern: Mr. Talmadge?

11 (No response)

12 Mr. Stern: Mr. Ribicoff?

13 Senator Ribicoff: No.

14 Mr. Stern: Mr. Byrd?

15 Senator Byrd: No.

16 Mr. Stern: Mr. Nelson?

17 Senator Nelson: No.

18 Mr. Stern: Mr. Gravel?

19 Senator Roth: Aye, by proxy.

20 Mr. Stern: Mr. Bentsen?

21 Senator Bentsen: No.

22 Mr. Stern: Mr. Matsunaga?

23 (No response)

24 Mr. Stern: Mr. Moynihan?

25 (No response)

1 Mr. Stern: Mr. Baucus?
2 Senator Baucus: No.
3 Mr. Stern: Mr. Boren?
4 Senator Boren: Aye.
5 Mr. Stern: Mr. Bradley?
6 Senator Bradley: No.
7 Mr. Stern: Mr. Dole?
8 Senator Dole: Aye.
9 Mr. Stern: Mr. Packwood?
10 Senator Packwood: Aye.
11 Mr. Stern: Mr. Roth?
12 Senator Roth: Aye.
13 Mr. Stern: Mr. Danforth?
14 Senator Danforth: Aye.
15 Mr. Stern: Mr. Chafee?
16 Senator Chafee: Aye.
17 Mr. Stern: Mr. Heinz?
18 Senator Heinz: Aye.
19 Mr. Stern: Mr. Wallop?
20 Senator Wallop: Aye.
21 Mr. Stern: Mr. Durenberger?
22 Senator Durenberger: Aye.
23 Mr. Stern: Mr. Chairman?
24 The Chairman: No.
25 The yeas are ten and the nays are seven.

1. Senator Nelson: What is the vote?
- 2 The Chairman: The yeas are ten and the nays are seven.
- 3 Not voting are Messers. Talmadge, Matsunaga, and Moynihan.
- 4 Mr. Moynihan, I have his proxy. I will call that no. Ten
- 5 to eight.
- 6 Senator Dole: Now the vote is on the Roth proposal.
- 7 Senator Roth: I move.
- 8 The Chairman: Let's have a vote on the Roth amendment.
- 9 Call the roll.
- 10 Mr. Stern: Mr. Mr. Talmadge?
- 11 (No response)
- 12 Mr. Stern: Mr. Ribicoff?
- 13 Senator Ribicoff: No.
- 14 Mr. Stern: Mr. Byrd?
- 15 Senator Byrd: No.
- 16 Mr. Stern: Mr. Nelson?
- 17 Senator Nelson: No.
- 18 Mr. Stern: Mr. Gravel?
- 19 Senator Roth: Aye, by proxy.
- 20 Mr. Stern: Mr. Bentsen?
- 21 Senator Bentsen: No.
- 22 Mr. Stern: Mr. Matsunaga?
- 23 (No response)
- 24 Mr. Stern: Mr. Moynihan?
- 25 The Chairman: No.

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1 Mr. Stern: Mr. Baucus?
2 Senator Baucus: No.
3 Mr. Stern: Mr. Boren?
4 Senator Boren: Aye.
5 Mr. Stern: Mr. Bradley?
6 Senator Bradley: No.
7 Mr. Stern: Mr. Dole?
8 Senator Dole: Aye.
9 Mr. Stern: Mr. Packwood?
10 Senator Packwood: Aye.
11 Mr. Stern: Mr. Roth?
12 Senator Roth: Aye.
13 Mr. Stern: Mr. Danforth?
14 Senator Danforth: Aye.
15 Mr. Stern: Mr. Chafee?
16 Senator Chafee: Aye.
17 Mr. Stern: Mr. Heinz?
18 Senator Heinz: Aye.
19 Mr. Stern: Mr. Wallop?
20 Senator Wallop: Aye.
21 Mr. Stern: Mr. Durenberger?
22 Senator Durenberger: No.
23 Mr. Stern: Mr. Chairman?
24 The Chairman: No.
25 The yeas are ten and the nays are eight. Absent are

1 Messers. Talmadge and Matsunaga. We will ask the absentees to
2 record themselves. However they record themselves, that is how
3 the vote will go.

4 Senator Dole: Mr. Chairman?

5 The Chairman: Senator Dole?

6 Senator Dole: We discussed yesterday the 501(c)(3)
7 amendment that I proposed. I tried to determine -- I know
8 Treasury has tried to be helpful and the Committee has tried to
9 be helpful. I think there may have been some misunderstanding.
10 We are talking about only private schools that may be located
11 somehow in all states. We do know that almost every major
12 educational institution will be affected.

13 Rochester, Cornell, Dartmouth, University of Pennsylvania,
14 Stanford, Cal Tech, Tulsa. In addition, I have a letter from
15 the United States Catholic Conference in support of the
16 amendment. They advise me, as I assume they have advised
17 others in Kansas, for example, the Archdiocese of Dodge City
18 and the Diocese of Swina have some royalty interests.

19 All we are suggesting in the 501(c)(3) amendment, where
20 there are monies devoted for religious, charitable, scientific,
21 literary and educational purposes that they would not be
22 subject to windfall profit tax.

23 They are 501(c)(3)s. They are not subject to tax in the
24 first place.

25 It seems to me that we have exempted -- there is no tax to

1 any public subdivision, political subdivision, and this would
2 seem to me to give fair treatment to private institutions and
3 we would eliminate private foundations.

4 Senator Bentsen: Mr. Chairman?

5 The Chairman: Yes, sir.

6 Senator Bentsen: I originally proposed this when I was
7 talking about the Hospital for Crippled Children in Dallas,
8 Texas. That is a hospital which accepts children on a
9 nondiscriminatory basis and has been an outstanding success in
10 trying to rehabilitate children and help them lead productive
11 lives.

12 The reason I think for this windfall profits tax was to
13 stop the private sector from having a windfall. Certainly when
14 we are talking about charitable institutions, that is just not
15 the case. If you put a windfall profits tax on, in effect, it
16 means Crippled Childrens will not receive that kind of
17 assistance.

18 The point was made when I brought mine up that it should
19 not be limited to this particular hospital. I think a very
20 valid point was made.

21 So I am supportive of what Senator Dole has done in
22 expanding my original amendment.

23 Senator Heinz: The point, as I recall, at that time was
24 that this could lead to situations where people would be
25 selling oil properties to charitable institutions and you

1 entitled to have tax-free income from that source.

2 Is my recollection or understanding correct?

3 Mr. Lubick: Senator Heinz, the courts upheld the
4 exemption in the Mueller Macaroni case and, as a result of
5 that, Congress, in 1950, enacted the unrelated-business tax
6 provisions of the Code which provides that where an exempt
7 organization engages in the conduct of a trade of business
8 unrelated to its charitable activities, that it is subject to
9 the same taxation as a normal taxpayer and that has been the
10 law since 1950.

11 Senator Heinz: 1950. The Campbell's Soup case was back
12 in the 30's I think.

13 My concern is temperamentally I would like to do anything
14 I can to help educational and charitable and religious
15 organizations but what I would like to know is this special
16 foot-in-the door just for oil interests or a bona fide
17 exception that we ought to make?

18 Mr. Lubick: The Congress has, from time to time, dealt
19 with excise taxes. In some cases, it has granted exemptions
20 for charity. In other cases, it has not.

21 I might point out that the state of Texas does not exempt
22 501(c)(3) organizations from severance taxes and to my
23 knowledge, in so far as we can ascertain, neither does the
24 state of Kansas have such an exemption.

25 It is not at all unusual for this type of income to be

1 subject to taxes like this and it appears to us that, given the
2 nature of the windfall profits tax, that we are dealing with
3 tranfers of wealth from consumers to producers that is
4 particularly appropriate for the tax to apply to these type
5 owners and it is quite clear that this exemption, unlike some
6 of the others, will not have a positive energy-inducing
7 production effect.

8 Senator Dole: We are talking about, you know, in the case
9 if they were involved in drilling. We are just talking about
10 royalty income. They do not do anything passive. They receive
11 it at Harvard, Yale and Princeton, the University of
12 Pennsylvania and other areas.

13 Mr. Lubick: Harvard is not going to do any more drilling
14 as a result of this.

15 Senator Dole: Right. Shriners Hospital in St. Louis, and
16 other areas, that could use the help.

17 The Chairman: Here is a list -- Louisiana College, Loyola
18 South.

19 Senator Dole: This is just a sample list.

20 The Chairman: Baylor, Rice, SMU, TCU, Rochester, Bringham
21 Young, Cornell, Princeton, Dartmouth, University of
22 Pennsylvania, University of Tulsa, Oklahoma Baptist, Oklahoma
23 City University, Stanford and Cal Tech.

24 Senator Dole: There is not any revenue involved.

25 Mr. Lubick: We think the revenue would be quite

1 substantial. We do not know how to handle it because we do not
2 have any way of ascertaining.

3 The Chairman: Does this amendment have a grandfather
4 clause so future gas would not be involved?

5 Mr. Shapiro: That is being suggested by Senator Bentsen.
6 We understand that properties transferred after October 1 would
7 not be covered. It would be properties, oil properties, that
8 they would have as of the end of September.

9 The Chairman: What kind of estimate do you have, Mr.
10 Shapiro? What is the best estimate you can give us as to
11 the cost of this?

12 Mr. Shapiro: We have no way of knowing for sure. There
13 is a range of \$1 billion under the old assumptions but, let me
14 tell you, it could be a lot higher. It could be lower. We do
15 not know how much oil is known by these tax-exempt
16 organizations. We are talking about all tax-exempt
17 organizations other than private foundations. That means
18 churches, all religious groups, scientific, literary,
19 educational. These are the types of interests they may leave
20 in a will.

21 We have no way of knowing how much is owned by way of
22 bequests to these various organizations.

23 Senator Packwood: It could be the Church of Scientology
24 or Dr. Moon's church.

25 Mr. Shapiro: Anything that is a 501(c)(3) but they must

1 have owned it by October 1, not a future transfer.

2 In some of these cases, these royalties may have been in
3 bequests and we have no way of knowing how much is owned. The
4 date is not available.

5 The Chairman: Call the roll on it.

6 Senator Danforth: Mr. Chairman?

7 The Chairman: Yes, sir, Mr. Danforth.

8 Senator Danforth: I thought that that is the question
9 with respect to exemptions of royalties received by state and
10 local governments. Essentially, I think the same point is to
11 be made here.

12 The question is, what are we about? Are we trying to
13 fashion a national energy policy, recognizing that the whole
14 country has a state in producing and conserving energy, or
15 instead are we after something else?

16 Are we after trying to confer special benefits totally
17 unrelated to energy to someone else?

18 It is very hard to argue against hospitals for crippled
19 children, Princeton, and other eminent 501(c)(3) organizations.
20 However, it is my understanding that excise taxes ---are they
21 usually applied, or not usually applied, to charitable
22 organizations?

23 Mr. Lubick: I do not know if one can draw conclusions.
24 Some are, some are not.

25 Senator Danforth: Some are, some are not.

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1 Mr. Chairman, it seems to me that the overriding issue
2 here has to do with fashioning a national energy policy and
3 that is all that is involved, that when these organizations
4 acquired oil propertis, they acquired oil properties with the
5 assumption that certain revenues would be produced and with the
6 assumptions that the income received therefrom would be exempt
7 from Federal income taxes under Section 501(c)(3). That is all
8 that they assume, and what they are going to have as a result
9 of decontrol is a substantial increase in their revenues.

10 If we are going to provide them with a further benefit by
11 way of exemption from a windfall tax, then the country as a
12 whole should have something that it is going to get out of it.

13 That is not the case here.

14 The Chairman: Let me comment on that for a moment.

15 In the beginning, my inclination was to vote against this
16 crippled children's amendment when Senator Bentsen offered it
17 even though I had a letter from a very good tax lawyer in
18 Dallas urging me to vote for it.

19 Senator Danforth: Could we call it something else, Mr.
20 Chairman?

21 Senator Bentsen: Let's stick to the title I put on it in
22 the beginning.

23 The Chairman: Let's go on from here.

24 The more I see of this, the more I realize that what we
25 have here is not a tax on the consumer. This is a tax on the

1 producers. Is that not right, Mr. Shapiro?

2 Mr. Shapiro: Yes, it is an excise tax on the producer.

3 The Chairman: A tax on the producer, that is where the
4 burden falls, on the producer.

5 I do not know how the final result will go. We will just
6 vote on the amendment and say -- of the additional income taxes
7 raised, put that over to pay for Social Security benefits or
8 health insurance.

9 Now we have an amendment saying that, in so far that this
10 is a tax on the crippled children's home, we will not levy the
11 tax. Then I look down there and, of course, it is a little
12 more difficult to vote against. When I find Louisiana College
13 is involved in that.

14 Senator Dole: And Princeton.

15 The Chairman: When you get down to it, this is a tax on
16 the producer and the Senator is saying you should not levy it
17 on a tax-exempt group. I would make that point myself. I do
18 not feel like exempting the private foundations, but that is
19 out.

20 You are not going to tax the private foundations.

21 Senator Chafee: Mr. Chairman?

22 The Chairman: Yes, sir.

23 Senator Chafee: There are many private foundations that
24 can solely give to 5019c)(3) charities. I do not see why the
25 difference. I am opposed to the whole thing anyway.

1 If you are going to do it, if you are going to go this
2 route, what is the difference between a private foundation that
3 has some royalties that will give to Louisiana State College or
4 whatever it might be, the crippled children, or the donor that
5 gives the royalties to the institution itself.

6 I do not understand. It seems to me we ought to be
7 consistent.

8 The Chairman: I could make a distinction but I do not see
9 any point in doing it. It is not going to change any votes.

10 Why do we not vote on this?

11 As far as I am concerned, we should just vote on this one
12 way or the other.

13 Call the roll.

14 Mr. Stern: Mr. Talmadge?

15 (No response)

16 Mr. Stern: Mr. Ribicoff?

17 Senator Bradley: No by proxy.

18 Mr. Stern: Mr. Byrd?

19 Senator Byrd: Aye.

20 Mr. Stern: Mr. Nelson?

21 (No response)

22 Mr. Stern: Mr. Gravel?

23 (No response)

24 Mr. Stern: Mr. Bentsen?

25 Senator Bentsen: Aye.

1 Mr. Stern: Mr. Matsunaga?
2 Senator Matsunga: No.
3 Mr. Stern: Mr. Moynihan?
4 Senator Bradley: No by proxy.
5 Mr. Stern: Mr. Baucus?
6 Senator Baucus: Aye.
7 Mr. Stern: Mr. Boren?
8 Senator Boren: Aye.
9 Mr. Stern: Mr. Bradley?
10 Senator Bradley: No.
11 Mr. Stern: Mr. Dole?
12 Senator Dole: Aye.
13 Mr. Stern: Mr. Packwood?
14 Senator Packwood: No.
15 Mr. Stern: Mr. Roth?
16 (No response)
17 Mr. Stern: Mr. Danforth?
18 Senator Danforth: No.
19 Mr. Stern: Mr. Chafee?
20 Senator Chafee: No.
21 Mr. Stern: Mr. Heinz?
22 Senator Heinz: No.
23 Mr. Stern: Mr. Wallop?
24 (No response)
25 Mr. Stern: Mr. Durenberger?

1 Senator Durenberer: No.

2 Mr. Stern: Mr. Chairman?

3 The Chairman: Aye.

4 Senator Gravel: No.

5 Mr. Stern: Mr. Gravel, no.

6 Senator Wallop is aye by proxy.

7 The Chairman: Seven yeas and ten nays, so the amendment
8 cannot be agreed to. The amendment is not agreed to.

9 Are there any other amendments to vote on this morning?

10 Mr. Stern: Mr. Chairman, the eleventh aye vote on Senator
11 Gravel's amendment has been cast, so the amendment is disagreed
12 to -- disregarding the industrial development bond rules in the
13 case of the dam.

14 The Chairman: Mr. Bradley had a matter that we talked
15 about and we wanted to get the estimate. Fortunately, the
16 estimate comes in on the low side. Can you tell us what it is?

17 Mr. Shapiro: We had some information yesterday. It is
18 the total number of facilities, solid waste facilities
19 involved.

20 Upon looking at the matter we found out that about six of
21 the total amount of bonds that would be available were already
22 tax exempt. The initial estimate that the staff gave, which
23 was a very quick estimate, was on the high side, but looking at
24 it ---and we have checked this with Treasury as well as our
25 staff ---based on the data that we have so that the estimate on

1 Senator Bradley's proposal is \$230 million over eleven years.

2 What his proposal would do would be to allow the use of
3 tax-exempt bonds for solid waste facilities through the
4 generating stage. For this, you would not be required to be on
5 the same site, or the adjacent site.

6 In other words you could hold the fuel from the solid
7 waste facility unit to the generator or the steam plant.
8 Making those revisions and modifications in the development
9 bond provision would allow the use for industrial development
10 bonds for solid waste facilities.

11 As indicated, the revenue was \$230 million over the
12 eleven-year period.

13 The Chairman: That is not a very expensive proposition,
14 compared to some of the others.

15 Is there any objection?

16 Those in favor, say aye.

17 (A chorus of ayes.)

18 The Chairman: Opposed, no.

19 (No response)

20 The Chairman: The ayes have it and it is agreed to.

21 Senator Bentsen: Mr. Chairman, I would like to comment
22 just very briefly again on the low-income energy assistance
23 program. I have had the staff add to that what the tax credit
24 would be which applies to one-third of the total amount that
25 would be utilized for energy assistance to the poor and as

1 those tables are studied, frankly I think that would result in
2 a very substantial inequity.

3 I do not want to get into a question of voting on that
4 this morning because I know that Senator Moynihan feels very
5 strongly about this particular amendment and I think he should
6 be here if we further discuss that. But I really think that we
7 ought to give reconsideration to what the administration had
8 proposed initially or else look at the situation that Senator
9 Nelson had proposed and that it be put across the board to all
10 three categories.

11 The Chairman: Let me make this point, Senator. You have
12 some good information here and I want to study it and I think
13 everybody else wants to study it.

14 Senator Ribicoff had to leave because of commitments he
15 had made before. Senator Moynihan is necessarily absent at
16 this moment. He called down asking about this very matter. I
17 said that there is some dissatisfaction about the matter within
18 the committee and that what I thought we would do would be to
19 vote on the tax, vote on the credits, and if we wanted to, we
20 could tentatively order this bill reported, leaving this matter
21 that we could still look at especially after we see what the
22 Labor Committee --

23 Senator Bentsen: I am in total acord with you but you
24 were talking to someone at the time. I just stated that as
25 Senator Moynihan was not here, I certainly would not want to

1 consider it without him here. I think we ought to look at this
2 perhaps next week.

3 The Chairman: So that we could then decide, looking at it
4 after the House has decided, after the Labor Committee has had
5 their study.

6 Now, it is Human Resources who have had a chance to make
7 their suggestion because they wrote us a letter and indicated
8 that they have a proper interest in this matter and rather -- I
9 think they are meeting and discussing in their own forum with
10 Senator Nelson participating in that.

11 When they get through, maybe we can look at the two and
12 look at these alternative formulas. I would suggest that we
13 understand that this particular thing that this formula before
14 us, that we could look at some time next week and consider
15 alternatives if we wanted to before we reported it out.

16 Senator Bentsen: I would ask that you pay particular
17 attention to all of the tables and the tax credit one also that
18 we now have for the first time.

19 The Chairman: The Senator would like everybody to take a
20 look and I guess all you other people to take a look at Table
21 5, particularly. That is what you want to look at.

22 Senator Packwood and then Senator Bradley.

23 Senator Packwood: A minor point.

24 In 1978 when we passed the energy bill, we had a category
25 of something called specially-defined energy property which was

1 entitled to a 10 percent tax credit. We specified some things
2 and left it to Treasury to designate some others.

3 At the time that we did it, we had in our language and in
4 the final conference, Committee Report language, the following
5 words: "In addition to these types of property, the Secretary
6 is authorized to specify other similar items of energy
7 conservation such as modifications to smelters or aluminum
8 electrolytic cells."

9 Both aluminum companies and copper companies are, in
10 effect -- you had a discussion on the Floor with Senator
11 Melcher, Lloyd, on this very subject -- are attempting to
12 convert over some of their older, heavy electric using
13 facilities and the Treasury Department, at the moment has not
14 defined that property the way we thought they would define it.

15 I am not going to offer an amendment now -- I want to talk
16 to Don Lubick and Bob Shapiro -- but before this bill is done,
17 if I cannot work it out, I may want to offer an amendment to
18 cover what we thought we had covered in the language two years
19 ago.

20 The Chairman: All right, sir.

21 I have the final vote. The vote is ten to ten on the Roth
22 amendment, so it failed on a tie vote. I am sure it will be
23 offered on the Floor again. We will discuss it then.

24 Senator Bradley?

25 Senator Bradley: Throughout our discussions we have

1 referred to a certain amount's being set aside for public
2 transit, but the committee has never formally acted on that and
3 I would like, at this time, to move that we set side the \$15
4 billion for public transit.

5 The Chairman: Mr. Shapiro suggested that we ought to do
6 something about the trust fund and I think this might fit in
7 with what Mr. Shapiro was suggesting to us.

8 Mr. Shapiro: There may be questions with regard to the
9 application of the trust fund in the case of tax credits,
10 although we are giving you estimates, clearly that estimate can
11 go up or down and it can have effect on another use of the
12 trust fund.

13 What we would like to suggest for you in the case of
14 credits is not put that in a trust fund. We would leave that
15 in general revenues so it would have no effect.

16 The Chairman: If there is no objection, we will leave the
17 credit out of the trust fund.

18 Mr. Shapiro: What you can do, as far as the trust fund,
19 is have two separate accounts, one for transit and one for
20 low-income assistance. In the case of transit, you can say
21 one-quarter of the net revenues each year would be dedicated in
22 a separate account up to \$15 billion.

23 In the case of low-income assistance you can dedicate
24 one-half of the net revenues.

25 You have two separate accounts.

1 The Chairman: Does that sound all right to you, Senator
2 Bradley?

3 Senator Bradley: Fine.

4 The Chairman: All in favor, say aye.

5 (A chorus of ayes)

6 The Chairman: Opposed, no?

7 (No response)

8 The Chairman: The ayes have it.

9 All right.

10 What else do we have that we want to settle here today?

11 Senator Durenberger?

12 Senator Durenberger: May I raise a point relative to the
13 tax?

14 The Chairman: Yes.

15 Senator Durenberger: During the process of going back
16 over the various matters that we have considered, I discovered
17 this committee puts out a daily news release, which I guess I
18 should have been aware of eariler, and I would like to call the
19 committee's attention to Release No. 142 dated October 4, 1979.
20 I would like to read just three pertinent paragraphs from it,
21 because it indicates that I voted on a voice vote for something
22 that I did not attend a vote on.

23 It is called, the treatment of state severance taxes.

24 "Various states impose severance or production taxes on
25 the extraction of oil. These taxes are imposed either on each

1 unit of production as a fixed-fee per barrel or as a
2 percentage of the value of each barrel. The House-passed bill
3 permits a deduction in computing taxable windfall profit for
4 the state severance taxes imposed on the difference between the
5 selling price and the adjusted base price of a barrel of oil.

6 "Under the House bill, the amount of the deduction could
7 not exceed the severance tax that would have been imposed,
8 based on the severance tax rate in effect on March 31, 1979.

9 "The Committee agreed to allow any severance tax imposed
10 to be taken into account not only at the rate in effect at
11 March 31, 1979, as long as the increase after March 31, 1979
12 and the severance tax is on the entire price of the oil."

13 Then it goes on to cover other related matters.

14 As I recall, my vote on this ---and it did go on a voice
15 vote -- I did not understand that I was voting in favor of
16 eliminating the March 31st date. I frankly believe that it is
17 important that some form of limitation on the deductibility of
18 state severance tax be included in this bill. Whether the
19 House is right at setting the deductibility at March 31, 1979
20 or not I think we should discuss, and we did not discuss it
21 during the course of the discussion.

22 It might be more appropriate to add an inflation factor to
23 that date, or something else.

24 I would like to have the Committee reconsidering the vote
25 eliminating the severance tax date of March 31 and permitting

1 unliited increases in severance tax as a deductibility against
2 the windfall profits tax.

3 The Chairman: Of course, we can vote on it again, if you
4 want to. Let's talk about that for a moment.

5 In so far as I know, there is no state government that has
6 any plans to raise the severance taxes. If the price of oil
7 goes up, they are going to collect more severance taxes. To
8 that extent, the state governments will share in the windfall
9 with the Federal government.

10 Nowhere -- I am not aware of any move in any state to
11 collect a rate of severance tax -- Senator Gravel's state has
12 the same severance tax as Louisiana has, 2.5 percent. Are you
13 aware of even discussion?

14 Senator Gravel: No.

15 The Chairman: There is no discussion of it in Lousiana.
16 They are discussing the fact that when the price of oil goes
17 up, whoever gets elected governor is going to have more money
18 because that tax is based just as a sales tax would be, on a
19 percentage of the price that is based on the price that you get
20 which, incidentally, the companies themselves originally
21 suggested.

22 The Administration came in and they made a point -- which
23 is a very good point -- they said well, when the Federal
24 government is taking as much as 90 percent of what the producer
25 would get if the state would zero in on the part that is being

1 taxed by the windfall, that that would be a very tempting thing
2 because it really would not cost the producer much of anything
3 if you did that.

4 So what we agreed to was to say if a state wants to raise
5 their tax, it would not be deductible unless they tax the whole
6 thing, which is the way it is. That being the case, the
7 industry would come in and fight it furiously because most of
8 what is being taxed is the part that is not subject to the
9 windfall as far as the industry is concerned, and Senator, I
10 honestly do not think you have a situation here you have to
11 worry about about the states raising their tax.

12 We have taken care of the area that you are worried about,
13 have we not, Mr. Lubick?

14 Mr. Lubick: That is right, Senator.

15 Our view was so long to be deductible, the price had to
16 apply to the portion of the price. It did not represent a
17 windfall, that that was sufficient independent restraint on the
18 states from abusing the process.

19 The Chairman: In the area you are talking about Treasury
20 does not think there is a problem and, frankly, I do not think
21 there is. I think you are going to find that everybody will be
22 happy about the situation.

23 We may have some complaints from other areas about
24 severance tax. I do not think what you have -- it happened
25 some time back when Alaska first started bringing in a lot of

1 oil. Before they started selling all that oil they thought of
2 having a high severance tax and there were people from
3 Louisiana who said they were going too strong and urged them
4 not to do it, and Alaska heeded that advice and they conformed
5 their tax to about what Louisiana's tax is.

6 Is that not the side of it?

7 Senator Gravel: Very much.

8 The Chairman: Senator, the fact is, this is not an area
9 in the Treasury's judgment ---and, in so far as I know, frankly
10 I can see that. I can see the fact that if the state could
11 zero in on an area where 90 percent of it would be taken by the
12 Federal government anyway, it would be a very tempting target
13 but we took care of that. They have to tax a part of it.

14 In other words, if a guy has \$6 that he is going to get
15 and then you have, say, \$6 subject to windfall tax, they have
16 to tax the whole \$12 in order to have it deductible.

17 I really do not think you have a problem.

18 Senator Durenberger: I started under the assumption if it
19 is not going to happen and there is no problem, there should be
20 no problem with putting in the March 31 date. I wonder if
21 there is an answer from Mr. Lubick as to why it is important to
22 remove the date.

23 Mr. Lubick: Essentially we saw no particular reason to
24 regulate states. Some have low taxes, some have high taxes.
25 They may want to adjust their tax structures and, if they do so

1 for reasons of independent revenue balancing significance, we
2 do not see an abuse of this situation.

3 In other words, why should one state be caught with a
4 particular rate right at the March 31 date when it may find
5 that it would be appropriate for reasons not dictate by the
6 windfall profits tax, but for its own, independent, fiscal
7 considerations, to change its tax structure?

8 We do not want to put the states into a straight jacket
9 that way. If they are doing it and zeroing in on the windfall
10 portion only, then they are simply taking advantage of a
11 Federal tax situation and not dealing with their own
12 independent regulation of their own fiscal problems.

13 Senator Durenberger: Can you tell me how the date is a
14 restate* on raising the windfall profits tax? How does it
15 operate as a restraint?*

16 Mr. Lubick: It is the date. The date does not have
17 anything to do with it. It is the fact that, in order to have
18 a deductible tax it has to apply across the board to the price
19 of the oil, both the windfall and the nonwindfall portion.
20 Before a state will go in and levy a tax on the nonwindfall
21 portion, it is pretty clear it has to examine the situation,
22 not from the point of view of the windfall profits tax but as
23 an independent matter as to whether this is a desirable thing.

24 That restraint, we thought, would deal with the abuse
25 situation we were concerned about. We do not want to put any

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1 particular stranglehold on states as to how they choose to
2 raise revenues, from what sources. If they are doing it simply
3 out of the windfall profits tax money and not with any
4 independent judgment, then that is a different proposition.

5 Senator Durenberger: I take it that you agree with the
6 Chairman?

7 Mr. Lubick: Yes.

8 Senator Durenberger: That the provision we made on Octoer
9 4 will operate as a basic restraint against --

10 Mr. Lubick: Yes, because you are substituting one way of
11 securing the problem for another way that the tax be on all
12 portions of the production, windfall and nonwindfall portion.

13 It was not simply that you eliminated the provision with
14 respect to a date. You put something else in to deal with the
15 problem that we think deals with it adequately and, at the same
16 time, gives the states the mobility that they ought to have in
17 regulating their own fiscal affairs.

18 Senator Durenberger: Thank you, Mr. Chairman.

19 Senator Dole: Now that Senator Gravel and I are working
20 togther again --

21 Senator Bradley: I move to table.

22 Senator Dole: Senator Gravel is here and I think it is
23 important. We have talked about North Slope oil and the
24 treatment that we gave that. What about upper tier treatment
25 for the oil produced on Cook Inlet? You have more knowledge

1 about it than I have.

2 As I understand it, I have been given information. There
3 are thirteen oil producing platforms in the Cook Inlet. The
4 average well produced approximately 431 barrels a day. They
5 have an ice problem for approximately nine months and all these
6 other difficulties that make it high cost oil.

7 Apparently what we are talking about is trying to give
8 them some better treatment for the sole purpose of preventing a
9 premature abandonment.

10 I do not believe -- I am not certain of the cost involve.
11 I think it is over the ten-year period, I think it is about, as
12 I understand it, \$200 million. They produce 125,000 barrels a
13 day in the Cook Inlet. Again, the indication I have indicates
14 the cost of production for this oil is greater than the cost
15 for any other domestically-produced oil, even that produced on
16 the North Slope.

17 I suggest we move that remaining oil in Alaska from Tier I
18 to Tier II.

19 Senator Gravel: I, for one, gratefully agree with you,
20 Senator Dole. We made some comparisons earlier with respect to
21 North Slope. The relative costs, where labor was four times
22 what it was; outside drilling, fifteen times; transportation,
23 twenty times.

24 I did some rough calculations what it would be for Cook
25 Inlet. I would say labor is literally twice as much as it is

1 outside, drilling seven times the cost, transportation would be
2 ten times the cost of outside.

3 Obviously, these platforms are literally going to be shut
4 down if they do not get some kind of succor in this regard.
5 The impact is not Alaska but the impact is what is going to be
6 available for the outside. We are not talking about a
7 tremendous amount of oil.

8 They have 125,000 barrel capacity. You are going to see
9 that drop off real quick.

10 The Chairman: Could we vote on it?

11 Senator Chafee: Mr. Chairman, when you say they are going
12 to be shut down, obviously they have been operating under the
13 \$6 figure, under the old oil figure.

14 Senator Gravel: To give you an example, earlier this year
15 they had applied to DOE to get the \$6, \$5.25. DOE in its
16 bureaucratic decision refused them.

17 They came in with an extensive report and were able to
18 show me that they would literally have to close down two
19 platforms right then and there if they did not have succor.

20 I brought it to Secretary Schlesinger's attention. He was
21 horrified and immediately granted an increase.

22 We are faced with that situation. These are offshore
23 platforms, the second highest rip tide in the world. Their
24 operating costs are extensive,

25 They have to expend substantial sums of money just to keep

1 coming what is coming. If they do not even get Tier II, they
2 will just have to close it. It is just simple economics.

3 Mr. Lubick: One of the problems that we have with this,
4 this is lower tier oil. They were operating profitably at the
5 \$6 a barrel that you were talking about. It is not subject to
6 the same hardships that you described so graphically with
7 respect to the North Slope.

8 If it is higher cost -- if there are higher costs
9 ---nevertheless they were adequate within the \$6. What you are
10 talking about is essentially transfer of \$250 million to one
11 major oil company. Essentially what you have adopted in the
12 bill is a provision to assure continuance of production because
13 you have said if the wells cease to be profitable or the margin
14 of profit gets down to this 90 percent of net income limit,
15 then the tax is reduced. You have taken care of the situation
16 where increasing costs push up against the margin. When the
17 windfall tax is added in.

18 You have adequately taken care of that problem through
19 Senator Boren's amendment on the 90 percent limit. We see no
20 particular reason to differentiate between this lower tier oil
21 and lower tier oil anyplace else.

22 The Chairman: Let me just interrupt just a moment to
23 suggest this. I am going to have to get on an airplane myself
24 today because I thought we would have reported by now.

25 I would like to suggest that we agree that we will order

1 the bill reported today but that we also agree that after you
2 have disposed, however you vote, you can record me for this
3 amendment, but that after you vote that we meet -- when can we
4 meet next week, Mr. Stern?

5 Mr. Stern: Mr. Chairman, as of now, you had scheduled
6 that you would have meetings Tuesday through Friday.
7 Originally, if you had finished today, you were going to do
8 unemployment compensation on Tuesday.

9 The Chairman: What day can we meet to talk about this
10 bill?

11 Mr. Stern: You can meet on Tuesday or postpone it until
12 later and take up unemployment compensation earlier.

13 The Chairman: We will meet about Wednesday next week then
14 and discuss this low income matter which we ought to take
15 another look at.

16 Senator Dole: Where we have the right, I may have one
17 additional amendment.

18 The Chairman: I know, and discuss this additional
19 amendment that Senator Dole might want to bring up at that
20 time. I think he might have something else he might want to
21 bring up at that point.

22 Mr. Stern: You would be doing unemployment compensation
23 on Tuesday.

24 The Chairman: Can we not vote on reporting with that
25 understanding however the vote goes on this amendment that that

1 will be added or left out of the bill, and that we will meet
2 also on Wednesday and talk about adding some additional
3 amendments.

4 Let's vote on reporting the bill, then, and we will come
5 back to this.

6 The Senators will want to be recorded. Call the roll.

7 Mr. Stern: Mr. Talmadge?

8 (No response)

9 Senator Chafee: We are voting on the bill?

10 The Chairman: Yes.

11 Mr. Stern: Mr. Ribicoff?

12 (No response)

13 Mr. Stern: Mr. Byrd?

14 (No response)

15 Mr. Stern: Mr. Nelson?

16 (No response)

17 Mr. Stern: Mr. Gravel?

18 (No response)

19 Mr. Stern: Mr. Bentsen?

20 (No response)

21 Mr. Stern: Mr. Matsunaga?

22 (No response)

23 Mr. Stern: Mr. Moynihan?

24 (No response)

25 Mr. Stern: Mr. Baucus?

1 Sentor Baucus: Aye.
2 Mr. Stern: Mr. Boren?
3 Senator Boren: Aye.
4 Mr. Stern: Mr. Bradley?
5 (No response)
6 Mr. Stern: Mr. Dole?
7 Senator Dole: Aye.
8 Mr. Stern: Mr. Packwood?
9 (No response)
10 Mr. Stern: Mr. Roth?
11 (No response)
12 Mr. Stern: Mr. Danforth?
13 (No response)
14 Mr. Stern: Mr. Chafee?
15 Senator Chafee: Aye.
16 Mr. Stern: Mr. Heinz?
17 Senator Heinz: Aye.
18 Mr. Stern: Mr. Wallop?
19 Senator Wallop: Aye.
20 Mr. Stern: Mr. Durenberger?
21 Senator Durenberger: Aye.
22 Mr. Stern: Mr. Chairman?
23 The Chairman: Aye.
24 Senator Gravel: No.
25 Senator Dole: I think I can vote -- I had better wait.

1 Mr. Stern: This is a vote on ordering H.R. 3919 reported
2 with the understanding that the Committee is coming back on
3 Wednesday to discuss some aspects of it.

4 Senator Gravel: Moynihan aye.

5 Mr. Stern: Moynihan aye.

6 Senator Roth: Aye.

7 Mr. Stern: Mr. Roth aye; Mr. Danforth aye.

8 Senator Chafee: Mr. Chairman, if something drastic
9 happens on Wednesday can we force the vote? It seems like
10 there is always a bear let out of the cage.

11 The Chairman: Nothing is absolutely immune. Right now,
12 the vote is 11 to 1. I would think nothing is going to happen
13 between now and then.

14 Senator Dole: If we could vote on this other little
15 amendment --

16 The Chairman: I find my plane has been delayed so I can
17 stick around a few minutes longer.

18 Senator Gravel: I lose my moment of glory. You snatched
19 it right from me.

20 Senator Heniz: Do I understand the committee proceeding
21 rightly? We voted the bill that is still open to amendment.

22 The Chairman: That is right.

23 What we are going to do, is we are going to meet and talk
24 about this low-income thing after we see how the Labor
25 Committee, now the Human Resources Committee, wants to

1 recommend on that. They say they have some jurisdiction there,
2 and I am sure they do, and they have the proper right to be
3 concerned.

4 I hope we can come to terms with them and Senator Bentsen
5 also.

6 Senator Roth: I may have an amendment.

7 The Chairman: Well --

8 Senator Roth: I may have two.

9 Senator Dole: We could combine them.

10 The Chairman: I am proud of the resourcefulness of
11 members of this committee, that they can come up with all kinds
12 of ideas.

13 Senator Heinz: I have got one for you.

14 The Chairman: Hold on just a minute. Can we dispose of
15 the Cook Inlet thing? How much revenue is involved.

16 Mr. Lubick: \$250 million, basically to one oil company.

17 Senator Gravel: Is that the amount, Mr. Shapiro.

18 Mr. Lubick: \$200 million.

19 Senator Dole: Thank you, Mr. Lubick.

20 Mr. Shapiro: Over an eleven-year period.

21 Mr. Lubick: Basically through 1984. This treatment
22 phases out by then.

23 The Chairman: Call the roll on it.

24 Senator Heinz: The administration supports this
25 amendment?

1 Mr. Lubick: No, the administration opposes this
2 amendment, Senator.

3 Senator Heinz: Strongly, mildly?

4 Mr. Lubick: Strongly.

5 The Chairman: Call the roll.

6 Mr. Lubick: Quite strongly, very --

7 The Chairman: Violently. Call the roll.

8 Mr. Stern: Mr. Talmadge?

9 (No response)

10 Mr. Stern: Mr. Ribicoff?

11 Senator Baucus: No, by proxy.

12 Mr. Stern: Mr. Byrd?

13 (No response)

14 Mr. Stern: Mr. Nelson?

15 (No response)

16 Mr. Stern: Mr. Gravel?

17 (No response)

18 Mr. Stern: Mr. Bentsen?

19 (No response)

20 Mr. Stern: Mr. Matsunaga?

21 (No response)

22 Mr. Stern: Mr. Moynihan?

23 (No response)

24 Mr. Stern: Mr. Baucus?

25 Senator Baucus: No.'

1 Mr. Stern: Mr. Boren?
2 (No response)
3 Mr. Stern: Mr. Bradley?
4 (No response)
5 Mr. Stern: Mr. Dole?
6 Senator Dole: Aye.
7 Mr. Stern: Mr. Packwood?
8 (No response)
9 Mr. Stern: Mr. Roth?
10 (No response)
11 Mr. Stern: Mr. Danforth?
12 Senator Danforth: No.
13 Mr. Stern: Mr. Chafee?
14 Senator Chafee: No.
15 Mr. Stern: Mr. Heinz?
16 Senator Heinz: No.
17 Mr. Stern: Mr. Wallop?
18 Senator Wallop: Aye.
19 Mr. Stern: Mr. Durenberger?
20 Senator Durenberger: Aye.
21 Mr. Stern: Mr. Chairman?
22 The Chairman: Aye.
23 Senator Baucus: Moynihan no by proxy.
24 The Chairman: Moynihan no by proxy.
25 Five yeas, six nays. This will depend on how the

1 absentees want to record themselves.

2 Senator Heinz: Mr. Chairman?

3 The Chairman: Yes, sir.

4 Senator Heinz: When we adopted the 10 percent energy
5 investment tax credit for investment in certain types of energy
6 property I am advised that we may have done something we did
7 not intend to do.

8 There are a number of coal gassification plants that hope
9 to use, for slurry purposes, high sulphur residual oil which is
10 left over from all the high sulphur oil which, I understand, is
11 not usable for any energy purpose as part of the coal slurry
12 that could be used in these coal gassification plants.

13 I would propose an amendment that would permit the use of
14 such high sulphur residual oil if it is limited to 25 percent
15 of the btu value of the slurry feedstock in the production of
16 coal gassification.

17 My understanding is, without this amendment, the plants
18 using high sulphur residual oil for slurry purposes would
19 be disqualified from receiving the energy investment tax credit
20 or the \$3 a barrel production credit.

21 I do not think that is the intention of the committee. I
22 told that the cost of this is very modest -- \$55 million over
23 ten years.

24 I am also told that there is more than high sulphur
25 residual crude oil, high sulphur residual oil, as well as high

1 sulphur petroleum coke. Unless there is a technological
2 breakthrough in removing sulphur there is still going to be
3 more and more of it and a gssification plant would be a good
4 way of using both this and high sulphur petroleum coke. I do
5 not know of anybody who is against the amendment.

6 The Chairman: What is the administration position?

7 Mr. Lubick: I would like to ask DOE to comment on this.
8 Apparently it violates some energy policy of ours that they can
9 express better than I.

10 Mr. Pugliaresi: Mr. Chairman, in terms of the national
11 energy policy, we would like to have a long run goal of slowly
12 squeezing resid use out of the major users in the utility
13 sector and other industrial sector through the substitution of
14 other fuel like coal.

15 There exists now adequate refinery technology to both
16 remove the sulphur and to crack that resid into lighter
17 products. The existing amendment on coke that this comittee
18 has already pased will actually help to foster the production
19 of resid and to promote its production to lighter products.

20 We would oppose this amendment because it would tend to
21 increase our use of refined petroleum product that has a higher
22 value as gasoline.

23 Senator Heinz: I am not trying to get an exemption to use
24 high sulphur only as a slurry for coal and the limitation of 25
25 percent put in there with that in mind. 75 percent of what is

1 going to be used is coal, not resid.

2 It just seems if somebody is going to be 25 percent coal,
3 you should not lock them out of 100 percent of the tax benefit
4 from producing gas from coal. That does not make any sense.

5 Mr. Pugliaresi: I am not sure that it would lock them out
6 of it.

7 Senator Heinz: I am told that it does.

8 Mr. Pugliaresi: We would have to look at that.

9 Senator Heinz: That is the problem, Mr. Chairman. I
10 understand Treasury's problem.

11 The Chairman: Senator, how about withholding that until
12 we come back in here? We will talk about it then. He says he
13 wants to look into it.

14 Senator Heinz: If you want to give them 75 percent of 10
15 percent or 75 percent of \$3, it would seem to me that that
16 would solve your problem. But the present situation cannot
17 be right.

18 Mr. Pugliaresi: Is the intent to use the resid in a
19 renewable sense, or will it continue to be used?

20 Senator Heinz: It will be consumed, but if it is using 75
21 percent coal which we all agree on, why lock it out of 100
22 percent of the tax benefits that the Committee has voted? That
23 is the issue.

24 Mr. Lubick: Can we report back on this on Wednesday?

25 Senator Heinz: Thank you, Mr. Chairman.

1 The Chairman: Let me make a suggestion. When we come
2 back to take a look at what we have here, it is going to take
3 the staff about a week, I am told -- at least a week -- to
4 write up the results of this committee's deliberations. When
5 we come back and take a look at this low income thing, Senator
6 Dole has a matter that he wants to bring up and Senator Roth
7 might want another vote on his amendment and, if he does, I
8 think that we ought to accord him that.

9 Senator Roth: I plan to have another amendment, too.

10 The Chairman: Can the Senator give us some indication of
11 what that has to do with, what the nature of it would be?

12 Senator Roth: We are still working on it. In the area of
13 taxes.

14 The Chairman: Here is what I would like to suggest, that
15 with the exception of the Roth amendment that we not when we
16 meet hereafter, except by unanimous consent, that we not get
17 involved in matters on which we have already voted. The Roth
18 amendment would be the exception. That is a tie vote.

19 Other than that, we would not get involved in matters that
20 we have voted previously.

21 Senator Roth: With the understanding I have a right to
22 bring up another tax vote.

23 The Chairman: That is not something that we have voted on
24 before.

25 Senator Roth: No that is correct.

1 Senator Heinz: Mr. Chairman, there is one issue that
2 Senator Bentsen and I are still trying to resolve on those
3 retailers who own stripper production. We simply did not have
4 the time to get it all worked out.

5 The Chairman: All right. We will take a look at that.

6 I would like to have it understood -- frankly, the kind of
7 thing I am concerned about. You cannot blame people. They are
8 very diligent and they work hard but some industry groups see
9 that their amendment has failed and they work awfully hard to
10 see if they cannot sway somebody to change their vote and I
11 think we ought to agree on these things that have been decided,
12 with the exception of the matters that have been discussed
13 here.

14 I can understand that a Senator might want to have another
15 vote on something that was decided by a tie, but that those
16 things would not be reopened except by unanimous consent.

17 Senator Dole?

18 Senator Dole: I have discussed this with Senator Gravel.
19 I think one amendment I might offer next week would be to
20 extend tax-exempt financing to all hydro projects in the United
21 States.

22 I understand there are a number of them. I can discuss
23 that next week and then the other amendment that I indicated
24 earlier, it would be something that we have discussed but have
25 not voted on directly.

1 Senator Gravel: If we vote on it now, we might have the
2 votes to have it, and obviously it is an important item. It is
3 going to take -- I will be doing the homework via my other
4 committee and will be able to back it up in principle. It is a
5 very important step forward.

6 I certainly support it very strongly and I am sure others
7 would do likewise.

8 If later on as a part of a conference we would just work
9 it over. It is as significant an item as anything else in the
10 bill.

11 Senator Dole: I do not have any objection, but I think
12 Treasury wanted to be heard at some length.

13 The Chairman: Well, they will. You can bring that up and
14 we can talk about it.

15 Senator Dole: Let's wait.

16 Senator Gravel: All right.

17 Senator Dole: The other amendment I have deals with a tax
18 -- I do not think we have discussed it directly. Would that
19 still be in order?

20 The Chairman: A tax? Sure.

21 Senator Dole: A reduction in tax.

22 The Chairman: Basically we are agreeing here that except
23 for the matters that have been mentioned here that we are not
24 going to reconsider matters on which we have made the decision
25 except in so far as we have discussed it here. The decisions

1 that we have made will stand with the exception that we are
2 going to look at that low-income matter again and look at those
3 particular matters that have been mentioned. Otherwise, the
4 decision stands on all of these things we voted on.

5 Yes, sir.

6 Mr. Lubick: May I correct one misstatement I made on the
7 Cook Inlet amendment, that it was one company that benefits?
8 Apparently there are at least four. The revenue loss is not
9 to one company but to at least four or five companies.

10 Mr. Shapiro: I have one question. Earlier in your
11 procedure, Senator Durenberger offered an amendment entitled
12 the trust fund, the windfall profits tax trust fund when we
13 were talking about one trust fund for all of this.

14 Now that we are having a separate trust fund for
15 transportation and low income assistance ---he is not here.
16 Maybe we should wait until Wednesday.

17 If you are having just one for the transit, one for low
18 income assistance, do you still want to have that windfall
19 profits tax trust fund?

20 The Chairman: Just name the trust fund after what you are
21 going to use it for.

22 Mr. Shapiro: That is right. We were suggesting at the
23 time that Senator Durenberger offered his amendment was talking
24 about one trust fund for everything.

25 The Chairman: Since you are going to have more than one

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1 trust fund, I would suggest we discuss it then. But, as of
2 now, we will just have it on the basis of naming it for
3 whatever you were going to use it for. Name one the Mass
4 Transit Trust Fund; one the Low Income Trust Fund.

5 Is there a trust fund for low income?

6 Mr. Shapiro: Low Income Energy Assistance Trust Fund and
7 Transit Trust Fund.

8 The Chairman: Yes.

9 If there is no objection, let's do that, but we can
10 consider it again when we come back in here.

11 Senator Dole: What was the action on the Javits amendment
12 that I saw Congressman O'Neill testifying on this morning?
13 What does that do to our low income assistance program? Does
14 it wipe it out for this year?

15 Mr. Shapiro: These are alternatives that are being
16 discussed. That is part of the problem of what you do for
17 1980, whether you do the \$1.2 billion which is just for this
18 fiscal year or use the Committee formula, and I think some of
19 the members in the House would like to go along with the Senate
20 amendment to take care of 1980, to get that in motion right
21 now.

22 There are alternatives and various ways of dealing with
23 it.

24 Senator Dole: Based on what Speaker O'Neill said to the
25 Committee yesterday and the big push on the House side to do

1 something immediately, it seems to me that the formula we are
2 working on would not apply anyway this winter unless they
3 adopted it.

4 Mr. Stern: I believe the formula that applies to the
5 Javits amendment is one that whatever HEW works out, something
6 different from the Committee, the formula adopted by the
7 Committee, that is only for fiscal year 1980.

8 Senator Dole: Right.

9 I would still be permitted to bring up an amendment on
10 Wednesday. I am not certain that we have directedly voted on
11 the matter that I will discuss because it will be a
12 modification of something that has been voted on.

13 Would that be in order?

14 The Chairman: That is what I thought we agreed. If you
15 want to, you might indicate what the subject is.

16 Senator Dole: The subject has to do with lower tier oil
17 and a tax thereon and also a decline curve. I will indicate
18 that. I am not certain what it will be, but it will be in that
19 area.

20 Treasury can come full-armed.

21 The Chairman: Fine. We can vote on it again. We can
22 consider it. The Senator can offer his amendment. We can
23 consider that.

24 Well, then, thank you very much, gentlemen, and we will
25 order the bill reported subject to what we have done before.

1 The Committee will meet Wednesday.

2 Mr. Stern: That is correct. On Tuesday you would meet on
3 the Unemployment Compensation matter.

4 The Chairman: Right.

5 (Thereupon, at 11:55 a.m. the Committee recessed to
6 reconvene on Tuesday, October 23, 1979.)

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