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EXECUTIVE SESSION

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THURSDAY, OCTOBER 4, 1979

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

The Committee met, pursuant to notice, at 10:25 a.m. in room 2221, Dirksen Senate Office Building, Hon. Russell B. Long, Chairman of the Committee, presiding.

The Chairman: Let me just call this meeting to order.

The Senators will be along.

Just for starters, the Chair recognizes the Senator from Connecticut, Mr. Ribicoff.

Senator Ribicoff: I think we would like to wait until a few of the members are here.

The Chairman: I think you could explain what you have in mind, Senator.

Senator Ribicoff: Mr. Chairman, yesterday I was engaged on the Floor throughout the day on the Energy Mobilization Board and was not able to be in attendance and I understand that late in the evening, while I was on the Floor, the Committee voted to eliminate the Energy Trust Fund, and I do believe that that was a mistake, because an energy trust fund is most important to assure enough available capital for real,

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1 Federally-led energy program. It provides incentives for  
2 businesses of all sizes to actively work on alternates for  
3 energy technologies, both renewable and nonrenewable. It  
4 fills the gap between the development of technology by the  
5 Department of Energy and the country's need for rapid  
6 commercialization.

7  
8 It does not create a bureaucracy. It is only an  
9 accounting device and is subject to annual Congressional  
10 action. I do not know how else we are going to handle all of  
11 this income that we have, unless we do it the trust fund route  
12 to make sure that the money that is being raised by the  
13 windfall profits tax is really going to be used to help solve  
14 the energy problem, both on conservation and productivity.

15 So I would move that we reconsider the action of the  
16 Committee last night and vote over again on whether we are  
17 going to keep or eliminate the Energy Trust Fund.

18 The Chairman: As the Senator knows, the way we have been  
19 doing business here, we operate unde a rule that we can  
20 reconsider on a motion. Any Senator can have a motion  
21 reconsidered that he wants reconsidered.

22 It is really the right of every member of this body to  
23 ask that that matter be reconsidered. At the time that the  
24 vote occurred, the Senator from Louisiana had to go on to see,  
25 on the telephone to Senator Baucus to see how he wanted to be  
recorded on a tie vote pending before the Committee at the

1 time, so that he was not in a position to discuss the matter,  
2 or hear the discussion.

3 So we, of course, will discuss it and hear the Senator's  
4 explanation, and when we have full attendance let the Senate  
5 Committee work its will.

6 I believe, as far as we are concerned, we can do whatever  
7 you want to, Senator, except that I would like to accommodate  
8 the Senator from Alaska today. He has been wanting to explain  
9 his views with regard to the Alaskan aspects of the measure,  
10 so as soon as our Republican friend joins us, I would like to  
11 hear from the Senator from Alaska.

12 As soon as that is finished, if it is all right with you,  
13 Senator.

14 Senator Ribicoff: My feeling is that the Senator from  
15 Alaska's explanation is going to take a lot longer than the  
16 discussion on this. I will not be here tomorrow and I will be  
17 leaving right after the 2:00 vote.

18 The Chairman: Is that all right with you, to let him go  
19 ahead?

20 Senator Gravel: Yes. I am happy to let him go ahead  
21 first. I do not think that it will take all that long. I  
22 think my presentation would be about fifteen minutes, at the  
23 most, and the questions and answers that may ensue after that  
24 will take three-quarters of an hour or an hour on that subject  
25 an hour back on the trust fund.

1           The Chairman: If it is all right with you, let the  
2 Senator go first on this matter.

3           Senator Gravel: I have no problems if he will vote for  
4 my Alaskan exemption. I will be happy to defer to him, just  
5 on the seniority basis, Mr. Chairman.

6           The Chairman: As soon as we have the other Senators  
7 here. I would like the staff to send word to the Republican  
8 members that we are here and we would appreciate it if they  
9 would join us.

10           (Pause)

11           Let me call on Senator Ribicoff to discuss the Energy  
12 Trust Fund.

13           Senator Ribicoff: Mr. Chairman, all yesterday I was on  
14 the Floor involved in the energy mobilization controversy and  
15 was not in attendance, and late yesterday afternoon, without a  
16 quorum being present, the Committee eliminated the energy  
17 trust fund and I would like to move to reconsider that vote  
18 and point out that there is a basic reason for the trust fund.

19           Last year when we took this matter up over the protests  
20 of the administration, this committee voted 10 to 3 to  
21 establish an Energy Trust Fund. It was not sustained in  
22 conference. The Senate overwhelmingly adopted it.

23           Now, the purpose for an Energy Trust Fund is to assure  
24 that the money being raised by the windfall profits tax does  
25 not go into the general treasury but is used for either the

1 conservation or the production of increased energy and the  
2 reason for the trust fund is the following: It assures enough  
3 available capital for a Federal energy program.

4 It provides incentives for businesses of all sizes to  
5 actively work on alternative energy technologies, both  
6 renewable and nonrenewable.

7 It fills the gap between the development of technology by  
8 the Department of Energy and our country's need for rapid  
9 commercialization.

10 It does not create a bureaucracy. It is only an  
11 accounting device and is subject to annual congressional  
12 authorization and appropriation.

13 And I would hope that we could reconsider our vote and  
14 vote to retain the Energy Trust Fund that is presently in the  
15 legislation.

16 The Chairman: As far as I am concerned, I think that I  
17 should not think that there should be an objection to  
18 reconsidering because most members were not present at the  
19 time. If there is no objection, we will reconsider.

20 Senator Dole: What are we reconsidering?

21 The Chairman: He wants to discuss the Energy Trust Fund.

22 Senator Ribicoff: It was eliminated. I do not know  
23 whether you were here.

24 Senator Dole: I helped eliminate it.

25 Senator Gravel: He was the eliminator.

1 Senator Dole: I do not have any objection to  
2 reconsidering it and killing it again.

3 The Chairman: Well, is there more discussion? The  
4 matter is before us right now. Do you want to vote?

5 Senator Packwood: Vote on reconsideration?

6 The Chairman: I do not think we should have any vote on  
7 reconsideration. Our usual tradition is we just reconsider in  
8 a situation like this. We will just vote on the merits.

9 You might want to be heard in opposition, Senator, or do  
10 you just want to vote? It is all right with me.

11 Senator Dole: I think we ought to reconsider, if Senator  
12 Ribicoff --

13 The Chairman: It is reconsidered.

14 Senator Dole: If it is reconsidered, it is the view of  
15 those of us who were here that it really does not serve any  
16 purpose. Senator Ribicoff has indicated that the accounting  
17 may be symbolic, but it seems to me that it does not change  
18 the jurisdiction of this committee. It does not, in any way,  
19 indicate what we should, or should not, do with the trust  
20 fund.

21 I think that the opinion of those of us who were here --  
22 and there were about a half a dozen of us -- was that it did  
23 not serve any useful purpose. We did not have any strong  
24 indication from the administration that it served any purpose.  
25 Maybe they were not permitted to respond.

1 The Chairman: Let us hear the administration's view on  
2 the Energy Trust Fund. What is the latest administration  
3 position on that issue?

4 Mr. Lubick: It is constant, Senator. The same as our  
5 original proposal. We concur absolutely with Senator Ribicoff  
6 that we think that the trust fund is a very significant and  
7 important part of the whole program to make sure that it is  
8 soundly financed and that we do not spend more than we raise  
9 through the windfall profits tax. And, at the same time, we  
10 have some assurance that the funding will be maintained,  
11 because these are longrange programs that are going to span  
12 better than a decade and therefore, we have to see where the  
13 financing is coming from.

14 We think that the trust fund is very important to the  
15 management of the whole program.

16 Senator Dole: How about all of the other money you are  
17 going to have because of increased taxes and increased federal  
18 royalty payments?

19 Would you put that in the trust fund, too?

20 Mr. Lubick: No, Senator Dole, we are not, but as we have  
21 indicated several times during this debate, we think that  
22 there are very substantial offsets to those amounts. Again,  
23 we were suggesting that the gross proceeds of the windfall  
24 profits tax go into the trust fund, and that is more or less a  
25 trade-off for the net -- the difference between the gross and

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1 the net from the windfall profits tax is more or less a  
2 trade-off for the net increase in revenues as a result of  
3 decontrol and we think on that basis we have a fiscally sound  
4 method of managing it.

5       Senator Dole: We have been discussing, you know, the \$64  
6 question in a meeting of the Republicans which we are still  
7 not certain what money we are going to spend, whether it is on  
8 credits, whether it is on exemptions, whether it is on income  
9 assistance to the poor, and it would seem to me, if we are  
10 going to say well, why do we not just have a trust fund, it is  
11 going to impose upon this committee, and I think also on the  
12 industry across-the-board, if we are going to limit what we  
13 are going to limit what we are going to spend just from what  
14 we take away in a special tax from the companies, that makes  
15 it more difficult.

16       But if we really do not know how many dollars are we  
17 talking about -- are we only going to do on this committee  
18 what we can do with windfall tax proceeds or are we going to  
19 dip in to general revenues for income assistance to the poor,  
20 mass transit, other programs that we have an interest in.

21       Mr. Lubick: We would hope that you would finance all of  
22 the three parts of the President's program from the gross  
23 proceeds of the windfall profits tax.

24       Senator Dole: Gross proceeds. They are what? What are  
25 you hoping for in gross proceeds?



1 Mr. Lubick: That is, the revenues that are raised from  
2 the payment of whatever the percentage rate applicable to a  
3 particular tier or category is before any offset for the  
4 corporate tax deductions.

5 Senator Dole: Do you have a figure? What is the  
6 administration's proposal? What would the gross rate be?

7 Mr. Shapiro: Senator Dole, the administration proposal  
8 passed by the House bill was about 185 gross. The  
9 administration asked for 104. The difference between the 104  
10 that the administration had and the 185 that was in the House  
11 bill was a difference in price assumptions.

12 As you know, we have been using price assumptions of  
13 inflation plus 1 percent and the administration had just used  
14 inflation.

15 Let me point out --

16 Senator Dole: Where do you get \$104 billion? That is  
17 another figure.

18 Mr. Shapiro: That is the net. \$104 billion is the net.  
19 Where the committee stands as of now is on a gross basis is  
20 almost \$121 billion. That is the money the administration  
21 wants to put in the trust fund. The net basis is \$70.5  
22 billion.

23 Senator Packwood: How much?

24 Mr. Shapiro: \$70.05 is the net income you have. Maybe  
25 about 70. We do not have Indians in here, \$70 billion, and

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1 Are we talking about exemptions or credits or low-income  
2 assistance, and if we are going to be ---it is an argument  
3 against the trust fund, in the final analysis. We can only  
4 spend money that we say is in this trust fund, and if it has  
5 to come from a windfall profits tax, then that makes it  
6 difficult, at least for this Senator to support.

7 Senator Packwood: I am curious about the figures Senator  
8 Danforth had here about ten days ago. Correct me if I am  
9 wrong. We would have more money in the growth of the  
10 corporate income tax -- if I phrase it right, we would have  
11 more money in that growth than the President wanted to spend  
12 in his total program, not counting the windfall profits tax.

13 Do I misstate what he said?

14 Mr. Shapiro: Yes, that is correct.

15 Senator Packwood: Correct me. Those figures he had, I  
16 thought he had gotten from you.

17 Mr. Shapiro: Let me make one observation while Jim looks  
18 up the figures for you. The trust fund was only intended to  
19 include, as the administration proposed, the first three years  
20 of the corporate or individual income taxes. The figures that  
21 were prepared for Senator Danforth were the income tax  
22 receipts over the entire period, but only the first three  
23 years was proposed by the administration to go into the trust  
24 fund. The House did not put any of that money in the trust  
25 fund.

1 Senator Packwood: The House did not what?

2 Mr. Shapiro: The House did not put any of the income tax  
3 receipts into the trust fund.

4 Senator Packwood: What did they do with the income tax?

5 Mr. Shapiro: Gross windfall profits tax in the trust  
6 fund. When the House did that, the contemplation that the  
7 Chairman had, and some of the members, was they were going  
8 to use the money for the poor and the energy credits were going  
9 to go out of the general revenues because they left the income  
10 tax receipts on the decontrol increases in the general  
11 revenues. They would not put it in the trust funds, so in the  
12 general revenues, it would include the individual and  
13 corporate income tax increases, the result of decontrol, but  
14 at the same time, the House was going to vote into spending  
15 the money for the poor and the money for the energy credits  
16 out of the general fund as well.

17 Senator Bentsen: Explain a further point to me, then.  
18 Are we talking about, again, the expenditures allocated and  
19 based on what the gross revenues are from the windfall profits  
20 tax? That is how the administration was proposing it, and if  
21 we finally end up, obviously with a net, or something less  
22 than that -- what do we do?

23 The excess intrudes on general revenue. Do we then have  
24 a reduction of deficit operation overall or not?

25 Mr. Shapiro: Overall, when you look down the road

1 overall, clearly the gross figures -- if you spend the gross  
2 figures, that is more than the net on the windfall profits  
3 tax, which has the effect you will be spending some of the  
4 money that is from general revenues which, in large part, will  
5 probably come from the increased receipts from the individual  
6 and corporate income tax.

7 Senator Bentsen: I see. So you are saying that those  
8 increases are going to general revenue, may make up for the  
9 intrusion that we see above the net?

10 Mr. Shapiro: That is right.

11 Senator Chafee: Bob, could you explain the difference to  
12 me between the difference between the 104 from the House,  
13 which seems to me is the figure we were working with, and that  
14 117 that you talked about -- or was it 121. What is the  
15 difference there?

16 Mr. Shapiro: 121 now?

17 Senator Chafee: What is the difference? What was the  
18 figure, that figure from the House you are using?

19 Mr. Shapiro: The difference is between gross and net  
20 revenues. The net figures from the House were 104 billion.  
21 The gross figure, however, was between 180 and 185 billion. I  
22 understand it is 185 billion.

23 The gross receipts over that eleven-year period from the  
24 House bill was \$185 billion. Since you are allowed to deduct  
25 the windfall profits tax against your corporate or individual

1 income tax, that is why we are referring to the net that is  
2 actually an increase. That, in the House bill, is \$104  
3 billion.

4 The Chairman: Senator Durenberger?

5 Senator Durenberger: As the maker of the motion, let me  
6 apologize for not waiting for a quorum to appear yesterday,  
7 but let me speak to my rationale.

8 My basic objection to the Energy Security Fund is that it  
9 limits the amount of financial resources that we will commit  
10 to solving the energy crisis. I think Mr. Lubick just said  
11 that one of the purposes just said that one of the purposes  
12 for creating the Energy Security Fund was to make sure we do  
13 not spend more than what we raise from the windfall profits  
14 tax.

15 It seems to me that this tax that we are engaged in on  
16 solving the energy problems in this country is not going to end  
17 when the windfall profits tax ends. If we base our attack on  
18 the amount of money in this pot, we have accomplished some  
19 laudible political objectives. We have created a pot of money  
20 into which all taxpayers who are also paying higher gasoline  
21 taxes, higher home heating oil prices, and so forth, who know  
22 they are paying the windfall profits tax, they can look into  
23 this pot and they can see their money sitting there in the  
24 bottom of this pot and then they can see us reaching into the  
25 pot and giving it back to them in Packwood residential credits

1 or Javits-Williams-Nelson income assistance or whatever. So  
2 that it has, in the sense of assuring the people of this  
3 country, that we are doing something about the problem, it has  
4 a lot of political appeal. But in terms of really dealing  
5 with the problem, I am not sure that it does.

6 Senator Ribicoff: If the Senator would yield, I have no  
7 problem with your argument. I agree with you. All I want to  
8 make sure is that what we are collecting from windfall profits  
9 taxes are not diverted for other general purposes, but are  
10 definitely used for the production or conservation of one way  
11 or another of energy.

12 I have no objection, if we have to spend more than that,  
13 to do so. I do not agree with the administration that we can  
14 write it in such a way that we assure that whatever we get  
15 from the windfall profits tax will be used definitely for the  
16 production or conservation of energy.

17 As far as I am concerned, that does not limit if we need  
18 more to solve this problem. I have no problem with that  
19 rationale, Senator Durenberger.

20 Senator Durenberger: If I may, Senator, that is a  
21 responsibility that you and I discharge in other ways here in  
22 the United States Senate when we are acting on income  
23 assistance, either as members of the Human Resources Committee  
24 or Senators acting on a bill on the Floor, or on the Energy  
25 Committee or in this committee when we address ourselves to

1 tax credits.

2 That seems to me to be the appropriate place for the  
3 American people to say, you have already, you know, taken \$105  
4 billion of our money away from the oil companies, we want that  
5 back in income assistance and so forth and so on, plus we need  
6 some more and just the time that we have spent here in dealing  
7 with how much will the windfall profits tax raise, has  
8 illustrated for me the deficiencies in the argument that we  
9 depend on that fund to finance our attack on the energy  
10 problem.

11 Senator Ribicoff: There are some of us here in the  
12 positions we have taken in our votes who have disagreed with  
13 the admnistration. We have been very careful to point out  
14 what we are dealing with, not basically a tax measure, but  
15 basically an energy measure.

16 That is why some of us, including myself, have voted  
17 against a windfall profits tax for newly-produced oil, or for  
18 tertiary oil, or along other matters which have been  
19 inconsistent or different from their votes in the past.

20 But I think that we are concerned that whatever we do  
21 raise by windfall profits taxes are used for energy-related  
22 matters. If we find that the problems of our nation are not  
23 solved just by the trust fund, there is nothing to prevent us  
24 from voting from other general revenues, but I think we should  
25 be certain that we are not invading this particular pool for



1 non-energy related matters.

2 Senator Durenberger: I would just say, in quick  
3 conclusion, that the test will come this afternoon or tomorrow  
4 when we measure everything that Packwood and Danforth have  
5 done by way of spending money against what we raised, and if  
6 we have the guts to say we have not done enough with the  
7 windfall profits tax, let us also use general revenue.

8 Then I will understand what you are saying.

9 Senator Ribicoff: As far as I am concerned, I do not  
10 think we are going to have enough and I would certainly vote  
11 for a severance tax to make that pool larger. I have no  
12 problem with that, but certainly the least we can expect, that  
13 if we are going to charge a large pool of money from some  
14 source for windfall profits tax, at least that amount should  
15 not be invaded for non-energy-related purposes.

16 That is why I think an energy trust fund is absolutely  
17 essential.

18 The Chairman: Senator Moynihan, then Senator Byrd, the  
19 Senator Gravel.

20 Senator Moynihan: Mr. Chairman, I would like very much  
21 to associate myself with what Senator Ribicoff has proposed.  
22 I would say to Senator Durenberger that it seems to me that a  
23 trust fund is a statement to the public that we are serious,  
24 that energy conservation and production is our purpose, and  
25 that we have taken this money with a general notion of what we

1 are doing.

2 And I would like to say something that we have not  
3 discussed here yet, but mass transit has got to be an element  
4 of this legislation. It would just be -- it would be  
5 irresponsible for us to just move around and not act, if we  
6 are not going to change some behavior.

7 Senator Ribicoff: If the Senator would yield?

8 Senator Moynihan: I am happy to yield.

9 Senator Ribicoff: Out of this trust fund, since out of  
10 it will come authorizations and appropriations, the proper  
11 committees, the public works committee who has the  
12 responsibility for transit, could then authorize -- and then  
13 we would vote on it in the Senate and have to go through the  
14 appropriations process.

15 We will not dispose of that trust fund, but we should  
16 make sure that later on we are going to make the decision as  
17 to how we should allocate the trust fund, but it should be  
18 energy-related one way or the other. Certainly mass transit  
19 would be part of that, if the Congress voted that way.

20 Senator Durenberger: If the Senator would yield, I do  
21 not disagree on this issue, but it seems to me that all of the  
22 state highway administrators are in here right now saying that  
23 because of the energy crisis, because of conservation that the  
24 gas tax trust fund that you all created years ago is being  
25 depleted, so we want money for that trust fund out of the

1 energy trust fund.

2 Maybe it makes sense in this country to create a  
3 transportation trust fund -- take your airport trust fund,  
4 take your highway trust fund, take some money from the  
5 windfall profits tax and create a transportation trust fund  
6 that can help us with rail transportation, surface  
7 transportation, a variety of these energy-saving devices in  
8 the area of energy.

9 Senator Moynihan: May I say that I can certainly see the  
10 sense of that, but a precondition to assuring that mass  
11 transit is a part of the activities is for us to establish a  
12 trust fund here where a portion is ascribed and dedicated to  
13 mass transit.

14 The point is that the Federal government ---the policy of  
15 this Congress and this government has created a very great  
16 deal of the crisis that we are dealing with. The interstate  
17 highway program was the largest public works program in  
18 history and as its primary purpose, the establishment of an  
19 economy and a social structure that there was a dependence on  
20 the individually owned automobile. It is the largest public  
21 works program in history. It is still not finished, but it  
22 has transformed American cities, transformed our economy, has  
23 made us dependent on a resource that we do not have enough of.  
24 It only took fifteen years between the time that we started  
25 the program to the time that we started producing more oil.

1 We did that. That would not have happened. Nobody could have  
2 accumulated the \$140 billion that went in to make sure that  
3 everybody rode about in their own automobile.

4 We have to undo it and move back and if we put that  
5 money into transit, we would be much less dependent on oil and  
6 particular kinds of transportation.

7 These have been political choices. It is not quite fair  
8 to say that the American people made them in the marketplace.  
9 The marketplace was created for them by political decisions  
10 involving, I would have to say, large corporations.

11 If you want to know where the highway system comes from,  
12 go to the Worlds Fair in 1939, go to the General Motors  
13 exhibit, look at the future models. That was a political  
14 choice we made and it turns out not to have been a very wise  
15 one.

16 It is time to show that we can reverse ourselves, and the  
17 trust fund is an indispensable component of such a reversal.

18 The Chairman: Senator Byrd, then Senator Gravel then  
19 Senator Dole.

20 Senator Byrd?

21 Senator Byrd: I would like to follow up on Senator  
22 Chafee's question and Bob Shapiro, you identified it as \$104  
23 billion as the net envisioned to be received under the House  
24 proposal.

25 Mr. Shapiro: That is correct.

1 Senator Byrd: You mentioned 121 gross. Where do you get  
2 121.

3 Mr. Shapiro: You look at the decisions the Committee has  
4 made to date with regards to the windfall profits tax. The  
5 net revenue is approximately \$70 billion.

6 If you look at the gross with regards to the Committee's  
7 decision to date, that gross figure is approximately \$121  
8 billion.

9 Senator Byrd: To follow up on that, it is the \$121  
10 billion that will go into the trust fund.

11 Mr. Shapiro: If the Committee were to set up a trust  
12 fund and the decision was to put the gross into the trust  
13 fund, that would be the amount that would go in. The  
14 Committee has a choice, they can either put the net or the  
15 gross.

16 Senator Byrd: If you put the gross, \$121 billion, but  
17 you only receive \$70 billion net, that leaves a difference of  
18 \$51 billion. Out of that \$51 billion, that comes out of the  
19 general fund, does it not?

20 Mr. Shapiro: Yes, that is correct. As you know, the  
21 windfall profits tax is deductible against the income tax.  
22 That is why you get the net, because you are subtracting the  
23 amount that is deductible against the income tax.

24 Senator Byrd: So you take the \$51 billion out of the  
25 general fund which then would increase the deficit of the

1 general fund?

2 Mr. Shapiro: That is correct.

3 Senator Ribicoff: If the Senator would yield, it is not  
4 my personal intent to do that.

5 I think that the trust fund should be the net. That has  
6 always been my intention. What we get through whatever the  
7 net amount is, I do not think that you should play games by  
8 increasing the general deficit. I do not want to invade what  
9 the net is of the windfall profits tax for other reasons.  
10 Neither do I want to put aside from general revenues into this  
11 trust fund, may I say to the Senator from Virginia.

12 So whatever comes out of this committee, as far as my  
13 intentions are, the measure should provide that the net goes  
14 into the trust fund, not the gross.

15 Senator Byrd: Not the gross.

16 The Chairman: All right, Senators.

17 Now, Senator Gravel.

18 Senator Gravel: Since 1946 when the war ended, this  
19 nation has embarked on two major endeavors. One is to build  
20 our highway system, as Senator Moynihan correctly pointed out.  
21 It was a most unusual occurrence. It was Dwight Eisenhower  
22 and, of course, James Randolph was deeply involved and those  
23 Senators who were here at the time -- I am sure Senator Long  
24 and Senator Talmadge were deeply involved in setting up the  
25 first major trust fund.

1           The other national endeavor that took place was putting a  
2 man in space. They did not use a trust fund for that. We just  
3 used general revenues.

4           It is interesting that when you look at what happened  
5 with the highway program -- and Senator Moynihan was quite  
6 right. We put the American people in the automobile, which is  
7 a part of the problem that we have today -- and we skewed our  
8 transportation system away from mass transit, which, of  
9 course, is the dilemma that the proponents of this trust fund  
10 are now talking about.

11           What we are going to do now -- and I was persuaded by  
12 that -- and in '74 I introduced the trust fund. I think I was  
13 the first one to introduce the trust fund for energy. It was  
14 just for energy at the time, and the Treasury was drastically  
15 opposed to it at the time because they thought that this was,  
16 if we started with one for highways, one for airports, and now  
17 for a little potpourri here of the poor and mass transit and  
18 some energy, and, of course, anything that you could put a  
19 combination of political forces together you are going to have  
20 another trust fund so we will not have an appropriation  
21 process anymore. It will be these large -- not only are we  
22 going to have these regional problems that seem to be cropping  
23 up, but now we are really going to sanctify it into a fiscal  
24 dimension and a task dimension that is going to add to the  
25 complexities.

1       The failure of this trust fund is going to be colossal  
2 because what happened with highways -- and we all know it -- is  
3 that we have gone overboard. That is the reason why you have  
4 a reaction to it. It has been so successful, that is the  
5 reason. We have assault after assault for mass transit to get  
6 into it and other people to get into it and maybe we should  
7 have had an overall transportation trust fund, but what  
8 happened, the air industry was powerful enough to move in, and  
9 get its own trust fund.

10       But just imagine what we are doing here. We are setting  
11 up a command decision on syn fuels that has nothing to do with  
12 its economic efficacy, no competitive check on the situation.  
13 It is going to be who has the political muscle, who is going  
14 to have the plans in what state to go ahead and force the  
15 expenditures of money to build coal gassification, to build  
16 shale oil or what have you, that anybody can think of, and we  
17 are going to have the money all locked up to do it  
18 automatically.

19       So not only are we going to violate the basic tenets of  
20 intelligent society, we are now going to compound it, because  
21 we are going to have the immediate vehicle for its continued  
22 and guaranteed implementation.

23       So when you have a dog, you are not going to be able to  
24 wake up one morning and get that dog away from you. You are  
25 going to be locked in for ten or twenty years.



1 Senator Ribicoff: If the Senator would yield for one  
2 comment?

3 Senator Gravel: I would be happy to yield.

4 Senator Ribicoff: It would not be automatic because the  
5 expenditures from this trust fund would be subject to the  
6 annual authorization and appropriation process so you are not  
7 locking up a dog at all.

8 It is for Congress to determine, each and every year, how  
9 that trust fund should be allocated, if there is a shift in  
10 changes of basic needs at any one time, because I could  
11 foresee that some of these syn fuels projects will not work,  
12 and if they are not going to work, we had better cut our  
13 losses immediately, and whatever needs our society will face  
14 at any given time in the energy field, you should have the  
15 trust fund.

16 Congress in its wisdom, or unwisdom, to decide each and  
17 every year how they will allocate from that trust fund.

18 Senator Gravel: I am on the authorizing committee for  
19 that trust fund, along with Senator Bentsen and Senator  
20 Moynihan and the experience has not been that. There has not  
21 been the experience where you could cut your losses.

22 We have had litigation. The fact that you, in the past,  
23 have voted repeatedly to be able to get into that trust fund  
24 to get some monies for mass transit. When that mass transit  
25 need cries out for attention, you have not been able to, with

1 all the votes in the Congress for the urban areas, to crash  
2 into that highway trust fund for the very simple reason that  
3 what you do ---and I am bound by it also -- I am sympathetic  
4 to having a total transportation trust fund. I have not voted  
5 that way because I would be voting against my own economic  
6 interests and that would be reported in my state and I cannot  
7 do it, and nobody else can do it.

8 That is the reason why you have the anomaly that exists  
9 in transportation, and now you are going to create an anomaly  
10 in energy that is going to be compounded by the facts that at  
11 least in the case of the highway trust fund you had a check and  
12 balance at the state level. But on this particular base, if  
13 somebody -- and now we are going to have four individuals,  
14 unfortunately -- we are going to vote on it today -- who are  
15 going to sit there as czars and they are going to make a  
16 command decision where the Congress cannot to build plants and  
17 do things and that money is going to be automatic.

18 Once a public statement is made as to where the plants go  
19 ---and you saw the way Senator Jackson and the Energy  
20 Committee put together a bill on syn fuels and put it right  
21 across the country, just like we do with revenue sharing, to  
22 make sure the political mixes get the vote, you will never be  
23 able, once you have unleashed this genie out of the bottle, I  
24 will guarantee you you will never get it back in the bottle  
25 until we are prostrate in a noncompetitive fashion across the

1 world.

2 Let me just add another thing changed my mind in '74 when  
3 I first introduced the trust fund, and that was the experience  
4 of the DOE. In 1972, we were in a veritable energy depression  
5 ---we did not know it, but we were. Just take the amount of  
6 effort that we were making looking for oil. But we had a lot  
7 better situation in this country than we have today.

8 The major ingredient was the quadrupling of the world  
9 price of oil and the fact that we, in the United States,  
10 called upon government to solve the problem and created, from  
11 '73 forward, a Department of Energy that has a budget now of  
12 \$12 billion.

13 And that entire government effort has not added one ounce  
14 of oil to the marketplace of this nation. And the only thing  
15 that we have ever done for an ounce of oil was a contested  
16 vote in the Congress to circumvent the bureaucracy of  
17 government and go build the Alaskan pipeline which is now  
18 bringing you 1.2 milion barrels a day.

19 Senator Ribicoff: If the Senator would yield, the  
20 difference between the highway trust fund -- it was completely  
21 marked for one purpose, to build roads, and as a consequence,  
22 it was impossible to shift to mass transit once that was done.

23 But the trust fund that we are now setting up for energy  
24 does not set aside for one particular type of production and  
25 conservation. It is for all energy purposes. The Congress is

1 going to have to make the determination on an annual basis  
2 through the authorization and appropriations process what, at  
3 any given moment, are the basic national needs in the energy  
4 field.

5       What we want to make sure is that there will not be an  
6 invasion of the energy related funds through the windfall  
7 profits tax to be diverted through social security or any  
8 other reason.

9       Senator Bentsen: Just for a moment, if you would yield  
10 to me?

11       Senator Gravel: I would be happy to.

12       Senator Bentsen: One point on the highway trust fund,  
13 since I chaired that subcommittee, we had made major changes  
14 in the highway trust fund for the urban areas now. Those  
15 funds, at the option of those people in the urban areas, can  
16 use the funds now for mass transit.

17       Senator Gravel: I would only add, and underscore, that  
18 we are giving away the power of this committee with the  
19 creation of a trust fund. We are giving it to other  
20 committees, we are giving it to the Energy Committee, for one.  
21 We are giving it to whoever wants to step forward and do  
22 something about the poor, and we are going to give it to the  
23 Public Works Committee, which I do not particularly mind, or  
24 the Banking Committee, which handles mass transit ---the  
25 Banking Committee would handle mass transit.

1           That is where we are talking this power that we cherish  
2 so much, and are passing it out.

3           I would only say that the point I made, that when you  
4 create a lock-in and you compound that by not having any  
5 checks and balances as to the economic efficacy of what you  
6 are doing you are charting a course of colossal disaster for  
7 this country.

8           Senator Ribicoff: I hope that this committee, as great  
9 as it is, does not become so petty and mean that it is going  
10 to make general policy for this country on the basis of  
11 whether we are giving away a piece of our jurisdiction as to  
12 what we do with the money.

13           I think this committee is too important to take that  
14 attitude.

15           The Chairman: Senator Bradley?

16           Senator Bradley: Just addressing the economic efficacy  
17 argument that Senator Gravel just made in the context of what  
18 windfall profits is supposed to do and the Energy Security  
19 Fund is supposed to do, you consider mass transit and buses  
20 alone are fifteen times more energy efficient than our  
21 automobiles and trains are fifty times more energy efficient  
22 and you look at how much oil we are now consuming, and will  
23 project to consume and the argument about the trust fund, the  
24 highway trust fund, is there. The money is there. The money  
25 continues to go for the financing of highways.

1           Meanwhile, public transit has been subject to the whims  
2 of varying administrations. It has been subject to the whims  
3 of the authorization process in a very vulnerable way.

4           In fact, in my own state, we have had examples of  
5 commitments that were made by one administration that were not  
6 lived up to by another administration simply because there was  
7 not any trust fund that was assuring funding.

8           So that I think that there could be an argument made, --  
9 and I will make it today -- that there should be a public  
10 transit trust fund.

11           But if we are not going to go that far, we should at  
12 least assure that within the Energy Security Trust Fund that  
13 we can use some of that money for mass transit.

14           Senator Moynihan: If the Senator would yield?

15           Senator Bradley: Certainly.

16           Senator Moynihan: Is it not the case that mass transit  
17 is no different than highways in that if you are going to do  
18 it, you have to know there is going to be an income screen you  
19 can count on, that it will take some yeas to build?

20           Senator Bradley: To give you a perfect example, in my  
21 state there was sufficient revenue in one year to buy new  
22 cars. The cars were bought with a certain electrical capacity  
23 that required changing the electrical capacity of the rail  
24 system. The money was cut off, so you have brand new cars  
25 sitting in a yard because you cannot get the money to change

1 the electrical system of the tracks.

2 This is repeated over and over again because there is not  
3 that certainty of funding that exists in the highway trust  
4 fund.

5 Senator Bentsen: Mr. Chairman, just a moment. I want to  
6 emphasize once more, because this fight was fought several  
7 years ago, that the highway trust fund, for the money  
8 allocated for the urban areas is at the discretion of the,  
9 administrative officials there to be utilized for highways or  
10 mass transit, either one. I want to emphasize that one.

11 I want to also say that I have been a very substantial  
12 supporter of mass transit. I get a lot of people who think we  
13 are all cowboys and Indians out there in Texas, but frankly,  
14 out of the ten largest cities in the United States, three of  
15 them are in Texas and I know what it means to drive 14 miles  
16 an hour down a freeway, breathing the fumes of the car in  
17 front of me and being pushed on all sides and getting all mad  
18 and upset over it, and I know what it is to have special bus  
19 lanes where the guy can drive by you reading his newspaper at  
20 55 miles an hour and the psychological impact of that, and I  
21 have supported those things.

22 I just want the record straight. It is how we are using  
23 the highway trust fund today.

24 Senator Bradley: If I may respond to that, I certainly  
25 appreciate the support of the Senator from Texas in these

1 matters, and I would just re-emphasize the need to have a  
2 trust fund so that part of that money might be spent on public  
3 transit that is more energy efficient in a time of real need  
4 to conserve and to change some patterns of consumption.

5 The Chairman: Senator Dole?

6 Senator Dole: I want to ask, Mr. Shapiro, as I  
7 understand it, I think it is very important to maybe get the  
8 record -- we are all not in agreement on it. The revenues  
9 from the Senate Finance Committee's windfall profits tax is a  
10 gross tax so far, \$121 billion. Is that not correct?

11 Mr. Shapiro: That is correct.

12 Senator Dole: Then revenues increase corporate and  
13 individual income taxes as a result of decontrol, assuming 1  
14 percent real growth in OPEC prices. As I understand it, that  
15 is \$24 billion between now and '82.

16 Mr. Shapiro: No, '82.

17 Senator Dole: That is part of the administration's  
18 proposal.

19 Mr. Shapiro: The administration's proposal, but the  
20 House did not agree to that.

21 Senator Dole: Right.

22 In any event, that gives us so far about \$145 billion as  
23 compared to the President's proposed program of \$142 billion.  
24 We are talking about gross tax, gross windfall profits tax.  
25 Would that be accurate?



1 Mr. Shapiro: Gross windfall profits tax, plus three  
2 years of corporate individual income tax.

3 Senator Dole: Which is the administration's proposal.

4 The only point I want to make, you know we are in the  
5 ballpark right now. In fact, we have the larger gross tax and  
6 the administration's proposal at least, as I understand it, as  
7 testimony by Mr. Blumenthal a few months ago.

8 Mr. Lubick: Senator Dole, using the price assumptions  
9 that we are using now, since there has been a rise in oil  
10 prices, since we originally made our proposal, we have  
11 suggested that it is sufficient simply to use the gross  
12 revenues from the windfall profits tax and not to put the  
13 corporate revenues into the trust fund.

14 Senator Dole: That is a change from your original  
15 proposal?

16 Mr. Lubick: That is correct.

17 The Chairman: Do I understand, the way it is going right  
18 now, based on what we are doing here, that you are projecting  
19 income so you do not even need to put the corporate money in  
20 the trust fund, in the program?

21 Mr. Lubick: No. What we are suggesting, based upon  
22 windfall profits tax, as we had proposed it to you, when the  
23 Secretary testified based upon the price increases, since we  
24 first proposed the windfall profits tax, that it is not  
25 necessary for the start-up cost of the trust fund to

1 incorporate general corporate revenues to the trust fund.

2 The Chairman: You originally thought it would be.

3 Mr. Lubick: When we first came up in April, yes.

4 The Chairman: That sounds as though we are in better  
5 shape than you thought we were going to be in.

6 Mr. Lubick: We are in worse shape because the world  
7 price of oil has gone up.

8 The Chairman: Wait a minute. Hold on just a minute.  
9 You are talking about apples, I am talking about oranges. I  
10 am talking about the money in the fund, that is all I am  
11 talking about.

12 Mr. Lubick: As far as the money in the fund, based upon  
13 what you voted, you are still not up to what we think is  
14 necessary to do the job.

15 The Chairman: Is that after you take the corporate money  
16 out, or after you leave it in?

17 Mr. Lubick: Leaving aside the corporate money.

18 Senator Dole: When did you make that decision?

19 The Chairman: You are leaving it out, out or in?

20 Mr. Lubick: Leaving out the corporate money. The House  
21 had made the decision not to put the corporate money in.

22 Senator Dole: My point is, I think that it indicates how  
23 difficult it is for any of us. I do not say this as a  
24 criticism. The figures change so rapidly and the  
25 prices changed so rapidly and we are under some illusion here

1 that we can only do this or that. We cannot exempt this, or  
2 we cannot give this tax credit because we only have X number  
3 of dollars.

4 I am just pointing out, as I figure it out, based on the  
5 administration's original testimony, we have a gross tax even  
6 now. We still have other actions to take of about \$145  
7 billion.

8 Maybe things have gotten better and we do not need to  
9 dump in the corporate taxes that was the original  
10 administration proposal, and secondly --

11 Mr. Lubick: To gross \$120 billion.

12 Senator Dole: If we dump in the other, we have \$145  
13 billion, which you would no longer dump in.

14 Mr. Lubick: That is correct.

15 Senator Packwood: Can I follow up on that?

16 What you are then saying, you will have -- I do not know  
17 how many extra corporate revenues you are figuring that are  
18 not allocated to anything.

19 Mr. Lubick: Again, Senator Packwood, first of all, when  
20 you are talking about the corporate revenues, we are back to  
21 the proposition that when you are allocating to the trust fund  
22 gross receipts from the windfall profits tax, you are, as  
23 Bobby indicated, indicating indirectly some net general  
24 revenue.

25 Senator Packwood: Again, let me rephrase the question.

1 You wanted \$142 billion. That is the gross?

2 Mr. Lubick: That is the gross.

3 Senator Packwood: All right. And that included the  
4 corporate income, gross.

5 Under the assumptions of prices we are operating under at  
6 the moment, this Committee, in terms of gross, is not far off  
7 that \$142 billion figure.

8 Mr. Lubick: At \$120 billion, leaving aside the  
9 corporate.

10 Senator Packwood: I am talking about leaving in the  
11 corporate. Your \$142 billion initially left it in, did it  
12 not?

13 Mr. Lubick: I believe that is correct.

14 Senator Packwood: At the moment, if we leave it in we  
15 are leaving our price assumptions but we are not far off from  
16 the \$140 billion.

17 Mr. Lubick: That is correct.

18 Senator Bradley : May I ask a question? Have you  
19 factored in to your request for funding the increased price in  
20 oil that is reflected on the revenue side, but not be  
21 reflected on the expenditure side?

22 In other words, what you asked for \$142 billion to  
23 accomplish X, Y, Z in April was assuming a certain price of  
24 oil. Has that price of oil gone up? Does that mean that what  
25 you request has gone up?

1 Do you still think you can accomplish the same amount of  
2 expenditure goals with \$142 billion?

3 The syn fuel plan is another plan you thought would cost  
4 \$1 billion. You assumed oil used in the production of that  
5 process would be at \$16. It is now at \$22 billion. It means  
6 that the plant may be more expensive.

7 I think that we had some dialogue with Senator Danforth  
8 earlier trying to get the expenditure assumptions on the same  
9 basis as the revenue raising assumptions. Originally we had  
10 estimated on the expenditure side, on a more conservative  
11 basis, assuming larger assumptions, if you use the same  
12 assumptions as we have done in response to the indications of  
13 the Committee's desire, we still need all of this revenue.

14 Senator Bradley: You do not need more. If oil prices  
15 are more and you are figuring it in your revenue side, can you  
16 do the same amount with \$142 billion, because in accomplishing  
17 the goals that you want to accomplish with the original \$142,  
18 you use oil in some of those processes.

19 The price of oil has gone up. Therefore, is \$142 billion  
20 sufficient?

21 Mr. Lubick: Senator Bradley, actually, as the price  
22 rises you really can do more on the expenditure side because  
23 your price guarantees become less costly and the attainment of  
24 your goals are somewhat easier as prices rise.

25 But we had assumed originally for the expenditure of \$140

1 billion-odd using the 2.4 percent price rise assumptions so we  
2 are still not using that assumption. We are using a lower  
3 assumption. That means that we are still running it pretty  
4 tight in order to accomplish what we want to accomplish if we  
5 use the same assumption that we are using on the revenue side.

6 Senator Dole: If I could just finish, it has been called  
7 to my attention when Secretary Schlesinger, when he was  
8 Secretary Schlesinger, appeared before the Committee. He was  
9 talking about the \$88 billion for the Energy Security  
10 Corporation. That was calculated on the basis of no real  
11 growth in OPEC prices.

12 He went on to say if OPEC prices showed real growth, we  
13 would need far less than \$88 billion to accomplish the  
14 administration's syn fuel goal on the basis that syn fuels  
15 would be more competitive.

16 What are we talking about? What do you need now for that  
17 program?

18 You have had real growth in OPEC prices. You are not  
19 going to need to put much Federal money into syn fuels.

20 Mr. Sunley: Senator Dole, in pricing out the syn fuel  
21 program, as I understand it, OMB assumed that the real price  
22 of oil would rise at 2.4 percent a year. At that price  
23 assumption, the syn fuel program costs \$88 billion.

24 Essentially you are pricing out what it would cost for  
25 various types of price guarantees and developing a certain

1 number of syn fuels plants to meet the goal for a certain  
2 level of syn fuel production by 1990.

3 As I understand it, what the President proposed was \$88  
4 billion for the syn fuel program, and that under the trust  
5 fund, as it would operate, the Energy Security Trust Fund, as  
6 the trust fund made commitments, it would have to set aside  
7 contingency funds to meet the potential liabilities in the  
8 future.

9 If the real rate of growth is less than 2.4 percent, you  
10 would not be able to do as much for the \$88 billion that is  
11 available. If the rate of real growth is above 2.4 percent,  
12 then your price guarantees would not cost as much and  
13 therefore, in fact, your expenditures would be less.

14 Mr. Lubick: So that, on the 1 percent assumption, you  
15 still need the \$88 billion, but you are not going to be able  
16 to do as much with the \$88 billion as we originally had hoped  
17 to be able to do, with \$88 billion at a 2.4 percent price  
18 rise.

19 Mr. Sunley: I might add, Senator Dole, if I may, when  
20 Secretary Schlesinger appeared before you that last time and  
21 he was being questioned about the \$88 billion assumption, he  
22 did express some skepticism of whether, at a 2.4 percent  
23 growth rate, that that was really how much you were going to  
24 need.

25 In that sense, he was moving away from the Office of





1 profits tax, to put the actual dollars from the gasoline tax  
2 into the highway trust funds.

3 Some of those gasoline tax dollars are deductible as a  
4 business expense.

5 Senator Ribicoff: I know. You can get someone to  
6 present your position on the Floor of the Senate, or if some  
7 member wants to present you as an amendment to my proposal  
8 here, but I am proposing the net. When we get through with  
9 whatever our actions are, whatever the net amount, that is  
10 what I intend to go into the trust fund, nothing more.

11 Mr. Lubick: I just want to make sure we are talking  
12 about the same thing. You are talking about the net windfall  
13 profits tax revenues the gross receipts from a windfall  
14 profits tax less an offset to restore to the general revenues  
15 the equivalent of deductibility of those amounts.

16 Senator Ribicoff: I am talking about the net that we  
17 have, not the corporate tax, that has nothing to do with the  
18 windfall profits tax.

19 I do not want to make anything complex. That is what I  
20 have in mind. I think Mr. Shapiro and the staff can put this  
21 into language that will go into the bill -- that is, if it is  
22 what the Committee adopts.

23 The Chairman: It does make a difference to know what we  
24 are talking about. You can talk about -- it is all according  
25 to which tax you levy first, the way it works, you know? Each

1 tax is levied on what is left. If you say well, if you put  
2 the windfall profits tax first and you collect that one first  
3 and put that into the trust fund, then you have less money  
4 left for the Treasury because the succeeding taxes would tax  
5 what is left.

6 I see Mr. Lubick nodding his head. That is what you have  
7 in mind?

8 Mr. Lubick: Yes.

9 The Chairman: As Mr. Lubick looks upon it, he feels --  
10 let's take what the windfall tax collects first, if that is  
11 the case. That is one figure. The other figure, if you put  
12 the corporate and individual tax up front and collect that,  
13 then you have that much less left to tax with the excess tax.

14 Mr. Lubick: The actual collection is always on the  
15 windfall profits tax first, because the corporate taxpayer  
16 then simply deducts what he is paying in the windfall profits  
17 tax.

18 You would have to make a revenue estimate in order to  
19 trim the receipts down to a net figure.

20 Senator Bentsen: Not the second figure you have, the  
21 first figure.

22 Mr. Lubick: You always pay the windfall profits tax  
23 first, then that is deducted by producers on the corporate  
24 returns.

25 The Chairman: We are talking about the same thing, then.

1 What would go into the trust fund is what you have left after  
2 you allow for deductons and credits. The excess profits tax  
3 itself. That will tend to reduce the revenues that otherwise  
4 can be collected for general revenues by the individual and  
5 corporate taxes.

6 If you put your windfall tax up front, as this is  
7 proposing to do, you put those dollars in a trust fund, that  
8 works out the same as though you are talking about a gasoline  
9 tax. You collect that and add this deductible in many cases  
10 from the individual and corporate income taxes.

11 Shall we vote on it? I am ready to vote.

12 Senator Danforth: What is going in, net or gross?

13 The Chairman: What you are talking about, wha he is  
14 talking about going in, is the money that the windfall tax  
15 makes when you levy the windfall tax first.

16 Now, when you do it that way, you are going to have less  
17 money left to go in there from the individual and corporate  
18 returns than otherwise would be the case, because those taxes  
19 apply to what is left after you levy your windfall tax.

20 Senator Danforth: Therefore, the trust fund is the  
21 entire windfall tax.

22 The Chairman: Can you help me explain that?

23 Mr. Shapiro: The trust fund in the House bill -- it  
24 seems to me that Senator Long is talking about, you set up a  
25 trust fund, you put in the gross revenues.

1 For example, the Senate Finance Committee to date, its  
2 windfall profits tax has gross revenue figures of \$121  
3 billion. That would be your final decision. The trust fund  
4 would include \$121 billion over the period Senator Ribicoff is  
5 talking about.

6 Senator Ribicoff: That is all I am proposing. The  
7 language should be drawn up to put in the bill, if it is  
8 adopted, to indicate the 70. It is the net. I do not want  
9 the gross in there. It is the net I am taking about.

10 Mr. Shapiro: If the Committee wanted to put the net, you  
11 would have to make some assumptions. That can be done. It  
12 can be drafted.

13 The committee has to make a determination as to whether  
14 or not it wants to put in the gross revenue in the trust fund,  
15 as the House bill does, and as the administration proposes, or  
16 the net figure, the money actually available after offsetting  
17 the deduction for the windfall profits.

18 Senator Ribicoff: That is my intention. The net.

19 The Chairman: The more you think about it, you know,  
20 you are going to want to do it the way the administration and  
21 the House did it. The more you think about it, that is what  
22 you are going to want.

23 Let's compare it to a tax on gasoline. You put a tax on  
24 gasoline and you collect billions of dollars of that. You put  
25 that into the trust fund. There are a great number of people

1 who are paying that gasoline tax who are able to deduct that  
2 from their income tax, so they are paying less income tx.  
3 tax. So you lose some of your general revenues by doing that.

4 But what you are putting in is what that tax raises when  
5 you put that one first.

6 So when you levy your excess profits tax first, that is  
7 the tax that does not allow for expenses and all of that,  
8 except in so far as you allow a deduction of state taxes.,

9 If you put that one up front, that is what you get. That  
10 is what you are talking about as your gross figure.

11 There will be less left to tax because you had that tax  
12 up front. The budget is going to still going to be collecting  
13 more taxes on the industry because there will still be more  
14 left to tax than there was before the deregulation occurred.

15 You are not taxing what they had before you started the  
16 deregulation. You are just taxing the additional income they  
17 get because you deregulated.

18 Senator Bradley: The only money that we would have  
19 because of windfall profits is the net. That is the only new  
20 money. The other money would come in, regardless. It would  
21 be in a pot.

22 You are saying it is reduced roughly 50 percent by the  
23 windfall profits.

24 The Chairman: You would not have any of this if you did  
25 not have the deregulation, all right?

1           So you are taxing the additional money that is received  
2 because we deregulated. Then you proceed to take that money  
3 and you put that in the trust und.

4           That is what the administration had in mind, and the House  
5 has in mind. Then you take what is left over as subject to  
6 being taxed by the corporate and the individual tax rates.

7           So that means you are still going to have more money in  
8 general revenues than you would have had minus that  
9 deregulation. You are not going to have the amount that you  
10 would have if you would put the other taxes on first.

11           Yes, sir?

12           Senator Moynihan: Mr. Chairman, I feel -- I think that I  
13 properly understand the thoughts of Senator Ribicoff. He says  
14 this is the trust fund, a probity and responsibility. Senator  
15 Ribicoff is asking for an honest count, what is the honest  
16 count of the additional fund available that can be distributed  
17 through a trust fund?

18           I think that is what Senator Bradley intends. I very  
19 much think that Senator Ribicoff is correct.

20           Senator Chafee: Mr. Chairman?

21           The Chairman: Yes, sir?

22           Senator Chafee: First I wanted to say I support Senator  
23 Ribicoff, if I understand what he is saying, that a windfall  
24 profits tax brings in money but they have to compensate the  
25 Treasury for the loss. The Treasury suffers as the result of

1 the deductibility of these funds, so therefore when he uses  
2 the term "net," he means the net increase that comes to the  
3 Federal government as a result of the windfall profits tax,  
4 not taking the gross which is putting money in the fund, but  
5 the Federal Treasury, and the general fund loses. So he wants  
6 the Federal Treasury to come out where it was before and only  
7 use the net in this fund.

8 Is that not correct, by your terms, the way you use it?

9 Mr. Lubick: That is our understanding.

10 Senator Nelson: Is it not correct, however, that what we  
11 are talking about is not a loss to the Treasury from where it  
12 is starting, but that the windfall profits tax is on account  
13 of deregulation and what you are losing in the Treasury is an  
14 unanticipated benefit that came because of deregulation.

15 Mr. Lubick: I think -- you start out -- we have proposed  
16 putting the gross taxes in. That is what you do in the Social  
17 Security Trust Fund. That is what you do in the gasoline tax.  
18 You do not take into account the fact that there are,  
19 elsewhere, deductions for that amount.

20 For the windfall tax, if you put in the trust fund, the  
21 \$120 billion that would result in corporate income tax  
22 deductions of 50 with respect to that 120 -- we have set aside  
23 the question that Senator Dole and Senator Danforth brought up  
24 of what is the effect on increased revenue to the Treasury  
25 overall, from what increase in general corporate taxes because

1 of the rise in prices, leaving aside the windfall profits tax,  
2 and it is our view that you are justified in putting the gross  
3 in rather than the net, because the charge to the general  
4 revenue by the deductibility of the windfall tax is more or  
5 less offset by the net increase in corporate revenues, when  
6 you take the increased taxes paid by the producers and the  
7 decreased taxes paid by the rest of the economy.

8         So the simple, shorthand way to do it, without, as  
9 Senator Nelson says, if you start from square one, where you  
10 were at the time of decontrol, putting in the gross, more or  
11 less keeps you funding the expenditures out of the trust fund  
12 with the increase to the Treasury overall, as a result of this  
13 tax.

14         Senator Bentsen: I do not want to interrupt, if you want  
15 to go ahead?

16         Senator Chafee: Go ahead.

17         Senator Nelson: I have just one more comment.

18         I would like a chance to take a little harder look at  
19 that. I am inclined to go along with the administration and  
20 what Senator Long says. Why do we not separate the question  
21 to vote on whether we want a trust fund and that would give us  
22 the chance to look at that other issue a little more?

23         Senator Bentsen: I would like to go along with that,  
24 too, if we can.

25         If I may, just a minute, I think both sets of figures are



1 honest. You just have to understand what you are working  
2 with, and I would assume, if you use the gross figure, that  
3 you have more of a certain collection as to what goes into  
4 that fund, because if you use the gross figure and you have  
5 got that, if you use the net figure, you have to arrive at  
6 certain assumptions as to what the deductibility is going to  
7 be of these corporations and what you are finally going to  
8 come out with with the net.

9 So the hard numbers are easier on the gross figures,  
10 and you have said, as I asked earlier, that to the extent that  
11 you exceed the deduction may require the corporations for the  
12 windfall profits tax that you will feel that you will at least  
13 make that up by the increased corporate taxes from the  
14 deregulation of oil.

15 That is the way I understand it. I think either set of  
16 figures are honest figures. You just have to understand what  
17 your assumptions are.

18 Senator Chafee: Mr. Chairman, I had the Floor, I  
19 believe.

20 The Chairman: If the Senator would yield to me, let's  
21 try to think of it in these terms. Suppose you say you are  
22 going to deregulate and then suppose you say the government is  
23 going to take it all, just whatever additional income the  
24 taxpayer gets the government is going to take it all.

25 Just whatever additional income the taxpayer gets, the

1 government is going to take it all, the additional income, ad  
2 you are going to put it into a trust fund to try to produce  
3 more energy or more oil or whatever.

4 In those terms, you have neither raised nor lowered the  
5 amount of taxes that the taxpayer would otherwise have paid.

6 Now, if you said, on the other hand, you are first going  
7 to try to calculate how much you would get with your income  
8 taxes, then you would have drastically reduced, perhaps by 50  
9 percent, the amount of money that would go into the trust  
10 fund.

11 The taxpayer, as far as the taxpayer is concerned, he  
12 is in the same position. By putting the additional taxes  
13 on, by putting the additional money in the trust fund,  
14 you have the right to put that into the fund and spending  
15 it.

16 The alternative is to raise general revenues by  
17 virtue of the decontrol and to reduce the money available  
18 for the alternatives by doing it. I do not think that  
19 we want to do that.  
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1           Senator. Chafee. Mr. Chairman.

2           The Chairman. Yes.

3           Senator Chafee: Mr. Chairman, I would like to ask  
4 Senator Ribicoff, if I might, a question regarding the trust  
5 fund. If the trust fund, as I understand it, is open to  
6 authorization by appropriate committees and appropriations by  
7 the Appropriations Committee, why is there not going to be  
8 open season on the fund?

9           Can the fund be used for food stamps? Can it be used for  
10 anything that comes along?

11          Senator Ribicoff: No. It has to be energy-related for  
12 the conservation and production of energy. Anything involved  
13 in the energy field.

14          Senator Chafee: Is that a part of what will be set in  
15 connection with this? Is this the ground rules in the law?

16          Senator Ribicoff: In the 1977 proposal, we set out  
17 general uses, general purposes, and how the trust fund was to  
18 be used, and it was all energy related including mass  
19 transportation, production of more energy.

20          It could be used for the credits that Senator Packwood is  
21 talking about and whatever the Congress decides, but it has to  
22 be energy-related one way or another and not for other general  
23 governmental purposes.

24          Senator Chafee: Trust funds, I have generally found in  
25 government, are not very good things because the money rolls

1 in and either it is too much or too little. If it is too  
2 much, it is spent. If it is too little, it does not satisfy  
3 the problem.

4 Will we not get into a situation here, if we have a trust  
5 fund, that there will not be no way to stop it, that the tax  
6 on the oil -- there will be no phase out.

7 Senator Ribicoff: All I can say, if you do not have an  
8 energy trust fund, whatever you produce, it will be open ,  
9 season for any purpose. But if you have an energy trust fund  
10 that has to be energy-related, the money you are raising out  
11 of the windfall profits tax can only be used for  
12 energy-related purposes.

13 If you do not do that ---just like throwing this glass of  
14 water on this table, it would be all scattered around. Before  
15 you know it, we will not have any energy programs whatsoever  
16 for the production and conservation of energy. That is what  
17 is worrying me.

18 The Chairman: Mr. Moynihan?

19 Senator Moynihan: I just want to say, in response to  
20 Senator Chafee's question, we are talking about a trust fund  
21 in which we dedicated the revenues. Over a ten-year time, I  
22 assume we are making no commitment beyond the life of the tax  
23 itself. It is not, in this sense, indefinite.

24 Senator Chafee: Is it possible to phase out this tax,  
25 then?

1 Senator Moynihan: Is it not our general agreement at  
2 this time we are voting for a ten-year tax?

3 Senator Ribicoff?

4 Senator Gravel: We may not all be here ten years from  
5 now.

6 Senator Ribicoff: For our successors. I will not be  
7 here two years from now.

8 Mr. Shapiro: That decision has not been made yet, as to  
9 phase it out. The lower tiers phase into upper tiers, but the  
10 tax does remained.

11 The Committee has not made a decision to terminate it.

12 Senator Moynihan: The proposal from the President is for  
13 a ten-year program.

14 Mr. Shapiro: The revenues for an eleven-year period.

15 Senator Moynihan: It is an indefinite tax.

16 Mr. Shapiro: I should point out that the committee's  
17 decision to exempt tertiary and limit the tax to stripper,  
18 looking ahead to 1990, there is not as much oil other than in  
19 those categories, so you reduce your effect.

20 Senator Moynihan: All right.

21 The Chairman: Senator Durenberger?

22 Senator Durenberger: Senator Ribicoff, just so I  
23 understand this, let me ask you a clarifying question. If you  
24 can trust the Washington Post, if you can trust the Chairman's  
25 being quoted accurately on what this committee is going to

1 be doing on a net tax basis, we are going to put approximately  
2 one-third of the windfall profits tax into tax credits,  
3 alternative energy conservation; one-third into exemptions;  
4 and one-third into income assistance, mass transits and so  
5 forth.

6 I think that is sort of the trend that we have been  
7 following here.

8 What we have done so far, that is \$35 billion going into  
9 each of three directions. What we have already done, in one  
10 of those categories, tax credits, alternative energy and  
11 conservation, around \$100 billion. Most of us voted for it,  
12 so it seems to me to be a strong feeling that that is what we  
13 ought to do for the country.

14 In the category of income assistance over a ten-year  
15 period of time, I have heard the figure \$24 billion for mass  
16 transit, \$17.9 billion; syn fuels, \$88 billion.

17 Obviously, the need in this area substantially exceeds  
18 the amount of money, net or gross, in the windfall profits  
19 tax. My question to you, simply, is to restate your position  
20 that the purpose of the Energy Security Fund is only to guard  
21 the windfall profits tax, not to guarantee the energy security  
22 of this country.

23 Senator Ribicoff: That is right.

24 To assure that whatever is the net that comes out of a  
25 windfall profits tax is not diverted for non-energy purposes.

1 There is no restriction on the Congress to vote additional  
2 funds beyond it. At least we are sure that we are going  
3 to keep the net for energy-related purposes.

4 Senator Packwood: After we have allocated all the money  
5 for a variety of different things, then there is no net left.  
6 What happens to the trust fund?

7 Senator Ribicoff: There is nothing for the trust fund to  
8 be used for. We cannot authorize or appropriate if it is,  
9 zero.

10 Senator Packwood: The trust fund as we are going to down  
11 and finally reconciling my solar credits, his North Slope  
12 credit, production incentives, whatever, the trust fund is  
13 left. If there is nothing left, there is no trust fund.

14 Senator Ribicoff: There is nothing you can do about it.  
15 You would have to go the general authorization, appropriation  
16 route.

17 Senator Durenberger: Mr. Chairman, I offer a motion that  
18 we change the name of whatever it is we are voting on here  
19 from the Energy Security Fund to the Windfall Profits Trust  
20 Fund. If we need trust for probity, let's call it the  
21 Windfall Profits Trust Fund and not the Energy Security Fund  
22 or we are going to mislead the people of this country into  
23 thinking that we are limiting our efforts to provide for that  
24 energy security by the amount of the windfall profits.

25 Senator Ribicoff: I do not care what you call it, you

1 know, as long as you get the result.

2 We talked about \$88 billion for syn fuel. It is very  
3 obvious that the Energy Committee is not going to go for that  
4 type of program. They are going to go for a pilot program  
5 that will take \$35 billion. We do not know where it is going.  
6 Before we are through, so I think you stated -- I do not care  
7 what you call it.

8 Senator Packwood: I have no objection for voting for it  
9 as long as we understand that it comes last.

10 The Chairman: It has got to come last in so far as you  
11 are putting tax credits somewhere.

12 Senator Packwood: I am not sure everybody is assuming it  
13 is coming last. There are some people who are thinking that a  
14 certain portion of this is going to be allocated to the trust  
15 fund before we have decided what to do with some of the other  
16 funds, as long as it comes last, and if there is anything  
17 left, it goes into whatever we call it, then that is all  
18 right.

19 Senator Ribicoff: I am assuming when we get through here  
20 with everything we are voting on, I think the first day I  
21 mentioned, we are going to have to have a reconciliation.  
22 This committee, then, is going to vote on a reconciliation.

23 My guess is in the reconciliation you are going to have  
24 between \$70 billion and \$85 billion and if that is the net  
25 that you have, that is what goes in the trust fund. It could



1 only be \$50 billion, \$20 billion.

2 The Chairman: Let me just state the situation as it  
3 stands at the moment.

4 We have agreed to reconsider the credits for conservation  
5 and alternative sources and matters of that sort. As of the  
6 moment, that is not in here. I would hope that the sponsors  
7 of those amendments will work together, get the cost down to  
8 something that fits inside the package and bring it back in  
9 here. At that point, we will agree.

10 All right, now. The concept is, whatever we do in that  
11 respect will reduce the amount of money that is available for  
12 the Energy Trust Fund. Right?

13 Just like by agreeing to exempt new oil, we reduce the  
14 Energy Trust Fund by that much. What remains will be in the  
15 energy trust fund.

16 Senator Ribicoff: That is right.

17 Senator Packwood: If there is not anything remaining --

18 The Chairman: That remains to be seen.

19 Senator Durenberger: Can we be sure that the name is  
20 changed? Is there an agreement on the name change?

21 Senator Ribicoff: I have no objection.

22 Senator Bradley: Mr. Chairman, if there was a division  
23 for the purpose of reconsideration of the Durenberger motion  
24 of yesterday, we only really have to decide whether we are  
25 going to have an energy trust fund. We do not, at this



1 Mr. Stern: Mr. Baucus?  
2 Senator Baucus: Aye.  
3 Mr. Stern: Mr. Boren?  
4 Senator Boren: No.  
5 Mr. Stern: Mr. Bradley?  
6 Senator Bradley: Aye.  
7 Mr. Stern: Mr. Dole?  
8 Senator Dole: No.  
9 Mr. Stern: Mr. Packwood?  
10 Senator Packwood: No.  
11 Mr. Stern: Mr. Roth?  
12 Senator Roth: No.  
13 Mr. Stern: Mr. Danforth?  
14 Senator Danforth: Aye.  
15 Mr. Stern: Mr. Chafee?  
16 Senator Chafee: Aye.  
17 Mr. Stern: Mr. Heinz?  
18 (No response)  
19 Mr. Stern: Mr. Wallop?  
20 Senator Wallop: No.  
21 Mr. Stern: Mr. Durenberger?  
22 Senator Durenberger: No.  
23 Mr. Stern: Mr. Chairman?  
24 The Chairman: The ayes are eleven, the nays are seven,  
25 one present. The amendment is agreed to.

1            Shall we just vote on whether it applies to the gross  
2 amount or the net amount the tax raises?

3            Senator Ribicoff: That is all right.

4            Senator Packwood: As long as we understand there is no  
5 net or gross allocated to something else, there is nothing in  
6 the trust fund.

7            Senator Riicoff: That is my intention. You cannot have  
8 something on nothing.

9            The Chairman: Call the roll.

10           Senator Boren: What are we voting on?

11           The Chairman: My understanding is that it is the gross  
12 figure you are talking about.

13           Senator Ribicoff: Mine is the net. You can vote for  
14 either one.

15           Senator Talmadge: Let's see if we can understand this  
16 issue here. We are going to put a tx on oil, as I understand  
17 it. Let's assume for the sake of argument, the taxpayer is  
18 going to pay a \$2 additional tax on oil. All right?

19           As I understand it, that money would go into the trust  
20 fund.

21           Now, if you are trying to get to the net proposition,  
22 that particular taxpayer is going to deduct that \$2 that he  
23 paid on his gross tax on oil on his regular income tax.

24           If you are going to get into your net figure, as I  
25 understand it, you are going to have to have an individual

1 computation on each taxpayer to try to determine where you get  
2 that.

3 Is that not right, Mr. Lubick?

4 Mr. Lubick: Senator Talmadge, to be practical you would  
5 have to do a revenue estimate of what the aggregate amount is.  
6 You could assume an overall average deduction rate and  
7 multiply that against the proceeds and come up --

8 Senator Talmadge: Would that not require an individual  
9 computation on each taxpayer? What we are really talking  
10 about here is an excise tax that we are imposing, and we are  
11 calling it a gross windfall profits tax.

12 The Chairman: If you are going to arrive at it with any  
13 certainty, you would have to take out every taxpayer's income  
14 tax.

15 Mr. Lubick: You cannot arrive at it correctly with  
16 absolute certainty. The way you would have to do it is by a  
17 rough and ready estimating technique.

18 Senator Dole: We have a lot of those. There are a lot  
19 of those available.

20 Senator Ribicoff: Let me add, because there is confusion  
21 -- I asked the head of our staff, Mr. Shapiro, we voted for  
22 the principle of the trust fund. We are going to have to have  
23 a reconciliation somewhere when we are all through with the  
24 other work. We do not know where we are coming.

25 I am just wondering if we can not defer the problem,

1 whether it is gross or net, until we see what the  
2 reconciliation brings forth, and Mr. Shapiro can show us the  
3 figures on the board of the two alternatives, when you talk  
4 about gross or net, what do we mean.

5 I think otherwise we are really voting in the dark,  
6 because we do not know where we are coming out at.

7 Senator Bradley: Mr. Chairman, I would like to concur in  
8 that request. I think that we have all of the credits to  
9 consider. We have the reconciliation of the credits against  
10 the revenue raising mechanisms, the exemptions, and I think we  
11 really could defer this question.

12 Senator Ribicoff: Maybe we are all talking about the  
13 same thing. When Mr. Shapiro says we are talking about \$104  
14 billion and we are going to come out with \$70 billion left,  
15 that is what I am talking about, is that \$70 billion. I think  
16 that is what Senator Packwood is talking about.

17 Now, Senator Talmadge comes up with another explanation.  
18 I know what he is talking about, but that causes confusion as  
19 to what we intend to go into the trust fund. I do not think  
20 we can make an intelligent decision until we know what our  
21 reconciliation is, Mr. Chairman.

22 So once you make that reconciliation, that is the next to  
23 the final decision that this Committee can make. Then at that  
24 stage, we can determine what goes into the trust fund.

25 The Chairman: I would like to ask the staff to consult

1 with the Treasury and work us out some charts and some  
2 explanatory material to show us how these pieces would tend to  
3 fit together and show how it would work, if you are talking in  
4 terms of net, and how it would work if you are talking in  
5 terms of gross.

6 Because obviously we do not want to try to arrive at  
7 something that works out to an impossible conclusion.

8 Senator Wallop: Mr. Chairman, could we ask the staff of  
9 the Treasury to give us some kind of mechanism for their  
10 rough-and-ready estimating technique so we can be assured  
11 within this committee that whoever, or whatever,  
12 administration was in there it could not manipulate those  
13 figures to whatever end they wanted to?

14 I am a little unsettled.

15 The Chairman: I will ask the staff to work with the  
16 Minority staff and help see to it that they understand that  
17 they can explain both in the Republican caucus as well as here  
18 just exactly what it is we are talking about so that we can  
19 all understand that we are talking about the same thing and  
20 clear up this confusion.

21 Senator Wallop: I think we should hear from Treasury how  
22 you get to this rough-and-ready proposal that Mr. Lubick was  
23 talking about. I get a little unsettled when you hear that  
24 there is that much flexibility within any administration for  
25 something as important as the tax and trust fund we are

1 talking about. Rough and ready does not quite cut it.

2 Mr. Sunley: Mr. Roth, we would not want it to be rough  
3 and ready. One kind of possibility that might be considered,  
4 it would seem to me, in the Committee report -- or even in the  
5 statute establishing the trust fund ---you provide that a  
6 certain percentage of the gross revenue -- the gross revenue  
7 is a hard figure. We will have that number, that you can  
8 provide that a certain percentage of the gross revenue be  
9 transferred to the trust fund. You just define in the  
10 Committee report that that is an approximation of what the net  
11 increase in revenue is.

12 That percentage happens to be about 62 percent at this  
13 point, on the numbers that we have been working with.

14 Senator Wallop: If that is the case, I think the  
15 Committee should be pretty sure which is the recognition, in  
16 effect, that the gross is the figure. That is the basis of  
17 all of the computations anyway. That is why I think we should  
18 go to the gross for the trust fund.

19 Mr. Sunley: Also, the Committee should be aware that the  
20 tax credits for example, are paid for out of the trust fund  
21 that the administration proposes, that there are some very  
22 tricky estimating problems there because of the tax  
23 credits.

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25



1           The Chairman: I have asked the staff to get this  
2 material so we can look at it as to how it does in terms of  
3 net and gross.

4           Senator Roth: Are you considering putting into the trust  
5 fund the additional tax paid on corporate --

6           Senator Dole: Just windfall tax.

7           Senator Roth: Just windfall. Yes.

8           Senator Byrd: Mr. Chairman, the Chairman just stated  
9 that the committee has not decided whether to put the gross or  
10 the net figure into the trust fund, and that is precisely why  
11 I voted present, because I am not going to vote to put the  
12 gross in. All we have to do is increase the deficit, which is  
13 already too high.

14           I am flexible on the net. Until I just know where we ae  
15 gong, I am disinclined to vote to establish a trust fund.

16           The Chairman: I am thoroughly convinced that we do not  
17 have a meeting of the minds about this matter of gross and net  
18 and I am thoroughly optimistic that members of this committee  
19 have the potential to understand one another. It just takes a  
20 little discussion and cross-fertilization.

21           In view of the fact --

22           Senator Dole: Are there any other small matters we could  
23 take up?

24           The Chairman: In view of the fact that so many Senators  
25 seem to have a requirement to be elsewhere, I suggest we just

1 come back here at 2:30 and go from there.

2 Let us come back at 2:30.

3 (Thereupon, at 12:05 p.m., the Committee recessed, to  
4 reconvene at 2:30 p.m. this same day.)

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