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EXECUTIVE SESSION

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TUESDAY, OCTOBER 9, 1979

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

The Committee met, pursuant to notice, at 10:30 a.m. in room 2221, Dirksen Senate Office Building, Hon. Russell B. Long (Chairman of the Committee) presiding.

Present: Senators Long, Byrd, Gravel, Bentsen, Baucus, Bradley, Dole, Packwood, Roth, Danforth, Chafee, Heinz and Durenberger.

The Chairman: Let us get down to business.

We had agreed that, in short order, after twenty minutes we would vote on the Alaskan matter and the Senator from Alaska has half the time and those who do not agree with the amendment could have the other half the time, and that we would vote.

Senator, I would like the staff to keep time for us, and then the Senator from Alaska could take charge and make his statement and anyone who wants to be heard can be heard.

Senator Gravel: Thank you very much, Mr. Chairman.

I do not know if I will take my full ten minutes. I have a good sense of the way votes go, like any other member of the Senate. I am under no delusions that I am going to run away

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1 with the situation but I think that it is important to state
2 the case and dot the i's so that the public knows what we are
3 doing.

4 First off, let me state that with respect to Alaska our
5 costs with respect to drilling are 15 times that of the outside
6 lower '48. Our transportation is twenty times that of the
7 outside. Our labor costs are four times that of the outside.

8 This is the only item in this legislation and will be the
9 only situation that the United States of America will single
10 out, a single reservoir all by itself for unusual treatment.

11 It is going to set a precedent in the industry wherein we
12 are saying, if you find oil on a reservoir basis that we are
13 going to make sure that you will not take the full returns of
14 that oil that you will find, but if you go look for a good
15 reservoir and you have a dry hole and you spend a lot of money,
16 that is just tough.

17 That precedent is very noteworthy and I think that
18 everybody in the energy industry is going to mark it. What it
19 is going to say is that a person had better be very, very
20 careful about what you do, cut down your risks, but do not go
21 out looking very hard for oil, because you are not going to be
22 insulated from the bad parts, but you are not going to enjoy
23 the good parts of it.

24 It goes fundamentally to destroy the elements of our free
25 enterprise system and it does it first in the energy industry.

1 The wells flow 9,000 barrels a day. There is nothing more
2 prodigious that we will ever find, probably, and we are going
3 to make a calculated decision as a result, to structure the
4 economics so that rather than having a discovery which our
5 private sector effected of ten billion barrels, we in politics
6 are going to make that a six billion barrel discovery or a
7 seven billion barrel discovery, or an eight billion barrel
8 discovery.

9 I do not know what we are going to make it, but it is
10 going to be considerably less than what the technicians found.

11 So what we are going to do with calculation, leave two or
12 three or more billion barrels in the ground, the equivalent of
13 as much oil as there is in many of these other production
14 states and we are just going to make that decision to do that.

15 And so we are asked that what we should do is vote for
16 this because it is probably the best that we can get.

17 I will tell you, we would better serve the American people
18 if we did not cloak or mask what we do but let it go to those
19 who can carry the day here and cut out a lot of oil and then
20 suffer the consequences of that in the economy and that way the
21 American people would see what ges on, and then the American
22 people could effect their correction on their elected officials
23 and then the next time around their elected officials would
24 vote intelligently on the subject.

25 But when we, who come from production states, vote for the

1 retention -- and we know it. We know that that is exactly what
2 we are doing. We vote to keep some oil in the ground. When
3 this nation cries out to have that oil brought to market as to
4 offset what is happening in our hemorrhaging with our balance
5 of payments as to offset the situation of having to purchase
6 abroad and create foreign dependency, as what we see happening
7 with raging inflation.

8 As inflation gets worse in the next year, we are probably
9 going to see something on the order of 20 percent or more and
10 as it gets worse, I think we are going to see an interesting
11 phenomenon. The American people are going to become more
12 knowledgeable about that and they are going to become more
13 knowledgeable as to how we cause the inflation, no one else.
14 We, elected officials, the party politic, the policy makers of
15 our society, cause inflation.

16 Our major contribution to that is a calculating decision
17 to leave American oil in the ground and we do that when we do
18 not permit the private sector to have the money necessary to
19 bring that oil to market. That is what we are doing in Alaska.

20 The coincidence that the amount of money that the Federal
21 government wants to take away from the producers in Alaska to
22 do that is \$12 billion and it is about \$12 billion that what
23 you need to get the balance of the oil out of the ground, sink
24 the new wells, do all of the technical things necessary to
25 bring the oil to the American people.

1 So we are going to sit here calculatngly and make a
2 decision and vote to leave oil in the ground.

3 I am prepared to abide by that decision. I would rather
4 see that decision not collared and, for that reason, I am
5 insisting on offering my amendment to have an exemption on
6 Alaska, to have the oil in the reservoir, and if that amendment
7 loses, so be it.

8 The Chairman: Is there any further discussion? Yes, sir,
9 Mr. Dole.

10 Senator Dole: I hate to find myself on the other side of
11 Senator Gravel, and I appreciate all of these cost charts. The
12 only thing you do not add is how many barrels they produce per
13 day and I think that is a significant difference. It may cost
14 \$3 million in Alaska to drill a well, but you may be producing
15 \$10,000 barrels a day. It may only cost \$150,000 to produce
16 the well in a stripper area, but you are producing three or
17 four barrels per day, so I think you have to put everything
18 together, I assume, to really reach a conclusion.

19 I share the basic view that I think that there is a
20 tendency here to maybe overtax an industry, but I really
21 believe that we have a good counterproposal that would benefit
22 Alaska and the production there. No well is exempt.

23 If we move up to the other end of Tier II, then maybe we
24 could alternate the tax rate some and it would seem to me that
25 that would produce the results -- maybe not the total result

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1 that the Senator from Alaska desires, but certainly the step in
2 that direction.

3 Senator Gravel: If I might respond to you, Senator --

4 Senator Dole: Basically, I am with you, but I cannot vote
5 for you.

6 Senator Gravel: I understand that. I understand that we
7 are all brothers of the lodge. I understand that you are with
8 me. I understand that you want to leave less oil in the
9 ground than probably some others. I would like to take all
10 American oil out of the ground and bring it to the American
11 people.

12 One barrel of American oil displaces a barrel of foreign
13 oil out of the ground and bring it to the American people.

14 One barrel of American oil displaces a barrel of foreign oil
15 and helps us with respect to inflation and jobs and the like.

16 When you make the statement that you have to consider it
17 that our wells produce more, that is what we do to produce
18 more. The best way to consider it all, what are the profits of
19 the people who own interest in this reservoir? Are they
20 enjoying excess profits?

21 Of course not. The record is very, very clear that they
22 are getting average manufacturing, or slightly below average
23 manufacturing. They are not getting excess profits when you
24 consider it altogether, whether or not it is stripper, whether
25 or not it is a productive well.

1 national interests and consistent with the historical treatment
2 relied upon by producers in the state of Alaska, that such oil
3 receive the same tax base price as other domestic upper tier
4 oil, which is Tier II treatment.

5 I tried to listen to the witnesses carefully.

6 Senator Gravel: If you want to listen to the witnesses
7 carefully, I have a whole record that shows we are going in the
8 wrong direction, if that is what you want to do. Let me just
9 say, I consider myself --

10 Senator Dole: This is a man going up to the mountain and
11 told the President to put together the energy package, Mr
12 Bradshaw.

13 Senator Gravel: I know. I do not know why he would go to
14 the mountain and come back with information and you would so
15 blindly follow him. That is what I do not understand.

16 I can understand their error. I can understand your error
17 -- and I know you are a very bright, brilliant person and
18 destined for an unusual role in this country. I do not
19 understand why you want to tax this one particular part of
20 industry and then bring all that money to expand the government
21 so that we can have a bloated Federal bureaucracy. I do not
22 understand why you would want to do that.

23 The Chairman: I think the Senator got carried away with
24 his oratory.

25 Senator Dole: I think he is very accurate.

1 The Chairman: I think the Senator got carried away with
2 his oratory, talking about the tax going into the bowels of the
3 government. I just do not think that the Treasury is the
4 bowels of the government.

5 Senator Gravel: It is lower, Mr. Chairman.

6 The Chairman: I want to completely disassociate myself
7 from that statement. I think the Treasury is entitled to have
8 its say.

9 Mr. Lubick, you are the only man here from the Treasury, I
10 think. I hope you do not get carried away now by this matter.
11 At the same time, we would like to hear a thoughtful statement
12 from the Treasury on this particular issue.

13 Mr. Lubick: Well, Mr. Chairman, from the bowels of the
14 government, Mr. Chairman, as I indicated the other day when we
15 met with those persons exploring in Alaska, it appeared to us
16 that their projections both for the costs that they anticipated
17 incurring and the prices that they anticipated receiving were
18 all based upon the substantially lower world oil prices that
19 prevailed before we initiated the proposal for a windfall
20 profits tax, and before decontrol.

21 They did make a persuasive case to us that we ought to
22 retreat from the position of the House's placing the 750 cap to
23 the upper tier price, because indeed, they had anticipated that
24 over the course of time that they would be rising to that upper
25 tier price.

1 And on the basis of those meetings, we came forth with a
2 recommendation that we should relax the House bill. It was
3 important to achieve the objective which they had intended
4 through their exploration and then going to the upper tier
5 would do it.

6 So that we would urge the Committee to support that part
7 of Senator Dole's motion which moves it to the upper tier.

8 The Chairman: Let me just get this part of it straight,
9 now. Was that Prudhoe Bay oil discovered before the Arab
10 boycott?

11 Senator Gravel: 1968.

12 Mr. Lubick: Yes.

13 The Chairman: So that, based on the date of the discovery
14 of that field that would have been Tier I old oil held down to
15 the same price that we are getting for old oil in Louisiana.
16 If you treated Alaska, treat all the country exactly the same,
17 I assume, unless you treated -- if you did not have any special
18 provision relating to Alaska and then taxed it all the same,
19 that would be Tier I, lower tier oil.

20 Mr. Lubick: I think that they knew of the reservoir, but
21 the production started at a time when it would be classified as
22 Tier II.

23 Mr. Wetzler: Under the price controls it is not when you
24 found the oil, it is when you start production. They found it
25 in the early 60's. They did not start production.

1 Senator Gravel: Late 60's, production started in '77.

2 Mr. Wetzler: '77. Tier II oil is essentially oil where
3 production began between '72 and '78.

4 The Chairman: How does the House arrive at their
5 conclusion that taxes it on a much less favorable basis than
6 that?

7 Mr. Shapiro: What happened in the House, we have to go
8 back. They start with the administration proposal which was
9 originally to exempt Alaskan oil.

10 The Administration made a general proposal which included
11 a 50 percent rate and its exemption for Alaskan oil and putting
12 marginal oil in Tier II. The Secretary of Energy, Mr.
13 Schlesinger, came to testify before the Ways and Means
14 Committee and there was a movement under foot in the Ways and
15 Means Committee at that time to stiffen the Administration's
16 proposals and to pick up significant amounts of revenue.

17 The Chairman: What?

18 Mr. Shapiro: There was a movement under foot in the Ways
19 and Means Committee by certain coalitions to pick up more
20 revenue from the administration's proposal. During the
21 hearings at that time, when Secretary Schlesinger testified, he
22 asked about the exemption for Alaskan oil, as to the reason for
23 it. The response he gave did not satisfy a number of the
24 members of the Ways and Means Committee that was put on a list
25 to provide significantly more revenue.

1 It is not clear as to what the reason exactly was as to
2 why the administration exempted them, but the way the Ways and
3 Means Committee members thought was that the price of Alaskan
4 oil in 1978 was about \$5.25 and they were making some money.

5 The other side of the argument is that they were looking
6 at just one year and there is a significant amount of expenses
7 being paid out over the prior period of time when the pipeline
8 is being built and a lot of production was going on.

9 At any rate, when the Ways and Means Committee actually
10 sat down to make its decisions, the price of Alaskan oil had
11 gotten to about \$7.50, in that range, and the Ways and Means
12 Committee decided to put a base price at the levels, so it
13 would not be a rollback, so that they picked \$7.50, which is at
14 a level at that time which would not have been a rollback.

15 Any future price increases, however, would have been
16 subject to tax.

17 When the Ways and Means Committee made that decision on
18 Alaskan oil that was prior to the increases ~~they~~ dreamed up in
19 OPEC. Now, because of the recent increases by OPEC having the
20 price up from where it was at \$16 to \$18, up to \$22, the
21 Alaskan oil is now selling for almost \$13, roughly \$12.90, in
22 that range.

23 So when the administration came to testify before the
24 Finance Committee, it apparently had agreed that the Alaskan
25 oil should be subject to tax, but wanted a base price at the

1 same level as Tier II. So what the House bill did was try to
2 take the price to a level where it would not have a rollback of
3 Alaskan oil but it would pick it up at a level that it is
4 presently at, which is close to the \$7.50.

5 But by the time the bill came over here, that rate had
6 gone up to just under \$13.

7 The Chairman: Let me ask you, based on the figures that
8 you have there, how much would it reduce the revenues that this
9 bill is estimated to raise, if you take the administration's
10 present position of Tier II treatment of Alaska; how much would
11 it raise if you take the Gravel amendment to simply exempt
12 Alaska completely?

13 Mr. Shapiro: If you take the administration proposal, it
14 would reduce revenues by approximately \$7 billion from the
15 House bill. If you take the Gravel amendment, which would
16 exempt Alaska entirely, it would reduce revenues by
17 approximately \$12.2 billion.

18 Now, of that \$12.2 billion, I should point out that \$1.5
19 billion the Committee has already agreed to because you decided
20 to give them a severance tax deduction, whereas the House bill
21 did not do that.

22 The Chairman: Is there any further discussion, gentlemen?
23 Mr. Chafee?

24 Senator Chafee: Could we just have it clear when we are
25 discussing Alaskan oil? It is my understanding we are

1 discussing all oil from Alaska, not solely North Slope oil. Is
2 that correct?

3 Mr. Shapiro: No. The House bill and the administration
4 bill only taxes the reservoir oil. Any new discoveries in
5 Alaska --

6 Senator Chafee: Set aside new discoveries. What do you
7 do with the Cook Inlet oil, for example? In other words,
8 non-North Slope oil. Where does that stand?

9 Mr. Shapiro: As I understand it, the Cook Inlet oil is
10 subject to Tier I, what is being discussed right now.

11 Senator Chafee: Why should that be treated differently?

12 Mr. Wetzler: Cook Inlet, under the House bill, is treated
13 the same way as oil would be in the lower 48 states. We do not
14 know their specific situation, whether their oil is marginal
15 Tier I, Tier II, whatever.

16 Senator Chafee: Do they not have all the problems that we
17 are discussing about Alaska here?

18 Do they not have the high wages, do they not have the high
19 cost of discovery, do they not have the high cost of
20 transportation, everything that is involved with the North
21 Slope oil?

22 Mr. Wetzler: No. They do not have any special
23 transportation problem, as far as I can tell, because they do
24 not have to go through the pipeline.

25 Senator Chafee: They have to haul it.

1 Senator Gravel: No. You only have to come from Cook
2 Inlet to Houston. That is not a special transportation
3 problem.

4 Mr. Wetzler: We can look into what the Cook Inlet
5 situation is, but their costs are clearly on an order of
6 magnitude lower than the North Slope. But again, probably a
7 lot of that oil is Tier I oil because that has been producing
8 for awhile.

9 Senator Gravel: If I might add, we had an experience on
10 that. They were going to close down three platforms at DOE
11 because they would not give them an increase in price and I had
12 to intervene and present them a study at the highest level in
13 order to get them to increase their price.

14 There is oil there. They were about to close it down once
15 before. Under the present situation, we will get that other
16 problem again.

17 Senator Chafee: I think, Mr. Chairman, that we ought to
18 know what we are voting on, whether we are voting on Alaskan
19 oil or just North Slope oil.

20 The Chairman: You are voting on all Alaskan oil.

21 Mr. Shapiro: Under Senator Gravel's amendment, we have
22 the impression we are only talking about the North Slope oil.

23 Senator Gravel: Pardon me. On mine, just North Slope.

24 The Chairman: North Slope oil.

25 Senator Gravel: Not North Slope oil, one reservoir,

1 several other reservoirs on the North Slope. To be precise, it
2 is not North Slope, it is just the Saddler-Riche reservoir,
3 right next to Saddler-Riche, so there are two other reservoirs.

4 The Chairman: Not Cook Inlet?

5 Mr. Shapiro: Not Cook Inlet.

6 The Chairman: The oil going to the pipeline.

7 Mr. Shapiro: That is right. The other two reservoirs are
8 exempt. We are only talking about the Saddler-Riche reservoir.

9 Senator Chafee: What do you mean, exempt?

10 Mr. Shapiro: Neither the House bill nor the
11 administration proposal would subject those reservoirs to tax.

12 Mr. Wetzler: There are three reservoirs on Prudhoe Bay.
13 The Saddler-Riche reservoir is the one containing most of the
14 oil. That is the only one in production. The other two have
15 not been developed.

16 Senator Chafee: New oil.

17 Mr. Wetzler: They are exempt under the House bill. They
18 will also be exempt under the amendment to exempt
19 newly-discovered oil.

20 So they are exempt already under both bills.

21 Senator Dole: How much oil is there? How much are we
22 talking about, Cook Inlet oil?

23 Mr. Wetzler: Cook Inlet, about 125,000 barrels a day. I
24 am not sure.

25 Senator Gravel: They had a high at 250 once. Now it is

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1 down at this point to 125,000 a day. The drilling of the lower
2 Cook Inlet.

3 The Chairman: Gentlemen, we agreed we were going to take
4 twenty minutes and vote. The twenty minutes has expired.

5 Senator Gravel: I have some significant information, Mr.
6 Chairman.

7 The Chairman: Go ahead.

8 Senator Gravel: The House bill raises \$12.2 billion. We
9 now have a severance that has been passed by the Committee, the
10 severance tax, you deduct \$1.5 billion from that. That leaves
11 you a balance of \$10.7 billion.

12 The upper tier that you are referencing \$7.0 billion so
13 that leaves -- the exemption that I am asking for for a vote is
14 only a decrease in revenue of \$3.7 million. That is what is
15 involved in the process here.

16 So we are going to set a precedent like this for \$3.7
17 million.

18 The Chairman: Senator, we do not have the
19 administration's recommendation agreed to yet. You just assume
20 that you have something that is not there yet.

21 The administration's suggestion --

22 Senator Gravel: Mr. Chairman, everybody else has it.

23 The Chairman: What is that?

24 Senator Gravel: I do not want to assume too much, but
25 since everybody else has upper tier, I think it might be a

1 reasonable assumption that we are not going to just penalize
2 Alaska. That is all I am doing. That \$7 billion is what
3 Louisiana has got.

4 I am sure that you will leave as much oil in the ground in
5 Alaska as we are leaving in Louisiana.

6 The Chairman: The Senator from Louisiana is not the only
7 one going to vote on this thing. The House did not vote to
8 give you this.

9 Senator Gravel: I am not going to offer an amendment to
10 bring it to Tier II, either. My position is very clear, just
11 so we understand. I think it would be a lot better for the
12 American people to understand this. I think they will
13 understand it a lot better if we do not try and put some
14 cosmetics over the fact that we are leaving oil in the ground
15 so that they can buy foreign oil.

16 The Chairman: Well, is there any further discussion,
17 then?

18 Let us call the roll, then.

19 Mr. Stern: Mr. Talmadge?

20 (No response)

21 Mr. Stern: Mr. Ribicoff?

22 (No response)

23 Senator Danforth: What are we moving on?

24 The Chairman: The Gravel amendment to exempt North Slope
25 Alaskan oil.

1 Senator Gravel: Saddler-Riche.
2 Mr. Stern: Mr. Talmadge?
3 (No response)
4 Mr. Stern: Mr. Ribicoff?
5 (No response)
6 Mr. Stern: Mr. Byrd?
7 Senator Byrd: No.
8 Mr. Stern: Mr. Nelson?
9 (No response)
10 Mr. Stern: Mr. Gravel?
11 Senator Gravel: Aye.
12 Mr. Stern: Mr. Bentsen?
13 (No response)
14 Mr. Stern: Mr. Matsunaga?
15 (No response)
16 Mr. Stern: Mr. Moynihan?
17 (No response)
18 Mr. Stern: Mr. Baucus?
19 Mr. Baucus: No.
20 Mr. Stern: Mr. Boren?
21 Senator Gravel: Aye, by proxy.
22 Mr. Stern: Mr. Bradley?
23 Senator Bradley: No.
24 Mr. Stern: Mr. Dole?
25 Senator Dole: No.

1 Mr. Stern: Mr. Packwood?
2 Senator Packwood: No.
3 Mr. Stern: Mr. Roth?
4 Senator Roth: Aye.
5 Mr. Stern: Mr. Danforth?
6 Senator Danforth: No.
7 Mr. Stern: Mr. Chafee?
8 Senator Chafee: No.
9 Mr. Stern: Mr. Heinz?
10 Seator Heinz: Mr. Heinz votes no.
11 Mr. Stern: Mr. Wallop?
12 Senator Heinz: Aye by proxy.
13 Mr. Stern: Mr. Durenberger?
14 Senator Heinz: No, by proxy.
15 Mr. Stern: Mr. Chairman?
16 The Chairman: No.
17 Mr. Stern: Mr. Bentsen?
18 Senator Bentsen: Aye.
19 The Chairman: That is five yeas and ten nays. The
20 amendment is not agreed to.
21 The absentees can record themselves, but it would not
22 change the outcome.
23 Senator Bradley: Mr. Chairman, I have just been given two
24 proxies for Senator Ribicoff and Senator Nelson who wish to be
25 recorded in the negative.

1 The Chairman: Record those two as voting negatives. That
2 would be twelve negative.

3 What, then, would the result be?

4 Mr. Stern: The result would then be five yeas and twelve
5 nays.

6 The Chairman: I would suggest we go on ahead and vote on
7 anything else the Senators want to offer.

8 Senator Dole: Mr. Chairman, I am not certin where we
9 were. We have not finished upper tier, have we?

10 The Chairman: No.

11 Mr. Stern: There was a vote on Senator Chafee's
12 amendment. It was defeated. You have not made a decision yet.

13 Senator Dole: Do we have any provision in the proposal we
14 are working on in reference to upper tier. We have not adopted
15 the House version. We have not adopted anything at all on
16 upper tier.

17 Mr. Shapiro: That is correct.

18 Senator Dole: I know that there is a feeling by some on
19 this committee -- in fact, it has been expressed this morning
20 -- that somehow we are doing too much for the oil industry. I
21 guess that is a question that can be debated.

22 I know Senator Gravel does not feel that way at this
23 moment. I guess that it goes back to where we started. That
24 is how we are going to produce energy and how much tax should
25 be imposed and how we should finally come down with a blance of

1 credits on one hand and taxes on the other and still not
2 destroy the incentive for the industry.

3 I note with some interest that the prices are going to
4 increase, which will mean more revenue for the Treasury. I see
5 Mexico is going to raise their prices about 10 percent and
6 perhaps others may follow suit.

7 I guess the point is that we must make certain that what
8 we do will enhance the prospects for increasing production.

9 I am not certain where the tax should be. I really do not
10 believe that we have built a bias into our actions thus far, a
11 bias towards the oil producer.

12 We have exempted new oil, which seems to me to be basic.
13 I do not think there is any disagreement on that.

14 We are talking about new production. It is pretty
15 difficult to understand why there would be a windfall tax on
16 oil that has yet to be produced.

17 We went from that to an increase in old tier, lower tier
18 oil, 75 percent tax rate and maybe there is some justification
19 for that, because that is old oil. It has been produced at
20 much less cost. It can still be produced somewhat at less
21 cost.

22 But, in any event, we did exempt incremental tertiary and
23 stripper production, but I do not believe we did violence to
24 anything except trying to preserve that production and not to
25 try to find a replacement barrel somewhere overseas.

1 So now we address the relatively new oil that has been
2 produced since 1972.

3 I am certainly opposed to increasing the tax above the
4 House bill. I am not so certain that we should not lower the
5 tax across the board to a 50 percent tax rate. We are talking
6 about oil that is higher price oil to start with.

7 The administration proposed a 50 percent tax on Tier II.
8 There is no reason to believe -- if we believe the
9 administration, as some of us do sometimes -- it would seem to
10 me if they had the right reason to advocate a 50 percent tax at
11 the time that there is no reason to change that unless they are
12 concerned about the mix.

13 So that it would seem to me one area to start would be in
14 effect to adopt the administration's original proposal with a
15 50 percent tax, with a severance tax deduction, on the basis,
16 again, that we are trying to preserve this production, and,
17 again, it is higher cost oil, and I would hope, Mr. Chairman,
18 that we might approach it on that basis. That should be
19 acceptable to the administration.

20 Mr. Lubick: You meant to say without a severance tax
21 deduction.

22 Senator Dole: Yours is without a severance tax?

23 Mr. Lubick: Yes.

24 Senator Dole: Yes. I think it is a 50 percent rate.

25 Would the administration support that?

1 Mr. Lubick: Well, our original proposal for a 50 percent,
2 without a severance tax deduction, of course was at a time when
3 we did not have the various exemptions that have been adopted
4 and, in seeking a uniform rate, we set the 50 percent rate with
5 a view to supply response which we share with you, a degree of
6 concern as to its importance.

7 But in light of the decisions that have been made with
8 respect to the exemptions for those areas where the production
9 response is most affected by the tax, we think that you are
10 left in this bill largely with areas where you do not have the
11 same degree of sensitivity.

12 So that in that situation we think that the House bill is
13 an appropriate level for the upper tier. You are dealing with
14 reserves that have already gone into production, so you do not
15 have the same balance to strike. We were looking for a single
16 tax rate that would preserve the balance between incentives for
17 production and capturing of windfalls.

18 Now that balance has been changed where those areas that
19 are production-sensitive to rate have been completely carved
20 out. That leaves you with the areas where you are largely
21 dealing with windfalls. In that case, we think that the higher
22 rate is more appropriate.

23 Senator Chafee: Mr. Chairman?

24 The Chairman: Yes, sir.

25 Senator Chafee: I am confused on where we stand. I am

1 going to get back to upper tier.

2 Where do we stand with Alaskan oil? Since the Gravel
3 motion was defeated, then Alaskan oil is still as in the House
4 version, is that correct?

5 Senator Dole: I would add that to my upper tier proposal
6 here except that there is a difference on the severance tax.
7 We did agree on that.

8 The Chairman: As a practical matter, we have not decided
9 what we are going to do about Alaskan oil. We can accept the
10 House proposal or we can take the administration's suggestion.
11 We can do anything that we want to do.

12 Senator Chafee: It has not been resolved.

13 The Chairman: That is right.

14 Just by point of reference, in order to get the reference
15 that we started out with the administration's original
16 recommendations, we have to decide on how we are going to
17 resolve it. Do we want to resolve it by taking the
18 administration's figure? That would reduce the House bill by
19 \$7 billion. Do we want to take the figures you have got, that
20 you have been working from, are really based on the House bill,
21 are they not?

22 Mr. Shapiro: Reductions to the House bill.

23 The Chairman: We have been asking you how much revenue
24 this would yield, how much it would reduce it. You have been
25 calculating that by the House bill.

1 As of this moment, the revenue estimates you have been
2 giving us has \$7 billion in it based on how the House would
3 treat Alaska as compared to how the administration recommends
4 that Alaska be treated.

5 Mr. Shapiro: That is correct.

6 The Chairman: Right.

7 Senator Dole: We did agree on Alaskan oil, that there
8 would be a severance tax deduction, right?

9 Mr. Shapiro: That is right.

10 The Chairman: That was agreed to?

11 Mr. Shapiro: That has already been agreed to.

12 Senator Dole: On the rate.

13 The Chairman: Basically, we agreed that the severance tax
14 would be deducted, that basically we are working on the basis
15 that regards each of the taxes you deduct, the tax already
16 paid, and you estimate what you collect after that.

17 Mr. Shapiro: Let me correct one statement. Since the
18 committee has already agreed to the severance tax deduction,
19 instead of \$7 billion we are talking about \$5.5 billion.

20 The Chairman: \$5.5 billion. I see.

21 Senator Danforth: Could I ask, Mr. Chairman, on the
22 severance tax matter, the revenue that is lost is how much,
23 from the Alaskan?

24 Mr. Shapiro: \$1.5 billion with regard to Alaska.

25 Senator Danforth: \$1.5 billion with regard to Alaska; how

1 about nationwide?

2 Mr. Shapiro: The way the House bill works, there is a
3 severance tax deduction in all cases where there is a 60
4 percent rate and there is not a severance tax deduction in all
5 cases where there is a 50 percent rate, so that under the House
6 bill you have severance taxes except for Alaskan oil and two
7 categories of oil that you have exempted, entitled
8 newly-discovered incremental tertiary that under the House bill
9 did not have it, but you have exempted those entirely, so that
10 is not an issue here.

11 Senator Danforth: So the total revenue that has been lost
12 on the severance tax is about \$1.5 billion?

13 Mr. Shapiro: \$1.5 billion under the House bill?

14 Senator Dole: In Alaska.

15 Mr. Lubick, you do not have any strong objections to my
16 effort, a 50 percent rate without a severance tax deduction?
17 Considering that alone, you would support that?

18 Mr. Lubick: In isolation with everything else you have
19 done, that was our original proposal. We think, when judged by
20 what you have done, we think it is preferable to leave it
21 alone.

22 The Chairman: As I understand it, your original
23 recommendation --

24 Mr. Lubick: A 50 percent tax across-the-board, all tiers.

25 The Chairman: -- did not allow a deduction of the

1 severance tax?

2 Mr. Lubick: That is correct.

3 The Chairman: What that amounted to in a state in
4 Louisiana and Alaska, for example, where we have a 12.5 percent
5 severance tax, I think theirs is slightly less than ours. What
6 did that work out to be, if you make that calculation?

7 Something about 54 percent, or something like that?

8 Mr. Lubick: I think it was 52.5 percent was the number we
9 were talking about the other day.

10 If you take 60 percent less, 12.5 percent severance tax,
11 that came to about 75 percent net, so that when you subtract
12 that you are at a rate of 52.5 percent.

13 Senator Dole: We are talking about a difference, in most
14 cases, of 2 percent in the tax rate.

15 Mr. Wetzler: Just for Louisiana, which has the highest
16 severance tax.

17 Senator Dole: Alaska has one nearly as high.

18 Mr. Wetzler: On the average, the severance tax rates
19 average over 5 percent.

20 Senator Dole: The average does not do much for you,
21 because the low rates, where they do not produce much oil --

22 Mr. Wetzler: Texas has a rate below average.

23 Senator Bentsen: And we are still producing a little bit.

24 Mr. Wetzler: Each state rated by its production in the
25 average, over 5 percent.

1 Senator Bentsen: Ours is 4.5 percent, if I remember
2 correctly.

3 Senator Dole: You are talking about a 56 percent?

4 Mr. Wetzler: 57 percent. 60 percent with a severance tax
5 deduction is the equivalent to a 57 percent without a deduction
6 on the average, although without a deduction it would be
7 tougher in Louisiana and Alaska and easier in Texas. Kansas is
8 above average. You would be better off to have the higher rate
9 with the severance tax deduction.

10 Senator Chafee: Mr. Chairman, I would prefer -- and if
11 these were split, instead of taking Alaskan plus the 60
12 percent, 50 percent, I guess, if we could vote on Alaska and
13 then deal with the tax rate?

14 The Chairman: I am willing to vote on Alaska, but someone
15 has to offer whatever he wants to vote on. In other words, I
16 am willing to vote on anything you would like to vote on.

17 Senator Dole: How would you do that?

18 Senator Chafee: I think you wanted to put Alaska -- you
19 suggested, and I agree -- Alaskan in the upper tier.

20 Senator Dole: With a severance tax credit.

21 Senator Chafee: I must say this severance tax business
22 has me a little confused.

23 Mr. Lubick: We suggested putting Alaska into the upper
24 tier and getting the same treatment as all upper tier oil at a
25 60 percent rate would receive a severance tax reduction.

1 The Chairman: Let me tell you how it works out otherwise
2 Keep this in mind.

3 This severance tax is a tax that is money that the states
4 get. If you deny a severance tax deduction it does not reduce
5 the income of a state. It reduces the income of a producer.

6 So that, if you deny the severance tax deduction, the way
7 it works out is that because a producer receives less money, in
8 effect it works out, because he receives less money, because he
9 receives less money, because he is producing in states with a
10 substantial severance tax like Louisiana and Alaska, he gets
11 still less after the Federal government gets through taxing him
12 He gets hit twice.

13 In other words, it is a tax that he cannot deduct. If he
14 cannot deduct it, he has that much less left.

15 So that it really adds to the burden.

16 As far as we in Louisiana are concerned, we are not going
17 to reduce our severance tax just because Texas does not have a
18 severance tax. As far as we are concerned, we knew about that
19 when we levied it. We knew we were competing with Texas in the
20 oil production area and we knew that in some cases, wells would
21 be marginal wells or shut down in Louisiana because they are
22 paying the tax where they would not be shut down in Texas. We
23 understood that.

24 That is how it has been for the last 30 years.

25 As far as Louisiana is concerned, if you just tax the

1 60 percent with the deduction for the severance taxes is
2 indeed, as you have modified it, is the most appropriate
3 solution.

4 Senator Chafee: Can we take the Alaskan situation by a
5 separate voice vote first?

6 Senator Dole: We are talking about doing for Alaska what
7 the House bill does for all upper tier.

8 Mr. Lubick: We would recommend that you put Alaska in the
9 upper tier, and then when you go on to the upper tier, whatever
10 decision you make would apply equally to Alaska as well as
11 other upper tier oil.

12 Senator Dole: They all ought to be treated the same, I
13 presume?

14 Mr. Lubick: That is our position.

15 Senator Bentsen: I agree with that. When Senator Chafee
16 kept saying, "Let's do Alaska separately," I want to be sure
17 that we are treating them the same way.

18 The Chairman: The House does not treat them that way. If
19 we are going to give Alaska upper tier treatment, I think we
20 ought to vote on it.

21 Senator Chafee: I agree. What I want to separate out is
22 the rate for upper tier which we have not even gotten to and
23 whether Alaska will be upper tier.

24 When we say Alaska now, the motion is Alaskan oil, shall
25 it be upper tier? Yes, or no.

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1 The Chairman: Let us vote on that.

2 Senator Chafee: The question is what is included in
3 Alaska. I presume that includes all oil in Alaska, does it?
4 We are back to the Cook Inlet problem.

5 Mr. Lubick: Basically, the House bill confers special
6 treatment only on the Saddler-Riche reservoir, the North Slope
7 that presented those problems that were graphically illustrated
8 by Senator Gravel yesterday, the special weather and hardships
9 and expense hardships and that basically was our original
10 recommendation.

11 The Alaskan North Slope does indeed present very special
12 problems and we did not make any special recommendation with
13 respect to the rest of the Alaskan production.

14 The Chairman: Let's vote on putting the Alaskan in the
15 upper tier.

16 Senator Gravel: Could I ask Treasury, since they are
17 making the recommendation -- I do not know who has made the
18 motion to do this. I have not.

19 I would like to pursue.

20 The Chairman: I will make the motion.

21 Anyone can make the motion.

22 Senator Gravel: I would like to ask Mr. Lubick, since
23 Treasury is recommending this, what the purpose of recommending
24 it is for? Is it the intent to try to make Alaska equal to
25 other areas? Is that what Treasury wants to do?

1 Mr. Lubick: Basically Senator Gravel, the original reason
2 we had left Alaskan North Slope out --

3 Senator Gravel: Is it the intent of Treasury to make
4 Alaskan oil equal to Louisiana oil and Texas oil? Is that what
5 your intent is?

6 Mr. Lubick: Since Alaskan North Slope oil is classified
7 as upper tier for purposes of control, we think it should
8 receive upper tier treatment for purposes of the tax. We do
9 not believe that it should be more punitively treated.

10 Senator Gravel: You do not believe it should be more
11 punitive?

12 Mr. Lubick: As the House bill does. The House bill has a
13 \$7.50.

14 Senator Gravel: Not the House bill. In your opinion and
15 Treasury's opinion, you do not think it should be more punitive
16 to Alaska. Is that what you are saying?

17 Mr. Lubick: I said that. That is what I said.

18 Senator Gravel: Fine.

19 Mr. Chairman, that is not what is happening. I think we
20 should clearly understand it.

21 If you have drilling costs 50 times what it is outside,
22 labor costs four times what it is outside, and transportation
23 20 times what it is outside and you pass legislation that
24 treats the oil the same as outside, then there are other
25 factors involved that does not make it equal.

1 I would submit that Treasury is a little foggy in
2 understanding what they are recommending to us.

3 Mr. Lubick: Senator Dole stated you have to take into
4 account the amount of production you are taking and the
5 undertakings that were made and the expectations that were made
6 when the investments were made and on all of those bases,
7 moving to the upper tier does give it equality of treatment.

8 Senator Gravel: If I might make a comparison for Senator
9 Dole's benefit -- you are quoting him -- I do not think that is
10 entirely what he meant.

11 If a person planted a crop in the spring and thought he
12 was going to get \$50 a bushel and all of a sudden he is going
13 to get -\$80 a bushel because there has been a large purchase by
14 the Soviet Union, does the government now have a rationale to
15 come in and take up the difference between the \$50 a bushel
16 that he expected, or was the market when he planted his wheat
17 as opposed to now when he reaps his harvest five months later
18 and the market has changed?

19 Is it actually going to come in with that kind of
20 recommendation? We need revenues in Alaska. We have some
21 problems up there.

22 Mr. Lubick: That is a fundamental argument that has been
23 raised with respect to the whole notion of a windfall profits
24 tax.

25 Senator Gravel: What is Treasury's position? Would it be

1 any different for wheat than oil?
2

3 Mr. Lubick: Yes, it is different, because that arises by
4 the operation of a free market supply and demand. The OPEC
5 prices are as a result of a foreign cartel that has resulted in
6 a huge transfer of wealth from the consumers of oil to the
7 producers.

8 Senator Gravel: You do not think it is a cartel when the
9 come and buy up all our wheat and raise the price for the rest
10 of it? You do not think that is a cartel action?

11 Mr. Lubick: The price is not fixed by cartel. The price
12 of what is fixed by supply and demand.

13 The Chairman: Gentlemen, let me make this point. I hope
14 that Senator Gravel will keep this in mind.

15 He is going to have some unahppy people in Alaska. I have
16 a lot of unhappy people in Louisiana. They have been reading
17 about a 75 percent tax. Some of them will be paying a 75
18 percent tax. They are very, very unhappy.

19 I did not vote for it. That does not keep them from being
20 unhappy -- a lot of them with me, by the way.

21 Look here. We are going to give you better treatment than
22 the House gave you, even though you are not asking for it.

23 Senator, though I am not asking for that, I know. But let
24 me tell you something. If you producers had you could have
25 gotten it and you wind up getting what the House bill will give
you, you had better not go back there and visit with them until

1 we get that matter straightened out.

2 Now here, this is the company whose president went up
3 there to Camp David and advised the President what the
4 situation was and what ought to be done and he said well, we
5 would like to be exempt. He goes on to say, however, if
6 Congress, for whatever reason, decides that it must apply a tax
7 for Prudhoe Bay crude oil, we think it is in the national
8 interest and consistent with historical treatment relied upon
9 by producers. That is the kind of thing he told the President
10 up there.

11 We think there ought to be some certainty in this that we
12 could rely upon something consistent with the historical
13 treatment relied upon by the producers in the state of Alaska
14 that the Prudhoe Bay unit and reservoir receive the same tax
15 base as other domestic upper tier oil.

16 That is what we are voting on.

17 What the representative from Alaska said, that is
18 Atlantic-Richfield testifying before the Committee, he thought
19 it would be fair if Alaska were to be taxed at all with this.

20 While we would like to do better if we could, on the other
21 hand, we have to think about the other states of the union and
22 that being the case, it looks like, at the moment, it is about
23 what we think would be about the best we could do for Alaska as
24 of right now.

25 Senator Gravel: Mr. Chairman.

1 The Chairman: That is how some people think about it,
2 feel about it. I understand how the Senator feels about it.
3 He thinks it should be totally exempt and the Senator has a lot
4 of good justice. You can make a very good argument -- as he
5 has, and will -- that you should not have a tax at all. I can
6 understand that.

7 There is a lot of sense to it, the way he says about that,
8 but we have to vote on it, one way or the other.

9 Senator Gravel: Let me just say, Mr. Chairman, if
10 Louisiana, Rhode Island, Oregon, Kansas, or Pennsylvania -- if
11 someone were working for the Federal government, working for
12 the FAA and he moves to Alaska, Mr. Lubick, who lives in
13 Washington here, moves to Alaska, you would appropriate that
14 money to increase his pay by 25 percent because of the 60
15 percent cost of living differential that exists in our economy.

16 Now, what you are doing, you are putting a hard hat and a
17 drill bit in his mouth and sending him up to Alaska and saying
18 we are not going to pay you as much as we pay you if you are a
19 Federal bureaucrat at the trough, but what we are going to do
20 is require you to go out there and work at a disadvantage
21 competitively to the oil that is discovered in Louisiana and in
22 Kansas and in Pennsylvania.

23 I do not mind your doing it to me, but do not tell me it
24 is nice. Do not make any mistake about it that Alaskans are
25 not going to be mad. They are very thoughtful people up there

1 and I represent the view they hold and that is, if the American
2 people do not want our oil and want to go bankrupt as a nation,
3 it is a free country and you are entitled to do that.

4 So it should be made clear what the American people want
5 through their representatives and their representatives from
6 the states, that we just had a vote on, do not want all the oil
7 that we can give them and we can give them a lot, and they do
8 not want all the oil. They want to save some to buy it at a
9 nice high price from the Middle East.

10 The Chairman: I know that you do not want it and you are
11 protesting about the matter. We are voting to give you \$7
12 billion, and by your own testimony --

13 Senator Gravel: If you want to give something, give me at
14 least what you give a bureaucrat, that you are going to give
15 Mr. Lubick if he decides to go live in Alaska, if you are going
16 to give me something that is fair.

17 Do not salve your consciences by saying that you are
18 giving me equal treatment when in point of fact, it is not
19 equal treatment. I would rather you vote that we are not going
20 to give Gravel and Alaska equal treatment, and that is a vote.
21 I will take that vote.

22 The Chairman: Do you want to help the bill?

23 Senator Gravel: I would not be too disturbed over it.

24 The Chairman: If you want it, I guess I will have to vote
25 for it.

1 Senator Gravel: Fine. Let's not do anything. Let's
2 leave things the way they are, no big deal.

3 Senator Dole: That is costing \$7 billion.

4 Senator Gravel: I did not offer the amendment. It was
5 the gentleman from Rhode Island.

6 The Chairman: If you want to agree to the House bill,
7 let's agree with the House bill.

8 Senator Gravel: If you want the House bill.

9 Mr. Lubick: We would strongly urge and hope that somebody
10 would make the motion for the benefit of Alaska.

11 Senator Gravel: I think that the Administration -- I
12 really want to go on record here on one thing. I think the
13 Administration ought to be made to eat this thing. The only
14 want they can do it is to put a little salt and pepper on it.

15 Senator Chafee: I will withdraw my motion.

16 Senator Bentsen: Do not push too hard, Senator.

17 The Chairman: I suggest that we leave Alaska the way the
18 House had it.

19 Senator Gravel: You do not need a motion to do that.
20 Just leave it the way it is.

21 The Chairman: If you do not want what we are proposing to
22 give you, I think we should vote to give you what the House
23 gave you.

24 Mr. Lubick: We think it is important for the country to
25 move to the upper tier. We would hope --

4

1 Senator Packwood: I will make the motion to make it upper
2 tier. Let's vote on it.

3 Senator Gravel: I ask that there be 25 percent cost of
4 living in the cost of it, just like we do for Federal
5 employees.

6 The Chairman: Let's vote on the cost of living thing.
7 Let's vote on that first.

8 He wants a 25 percent add-on.

9 Senator Gravel: If a person from Montana moves to
10 Anchorage and he is in the Federal government, a member of the
11 FAA, he would receive a 25 percent increase in his wages,
12 nontaxable, because he is living in a high-cost area.

13 What we would do, if we accepted my amendment, we would
14 say very simply that the oil companies, since I cannot get full
15 exemption, what I am saying, at least do what the government is
16 doing to its own employees and nothing else.

17 The Chairman: Senator, you have wells up there in Alaska
18 producing 9,000 barrels a day. Can anybody tell me what is the
19 best well including in the Continental Shelf, what is the best
20 well in the lower 48 states, what does it produce? Can anybody
21 tell me what that produces?

22 I never heard of one that gets 500 barrels.

23 It seems to me that you are talking about wells -- the
24 average wells in the lower 48 produces ten barrels a day or
25 less.

1 Senator Dole: 3.7 a day in Kansas.

2 The Chairman: You have wells up there that are producing
3 900 times the average well in the United States. Sure they
4 have greater costs, but they produce a great deal more oil.

5 Let us vote on the 25 percent add on.

6 Senator Gravel: You made a point, 9,000 barrels. The
7 only point that I would make to that is we are fixing it so we
8 are never going to see any more than 9,000 barrels.

9 The Chairman: We do not think so, Senator. If we thought
10 that, it might be different.

11 So let's vote on that.

12 Do you want a roll call?

13 Senator Gravel: Yes.

14 Mr. Stern: Do I understand correctly that this means the
15 base price for Alaskan oil for purposes of the crude oil tax
16 would be 25 percent higher than the base price oil?

17 Senator Gravel: Exactly.

18 The Chairman: 25 percent higher than Tier II.

19 Senator Bentsen: Let's go ahead and vote, Mr. Chairman.

20 Mr. Stern: Mr. Talmadge?

21 (No response)

22 Mr. Stern: Mr. Ribicoff?

23 Senator Baucus: No, by proxy.

24 Mr. Stern: Mr. Byrd?

25 The Chairman. No, by proxy.

Mr. Stern. Mr. Nelson?

(No response)

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

1 Senator Heinz: No.

2 Mr. Stern: Mr. Wallop?

3 (No response)

4 Mr. Stern: Mr. Durenberger?

5 (No response)

6 Mr. Stern: Mr. Chairman?

7 The Chairman: No.

8 Senator Heinz: I believe Senator Durenberger would vote
9 no by proxy.

10 Senator Gravel: That is a safe bet.

11 The Chairman: One yea, eleven nays.

12 Let's vote on the upper tier treatment for Alaska.

13 Mr. Stern: Mr. Talmadge?

14 (No response)

15 Mr. Stern: Mr. Ribicoff?

16 Senator Baucus: Aye by proxy.

17 Mr. Stern: Mr. Byrd?

18 The Chairman: Aye, by proxy.

19 Mr. Stern: Mr. Nelson?

20 (No response)

21 Mr. Stern: Mr. Gravel?

22 Senator Gravel: Aye, under protest.

23 Mr. Stern: Mr. Bentsen?

24 Senator Bentsen: Aye.

25 Mr. Stern: Mr. Matsunaga?

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

1 Mr. Stern: Mr. Chairman?

2 The Chairman: Aye.

3 Senator Dole: We did it for you.

4 Senator Gravel: Do not tell me it was good.

5 Senator Heinz: Senator Wallop votes aye by proxy.

6 The Chairman: Senator Wallop votes aye by proxy.

7 Twelve ayes, no nays. It is unanimous.

8 Senator Dole?

9 Senator Dole: What do we have left? The tax rate. It
10 was my suggestion that we impose a 50 percent tax rate with no
11 severance tax deduction which would now -- we have already
12 agreed to a severance tax deduction in Alaska, have we not?
13

14 Mr. Lubick: What we have agreed to is to put Alaska in
15 the upper tier along with everything else and you have voted, I
16 believe, on a 75 percent.

17 Senator Dole: That was defeated.

18 Mr. Lubick: No, this was Tier I.

19 Senator Dole: Tier I.

20 Mr. Lubick: Severance tax deductions.

21 Senator Dole: On the upper tier.

22 Mr. Lubick: On the upper tier. Is the severance tax not
23 part of the rate?

24 In other words, you voted on a rate with or without a
25 severance tax deduction, is that not right?

Senator Dole: Have we already taken action in this

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1 Committee to allow the deduction for Alaska?

2 Mr. Shapiro: Yes.

3 Senator Dole: When did you do that?

4 Mr. Shapiro: Now, you have allowed it for Alaska to have
5 the severance tax deduction. That is because, I think, the
6 administration proposal was for a 60 percent rate for Alaska to
7 put it in upper tier with a 60 percent rate. Then we are
8 talking about a severance tax deduction.

9 The Committee has already made a tentative decision to
10 allow it.

11 Senator Dole: I am trying to think of some way to make it
12 equal without changing the deduction for Alaska.

13 The Chairman: If you want to make it equal, I think you
14 would want to make it 52.5 percent, which would work out to the
15 same.

16 Mr. Lubick: You mean 52.5 percent without a tax
17 deduction?

18 The Chairman: 52.5 percent without a tax deduction would
19 work out the same as 50 percent with a severance tax, without
20 it.

21 Mr. Lubick: In one state.

22 But I thought that the discussion that we just had was
23 that we probably ought to have a severance tax deduction. In
24 that case, you ought to set your rate higher than 50. We think
25 60 is the appropriate place for your purposes. It may be it

1 ought to be 57.5 percent or something like that.

2 Senator Danforth: Mr. Chairman, just to clarify the
3 question of the severance tax deduction, a severance tax
4 without the committee doing anything is deductible under
5 Federal income taxes, right?

6 Mr. Shapiro: We are talking about a different thing.

7 Senator Danforth: I understand that, but what I am
8 wondering is to what degree would a state government have an
9 incentive to increase its severance tax? If the state
10 government were to increase its severance tax by, say, a
11 dollar, then that would be deductible. That would be
12 deductible under Federal income tax.

13 Mr. Lubick: Any business tax or any tax associated with
14 the production of income is deductible as a business expense
15 regardless.

16 Senator Danforth: If the taxpayer is being taxed at a
17 rate of 46 percent, then on that increased dollar's worth of
18 severance tax, he would be recouping 46 cents under Federal
19 income tax, right?

20 Mr. Lubick: That is correct.

21 Senator Danforth: He would be paying 54 cents?

22 Mr. Lubick: Of the tax.

23 Senator Danforth: Of the tax.

24 Mr. Lubick: Out of his own pocket.

25 Senator Danforth: Out of his own pocket.

1 He would also get to deduct a full dollar from the
2 windfall tax, right?

3 Mr. Lubick. The windfall tax is just like the state
4 severance tax. It is deductible, so that he bears, at the 46
5 percent rate, 54 cents out of his own pocket and 46 cents out
6 of the corporate tax liability that he otherwise would pay, if
7 he is subject to a 46 percent tax at the margin.

8 Senator Danforth: What I am trying to get at is to figure
9 out the total amount of deductions that he would get by virtue
10 of being able to deduct the severance tax from both his income
11 tax and his income tax.

12 Mr. Wetzler: When you do this, you cannot add the income
13 tax rate of 60 percent to the income tax rate of 46 percent.
14 The windfall is deductible under the windfall tax.

15 Senator Danforth: I understand that. What I am trying to
16 figure out is approximately how much out of the taxpayer's
17 pocket he would have to pay if the state legislature were to
18 increase the severance tax.

19 Mr. Wetzler: He would pay 22 cents out of the dollar of
20 increase, when you take into account the interactions.

21 Senator Danforth: He would pay 22 cents.

22 And Uncle Sam would pay 78 cents, right?

23 Mr. Wetzler: That is why, when Senator Wallop's amendment
24 provided in order for a state severance tax to be deductible,
25 the tax increase has to apply to the entire price of the bill,

1 so the state would have to not only increase the tax on the
2 part of the price that is above the base price, it would
3 also have to increase the tax on the first \$13 or \$16 of price.

4 This is only relevant when you are talking about severance
5 taxes that are a percentage of the price. If the tax is a
6 fixed dollar amount per barrel, it does not get a deduction.
7 It only gets a deduction for the severance tax under the
8 windfall when it is a percentage of the price.

9 Senator Danforth: I think I understand how the thing
10 works, but what I am curious about is assume a producer of old
11 oil or Tier II oil who sells a barrel of oil and the state
12 legislature has increased the severance tax by X amount, how
13 much of that X amount would be paid by the producer, and how
14 much would be paid in effect by the corporation?

15 Mr. Wetzler: A corporation, my quick calculation is the
16 Federal government would pay 78 cents of the value in terms of
17 the value of the windfall and the income tax deductions and the
18 producer himself would pay what is left.

19 My math may be wrong. I did it very quickly.

20 Senator Danforth: In essence, the Federal government has
21 subsidized, if you get this deduction from the windfall tax,
22 the Federal government has really subsidized the state
23 legislature, has made it easier for the state legislature to
24 raise the tax?

25 Mr. Wetzler: That is right, yes.

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1 Senator Bentsen: May I comment on that for just a moment?
2 What you are stating there, this question of the
3 increasing the severance tax is one that is debated almost
4 every session of the legislature and a substantial part of any
5 increase of severance tax is paid by the producer. Some of it
6 he gets as a deduction, whether he can get it all as a
7 deduction, obviously, depending on the rate, as was stated
8 earlier, he pays a substantial part of it. That is debated up
9 and down every session of the legislature.

10 For example, in Texas, I think ours still stays at 4.5
11 percent.

12 The issue that you are talking about is well understood
13 but also the realities are in our state they did not do it. In
14 other states they may.

15 The Chairman: Actually, the situation in Louisiana went
16 something like this. Prior to the Arab boycott, before you had
17 these dramatic increases in the price of oil, you had a
18 situation where the price of gas on a btu basis had been held
19 far below the price of oil. And so over a period of years you
20 had a dramatic increase in the price of natural gas.

21 When the severance tax had first been levied, the
22 producers themselves, from Exxon on down, had urged that that
23 be put on a percentage basis because they had felt at some
24 point that the tax price might go down. If that is the case,
25 they wanted to get the benefit of the lower tax.

1 The state looked at it and said, look. In view of the
2 dramatic increase in the price of natural gas, we ought to put
3 this thing on a percentage basis. That way the state would
4 receive more revenue.

5 So they did.

6 Keep in mind in the beginning that it had been the
7 producers themselves who had wanted it on a percentage basis,
8 and the state would have been wise to take them up on it.

9 So the state proceeded to do that.

10 When that was done, the companies opposed it because it
11 would cost them some money. That was before the Arab boycott
12 and all of that. The Governor went before the state
13 legislature and he made a speech and said, here is this company
14 over here making a fight against paying a higher severance tax.
15 That same company has a sign advertising themselves right there
16 in Houston. They are paying more money to brag on themselves
17 than they would pay in this tax increase to help educate little
18 children down here in Louisiana.

19 Which made a big hit with the legislature so they voted
20 and they raised the severance. They put it on a percentage
21 basis.

22 The state is not going to raise the severance tax. The
23 state's income is increased because the price of gas went up
24 and because the price of oil went up and the state has no plans
25 to increase it. But it was pointed out here ---and I think

1 that Treasury had a point -- that when you start taking about
2 90 percent, or more than 90 percent, when you add all the taxes
3 together, especially if you take the corporate income tax and
4 then add the individual tax on the dividends, and you get up to
5 where you are taking more than 90 percent, there is a great
6 temptation for the state to move in and just tax that part
7 where you are going to take 90 percent on the view that they
8 should not object too much to taxing that because 90 percent of
9 it comes out of what Uncle Sam would take anyhow.

10 If that is the case, there is a great temptation to move
11 in and tax it because Uncle Sam would otherwise get it.

12 We voted here -- the Senator may have been present at that
13 moment -- we voted here to say in order for the severance tax
14 to be deductible, it has to be a tax that applies
15 across-the-board. It cannot be a tax that applies on just the
16 part that the Federal government is taxing.

17 And Treasury feels that that solves the problem and I
18 think it does too. I know of no plan in the states to raise
19 the severance tax, but if they should seek to do it in order to
20 deduct it, it would have to be put on the producer in a
21 nondiscriminatory fashion where it applies across-the-board, so
22 we would have to tax the part where it is coming out of his
23 hide, as well as the part where Uncle Sam is scraping off most
24 of it.

25 That being the case, you do not think there would be a

1 problem and I do not think that there would be either.

2 Yes, sir?

3 Senator Dole: The way it seems to me to eliminate the
4 problem that Senator Danforth suggests, again, going back to
5 the administration's original proposal and the 50 percent rate
6 with no severance tax deduction, I think that it helps Alaska.
7 It would help every producing state. This bill does not do
8 violence to what the administration has suggested in the first
9 place.

10 I think that there is some incentive to increase severance
11 taxes if we start allowing deductions.

12 I would just like to offer my 50 percent without severance
13 tax deduction across the board to apply to all the states,
14 including the state of Alaska. They are better off that way
15 than they are with 60 percent with deduction and maybe vote on
16 it and see what happens.

17 Senator Chafee: Mr. Chairman, I would like to amend that
18 motion if I could.

19 The Chairman: We can vote in whatever order the Committee
20 wants to vote.

21 Senator Chafee: Whatever, if Senator Dole would prefer I
22 do not do that, I withdraw it.

23 Senator Dole: It depends on what you have in mind.

24 Senator Chafee: It is what I consider to be a blend of
25 some of the problems that have gone around the room this

1 morning and that would be a 70 percent tax with the severance
2 tax deductible.

3 Let me give you my rationale.

4 It seems to me we have done everything we could in this
5 committee to react to the cry for production response. The
6 amendment we had dealing with independent strippers was \$7.7
7 billion. I am working from the House bill, and the heavy oil
8 was \$5 billion and I think one of the most significant, and
9 certainly one I agree with, and I agree it is a great step
10 forward from the House bill, is something newly discovered oil
11 at \$14 billion, and I think that is right.

12 Incremental tertiary, that is a deduction of \$9.9 billion
13 from the House bill. Then we do the Indians at \$.3 billion.
14 High water wells as marginal Tier II at a cost of \$.35 billion
15 and then the Alaska going to the upper tier as if you have --
16 if you include the severance tax as a deduction, it is not 7
17 but 5.5. That is my understanding.

18 Is that right, Mr. Lubick?

19 Mr. Lubick: Yes.

20 Senator Chafee: All of those costs, working from the
21 House bill, puts us down some \$42 billion.

22 Now, it seems to me if we put this 70 percent tax on the
23 upper tier, we are really hitting where the windfall exists.

24 If you believe in the windfall, the windfall is a
25 difference between the price that the operators were receiving

1 per barrel and that of which the world price -- as you saw
2 today, Mexico went up to \$24 a barrel. I would expect everyone
3 of the rest of them would soon follow and I do not think anyone
4 here would bet any money that the price of oil would not be \$28
5 a barrel by January 1st.

6 If anybody would like to bet on that, I would be glad to
7 take a little bit of it.

8 So that it seems to me, Mr. Chairman, that is where you
9 have the windfall.

10 The objective of the exercise is not solely production
11 response. The best way for you to get production response, I
12 suppose, is to have no tax at all on anything, even eliminate
13 the income tax.

14 But we have decided in this country, through many years,
15 that there are other demands in government and one of the
16 demands, it has been felt practical for this windfall profits
17 tax is to encourage alternate sources ad fuels, so-called. We,
18 in this committee, have decided encouraging conservation is
19 worthwhile as is the saving. The whole objective of the
20 exercise, as I understand it, makes us more independent of the
21 OPEC nations.

22 So, Mr. Chairman, this 70 percent tax will pick us up \$6.3
23 billion and when we have come down \$42 billion, it lets us
24 scramble upwards a little bit by \$6.3 billion.

25 The Chairman: Senator, is that the same thing you had

1 offered before? We voted on a proposal of that sort by Senator
2 Chafee?

3 Senator Chafee: That was 75. This is a retreat.

4 Mr. Wetzler: Senator Chafee's bill would have picked
5 up \$6 billion with Alaska in a separate tier. But now you have
6 added Alaska to Tier II, he would raise the Alaska rate from 60
7 to 70. That would mean that you would pick up \$7 billion now
8 instead of \$6 billion.

9 Senator Chafee: That is right.

10 How much?

11 Mr. Wetzler: Your amendment would now raise \$7 billion.

12 Senator Danforth: Could we, Mr. Chairman, get the revenue
13 effects, I guess, of the three proposals before us? One is the
14 70 percent tax with deductions and the next one is 60 percent
15 with deduction and the next one is 50 percent without
16 deduction.

17 Mr. Wetzler: 60 percent with deductions is the House
18 bill. That is the base one we are using.

19 Senator Chafee's amendment, to go to 70 percent and keep
20 the severance tax deduction would raise about \$7 billion over
21 the eleven-year period.

22 Senator Danforth: 50 percent?

23 Mr. Wetzler: Senator Dole's amendment to go to 50 percent
24 and deny the severance tax deduction would be a loss of about
25 five and a quarter.

1 The Chairman: let me just make this point, Senator. I am
2 willing to vote on it but there are a lot of Senators who have
3 voted on the 75 percent who are not here at this moment and I
4 would like to hope to have them here when we vote.

5 I do not know whether they are going to vote any
6 differently than they did the time before.

7 Senator Chafee: That was an 11 to 9 vote. Mr. Heinz, we
8 never pinned him. He was away, but it was 10 to 9.

9 The Chairman: Do you want to vote today?

10 Senator Dole: I do not care when we vote. I would just
11 like to say that we are right back -- we are playing the
12 revenue game now. Energy is secondary. We do not care whether
13 we produce any energy, it is how much money will we raise. We
14 seem to be trapped by what is in the House bill, what is in the
15 Senate bill.

16 It seems to me -- at least I assume, as I said earlier,
17 that when we started this exercise, as the Senator from Rhode
18 Island refers to it of not having any oil, how much revenue can
19 be raised is not so important as production response.

20 We are talking about a \$40 billion tax on upper tier oil.
21 That is a very significant sum of money that we will raise on a
22 tax on upper tier oil. It is not as though someone is escaping
23 taxation.

24 I do not know of any other way -- there are some who will
25 vote for more taxes, some of us who come from producing states

1 who will certainly impose an increase in tax, but it seems to
2 me that there ought to be some balance. I do not know why we
3 are particularly bound to the House bill. We were talking
4 about a trust fund the other day with \$121 billion as I
5 remember it, which is pretty much in line with the
6 administration's view.

7 We are talking about gross revenues in a trust fund of
8 \$121 billion. That is a pretty good chunk of money to take
9 away from any one industry.

10 I do not know. It seems to me that if we talk about a 50
11 percent tax across the board with no severance tax deduction,
12 we can also talk about production response. We are talking
13 about oil produced between '72 and '78. It cost more to produce
14 that oil. We are talking about again -- let me emphasize this
15 -- \$40 billion in taxes.

16 That certainly recognizes there must be a windfall
17 somewhere. To see how far up there we can go for the sake of
18 producing more revenue, I do not know if that does any good or
19 not.

20 The Chairman: Let me just say this. We have two
21 proposals here and I would rather -- down through the years,
22 usually, I have taken the view when a Senator has a proposal up
23 we will vote on his and we will vote on the substitute. So
24 that I would just like to suggest that we vote on the Dole
25 proposal and then we will vote on the Chafee proposal. I do

1 not think we will know the outcome of either one until we hear
2 from the absentees, but that way, we can get the expression of
3 the Committee on both of them.

4 Let us call the roll.

5 Senator Packwood: If they both pass, does the latter vote
6 override the former vote?

7 The Chairman: If either one of them gets a majority, it
8 is obvious that that is the will of the Committee. I suspect
9 what is going to happen is you will not know how it goes until
10 you hear from the absentees. At least we will give everybody a
11 chance to record himself.

12 Senator Chafee: Mr. Chairman, I think that is fair.

13 The Chairman: Call the roll.

14 Senator Heinz: Mr. Chairman?

15 Senator Gravel: Mr. Chairman?

16 Senator Heinz: I want to find out what members are in the
17 Dole proposal now.

18 Senator Dole: A 50 percent tax on upper tier oil across
19 the board without the severance tax deduction.

20 Senator Heinz: What is the revenue implication?

21 Mr. Wetzler: It would reduce it by \$5.25 billion.

22 Senator Heinz: Reduce revenues.

23 Mr. Wetzler: Over the eleven-year period. You are at \$65
24 billion now and this would reduce it to slightly below \$60
25 billion. Senator Chafee's would gain about \$7 billion. That

1 would take you up from \$65 billion up to \$72 billion.

2 Senator Gravel: Mr. Chairman, I would like to ask Senator
3 Dole if he would pay me a courtesy and exclude Alaska from his
4 amendment. I would rather have 60 percent.

5 Would you do me that favor?

6 Modify your amendment so we do not have to have a vote? I
7 will stay at 60 percent with the severance treatment that we
8 have, so you can have your 50 percent for everybody else but we
9 will stay where we are with our 60 percent in severance
10 treatment.

11 Mr. Wetzler: That only affects revenues about a quarter
12 of a billion because for Alaska the severance tax is fairly
13 high. 60 percent with a severance tax deduction is about 52.5
14 without, so all you would be giving him is down from 52.5 down
15 to 50.

16 Then if Alaska increases its severance tax in the future
17 that deduction may well be worth more to them.

18 Senator Gravel: Explain that to them. They thought I was
19 shooting myself in the foot.

20 Senator Dole: I do not object to that. I understand we
21 already voted to allow Alaska a severance tax deduction. I
22 think they are better off on an across-the-board proposal.

23 Senator Gravel: No, we are not. Believe me, we are not.

24 If you do not mind, I would like to modify your amendment
25 to leave us out. We will pay 50 percent.

1 The Chairman: Do you want to so modify?
2 Senator Dole: Fine.
3 The Chairman: He so modifies.
4 Call the roll on the Dole proposal.
5 Mr. Stern: Mr. Talmadge?
6 (No response)
7 Mr. Stern: Mr. Ribicoff?
8 (No response)
9 Mr. Stern: Mr. Byrd?
10 (No response)
11 Mr. Stern: Mr. Nelson?
12 (No response)
13 Mr. Stern: Mr. Gravel?
14 Senator Gravel: Aye.
15 Mr. Stern: Mr. Bentsen?
16 Senator Bentsen: Aye.
17 Mr. Stern: Mr. Matsunaga?
18 (No response)
19 Mr. Stern: Mr. Moynihan?
20 (No response)
21 Mr. Stern: Mr. Baucus?
22 Senator Baucus: No.
23 Mr. Stern: Mr. Boren?
24 Senator Boren: Aye.
25 Mr. Stern: Mr. Bradley?

1 (No response)

2 Mr. STern: Mr. Dole?

3 Senator Dole: Aye.

4 Mr. Stern: Mr. Packwood?

5 Senator Packwood: No.

6 Mr. STern: Mr. Roth?

7 (No response)

8 Mr. Stern: Mr. Danforth?

9 Senator Danforth: No.

10 Mr. Stern: Mr. Chafee?

11 Senator Chafee: No.

12 Mr. Stern: Mr. Heinz?

13 Senator Heinz: No.

14 Mr. Stern: Mr. Wallop?

15 (No response)

16 Mr. Stern: Mr. Durenberger?

17 Senator Durenberger: No.

18 Mr. Stern: Mr. Chairman?

19 The Chairman: Aye.

20 Senator Chafee: Mr. Chairman, I have Senator Nelson's

21 proxy for no.

22 Senator Baucus: Mr. Chairman, Mr. Ribicoff votes no by

23 proxy.

24 Senator Dole: Wallop votes aye by proxy.

25 The Chairman: All right. That is six yeas.

1 Senator Baucus: Senator Moynihan also votes no by proxy.

2 The Chairman: Senator Moynihan, no by proxy. That is six
3 yeas and nine nays.

4 Senator Chafee: Senator Bradley is here.

5 Senator Bradley: No.

6 The Chairman: Six yeas, ten nays. So the motion does not
7 carry. It would not carry even if all the absentees did vote
8 for it.

9 Now we can vote on the Chafee motion for a 70 percent tax.

10 Senator Heinz: Before we start the vote, Mr. Chairman is
11 my understanding correct that this does not include any
12 phase-out, this is a permanent 70 percent tax, is that right?

13 Senator Dole: Mr. Chairman?

14 The Chairman: Yes.

15 Senator Dole: It seems to me, having lost the 50 percent
16 and hoping he will lose the 70 percent, maybe we ought to talk
17 about 60 percent, which is in the House bill, and which is
18 favored by the administration, which allows the severance tax
19 deduction which would apply across the board to Alaska and the
20 lower 48.

21 The Chairman: We will vote on that after we vote on the
22 70 percent.

23 Senator Dole: I will offer the 60 percent, which is in
24 the House bill and is supported by the administration. Is that
25 correct?

1 Senator Chafee: Supported by the administration before
2 the deluge came.

3 Senator Bentsen: Let the administration speak for
4 themselves on this.

5 Mr. Lubick: Everybody seems to be hanging. It is a very
6 close question but all in all, we would be inclined to support
7 the House bill the way it is.

8 Senator Dole: The Republican effort would be to raise
9 taxes.

10 The Chairman: Call the roll.

11 Mr. Stern: Mr. Talmadge?

12 (No response)

13 Mr. Stern: Mr. Ribicoff?

14 Senator Baucus: Mr. Ribicoff votes aye by proxy.

15 Mr. Stern: Mr. Byrd?

16 (No response)

17 Mr. Stern: Mr. Nelson?

18 Senator Chafee: Aye, by proxy.

19 Mr. Stern: Mr. Gravel?

20 Senator Gravel: No.

21 Mr. Stern: Mr. Bentsen?

22 Senator Bentsen: No.

23 Mr. Stern: Mr. Matsunaga?

24 (No response)

25 Mr. Stern: Mr. Moynihan?

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

1 The yeas are eight and the nays are eight, so we will have
2 to let the absentees record themselves. The absentees are
3 Messers. Talmadge, Byrd, Matsunaga, Roth.

4 Let us go ahead and vote on the other one. Whether it
5 carries or not, we can vote on the 60 percent.

6 Let's vote on 60 percent.

7 Senator Bentsen: Let me make a point here, Mr. Chairman.
8 I would hope that those who are voting proxies have some real
9 assurance as to each of these percentages we are talking
10 about, unless you have been given a blank proxy because we are
11 having a whole variety of votes here.

12 The Chairman: We will vote on the House recommendation.

13 Senator Bradley: This is a vote on 60 percent, the House
14 bill. If that is voted down and 70 percent is voted down,
15 where are we?

16 Senator Dole: 55 percent.

17 Senator Bradley: Or 65 percent?

18 Senator Bentsen: This is the one the administration
19 finally tilted over to support. Do I understand correctly?

20 Mr. Lubick: Yes.

21 The Chairman: Let's vote on 60 percent.

22 Call the roll.

23 Mr. Stern: Mr. Talmadge?

24 (No response)

25 Mr. Stern: Mr. Ribicoff?

1 (No response)
2 Mr. Stern: Mr. Byrd?
3 (No response)
4 Mr. Stern: Mr. Nelson?
5 (No response)
6 Mr. Stern: Mr. Gravel?
7 Senator Gravel: Aye.
8 Mr. Stern: Mr. Bentsen?
9 Senator Bentsen: Aye.
10 Mr. Stern: Mr. Matsunaga?
11 (No response)
12 Mr. Stern: Mr. Moynihan?
13 (No response)
14 Mr. Stern: Mr. Baucus?
15 Senator Baucus: Aye.
16 Mr. Stern: Mr. Boren?
17 Senator Boren: Aye.
18 Mr. Stern: Mr. Bradley?
19 Senator Bradley: No.
20 Mr. Stern: Mr. Dole?
21 Senator Dole: Aye.
22 Mr. Stern: Mr. Packwood?
23 Senator Packwood: No.
24 Mr. Stern: Mr. Roth?
25 (No response)

1 Mr. Stern: Mr. Danforth?

2 Senator Danforth: No.

3 Mr. Stern: Mr. Chafee?

4 Senator Chafee: No.

5 Mr. Stern: Mr. Heinz?

6 Senator Heinz: No.

7 Mr. Stern: Mr. Wallop?

8 Senator Dole: Aye, by proxy.

9 Mr. Stern: Mr. Durenberger?

10 Senator Durenberger: No.

11 Mr. Stern: Mr. Chairman?

12 The Chairman: Aye.

13 Vote Mr. Byrd aye by proxy. I have instructions from him
14 that related to Alaska, but I assume --

15 Senator Baucus: Senator Ribicoff votes no by proxy.

16 The Chairman: What he had to do with had special
17 reference to Alaska. Since the Senator from Alaska voted for
18 it, I assume --

19 Senator Gravel: The Senator from Louisiana has good
20 judgment as to how we feel.

21 The Chairman: Nine yeas and six nays and absent at this
22 point are -- we do not have Senator Nelson voting on this one.
23 Senators Nelson, Talmadge, Matsunaga and Moynihan and Roth. We
24 will have to hear from the absentees.

25 Seantor Boren: Has the staff come up with the gross

1 figure we are now raising with the reconciliation of the
2 estimates? I know DOE was using two different figures. We
3 were discussing that on Friday, two different figures. The
4 exemption opposed to the revenue rate.

5 Has staff come up with estimates?

6 Mr. Shapiro: Roughly speaking, the gross figure you are
7 at approximately \$110 billion and the net figure is
8 approximately \$165 billion.

9 Senator Packwood: Clarify that again, what you mean by
10 gross? We were talking about, in my office, two kinds of
11 gross.

12 Mr. Shapiro: Apparently some of the confusion has entered
13 into the discussion of gross and net because of the discussion
14 of both the windfall and general revenues. Let us look at just
15 windfall revenues.

16 In the case of windfall revenues, when you are talking
17 about gross, you are talking about the 60 percent tax that is
18 imposed on the oil whatever the windfall profit is on the tiers.
19 The fact that the windfall profits tax is eligible for
20 deduction against the income tax means that you reduce the
21 income tax and therefore you have a net pick up from windfall
22 because a portion of the gross would be eligible for the
23 deduction.

24 So that if you were put into the trust fund, the gross
25 windfall profits taxes, that would be an amount higher than you

1 would actually raise from the windfall, since the windfall
2 profits tax is eligible for a deduction from the income tax.

3 Senator Packwood: This gross you just answered to Senator
4 Boren, 120 you said?

5 Mr. Shapiro: \$110 billion.

6 Senator Packwood: Gross, including the income tax?

7 Mr. Shapiro: No, your gross windfall profits tax.

8 Senator Packwood: Gross windfall profits tax.

9 Mr. Shapiro: Eligible to be deducted for income tax
10 purposes. When you imposed the 46 percent rate in respect to
11 corporations or the 70 percent rate for individuals, you have
12 an offset of approximately \$45 billion. That means the \$110
13 billion is reduced by approximately \$45 billion because the
14 income tax deduction aspect of it, and there you end up with a
15 net windfall profits tax of approximately \$65 billion.

16 Senator Boren: For example, when we levied the gasoline
17 tax, we put all of that in the trust fund, as I understand it,
18 even though a person paying gasoline tax can later go on and
19 deduct it from their own personal income tax or corporate
20 income tax, but we put the gross figure -- in other words,
21 whatever the gasoline tax raises, that goes into the trust
22 fund, so to speak.

23 Mr. Shapiro: That goes into the trust fund. The same
24 thing with the airway ticket taxes. When you are flying on a
25 plane, passenger taxes --

1 Senator Boren: It all goes in. If we follow that
 2 analogy, we put \$110 billion. If we follow the analogy used in
 3 those kinds of trust funds, you would still have an increase of
 4 income tax anyway as a result of decontrol. You are not really
 5 deducting ---you are not having a lower income tax collection
 6 then you would say this year before decontrol went into
 7 effect.

8 You are still going to have higher income tax collections
 9 as well.

10 Mr. Shapiro. Yes, sir.

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1 Senator Boren. If you put \$10 billion into the trust fund,
2 based upon the Administration estimates, let's say, using the
3 1 percent assumption on price increase, which is what we are
4 using, right, above inflation? Inflation plus 1 percent is
5 what we are assuming. How much would the income tax still
6 probably go up as a result of decontrol over this ten-year
7 period? Do we have any estimate on that?

8 Mr. Shapiro. Now, this is where some of the confusion
9 crops in. Let me explain it before I give you a figure. You
10 have a gross and net there as well. For example, you can look at
11 just the increased revenues from oil price increases and you would
12 have a gross figure. However, some of that is taking it from
13 other areas. For example, when oil profits go up, individuals may
14 be paying less in other areas, so therefore revenues from other
15 sources may be reduced. That is the net that we are talking
16 about in the case of the revenues.

17 Senator Boren. If I am a corporation that uses
18 electricity, my income may go down because my utility rate went
19 up. Is that the kind of offset you are talking about?

20 Mr. Shapiro. That is right, and consumers may switch.
21 Instead of buying certain manufactured goods, they may buy more
22 gasoline, so some industries would have less profits. That type
23 of offset would come into account.

24 Mr. Wetzler. Also, Senator, if the general price level goes
25 up, then the Federal Government has to pay more for the goods and

1 services it purchases. In addition, various things are
2 indexed, like Social Security and SSI, are all indexed for
3 inflation. The government has to pay out more for those
4 programs.

5 Senator Boren. So you make assumptions about inflation and
6 so on.

7 Mr. Shapiro. Taking that into account, the gross pickup
8 is approximately \$173 billion.

9 Senator Boren. That is, if you take \$110 billion and put
10 it in the trust fund --

11 Mr. Shapiro. Sort of the gross increase in general
12 revenues is \$173 billion, but there are offsets that are anywhere
13 from \$67 billion to \$108 billion, so you sort of have a net
14 increase in general revenues of anywhere between \$65 billion
15 and about \$106 billion.

16 Senator Boren. So if you put \$110 billion into the trust
17 fund, you would have somewhere between \$65 billion and \$106
18 billion net income tax increase along with it?

19 Mr. Shapiro. If you look at what does the government get
20 from decontrol, you get sort of a net increase in general revenues
21 that ranges anywhere from \$65 billion to \$106 billion, and you get
22 a net windfall profit tax of \$65 billion, so the total then is
23 anywhere from \$130 billion to about \$170 billion.

24 Senator Boren. Yes. If you take that amount that we are
25 putting up into the trust, you put that in, so you still end up

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1 with a pretty hefty plus balance, though, even at that, with the
2 income tax, if you put the \$110 billion into the trust fund as
3 we do with gasoline taxes and other things like that.

4 Senator Packwood. But it is also fair to state again, Bob,
5 that you are basing that on an assumption of only a 1 percent
6 increase in oil prices above inflation.

7 Mr. Shapiro. That is correct.

8 Senator Packwood. And that if indeed you take the table
9 which was prepared for Senator Danforth at a 4 percent increase,
10 the multiplier is incredible. You end up with several hundred
11 million dollars in additional income tax revenues, billions,
12 excuse me.

13 Senator Bradley. What is that net figure again on the income
14 tax side, \$65 billion?

15 Mr. Wetzler. Somewhere between \$65 billion and about \$106
16 billion, depending upon the assumptions.

17 Senator Bradley. Okay, but does that include also the
18 deduction of the windfall profits tax?

19 Mr. Wetzler. Yes, if you had decontrol and no windfall
20 profit tax at all, you could pick up income taxes after the
21 offsets which we talked about of anywhere between \$65 billion
22 and \$106 billion.

23 Senator Bradley. Right, but we have a windfall profits tax
24 deducted against your income tax, so what is the net net income
25 tax?

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1 Mr. Wetzler. If you then add to that the net uniform
2 profits tax and you add another 65, it would range anywhere
3 from \$130 billion to \$170 billion, and if you wanted to you could
4 add in Federal royalties as well. That would be about another
5 \$10 billion.

6 Senator Gravel. What about the import license fees? They
7 are going to sell those at a dear price. What information does
8 Treasury have to give us as to how much money that is going to
9 raise?

10 Mr. Sunley. I understand that import license fees is only
11 one of three alternatives that are under consideration.

12 Senator Gravel. Are the other two going to raise money?

13 Mr. Sunley. I understand that one of them would raise no
14 money.

15 Senator Gravel. When would we know this, and how much
16 potentially would be raised? Is it billions, or \$100 million,
17 or a million?

18 Mr. Sunley. I think it is out for public comment at this
19 time, sir.

20 Senator Gravel. You must know, if one of the proposals is
21 to raise money, how much money you are going to raise.

22 Mr. Sunely. I don't have that number right now. I will
23 try to get it over lunch for you.

24 Senator Boren. Mr. Chairman, I wonder if staff could prepare
25 us a new maybe single sheet ---we have got so many sheets now---

1 to perhaps on one side show us what the gross figure in the
2 trust fund would be, say, \$110 billion, it would be at 1 percent,
3 show us what it would be at 2 percent, 3 percent, and 4 percent
4 above, and then on the other side draw a line and show us what
5 the credits are that we have passed so far, so that we could
6 get an idea on one sheet of paper where we would be.

7 Senator Gravel. It is the reconciliation I think that we
8 are talking to from the very beginning that we are going to
9 have, because as we get to the end, now probably some of us
10 may want to reconsider some of our votes in certain areas, and I
11 know I do, and so I think we would need a reconciliation to see
12 what we have done.

13 Mr. Shapiro. The Committee has already instructed the staff
14 to bring back a reconciliation table. We have also been asked
15 to present certain recommendations to cover the revenue that is
16 involved, so what we plan to bring back to the Committee is first
17 a series of recommendations which shows you how you can spend
18 the money within the amount that has been allocated to credits,
19 and in addition what we call a menu of every credit that has
20 been agreed to so far in the Committee, so that we would have
21 both available for the Committee.

22 Senator Gravel. Mr. Chairman, there is one clean-up item
23 that I think we should focus on, and it will clean up the whole
24 Alaska situation very well, and that is the tax adjustment. I
25 think there is some misunderstanding within staff to the effect

1 of what we have done, and I would like the staff to clarify how
2 they understand right now whether or not the Alaska treatment
3 will include or exclude the tax change that might take place in
4 the Courts.

5 Mr. Shapiro. Okay. The Administration proposal was to
6 put Alaskan oil into Tier 2. The tax adjustment was a special
7 adjustment that was a piece of the House bill. We have all
8 along taken the assumption which is contained in all the revenue
9 estimates that there is no tax adjustment in any of the
10 considerations of the Committee with regard to the Administration
11 proposal on Tier 2, and as we understood it, that is what the
12 Committee was focusing on.

13 Senator Gravel. But the House did take into consideration
14 that it had a tax adjustment?

15 Mr. Shapiro. That was part of the House's basis of going
16 to a \$7.50 base price, to have a tax adjustment.

17 Senator Gravel. Fine. I think we would certainly want to
18 hear from the Administration on that, because it is very serious,
19 because what we are talking about, the tax adjustments,
20 presently the tariff through the Alaska oil pipeline is about
21 \$6.25 a barrel. The litigation in the Courts is to try to lower
22 that to about \$4.50, so we could be talking about an increase
23 in value at the wellhead of almost \$2.00, and that would be
24 taxed under this, so I would offer an amendment to have the
25 tax adjustment in place so that there is no tax on those moneys

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1 were the Court to decide that the tariff should be lowered.

2 Maybe Treasury might want to speak to this.

3 The Chairman. Well, I think we had better understand what
4 we are voting on here, because someone might come up later
5 surprised that we did something that he didn't understand. Now,
6 you are saying that the Alaskans in Court are contending that
7 the tariff to use that pipeline should only be \$4.00 instead of
8 \$6.00, and if that happens, then the Alaskan oil would move up
9 by \$2.00 a barrel. Is that it?

10 Senator Gravel. That is the state's position. It is not my
11 position. I have opposed it publicly in Alaska and opposed it
12 nationally. The Federal Government, FRC, has a proceeding where
13 the government is trying to lower the tariff from \$6.25 to
14 \$4.50. The State of Alaska has joined with the Federal
15 Government to try to lower that tariff, because obviously that
16 would increase the amount of revenue we would have at the wellhead.

17 My problem with that is that of course I felt it was short-
18 sighted to change the rules of the game after you have started
19 the game, but be that as it may, if the tariff is lowered, it
20 will increase the revenues at the wellhead and if this isn't
21 cleared up, that increase in revenue will be taxed at an excess
22 profits rate.

23 The Chairman. Is that correct?

24 Mr. Lubick. Well, Mr. Chairman, the tax adjustment was put
25 in specially in the House because they were putting in this

1 artificial base of \$7.50. It seems to me when we move to upper
2 tier, we move to upper tier where the tax adjustment is all
3 part of the general considerations. You don't need any special
4 tax adjustment.

5 Senator Gravel. Well, Mr. Chairman, could I ask Mr. Lubick?
6 Mr. Lubick, if there is no change in the world price of oil, and
7 supposing the price of oil dropped in the world, would this
8 still be the same thing?

9 Mr. Lubick. I am not sure that I understand the question.

10 Senator Gravel. Well, if the Court decides to lower the
11 tariff from \$6.25 to \$4.50, that is unrelated to what happens
12 in the world marketplace of oil. In other words, oil could be
13 selling for \$10 a barrel, or \$100 a barrel, it makes no
14 difference. So, this item is totally unrelated to windfall
15 profits. Now, why would Treasury want to take advantage of the
16 situation to raise money when the oil companies in question are
17 told they can't charge a proper rate before their pipeline but
18 now they have to have that value go back at the wellhead?
19 Now, where is the windfall there that meets any criteria the
20 Treasury has set up for recouping what happens by the OPEC
21 cartel that sets the price?

22 Mr. Sunley. Senator Gravel, if controls were continued,
23 and Alaskan oil, as you know, is selling at very near to \$13
24 a barrel, and there was this tax change in the pipeline charge,
25 under the controls, Alaskan oil would stay at \$13, so once we

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remove controls is what makes it possible for that Alaskan oil to rise above that \$13. Whether that is due to an action in the Near East, or whether it is due to an action of the Regulatory Commission, I am saying, there is a windfall in the sense that this is an effect of having removed controls.

Senator Gravel. So now let's really get the definition right. So the windfall doesn't occur as a result of the Arabs setting the price of oil. The windfall, now we have a definition expanded because the government may do some things within its own bureaucracy to change the price of oil, unrelated to the marketplace.

Mr. Lubick. That isn't true.

Senator Gravel. How would you then change the tariff?

Mr. Lubick. You have all kinds of cost factors that may be removed or not removed? The taxes is based on gross prices that are received. I don't think we take into account factors of cost except insofar as we put in the net income limitation, but we are looking at the price received, and that is the issue.

Senator Gravel. Well, no. I think my colleagues will understand it from production states, that what they are doing is, they are asking to change the way you give a return to an oil pipeline from any other pipeline in Louisiana or Kansas. That is an effort that is being made, to change the rules of that game, and then after you change the rules of the game and lower

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1 the return, the fair return that the company would get from
 2 transporting your oil, and in so doing you increase the amount
 3 of return they get at the wellhead, because they get more value
 4 now it has shifted, and then you go get their money again and
 5 say, well, now you've got a windfall because we turned around and
 6 lowered the cost of transportation for you, and of course they
 7 own the pipeline system. You make a great case for divestiture.
 8 I think that maybe even the oil companies would want to see
 9 divestiture, because they wouldn't be locked in one way or the
 10 other, but that is where the windfall comes from. It is not the
 11 Arabs setting the windfall, it is the government, by succeeding
 12 in a litigation to lower the cost of what they are going to pay
 13 the oil companies to transport the oil and then force that. ...
 14 increase as a result of lowering that onto a wellhead value which
 15 now you tax at a windfall profits rate.

16 Mr. Lubick. Our proposal was to move Alaskan oil to the \$13
 17 which we urged upon you in spite of the fact that you didn't
 18 want it.

19 Senator Gravel. No, I wanted \$20. Make no mistake about
 20 that. That is what I wanted. So you weren't doing me any favors,
 21 but I want the Committee to clearly understand, and I will
 22 obviously ask that this be a vote, but I want the Committee to
 23 clearly understand that no longer -- and I agree with Senator
 24 Dole that this is a revenue-raising game, but now, here is how we
 25 raise the revenue. We are changing the definition. We are

1 changing the rules as to how oil is transported, and when we
2 lower the cost of transportation, which is at the expense of the
3 companies in question, and then you increase as a result of that
4 action the value at the wellhead, now you take that increased
5 value at the wellhead and you tax that under excess profits. That
6 is an interesting scenario. That is exactly what is happening,
7 and I would move that we have a tax exemption so that if the
8 government does change the rules, that the company won't come
9 out with a net loss, which is what they are advocating, not as a
10 result of the world price of oil, but as the capriciousness of
11 what happens in the bowels of the government.

12 The Chairman. Well, as I understand it, ordinarily you get
13 a certain price for your oil. Now, do we make a difference in
14 the tax you owe based on the cost of transportation anywhere in
15 the country?

16 Mr. Shapiro. Alaska has a special situation.

17 The Chairman. So it is a special situation in any event?

18 Mr. Shapiro. Let me tell you one of the reasons why the
19 House went to a tax adjustment. Alaska is subject to the upper
20 tier price. At the time, the upper tier price was \$13. Because
21 of the transportation cost, which is the tax fee as well as other
22 transportation costs, Alaska, where it could have been getting
23 almost \$13, was only getting a price of about \$7.50, so Alaska
24 was getting about \$5.00 less than it was eligible to get under
25 price controls.

1 The Chairman. Because of transportation costs.

2 Mr. Shapiro. Because of transportation costs. The Ways and
3 Means Committee recognized this, and wanted to have Alaska
4 receive special treatment, and therefore, in order to cover
5 part of this, put them at a \$17.50 base price, but gave them a
6 special tax adjustment in order to recognize the fact that
7 Alaska is below the base price.

8 Now, apparently, in the Administration proposal, when
9 Alaska went up from \$7.50 as the price they could get up to \$13,
10 which is what they are getting right now, almost \$13, the
11 Administration believed that since they are getting this base
12 price which they were not getting back in the early part of June,
13 the Administration did not propose a tax adjustment, because it
14 just put them in the upper tier.

15 What Senator Gravel is suggesting is that the House bill,
16 since it had a tax adjustment, he would like that at this point
17 as well. The revenue is approximately \$5 billion, because the
18 tax adjustment each year is very close to getting it above what
19 our revenue figures say would be the effect of the inflation
20 plus 1 percent, so it is very close to having an exemption for
21 Alaska with a \$5 billion amount above the base price.

22 Senator Gravel. Why is that, because of the difference in
23 transportation?

24 Mr. Shapiro. Senator, it is when you make the adjustment
25 in the real value. It is not the transportation per se, but it is

1 when you make an adjustment. What the House did is a real value
2 change, and the House suggested taking into account the fact
3 that Alaskan oil is selling for less than its base price.

4 Senator Gravel. Right, because Alaska oil was selling for
5 less than your oil was selling for, because of transportation.
6 Now, what I would like you to explain is where the \$5 billion
7 comes from that we are not already getting now. Why is
8 there revenue lost because we are presently having to pay that in
9 the tariff?

10 Mr. Wetzler. Senator, the way the House bill works is,
11 it says you get an upward adjustment to your base price equal to
12 the following. You take the actual pipeline tariff in the
13 future, which under our revenue estimates we assume will stay
14 constant at about \$6.25, and you take the actual tariff, and you
15 subtract that from \$6.25 indexed for inflation. Now, that means
16 that there are two ways the adjustment might come into play.

17 If the tariff stays constant at \$6.25, then the adjustment
18 -- the upward adjustment to the base price that the House bill
19 gives Alaska will gradually grow in value because of this
20 indexing feature.

21 Senator Gravel. Indexing of inflation.

22 Mr. Wetzler. Right.

23 Senator Gravel. But we are advocating we take away what
24 they are getting as a result of inflation, are we?

25 Mr. Wetzler. Well, the House bill says you take the \$6.25,

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1 adjust it for inflation, and subtract the actual tariff, and
2 you have given them an upward adjustment for that.

3 Senator Gravel. Could we do this, Mr. Chairman? I think
4 this is probably too late in the day to take up this complex
5 subject, and when somebody throws out \$5 billion which is going
6 to happen as a result of a government action, not the Arab oil
7 companies, I would like to have that charted out in detail so we
8 can see what is involved.

9 So, I would ask staff to prepare a chart on this so we can
10 see what really happens in the House bill, and what I am
11 suggesting, that we now get a tax exemption regardless of what
12 happens in the Courts, and then in this chart it could measure
13 what happens to the companies in question, since they own the
14 line also, so if they lose money in the loss of tariff that
15 they have to eat in the pipeline, and then it increases in
16 value here, and then you tax that away, so what you are doing,
17 as I see it, is putting an excess profits tax on the
18 transportation cost of the oil.

19 Mr. Wetzler. Senator, we could, if you want us to, draw up
20 an amendment for you that would give an adjustment for any
21 possible changes by FERC or the Courts to lower that \$6.25
22 to a lower figure. That wouldn't cost any money under our
23 revenue estimating assumptions, because we are assuming that the
24 State of Alaska loses its Court case and that the tariff stays
25 at \$6.25.

1 Senator Gravel. It is not the state of Alaska's Court
2 case. It is the Federal Government's court case, and we have
3 only joined in.

4 Mr. Wetzler. Okay.

5 Senator Gravel. Prepare something and we will work on it
6 so we can submit it back to the Committee.

7 The Chairman. Well, I don't believe we can meet this
8 afternoon because we have a Subcommittee holding a hearing, and
9 that has been scheduled for some time. I would suggest that
10 those of the media who want to know how the final vote comes out
11 on these amendments you have could leave their telephone numbers
12 or something with the staff so that as soon as we get the final
13 returns, why, we will let them know.

14 How do you propose to let them know, Mr. Stern?

15 Mr. Stern. As soon as I get votes, I tell them to the
16 receptionist right away, so that they are completely current.
17 There are no changes on the two pending votes that have not
18 been decided, namely, Senator Chaffee's 70 percent tax rate on
19 Tier 2 oil which still is 8 to 8, and your 60 percent rate, which
20 is 9 to 7. All the other votes have been decided one way or the
21 other today.

22 The Chairman. Well, then, they can call the receptionist
23 and she can give them whatever change there is. Will you call
24 a press -- or something, will you?

25 Mr. Stern. All right.

1 The Chairman. All right. Now, we will meet again at
2 10:00 o'clock tomorrow on this.

3 Senator Dole. We will take up what tomorrow?

4 Mr. Shapiro. You have some issues to finish here. You
5 have to finish the upper tier. Senator Gravel has his amendment,
6 and then we have a technical amendment on the payments. Senator
7 Long asked us to go back and bring back a modification of the
8 payment schedule with regard to majors and independents, and then
9 there are some other Senators who had some amendments.

10 Senator Dole. Have you worked on the refiners problem?
11 Is that what you are talking about?

12 Mr. Shapiro. That is the refiners problem I am talking
13 about.

14 Senator Dole. You will eliminate the burden on the
15 independents?

16 Mr. Shapiro. We have a suggestion that we can bring to the
17 Committee tomorrow since you didn't get around to it today, and
18 then you had your tertiary injection amendment, and there are
19 just a couple of them that Senators have indicated they may
20 bring up, and once those are resolved, then you go to the poor,
21 and then the credits.

22 The Chairman. Well, as soon as we have some solid proposals
23 or some alternatives on the poor, I think we ought to have voting
24 on those, too.

25 (Whereupon, at 12:35 p.m., the meeting was adjourned,

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to reconvene at 10:00 a.m. of the following day.)

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