

1 EXECUTIVE SESSION
2 TUESDAY, JUNE 29, 1982
3 U.S. Senate
4 Committee on Finance
5 Washington, D.C.

ORIGINAL

6 The committee met, pursuant to notice, at 2:27 p.m.
7 in room 2221, Dirksen Senate Office Building, Honorable
8 Robert J. Dole (chairman) presiding.

9 Present: Senators Dole, Packwood, Roth, Danforth,
10 Chafee, Heinz, Durenberger, Armstrong, Symms, Grassley,
11 Long, Byrd, Bentsen, Matsunaga, Moynihan, Baucus, Boren,
12 Bradley, and Mitchell.

13 Also present: Mssrs. Lighthizer, Stern, Humphreys,
14 DeArment, Donnelly; and Ms. Burke, Ms. Olson, Ms. Weaver,
15 Ms. McMann, Ms. Mantha, and Ms. Van Erden.

16 (The press release announcing the hearing follows:)
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1 The Chairman. What I will do first is go back and
2 try to wind up those areas that were not completed. There
3 are a number of -- I don't say "minor items," but in the
4 totality -- a number of items where there was some question
5 raised, and we agreed to go back and see if we could
6 resolve some of the questions and satisfy the member or
7 members who had raised those issues.

8 We believe we have a resolution of nearly every one.
9 There may be one we cannot resolve, but I would hope that
10 we could first wrap up, again on a tentative basis, the
11 spending side. Then, unless there is some objection, rather
12 than to just start a markup on revenues, maybe if anybody
13 wanted to make a statement on revenues. I would like to
14 make a brief statement. Then I would like to recess so that
15 we might go back, on the Republican side, and I think the
16 Democrats have been caucusing, too, to see if there are some
17 areas of agreement on revenues so that we can maybe move
18 more quickly when we come back in tomorrow morning.

19 If there is no objection to that process, we have made
20 I think rather substantial progress this morning in an hour
21 and 20 minutes on our side, and it's the first chance we
22 have had to sit down together, because there was no session
23 Friday and no session Monday.

24 What we have done -- I think every member has the
25 list of revenues -- is put together almost everything that

1 has been brought to our attention with the three year
2 numbers, 1983, 1984, and 1985 revenue numbers. Of course,
3 they exceed the amount we need to raise, about \$100 billion
4 over three years, since we hope to find enough of an
5 agreement on a number which will give us \$20.9 billion in
6 1983 and the numbers needed in 1984 and 1985.

7 I would hope that tomorrow we might start at 10:00 or
8 9:30, and maybe tomorrow, if we are not bothered on the
9 floor, work through -- if it is satisfactory to the committee
10 members -- late in the afternoon or maybe early evening
11 if it takes that long. It may take much longer.

12 Then, Thursday I would hope we might conclude. If not,
13 then we have the mandate from the Senate to report to the
14 Senate by July 12.

15 So, if there is no objection, everybody has one sheet --
16 is that right, Sheila?

17 Ms. Burke. Yes, sir.

18 The Chairman. There is one sheet with the unresolved
19 differences, starting with Medicare. And let's proceed to
20 see if we can dispose of these items.

21 Ms. Burke. The document in front of you identified as
22 Item Number One is a Medicare issue that dealt with the delay
23 in the initial eligibility date for Medicare.

24 The original proposal would have delayed eligibility
25 until the first month after the month in which the

1 individual turned 65.

2 The proposal offered last week as a modification was
3 to delay the eligibility until the individual's 65th
4 birthday. The cost estimates that are reflected in the
5 documents show that that modification would save \$60.5
6 million in the first year, \$110.6 million in the second
7 year, and \$128 million in the third year. The difference
8 in the estimates are the result of, one, not only losing
9 a sizable population because it delays the date, but also
10 as the result of having to make computer changes in Medicare
11 because, currently, the information on a birthdate is not
12 contained in the Medicare files. That cost in the first
13 year is estimated at about \$24 million for that adjustment
14 in the files.

15 The Chairman. That is one date, because I guess we
16 are a bit short in 1983 on the numbers, that we would like
17 to stick with the original proposal, but with a directive
18 to the appropriate agencies that we would expect them to
19 find some way to protect those who may not be covered by
20 private insurance until picked up by Medicare. Have you
21 discussed that?

22 Ms. Burke. We have indicated to the Department our
23 concerns, and they said they would talk with insurance
24 coverage people and also among themselves to see if there
25 is any way to provide any protection.

1 Currently, to the extent people are covered, we assume
2 that coverage would continue. It is only with individuals
3 that have no private coverage that we would be concerned
4 about. And the Department has indicated that they will
5 look at that.

6 The Chairman. Is that correct, Mr. Donnelly?

7 Mr. Donnelly. That is correct.

8 The Chairman. Do you think you can help us on that?

9 Mr. Donnelly. Well, there are several dimensions to
10 this, Mr. Chairman. Clearly, the issue where private
11 coverage has existed, we are informed that most policies
12 extend over that 30-day period, or the 1-month period, as
13 a wind-down phase, so that the match would be pretty close.

14 The issue becomes those who are unemployed and have
15 never been employed or not for some long period of time.
16 The question is, what does that mean for an extension of
17 that liability for one additional month? I think we have
18 just got to think that through and address that question.
19 But they fall into several discreet categories, and we are
20 trying to look at each category.

21 The Chairman. All right. Let's go on and take the
22 health side, and if there are any questions we will come
23 back.

24 Next, number two, is Medicaid. I might say this was
25 a matter that was raised by Senator Baucus, also by

1 Senator Heinz, who is not here but raised it with me prior
2 to that time, and I think we have been able to work that
3 out. That was the \$3-million figure that the Senator from
4 Montana suggested. Is that satisfactory?

5 Senator Baucus. Mr. Chairman, you have now included
6 reception for inpatient pregnant women and children, so
7 that's fine.

8 The Chairman. Is that satisfactory, Senator Heinz?

9 Senator Heinz. Yes, Mr. Chairman.

10 The Chairman. Reduction of the error rate -- we think
11 we have made some progress there. Sheila, do you want to
12 explain that?

13 Ms. Burke. The original proposal would have required
14 the states to reduce their error rates to 3 percent
15 beginning in 1983, Fiscal Year 83, and the states whose
16 rate exceeded that target would be subject to a reduction.

17 The modification would retain a 3-percent target, but
18 would delay implementation for six months. So it would
19 take effect in the middle of Fiscal Year 1983, providing
20 the states a longer opportunity to meet that goal, and
21 in addition would repeal the Michael Amendment, which is
22 the current amendment which provides for a reduction if
23 states fail to meet the current target rates; so that no
24 state as a result of this proposal would be imposed any
25 sanctions in the first half of Fiscal Year 83.

1 We would also provide for a good-faith waiver for
2 those states that have made a serious attempt to meet their
3 targets but that have been unable to do so because of
4 extraordinary circumstances in the states.

5 The resulting savings are a slight difference only in
6 the first year; the second two years we retain our own
7 savings.

8 The Chairman. And I might say, as I indicated to
9 Sheila earlier, this will give us an opportunity to address
10 this question. I'm not certain we can reach 3 percent.
11 Some would like to go to zero. I don't think it is realistic,
12 but you will at least have six months into Fiscal Year 83
13 to make some further adjustment in the committee, if we
14 find it necessary.

15 Senator Bradley?

16 Senator Bradley. Mr. Chairman, I know that Senator
17 Durenberger and I had discussed what might be a formula
18 for good-faith effort. Is there any reason why we didn't
19 set a formula based upon percent of improvement, plus
20 population weight, and so forth, that we discussed in the
21 committee at the last meeting?

22 The Chairman. Is there any objection to that?

23 Ms. Burke. Currently the good-faith waiver that is
24 contained in the Michael Amendment is contained in
25 regulations, and it defines the kinds of things that would

1 be determined to be good faith. We would be glad to
2 work with the Department in looking at those current
3 requirements and modifying them while still retaining
4 savings, but still holding them as a test of good faith.
5 They are explicit in the regulations but not in the statute.

6 Senator Bradley. What are they? What are the
7 criteria in the regulations? I mean, we do not want to
8 duplicate it if it is already in the regulations.

9 The Chairman. Right.

10 Senator Bradley. There is the percent improvement and
11 population.

12 Ms. Burke. To the extent that we repeal Michael we
13 would have to reconstitute, or at least indicate we wish
14 to retain them.

15 But, basically, some examples are: that the state has
16 timely developed and implemented a corrective-action plan,
17 has demonstrated commitment by their top management to
18 error-rate reduction by setting priorities and goals, that
19 they have a sufficiency and quantity of systems designed to
20 reduce errors that are operational in the state so that there
21 is some method of identifying them, that there is in effect
22 a use of an effective system and procedures for statistical
23 and program analysis of quality control and related data,
24 that there are effective management and execution of
25 correction action process in assignment of responsibilities

1 within the state to the identification of those
2 responsibilities, and that the failure of the state to act
3 upon necessary legislative changes or to obtain budget
4 authorization for needed resources would not in itself
5 be a basis. So that is the only one that is identified as
6 not being a basis for good faith, but the others are
7 currently included.

8 Senator Bradley. So, I did not hear anything in there
9 about a specific percent-improvement, nor did I hear in
10 there any allowance or even recognition that it is more
11 difficult for a larger state to get its error rate down
12 than it is for a smaller state.

13 Ms. Burke. That is correct, Senator. Neither of
14 those are contained in the current good-faith waivers.

15 The Chairman. Could I suggest this -- maybe we could
16 have staff work on that. I think we can work it out.

17 Senator Durenberger. I might make this observation,
18 Mr. Chairman. We looked briefly to see if there were any
19 easy answers to the Senator's concern, and there aren't
20 any. But we have two things going in the committee right
21 now. One is a series of hearings on both Medicare and
22 Medicaid reimbursement; and the second thing is looking the
23 the proposals that the Administration is making on the
24 federalization of Medicaid.

25 This modification speaks to a midpoint in Fiscal Year

1 1983, and I guess it's our hope that perhaps in March of
2 next year we will be sitting here with some better
3 judgment from the states and from other people that we
4 have developed over the next nine months that might give
5 us a clue as to how we might be able to do that. It is
6 just too tough to design it right now.

7 Senator Bradley. Well, to the extent that the
8 committee recognizes that these are areas that it wishes
9 to address, I would be willing to wait until that time in
10 the future.

11 The Chairman. Senator Baucus?

12 Senator Baucus. Mr. Chairman, I would hope that the
13 staff can work something out here, too. I might say to
14 the Senator from New Jersey, that his is not necessarily
15 the largest state that has serious problems. I don't have
16 the sheet in front of me today, but I am not proud to say
17 that my state is the worst, historically, in error rates.
18 I notice that some other thinly-populated states also have
19 error rates.

20 I think on one of the criteria that Sheila mentioned
21 we could probably find a percentage of improvement that not
22 necessarily reflects upon the size of the state.

23 Senator Boren. Mr. Chairman, I am sorry, I missed the
24 first part of the explanation. Have we agreed -- it was
25 my understanding we were going to agree to a 4-percent

1 tolerance for the first year, for Fiscal Year 83, declining
2 to 3 percent for 1984 and 1985. Is that correct?

3 Ms. Burke. No, Senator. That would be with respect
4 to AFDC, which is a different proposal.

5 Senator Boren. Only for AFDC but not to Medicaid?

6 Ms. Burke. Medicaid would be held at 3 percent in all
7 three years, then it would be the delayed implementation
8 again as of the AFDC.

9 Senator Boren. Then, with AFDC it would be 4 percent
10 for 1983, declining to 3 percent for 1984 and 1985?

11 Ms. Burke. Yes, sir. That is correct.

12 Senator Boren. What about the waiver authority? Would
13 it be continued in the Secretary?

14 Ms. Burke. As we were just discussing, with respect
15 to the AFDC proposal and with the Medicaid proposal, there
16 would be an attempt to devise a waiver for showing good
17 faith on behalf of the state. Yes, sir. There is every
18 intention of doing that.

19 The Chairman. I think we can work that out, if that
20 is satisfactory.

21 Let's move on to Number Four. And I might say, with
22 reference to Number Four, we have CBO numbers and HCFA
23 numbers, and I have discussed this privately with Senator
24 Moynihan. If CBO is correct, there is no reason not to
25 adopt the provision.

1 So what I would like to do, we have asked HCFA to
2 go back -- what they did was plug in the highest possible
3 number -- and try to give us some realistic numbers before
4 we complete the work on this entire package.

5 Have they been directed to do that?

6 Ms. Burke. Yes, sir, they have.

7 The Chairman. Is that satisfactory with the Senator
8 from New York?

9 Senator Moynihan. Well, it is, Mr. Chairman, if I
10 could be allowed a moment of incredulity.

11 The Chairman. Oh, sure.

12 (Laughter)

13 Senator Moynihan. Last year the Administration told
14 us that all of its programs to remove people from the AFDC
15 rolls would save \$225 million in Fiscal 83. Now we are told
16 that the cost of allowing women who are forced off the
17 rolls but that choose to continue to work, but allowing
18 them to have the equivalent of "medically-needy" benefits
19 under Medicaid, would cost more money than all those other
20 savings. I don't find it inherently probable, and the CBO
21 estimates the costs at "negligible."

22 What we are asking here is no more than that families
23 not be faced with a choice of giving up their jobs or giving
24 up what is in effect their health insurance.

25 The Chairman. Well, I share the concern expressed by

1 the Senator from New York about that status. We will not
2 forget this provision; we will just ask them to give us
3 "realistic" numbers.

4 Senator Moynihan. Realistic. That was a very
5 elegant phrase, sir.

6 Senator Heinz. Mr. Chairman, I would just like to
7 join in Senator Moynihan's incredulity over the HCFA
8 estimates.

9 The Chairman. Fine.

10 Senator Bradley. Mr. Chairman, on the Number Two,
11 "allow nominal co-payments," the original proposal lists
12 exceptions for ambulatory services for pregnant women,
13 children, and institutionalized elderly. In the document
14 that we just considered, the modification, it does not
15 list institutionalized elderly. Does that mean that in the
16 modification they are excluded?

17 The Chairman. Oh, no.

18 Ms. Burke. No, sir. They are retained.

19 Senator Bradley. All right. Thank you.

20 The Chairman. All right.

21 Senator Chafee. Mr. Chairman, on Number One, I am
22 very interested in that. Could you just repeat what the
23 procedure would be under your plan?

24 The Chairman. Well, under my plan we would adopt the
25 original proposal in Number One, adopt the modification in

1 Number Two, adopt the modification in Number Three, not
2 make judgment on Number Four until we have the HCFA numbers.

3 Senator Chafee. No, I meant on Number One we are
4 waiting for the Department to come back with some proposals
5 of how they might cover those who would fall between the
6 cracks; that wouldn't be covered.

7 The Chairman. Oh, yes.

8 Senator Chafee. And that will come when? At what
9 point would we receive that? Before we finish this up?

10 The Chairman. Hopefully this week.

11 Senator Chafee. So if the whatever the proposal is
12 isn't satisfactory we would have another shot at it?

13 The Chairman. That's right.

14 Senator Chafee. Thank you.

15 The Chairman. So, if there is no objection, we will
16 adopt the original proposal with the caveats with reference
17 to the Department assistance.

18 Number Two, we would adopt the modification of Senator
19 Baucus and Senator Heinz.

20 Number Three, we would adopt the modification.

21 Number Four will be held open.

22 Senator Mitchell. Will those of us who are opposed to
23 any of these provisions be given an opportunity to vote?
24 Or do you just want to register our objections? I understand
25 the votes are there.

1 The Chairman. Do you want to vote? Or we can just
2 register the objections.

3 Senator Mitchell. As to Number One.

4 The Chairman. All right. The Clerk will so indicate
5 with reference to Number One.

6 Senator Bradley. I would like to register my
7 objection, as well.

8 Senator Moynihan. And mine, sir.

9 The Chairman. Senator Baucus?

10 Senator Baucus. Mine, too.

11 The Chairman. Anybody else?

12 (No response)

13 The Chairman. So that's enough to hold it.

14 All right, now we will go on to the second, easy half
15 of the sheet -- it's longer. AFDC?

16 Senator Boren. Mr. Chairman, let me raise one
17 question on the Medicare reimbursement. I think staff
18 is talking about it at this point, but was there any
19 report language? Did we have any additional language today
20 on the hospital-based physician's reimbursement formula?
21 I had expressed some concern that we be careful to
22 delineate those services which were individually rendered
23 to patients and that we attempt to adopt some rules and
24 regulations that would not do violence to that distinction.

25 I understand that there have been abuses, and I'm

1 sympathetic with correcting those abuses, but I had
2 understood there was going to be some discussion of some
3 report language. I don't know if there has been or not.

4 The Chairman. No, but I don't know that it is
5 necessary. Why can't we discuss it with you and your staff?
6 Bob?

7 Mr. Humphreys. Yes, Senator, we do have some report
8 language -- actually it would be legislative language --
9 that says briefly that the Department would be directed
10 to prescribe regulations which make this distinction that
11 Senator Boren was referring to; that is, the services that
12 hospital-based physicians provide directly and personally
13 which can be charged for as opposed to those which are in
14 the nature of supervision, benefiting patients generally,
15 and which would be covered under the hospital insurance
16 program.

17 Senator Boren. I wonder if there have been any
18 objections to us just adopting such language? I think that
19 would reassure the physicians who are concerned about
20 establishing a bad precedent here, but it would still
21 direct the Secretary of the Department.

22 I have the language written out: "The Secretary
23 should issue regulations which would distinguish between,
24 one, professional medical services which are personally
25 rendered to individual patients that can be reimbursed

1 under Part B, and, two, professional medical services which
2 are of benefit to patients generally."

3 The Chairman. Does the Department have any comment on
4 that?

5 Senator Boren. That would be reimbursed under Part A.

6 Ms. Burke. Senator, in the initial language -- we have
7 not seen the newest draft, Senator -- in the initial
8 language our only concern was that it not do violence to
9 the principle contained in the Administration's regulation.

10 To the extent that we can work that out, and indeed
11 it retains the concept of paying for physician services
12 under B that are B-services and under A as in A, we have
13 no problem. Our only concern was that it not alter it
14 substantially enough to have lost the savings. But I think
15 we can work with the Department and your staff in working
16 out some language that is amenable to both sides.

17 The Chairman. Is that all right?

18 Senator Boren. Subject to that caveat, I guess that
19 works out.

20 The Chairman. AFDC Pro-Ration for Shelters and
21 Utilities. I understand that we made a change here because
22 of a question raised. I think now they would like to go
23 back to the original option.

24 Senator Durenberger?

25 Senator Durenberger. No, that's what I thought when

1 I walked over here, Mr. Chairman. Now I am not so sure.

2 My suggestion was that if we are going to permit the
3 states the option to design their own method of pro-ration
4 we at least ought to tell them that we need some kind of a
5 minimum-income standard built into that pro-ration. I mean,
6 if we take this modification -- the option to design their
7 own method of pro-ration -- without speaking to an income
8 standard from the adults, we don't know if they've got
9 the income to contribute to the pro-rated shelter or
10 utilities or not. Is it difficult to come up with some kind
11 of a minimum requirement?

12 Ms. Olson. I believe the Administration has said they
13 will work with you and your staff and the committee staff
14 to try to work something like that out, that will not cause
15 us to lose our savings.

16 Senator Durenberger. Well,--with that caveat, as it's
17 said around here:-- "I'll be back."

18 The Chairman. Well, you don't have to worry about it.
19 We'll take care of it. Famous last words. "I gave at the
20 office."

21 (Laughter)

22 The Chairman. Number six?

23 Ms. Olson. Number six is the error-rate proposal,
24 similar to the Medicaid proposal.

25 Senator Moynihan. Mr. Chairman, before we go further

1 would you allow me a very brief statement on this matter
2 with respect to an exchange I had with our former colleague
3 Ms. McMann on Thursday?

4 The Chairman. Sure.

5 Senator Moynihan. We have a few small changes in the
6 AFDC Program here, but it seems to me that the large
7 attention of the Finance Committee should be directed to
8 what in the judgment of many is the proposal of the
9 Administration to abolish it, to abolish Title IV of the
10 Social Security Act, and turn the care of dependent
11 children back to the states.

12 I asked Ms. McMann about that on Thursday, and she
13 said that she had not been part of the negotiations, but
14 she understood that in the New Federalism package that
15 was being discussed with the governors association there
16 would be a maintenance of effort, understanding, and a
17 commitment of federal funds.

18 We checked that out, knowing that Linda spoke to us
19 in perfect good faith, and the governors association says
20 nothing of the kind, that there is to be a 5-year grass
21 roots trust fund to work out the transition; but at the
22 end of that period, as the proposal from the Administration
23 now rests, the states are responsible for the care of
24 dependent children, and they alone, with their resources,
25 must do it.

1 This effectively abolishes a commitment that was placed
2 in the Social Security Act in 1935.

3 And, if I can say once more, we now have reliable
4 data that suggests almost one child in three will be
5 supported by the AFDC Program at some point in their
6 minority, before reaching 18.

7 I wouldn't want this discussion to go by without noting
8 that in another part of this city a much larger discussion
9 is taking place, which is whether to abolish the
10 responsibility of the Federal Government to care for
11 dependent children altogether. I know that would concern
12 you, and I think it would concern this whole committee.

13 I want to make clear there is not the least suggestion
14 that we were misled; it's just that we didn't have all the
15 information we needed.

16 The Chairman. Thank you, Senator Moynihan.

17 Number Six?

18 Ms. Olson. The AFDC Error Rate Proposal: Error rates
19 would remain at 4 percent in 1983, drop to 3 percent in
20 1984 and 1985. The Administration's proposal for
21 prospective fiscal sanctions would be delayed until the
22 second half of Fiscal Year 83. As under current law, the
23 Michael Amendment retrospective sanctions would be in effect
24 for the first half of 1983.

25 As the Administration proposed, the new sanctions would

1 be imposed on a prospective basis beginning April 1st, 1983.

2 Under current regulations, fiscal sanctions for
3 erroneous payments may be imposed only under a retrospective
4 basis, and this is the change that we are making in the
5 new proposal.

6 We would use the 6-month delay in 1983 to study the
7 error rate system quality control in general and try to
8 come up with a system that is agreeable to the states and
9 to the Federal Government.

10 The Chairman. Lynn, do you think we can get that
11 worked out? I know the Administration is talking about
12 zero-error rates, but I'm not certain that is realistic.

13 MS. McMann. Well, our proposal is obviously that the
14 Federal Government would not pay for erroneous payments;
15 but, certainly, if the committee is not willing to accept
16 that, we want to work with you to come up with the best that
17 we could.

18 The Chairman. Senator Durenberger, I had hoped we
19 might accept Number Five and Number Six as the modifications,
20 and then if there is still a question on Number Five we
21 can work that out. Is that satisfactory?

22 (No response)

23 The Chairman. Without objection.

24 On Unemployment Compensation, I think we have an
25 agreement with Senator Bradley and others who were concerned

1 about ex-servicemen. But I think there was one before that,
2 and that's rounding.

3 Ms. Olson. That's correct. Senator Boren had an
4 objection on the rounding of benefits for UCX. We have
5 revised the proposal so that it would only affect the
6 extended benefit program, the Federal side.

7 Senator Boren. But trying to keep intact our basic
8 principle of not directing.

9 The Chairman. And then Number Eight, one that a number
10 of Senators were interested in. Senator Bradley raised
11 the question.

12 What I would propose to do is to strike the \$30-billion
13 figure across the board, in other words delete that
14 proposal, and agree to accept the proposal which is now
15 in conference, in 4717, which would limit unemployment
16 benefits to ex-servicemembers who have served at least
17 two continuous years in the military and who have been
18 discharged under other than dishonorable conditions,
19 requires a 4-week waiting period between the week in which
20 the individual is separated and the week in which he or
21 she first becomes entitled to compensation, and limits
22 an eligible ex-servicemember's benefits to 13 weeks.

23 The effective date would be for separations on or
24 after July 1, 1981, and only for benefits payable after the
25 date of enactment.

1 The cost estimate of that provision, which is in
2 H.R. 4717, which is now in conference -- and we will be
3 going back to conference I think in July 12th or 13th, in
4 that area -- to \$63 million in 1983, \$51 million in 1984,
5 \$50 million in 1985, to a total of \$164 million.

6 I might say that I asked the staff following the last
7 meeting to get all of the information available, including
8 the request from Senator Byrd about the bonuses, including
9 whether or not there was still such a thing as mustering-out
10 pay or any termination pay benefits.

11 I think you found, didn't you, that was closer to the
12 old days, apparently.

13 Ms. Olson. In the 1950s, Senator.

14 The Chairman. Well, that's when we were in.

15 Well, so there is no termination pay, is that correct?

16 Ms. Olson. There is no termination pay.

17 The Chairman. And bonuses -- enlistment bonuses?

18 Ms. Olson. They vary from service to service,
19 depending on the specialty that the gentleman might be
20 involved in.

21 Senator Byrd. Well, there are enlistment bonuses, of
22 course.

23 Ms. Olson. There are re-enlistment bonuses, yes, sir.

24 Senator Byrd. There are 130-some different categories.

25 Ms. Olson. That is correct.

1 Senator Byrd. Now, under this proposal, you mentioned
2 two years, I believe.

3 The Chairman. Yes.

4 Senator Byrd. If a person enlists for four years or
5 three years and leaves in two years, even though he has
6 a contract for four years or a contract for three years, is
7 he still eligible?

8 The Chairman. It is my understanding that if he left
9 other than dishonorably he would be entitled to 13 weeks
10 benefit under the provision which is in conference now.

11 Senator Byrd. Is that what we really want to do if
12 he doesn't serve out his period?

13 Senator Moynihan. We don't have to tell our friend
14 from Virginia that you don't just quit the Army. You know,
15 you enlist, and if you leave before your enlistment,
16 because of a disability or other factors --

17 Senator Byrd. I think you will find, Senator
18 Moynihan, that many of them do quit before their enlistment
19 period is over. As a matter of fact, many who have already
20 received a bonus, who have been paid a cash bonus, leave
21 the Army or leave the Navy.

22 The Chairman. In fact, we were told during our
23 investigation that they had little courses before you left
24 to tell you which state to go to to get the best benefits
25 when you left the Army or Navy, or whatever.

1 Senator Bradley. Mr. Chairman, the proposal that you
2 have made is, I think, progress. It is not, in my view,
3 sufficient. As you know, under current law if a serviceman
4 is honorably discharged and comes into a recessionary
5 economy, he, unlike any other citizen in our country, cannot
6 get unemployment compensation, under the law that was
7 passed in 1981.

8 I have felt for a long time, since people in my state
9 came up to me on a regular basis, that this was unfair.
10 And we moved to change the law so that an ex-serviceman
11 would be treated just as any other citizen in the country
12 would be treated.

13 Now, as I stated before, that costs some money, because
14 to exclude them saved money last year.

15 The proposal that you are offering is better than
16 excluding them totally. The fact that you are willing to
17 drop the provision that was in the original package, which
18 would have said a person could get the unemployment
19 compensation only if they were disabled eventually, is also
20 progress.

21 I would hope that we would have your commitment in
22 conference to accept this 13-week provision so that at least
23 we are ahead of where we are today once this is accepted.
24 But I think that ultimately our goal must be that every
25 ex-serviceman would have the same right as every other

1 American when it comes to his ability to qualify for
2 unemployment compensation.

3 I know that Senator Mitchell would like to cosponsor
4 this. I know that Senator Moynihan introduced it in the
5 committee last week. They, I'm sure might want to have
6 something to say; but, from my standpoint, if we have your
7 commitment that you would accept that House proposal, I
8 would find that from my own standpoint acceptable. Do
9 we have that commitment?

10 Senator Long. Could I ask a question about this?

11 We are talking about accepting not a bill that we have
12 sponsored but something the House sponsored. And let me
13 say at the beginning it gives me no problem to support
14 something where one who has served creditably, who has
15 done his duty, served his term, and performed under his
16 contract, and he comes out and receives unemployment
17 insurance. I have no problem with that.

18 At one time in my service, after the war was all over
19 with, I wound up in a legal office processing bad-conduct
20 discharges and matters of that sort. And for every person
21 we discharged with a dishonorable discharge, we discharged
22 three times that many with bad-conduct discharges, or maybe
23 five times as many with bad-conduct discharges. It is a
24 lesser degree of offense, but a lot of these bad-conduct
25 discharges entail some pretty reprehensible conduct

1 themselves.

2 Now, I would have thought that if a person had a job
3 and he was fired for reasons that were contained in these
4 sort of summary court marshalls where a person was
5 dismissed for a bad-conduct discharge, unless they have
6 drastically changed the law since my days in the service,
7 that would be cause for firing a person from his job if
8 he was working in private industry. So I think that we
9 need to look at that, now, to find out just what the
10 current status is with the military.

11 Now, furthermore, it is my impression that in some
12 cases these medical discharges really more or less are a
13 tacit agreement between the person and the service, where
14 if this had not been agreed upon they would have been
15 proceeding against him with disciplinary action. And I
16 suspect -- it may not be true, but it may very well be --
17 that quite a bit of these medical discharges amounted to
18 an agreement in lieu of proceeding with disciplinary
19 action. I would be interested in what Senator Mitchell
20 thinks about this.

21 Senator Mitchell. If I could just make a comment, I
22 think if we simply looked at the language previously
23 discussed, we could accommodate the concerns raised by
24 Senator Byrd and Senator Long. I haven't seen the
25 language of H.R. 4717, Mr. Chairman, but I propose that if

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1 that language does not include what I am about to say, that
2 we include it in this provision, and that is that the
3 person involved, in addition to the conditions that you have
4 set forth as being in 4717, must have been discharged or
5 released under honorable conditions, must not have resigned
6 or voluntarily left the service, and was not released
7 because of a record of indiscipline for failure to maintain
8 skill proficiency.

9 If we adopted those, then we have covered all of the
10 conditions which Senators Byrd and Long indicated
11 expressed concern for and still meet the objectives that
12 Senator Bradley has set forth.

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1 The Chairman. Is that satisfactory?

2 Senator Moynihan. Mr. Chairman, with those provisions,
3 it would be entirely satisfactory for me. May I make the
4 point that the reason we are willing to accept less than we
5 might otherwise is, one, we have a higher order of confidence
6 that that particular bill is going to become law rather than
7 some of the other things we are talking about.

8 Senator Bradley. Mr. Chairman, I personally would have
9 no objection to that. That was the amendment, as modified,
10 with Senator Boren's suggestion, that we were going to offer
11 today to extend it to unemployment benefits of 26 weeks.
12 Now the reason that we are, obviously, not going to offer it
13 today, in addition to the fact that we don't have the votes,
14 is that you have given your commitment to accept the House
15 version, which I think goes half way in the right direction.
16 And I would have no objection of it being modified in
17 accordance with those suggestions read by Senator Mitchell
18 and Senator Moynihan.

19 The Chairman. Do you have a copy of those?

20 Senator Bradley. They are right in the blue book.

21 Senator Mitchell. I just took some provisions out of
22 the blue book, Mr. Chairman, and read them.

23 The Chairman. Well, if that's satisfactory with
24 members of the Committee I can say, as I have said earlier,
25 that we will be back in conference on H.R. 4717. I am only

2
1 one member of that conference, and I am willing to suggest
2 to the House that we recede with the additions that Senator
3 Mitchell added and accept their provision. I think his
4 does add something. The House would say "other than
5 dishonorable;" his would tighten that up some.

6 Senator Bradley. I have no objection to the attempt to
7 tighten it up. But I would hope the Chairman would take into
8 consideration what I think to be the real national need to
9 at least give ex-servicemen the same benefit that the average
10 citizen has. Does the Chairman concur?

11 The Chairman. That would be outside the scope of
12 conference. I don't know whether I would agree with that
13 or not. I mean I think they have other benefits that other
14 citizens don't have. But I will give my word that we will
15 accept that provision in conference with the additions noted
16 by Senator Mitchell, unless there is some objection to that.

17 (No response)

18 The Chairman. If not, I wanted to make one brief
19 statement on the Periodic Interim Payments, PIP, because it
20 indicated that might just be a gimmick. And I wanted the
21 record to indicate that delaying the PIP produces real
22 savings to the program in fiscal year 1983, because it is
23 not simply being repealed. The proposal recognizes the
24 full cost of the program. The fiscal year 1983 deferred
25 payment would be delayed three weeks and made in October of

1 1984. The fiscal 1984 deferred payment would be made in
2 October 1985. And in fiscal year 1985, the full cost of
3 delaying these payments would be recognized as a cost of
4 \$870 million to Medicare. So I wanted to make clear that
5 though we joked about that, this isn't a total -- total
6 whatever. But anyway, I would like to put that statement in
7 the record.

8 As I understand now, there is one other matter that I
9 want to raise on my own. It was raised by Senator
10 Durenberger. It is with reference to rounding SSI benefits.
11 And I think we want to make certain that -- Sydney, do you
12 have that? Carolyn?

13 I think rather than the increased numbers in the out-
14 years, we just ought to round it one time, and then not
15 use the rounding to pick up additional revenue in 1984 and
16 1985.

17 Ms. Weaver. Yes. If the cost of living adjustment is
18 applied to the full benefit and then rounded after the
19 cost of living adjustment is applied, you would get the full
20 \$20 million savings in FY-83. They would be \$25 and \$30
21 million in 1984 and 1985, for a cumulative savings of \$75
22 million, rather than the \$135 million. So there is a savings
23 loss in fiscal 1984 and 1985 of \$60 million.

24 The Chairman. But there was a problem the way we were
25 doing it. I think this corrects that problem.

4
1 As far as I know there is nothing else in that --
2 Senator Moynihan. Mr. Chairman, could one matter be
3 raised? I would like to offer an amendment.

4 The Chairman. Sure.

5 Senator Moynihan. Mr. Chairman, as you know, last year
6 we cut out the student benefit from Social Security. That is
7 the benefit for surviving children whose parents died and who
8 are to continue in school. And the benefit was created in
9 1965. And it provided that children of retired, deceased,
10 or disabled workers could receive benefits up to age 22, if
11 they were in school. And the amendment I would like to
12 propose does not go back to the old arrangement, but
13 rather does say that for students -- there are students all
14 over this country who have dropped out school or have been
15 dropping out in order to get benefits this coming fall because
16 of the deadline when this takes effect. And this would
17 extend the benefits of eligibility until October in 1982,
18 so that anybody who has graduated from high school this year
19 would be in a position to go to college in the fall and not
20 have that cut off to prevent them from doing what they had
21 fully expected would be their benefits.

22 The Chairman. Do you have any cost estimates?

23 Senator Moynihan. The estimates are that it would cost
24 \$185 million the first year, \$75, \$25, for a total over three
25 years of \$285.

1 The Chairman. I cannot support the amendment. Do you
2 want to vote on it?

3 Senator Moynihan. I would like to vote on it, Mr.
4 Chairman. First, is because there are an awful of people, who,
5 among other things, are children of Viet Nam veterans. And
6 they had every reason to believe that this was going to be
7 their entitlement. I don't think many of us knew what was
8 being taken away from them at the time. Some did perhaps.

9 Senator Bentsen. Could I ask a question on that to the
10 staff?

11 Ms. Weaver. Yes.

12 Senator Bentsen. I would think that the estimates
13 had been made for the forthcoming year. Would this mean a
14 revision of estimates for PEL grants? It probably would.

15 Ms. Weaver. Yes, certainly.

16 The Chairman. Have we seen the amendment? Oh, we are
17 seeing the amendment.

18 (Laughter)

19 The Chairman. I would hope we might not accept this
20 amendment. I have discussed this and another matter with
21 Senator Levin, and we have agreed to have some hearings on
22 it. And it would seem to me that we may be able to resolve
23 some of the real problems that were caused by lack of notice,
24 as I understand it. But I would hope that we would not
25 adopt the amendment. Carolyn?

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1 (No response)

2 The Chairman. Is the Administration represented?

3 Ms. Van Erden. Yes, Senator. The Administration is on
4 record as opposing this amendment.

5 Senator Moynihan. Mr. Chairman, I won't press the
6 matter unless others wish to speak, but I think this is a
7 chance, and our last chance, to take care of the graduates
8 of 1982.

9 Senator Bradley. Mr. Chairman, if PEL grants remained
10 at the levels that were expected when this amendment was
11 originally adopted, there might not be a problem. But when
12 you are cutting PEL grants as well as Social Security student
13 benefits and also student loans, it is a significant problem.
14 And we might as well face up to it.

15 Ms. Weaver. I might point out how the May 1982 cut-off
16 was selected. That was simply done in drafting because the
17 Committee agreed that students who were in high school,
18 high school seniors last year -- while you all were
19 deliberating this change, you wanted to ensure that they
20 were allowed to get on the benefit rolls. As a consequence,
21 we drafted it so that they could enter college any time
22 this academic year -- the one that just ended -- up through
23 May 1. By delaying until October or any other date beyond
24 that, you are picking up another high school class that,
25 at least last year, was not intended to go on it.

7
1 Senator Packwood. You mean it was intended to cut off
2 those people who graduated in mid-May or June. And that they
3 are out of luck. They are not out of high school so they
4 can't get into college.

5 Ms. Weaver. Yeah. On the grounds that at the time you
6 were considering the change, the law would be passed before
7 they graduated from high school, and they could change their college
8 plans accordingly.

9 Senator Mitchell. But, Mr. Chairman, if I could
10 comment. One unanticipated consequence is those students
11 who happen to go to high school where there was aggressive
12 and diligent guidance counselors who figured out that if
13 we can get them into a college before their scheduled high
14 school graduation date, they can become eligible and then
15 get the full benefits. And thousands of thousands of
16 youngsters were able to do that, while students who perhaps
17 didn't have guidance counselors that were as farsighted or
18 as diligent have been deprived. So an unintended and
19 unanticipated inequity has occurred in that with respect to
20 this year's class. Some have gotten in under the deadline
21 and many have not.

22 Senator Moynihan. Mr. Chairman, if I could just make
23 one other point here. This is a Social Security document
24 describing Social Security checks for students 18 to 22.
25 It's still in circulation although the program has been

1 abolished.

2 The Chairman. I might suggest that there may be some
3 areas of inequity. That's why I hoped we might -- as
4 indicated to Senator Levin -- have some hearings on this to
5 find out what the facts are; find out who the numbers are
6 that may have been truly disadvantaged because of some
7 circumstance beyond their control. So I would hope the
8 Senator would not press the amendment. But, obviously,
9 he can if he wishes.

10 Senator Symms. Mr. Chairman, I was just going to say
11 that I would hope that we would, at least if the Senator
12 does choose the amendment, vote it down because there is
13 no way on one of these things that you can ever stop it
14 without having somebody feel like if they had been one year
15 older or something -- I think we also ought to remember
16 that there are thousands of young Americans out there that
17 are graduating from high school that may just be going to
18 work. And if they are the ones who go to work, they are going
19 to be paying a tax on the front end of their income to
20 subsidize their friends who chose to go to college. And I
21 know of several cases of -- one young man that I know quite
22 well in Idaho that takes this Social Security money because
23 unfortunately his father passed away and he is eligible for
24 it -- and he just takes the minimum 12 credits so he can get
25 the money. And I think that we encourage people in this case

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1 to go to college that might not otherwise go. And we do it
2 at the expense of the young worker. So at some point in time
3 it is probably more equitable just not to continue the
4 program. There is no means test on it. There are
5 millionaires' heirs, children, that are out there getting
6 subsidized to go to college on the Social Security program.
7 It was never intended for that. And it seems to me like we
8 have done something now that was difficult, but we ought to
9 stay with it.

10 There are millionaires' orphans, or widows or whatever
11 that are left behind, but their children are eligible for
12 Social Security so they get it and they go to college. And
13 they are subsidized at the expense of the low income people
14 that are out there working. Let's be honest about what is
15 happening. That's what is happening.

16 Senator Bradley. I haven't seen any statistics on
17 how many millionaires' children are --

18 Senator Symms. Well, there are 250,000 millionaires
19 who get Social Security. And I don't know how many families
20 there are of people who are getting these benefits who could
21 otherwise afford to finance sending them to college. That's
22 the point I am making. But you do know one thing. That any
23 young worker that is out there working is paying in to the
24 Social Security chain letter so that somebody else can take
25 it out. And that's the thing we need to remember. So I think

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1 we ought to stop it right now. And not accept the amendment.

2 Senator Chafee. Mr. Chairman, I would note that this
3 is a draw on the Social Security fund. It's not from the
4 general fund. We are battling to preserve what we can of
5 the Social Security.

6 The Chairman. We are in the process now of trying to
7 start making judgments on the Social Security Commission.
8 But I am prepared to vote if the Senator wants to vote.
9 The Clerk will call the roll.

10 The Clerk. Mr. Packwood.

11 Senator Packwood. Nay.

12 The Clerk. Mr. Roth.

13 The Chairman. Nay.

14 The Clerk. Mr. Danforth.

15 Senator Danforth. Nay.

16 The Clerk. Mr. Chafee.

17 Senator Chafee. Nay.

18 The Clerk. Mr. Heinz.

19 Senator Heinz. Nay.

20 The Clerk. Mr. Wallop.

21 Senator Wallop. No.

22 The Clerk. Mr. Durenberger.

23 Senator Durenberger. No.

24 The Clerk. Mr. Armstrong.

25 Senator Armstrong. Nay

1 The Clerk. Mr. Symms.
2 Senator Symms. No.
3 The Clerk. Mr. Grassley.
4 Senator Grassley. No.
5 The Clerk. Mr. Long.
6 Senator Long. Yes.
7 The Clerk. Mr. Byrd.
8 Senator Byrd. No.
9 The Clerk. Mr. Bentsen.
10 Senator Bentsen. No.
11 The Clerk. Mr. Matsunaga.
12 (No response)
13 The Clerk. Mr. Moynihan.
14 Senator Moynihan. Aye.
15 The Clerk. Mr. Baucus.
16 Senator Baucus. Aye.
17 The Clerk. Mr. Boren.
18 Senator Boren. Abstaining.
19 The Clerk. Mr. Bradley.
20 Senator Bradley. Aye.
21 The Clerk. Mr. Mitchell.
22 Senator Mitchell. Aye.
23 The Clerk. Mr. Chairman.
24 The Chairman. I vote "no." And let me withhold
25 Senator Roth's proxy. I didn't quite communicate with him.

12
1 (Laughter)

2 The Chairman. Are there any other amendments? I hope
3 not.

4 Senator Heinz. Mr. Chairman.

5 The Chairman. Eleven nays and nine yeas. The
6 amendment is not agreed to.

7 Senator Heinz. Mr. Chairman, I would like to bring
8 up --

9 The Chairman. That can't be right. Eleven and nine
10 are --

11 Senator Moynihan. Eleven and five, Mr. Chairman.

12 The Chairman. Eleven nays and five yeas. That sounds
13 more like it.

14 Senator Symms. May I inquire? Did you get Armstrong
15 as "no?" The Chairman answered for Armstrong at the same
16 time I said "no."

17 The Clerk. No. I did not put Armstrong down.

18 The Chairman. Twelve to five. It is looking better.

19 Senator Heinz.

20 Senator Heinz. Mr. Chairman, I would like to bring up
21 the question of a moratorium on the disability investigations
22 that are taking place. In many states, perhaps not all,
23 the administering agencies at the instruction of the Social
24 Security Administration are going through and making
25 redeterminations of disability. And in many cases, this has

1 created a variety of problems. One problem is that in some
2 states, such as my own, the work load is, frankly, almost
3 more than we can tolerate and handle. The second problem
4 is that apparently a significant number of poor decisions
5 are being made. Some 45 percent of those that come up for
6 reexamination of their benefits by the administrating
7 agency are being terminated. But those who go on appeal,
8 are finding a 65 percent reinstatement rate through that
9 adjudicative process.

10 The problem, therefore, is that a lot of people are
11 getting their benefits terminated. And those that are
12 getting appropriate advice are getting them later
13 reinstated. What I would bring up for consideration is that
14 we put a moratorium on any new or initial additional
15 determinations until January 1st, 1983, with two provisos:
16 That that moratorium would not apply to the so-called
17 "medically Diaryed" investigations. And, secondly, that it
18 wouldn't apply in cases where the Secretary finds fraud or
19 abuse, or where the individual is working and is performing
20 substantial gainful activity.

21 Some cost estimates have been made. Is the CBO
22 represented here?

23 (No response)

24 Senator Heinz. Well, I am told that CBO estimates that
25 the cost of this would be \$25 million in 1983, \$55 million in

14
1 1984. Can we get that verified or not?

2 Ms. Weaver. In the figures that I have from the Social
3 Security Administration if you were to put a moratorium on
4 new CDIs, the cost would be substantially higher than the --
5 Senator Heinz. This is not a moratorium on all new
6 CDIs.

7 Ms. Weaver. Yeah.

8 Senator Heinz. There are, in effect, three provisos.
9 For example, the so-called "medically Diaried" investigation--
10 there are some hundred and sixty thousand of those
11 per year. Those are cases where at the time of the
12 original award, the individual was believed to have a
13 high probability of recovery. And the individual was
14 notified that he or she would be subject to medical
15 reexamination at a specified date. That's one big category.

16 The other category is where there is either fraud or
17 abuse, or the person is working. Those apparently cover a
18 rather substantial number. And that is the basis on which
19 CBO apparently calculated these estimates.

20 The Chairman. Could I speak to the amendment? We
21 would like to wrap up the spending side so we can move to
22 the revenue side.

23 This matter was raised last Wednesday or Thursday on
24 the Senate floor with respect to the debt ceiling extension
25 by Senator Cohen and Senator Levin. At that time, the

15

1 majority leader, who was pinch-hitting for the Chairman of
2 the Committee, indicated that, to the satisfaction of both
3 Senators, we would have immediate hearings on this matter.
4 There is a problem. But, again, I would hope that we would
5 not start amending the reconciliation at this time. The
6 disability insurance amendment to 1980 was passed with the
7 express purpose of weeding ineligibles out of the disability
8 insurance program.

9 I spent about an hour with Senator Cohen and Senator
10 Levin last Wednesday. And I think -- and I know Senator
11 Heinz has had a long-standing interest in this -- and I
12 would hope that we could proceed. And, again, try to find
13 out if there is some way to resolve the problem which
14 started as a result of legislation in 1980. There are no
15 obvious solutions. We have got a bill reported out of the
16 Ways and Means Committee -- the Pickle-Archer bill -- which
17 is now awaiting a rule in the Rules Committee. And I am
18 not certain slowing down the review is going to solve
19 anything. It is going to shift to the Secretary the right
20 to slow the process rather than Congress. So, again, I
21 would hope my colleague would permit us to do what we
22 indicated we would do on the floor last week. And that's
23 to have hearings. I mentioned this to Secretary Schweiker.
24 He's aware of the concern. He's promised to appear or have
25 someone else appear on his behalf at the hearings to see if

16
1 we can figure out some way to resolve some of the real
2 problems because of the high rate of disqualifications.

3 Senator Heinz. Mr. Chairman, when are these hearings
4 going to take place?

5 Mr. Chairman. I think right after the 12th.

6 Senator Heinz. Will the hearings be completed prior
7 to the time this bill goes to the floor?

8 The Chairman. Hopefully. Hopefully, we will have this
9 to the floor before the hearings are completed.

10 Senator Heinz. Well, Mr. Chairman, let me suggest --

11 The Chairman. There also is a separate bill coming
12 over to us from the House. You don't have to put it on --

13 Senator Heinz. That doesn't mean that bill will go
14 anywhere, Mr. Chairman, quite candidly. I would be willing
15 to withhold pressing this amendment at this time with the
16 proviso that I would feel compelled to offer it on the
17 floor, unless we had completed hearings and came up with
18 something -- if there was a consensus -- on some kind of a
19 reasonable alternative.

20 The Chairman. Well, I am not certain that is
21 reasonable because we are mandated to report --

22 Senator Heinz. It's not reasonable. I thought I had
23 a right to offer amendments.

24 The Chairman. You said "reasonable." You certainly
25 have every right to offer amendments. And we have a right

17
1 to try to defeat them. But I think if you just let us
2 try to proceed on this -- we are not known to be foot-dragg-
3 ing. It was only raised last Wednesday with the Chairman.
4 We haven't had a chance to have hearings since then because
5 we weren't in session Friday or Monday. Right now, we are
6 required to report this bill to the Senate by the 12th. I
7 doubt that we could have hearings next week.

8 Senator Heinz. Mr. Chairman, excuse me. Just so there
9 is no misunderstanding, I was proposing that we have hearings
10 prior to the time that the Senate takes up this bill on the
11 floor.

12 The Chairman. I have asked Senator Baker to put it
13 right behind the Constitutional amendment.

14 Senator Heinz. That should give us some time.

15 (Laughter)

16 Senator Heinz. Depending on which Constitutional
17 amendment.

18 The Chairman. The balance the budget amendment.
19 Excuse me. There are two or three others floating around
20 which may be added to the next debt ceiling.

21 (Laughter)

22 The Chairman. I wouldn't want to make a promise I
23 can't keep. I guess that's the problem.

24 Senator Heinz. Mr. Chairman, I always have the right
25 to offer it on the floor as an amendment. It seems to me

12

1 that it is to everybody's advantage to try and expedite those
2 hearings. We know this is a real problem. The House has
3 sent us legislation. I don't know that it would be
4 particularly effective legislative tactics to try and have
5 a single, solitary bill. It would probably attract a
6 Presidential veto since these are the Administration's
7 regulations and actions that are taking place here. I don't
8 imagine they are going to do a 360 degree turn.

9 The Chairman. I might suggest the legislation was
10 passed in a prior Administration.

11 Senator Heinz. Yes, the Senator is right.

12 The Chairman. But we may have already scheduled
13 hearings. Have we scheduled hearings?

14 Mr. Lighthizer. They are not scheduled yet.

15 The Chairman. But we are in the process of doing that.

16 (Laughter)

17 Senator Heinz.. Mr. Chairman, the sooner those hearings
18 are scheduled, the sooner I will be able to withdraw the
19 amendment.

20 The Chairman. Right. It is really Senator Armstrong's
21 Subcommittee. But we will have hearings.

22 Senator Moynihan. Our Chairman is not here. Oh, he
23 is here. We can have hearings very shortly, can we not?

24 Senator Armstrong. I think we should vote on the
25 amendment now.

19

1 Senator Moynihan. If the Senator would yield? Mr.
2 Heinz, wouldn't you not wish to have the Subcommittee on
3 Social Security have hearings?

4 Senator Heinz. I would like the Subcommittee to have
5 hearings. I think we might learn something.

6 The Chairman. Should we vote on it now or have
7 hearings?

8 Senator Heinz. Well, that's up to you.

9 Senator Bradley. What did the Subcommittee chairman say? Is
10 he willing to hold hearings?

11 The Chairman. I'm ready to vote against it right now
12 if you want to vote on it.

13 (Laughter)

14 Senator Moynihan. All right. Let's vote.

15 The Chairman. All right. The clerk will call the
16 roll.

17 Senator Heinz. Mr. Chairman, wouldn't it be a good
18 idea if people had a copy of the amendment before they
19 started voting on it?

20 (Laughter)

21 Senator Heinz. I hate to stand on niceties, but people
22 ought to read something before they vote on it. And,
23 secondly, I am not sure that we are through with debate on
24 the amendment.

25 (Laughter)

20
1 Senator Heinz. I am amenable to working it out to
2 have hearings. But if the Senator from Colorado doesn't
3 want to have any hearings on this in spite of the fact that
4 the Senator from Kansas said that there were going to be
5 hearings, I am prepared to vote on it at some point.

6 Senator Armstrong. Mr. Chairman, I think he is willing
7 to take the assurance of the Chairman that we are going to
8 have hearings.

9 The Chairman. Pardon?

10 Senator Armstrong. I am just trying to accommodate
11 him. Do you desire that we have those hearings in the
12 full committee or the subcommittee?

13 The Chairman. Whichever.

14 (Laughter)

15 Senator Armstrong. I'm willing to vote now and then
16 have hearings.

17 Senator Chafee. Mr. Chairman, I think it is worthwhile
18 having some hearings on this thing. I don't see what all
19 the fuss is about.

20 The Chairman. I didn't know it was going to be brought
21 up. I thought we had put that fire out, but apparently we
22 didn't get around to that. Whatever satisfies the Senator.

23 Senator Heinz. Could we have a clear indication of
24 who is going to hold the hearings, Mr. Chairman?

25 Senator Moynihan. Well, I will hold hearings if you

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1 would like.

2 (Laughter)

3 Senator Moynihan. We don't have much to do over here,
4 you know.

5 (Laughter)

6 Senator Moynihan. Never go to White House meetings.
7 Regan never tells us anything.

8 The Chairman. I notice that Senator Armstrong is more
9 enthusiastic than he was about hearings.

10 (Laughter)

11 The Chairman. And if we could have a subcommittee
12 hearing -- if not, we would have the full committee hearing.

13 Senator Heinz. Well, do I have your assurance, Mr.
14 Chairman, that we will have one or the other? And that we
15 will schedule them in a few days? By the end of this week?
16 Not to say hold them, but to schedule them?

17 Ms. Weaver. I would like to point out that we have, at
18 the staff level, already been discussing the hearings and
19 who we might have, and how long they might last. And we have
20 been talking with your staff as well about what we might do
21 in the way of --

22 Senator Heinz. And now we would like to find out if we
23 are really going to hold them.

24 The Chairman. Well, we are going to hold them.

25 Ms. Weaver. We, at the staff level, with the Minority

22
1 staff, have been talking about it.

2 Senator Long. Well, if I might just comment on this.
3 I have been sitting here without getting into it. But I
4 do want to comment on this. Now when we hold these hearings
5 on disability, they bring people up here -- paraplegics in
6 wheelchairs. If they are going to write at all, they have
7 got to move a pencil around in their mouth and that kind of
8 thing. That's the typical person on these rolls.

9 Now there is somebody that I have known back in high
10 school days. And I can't see anything the matter with him
11 when he comes around. Nor can anybody else. But he tells me
12 he is disabled and somebody took him off the rolls. And he
13 and his buddy are out playing golf and they feel just fine
14 up until they run into me. When I see them, they are all
15 of a sudden disabled and can't get around at all. People
16 come applying for work. And then they tell us that if they
17 are going to take the job, that they have to take it purely
18 cash with no records kept. Why is that? Well, that's
19 because they are on the disability rolls.

20 There is some doctor in my hometown who is just notorious
21 about loading these rolls down with people who are seeking
22 employment today and who are available to do some work.

23 Now I am concerned about the fact that I voted for
24 that program. Frankly, at the time it went into effect, it
25 carried by just one vote. And if I had voted the other way,

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1 it wouldn't have taken place. Now it kind of surprised me
2 to find out we had four times as many people on the rolls as
3 we thought we were voting to put on the roll. And then I
4 meet some fellow -- and I am not going to embarrass the
5 individual by calling him names -- and this character goes
6 down to apply for his unemployment or Social Security
7 benefits, and he just found out that they don't seem to
8 have the records. That there is no record of all these
9 years this fellow has been working. And he said he had a
10 lot more benefits than they are giving him because they
11 don't seem to have the record of his full employment. Well,
12 it turns out that they said, well, look, we don't have the
13 records to put you down here for retirement, but we
14 think we can qualify you as disabled.

15 Now it wasn't his idea that he was disabled. It was
16 their idea that he was disabled. And so the poor fellow,
17 bless his heart, he is trying to pretend he is disabled.
18 And he makes a pretty good pretense under the circumstance.
19 But it wasn't his idea at all.

20 But just a great number of people on those rolls
21 never should have been put there. I think that the
22 Administration and the previous Administration probably
23 got it down to where you no longer have four times what we
24 thought we were paying; you have got three times what we
25 thought we were paying. And the Administration is trying to

24

1 get it down below three times what we thought we were
2 voting to put on the rolls. And when we start criticizing
3 those who are trying to reduce these rolls down, I think it
4 is fair to keep in mind that there have been a lot of good
5 people in this government who thought they were doing a
6 kindness toward their neighbor when they said you have
7 got 235 million paying taxes in one respect or another, one
8 more won't hurt. Or the judge that hears a case and finds
9 a person disabled, and reverses the conscientious hearing
10 examiner. And then the judge goes home and he says, "Well,
11 I will sleep well tonight. Now I know that that wasn't
12 what Congress intended, but I really felt sorry for those
13 people so I put them on those rolls."

14 We have got a great number of people who are handicapped
15 to be sure, but not totally permanently disabled, the way
16 that law intended. And at some point, I think some of us
17 ought to support the Administration and say that we are
18 paying for three times as many people as the Congress
19 intended.

20 I recall some fellow who was leaning on a cane and
21 holding up a sign to my opponent. I suppose that that
22 fellow spotted one of those persons got taken off the rolls
23 because some of us thought there were too many on there.
24 And I am sure you can lose a vote or two by saying that
25 only the disabled ought to be drawing these payments. But

25

1 what are we doing here? We are trying to save the government
2 from extravagance in years gone by. And I don't know why
3 we ought to load that on this bill to do more of the same.

4 The Chairman. I am ready to vote.

5 Senator Heinz. Mr. Chairman, getting back to where we
6 were -- and I am not going to stand in the way of a vote if
7 that's the Committee's will -- but why is it not possible to
8 get a commitment to schedule hearings?

9 The Chairman. Well, we have given the Senator a
10 commitment. I can't give you the precise date, but I have
11 said I would have hearings. I'm not certain I can do it
12 before we consider this bill on the floor. I will not make
13 that promise. I'm not certain that can be done.

14 Senator Heinz. Can the Senator from Kansas state that
15 he would be able to announce a date for said hearing by the
16 end of this week? Would that be possible?

17 The Chairman. It's not that I am objecting to having
18 hearings. I am just saying that I can't promise the Senator.
19 We will have hearings as soon as we can. But if this comes
20 up on the Senate floor, I know this Senator would be on the
21 Senate floor. I assume that others will want to be there.

22 What do we have after we come back?

23 Mr. Lighthizer. Mr. Chairman, I don't have the
24 schedule in front of me. We do have some hearings scheduled
25 that first week. But, typically, we don't schedule hearings

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1 When we are going to have a Finance Committee bill on the
2 floor. Or at least we don't schedule very many hearings.

3 Senator Danforth. Mr. Chairman, you had hoped that
4 we could start party meetings on the revenue side of this
5 process at 3:00 this afternoon. I now notice that it is
6 now 25 minutes until 4:00. The commitment has been made.
7 I think very clearly both on the floor and by you in this
8 Committee that we as a Committee will address this issue.
9 I think there is widespread recognition that there are
10 problems with the disability system. It has been expressed
11 by several people here today, and also on the floor last
12 week. And your view, as I understand it, Mr. Chairman, is
13 that you want to get on with our task of meeting the
14 task put before us on the budget resolution. And for that
15 reason, I would hope that we could start working on the tax
16 side within the next five minutes or so. And so I will
17 move to table the amendment offered.

18 Senator Heinz. Would the Senator withhold his
19 tabling motion?

20 Senator Danforth. No.

21 Senator Heinz. Would the Senator withhold his tabling
22 motion, please?

23 Senator Danforth. No.

24 Senator Heinz. Well, Mr. Chairman, I will make the
25 request one last time because I have a lot of other

1 amendments I am going offer if he doesn't withhold his
2 tabling motion.

3 Senator Packwood. Mr. Chairman, why can't we just
4 adjourn the meeting? We have got a whole list of revenue
5 raisers to go through.

6 The Chairman. I want to accommodate everyone on the
7 Committee. And I think we have done that. I just think the
8 Senator from Pennsylvania should understand that we will
9 have the hearing. I can't give you a precise date and hour
10 at this point. I am not going to pledge we will do it
11 before this bill gets to the floor. If that's the only
12 way you will accept it, we will just have a vote on the
13 amendment.

14 Senator Heinz. Mr. Chairman, first I would like the
15 tabling motion withdrawn, if we might, so we could proceed.

16 The Chairman. Well, I would hope the Senator from
17 Missouri might do that.

18 Senator Danforth. I will withdraw it.

19 Senator Heinz. Mr. Chairman, I do not doubt the good
20 faith of the Senator from Kansas. I am a little concerned
21 that both he and the Senator from Colorado seem -- and the
22 Senator from Louisiana as well -- a little hesitant about
23 holding hearings. But it has been my experience --

24 Senator Armstrong. If the Senator will yield. Don't
25 characterize my attitude. I have made no statements to

1 justify any characterization of any kind. I will be glad to,
2 if you want me to.

3 Senator Heinz. But it has been my experience --

4 Senator Long. Senator, I didn't say --

5 Senator Heinz. But it has --

6 Senator Long. I'm against your proposition.

7 (Laughter)

8 Senator Heinz. But it has been my experience that the
9 Senator from Kansas is a man of his word. And I will
10 withdraw the amendment.

11 The Chairman. Are there any other amendments?

12 (No response)

13 The Chairman. If not, we will assume that -- we will
14 have the hearing -- we will assume that there is still one
15 issue. And that's the Moynihan amendment.

16 Now what I would hope we might do is to move then
17 directly to the revenue side. We have, I think, done quite
18 well in disposing of about \$17 billion in spending
19 reductions. I would like to make just a brief statement
20 on the revenues and then --

21 Senator Bradley. Mr. Chairman, could I inquire? Are
22 we going to vote on the spending side at any time?

23 The Chairman. I think we might as well wait until we
24 take care of the package -- we vote on the package.

25 Senator Bradley. Oh, all right. So we will have a

1 chance to vote on the spending side?

2 The Chairman. Yes. As a package.

3 Senator Matsunaga. Have you recorded "aye" on the
4 Moynihan amendment?

5 The Chairman. Yes.

6 Let me just take a minute of the Committee, and then we
7 will go into our revenue mark-up.

8 As every member of this Committee knows, we are here
9 for the purpose of cutting the deficit --

10 Senator Moynihan. Could we have order? We would like
11 to hear you.

12 The Chairman. Yes.

13 We are here for the purpose of cutting the deficit
14 and restoring stability and sanity to financial markets by
15 demonstrating those same qualities in our management of the
16 budget. But there are good ways and bad ways to reduce the
17 deficit. As we take up the revenue side of reconciliation,
18 I would like to lay to rest some misconceptions about what
19 we are doing here.

20 Our initiative to raise revenues is in no way a
21 contradiction of what we did last year. It is, rather, the
22 second phase of a necessary reckoning in tax policy that
23 began last year. Until 1981, our practice had been to allow
24 tax rates and the overall tax burden to rise while the
25 income tax base was increasingly eroded by the proliferation

30 1 of special preferences, deductions and credits. By 1981
2 federal tax had risen to 21 percent of the GNP. And they
3 would have continued to go up to 24 percent by 1987 had we
4 not acted to control tax rates. At the same time, so-called
5 tax expenditures grew from 67 items in 1967 to nearly a
6 hundred in 1981, totalling some \$228 billion. Meanwhile,
7 federal spending and deficits grew to record proportions.

8 This special tax relief at the expense of the general --
9 even granting that many tax incentives arguably fulfill a
10 useful purpose -- has, I am afraid, led to much of the tax-
11 payers' resentment over the perceived unfairness of the tax
12 system. People do want to see that everyone pays a fair
13 share of tax, and they understand that higher and higher
14 taxes are easy for the wealthy to evade, but impose an
15 excessive burden on the moderate income taxpayers who are the
16 backbone of our revenue system. Working men and women see
17 an inequity when sophisticated tax planning helps the
18 wealthy escape taxes; whether tax shelters are good policy
19 in some cases misses the point. When the proliferation
20 of tax privileges undermines confidence in the system, it
21 is time for a change.

22 Last year in the Economic Recovery Tax Act, we reduced
23 and stabilized tax rates over a period of years. We did so
24 to restore incentives for work, savings and investment. We
25 also recognized the need to restore equity to the average

1 taxpayer and control the growth of government on the revenue
2 side. But even the major shift in tax policy undertaken
3 last year did not do the whole job. We arrested the rise
4 in tax rates, but that is not the whole story in tax policy.

5 We have a wide array of revenue-raising proposals before
6 us. Most of these have been the subject of extensive
7 discussion in the news media in recent months, and have been
8 reviewed at length by members and staff. But I think to
9 properly choose how to raise revenues we need an additional
10 perspective. We have to begin now to address the
11 inefficiency of the tax system and the many exceptions from
12 the rule that tend to make the tax system less equitable
13 and which too often makes tax considerations the focus of
14 economic decisions.

15 If we want a tax system that is fairer, simpler and
16 easier to administer and comply with, here is the place to
17 start. Over the past several months we have discussed a
18 number of areas where special tax rules, although well
19 intentioned, seem to lead to an unfair or inefficient result.
20 These areas include safe harbor leasing, pension deductions
21 for the highly paid, tax-exempt industrial development bonds,
22 the taxation of the life insurance industry, and many others.
23 I would not suggest that we will necessarily act on all of
24 these areas, but certainly they represent the kind of things we
25 ought to emphasize in raising revenues: increasing fairness,

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1 eliminating obsolete or inefficient incentives, and
2 generally broadening the tax base. Along these lines I also
3 mention the minimum tax proposals that have been under
4 consideration, because that is an area where we can consider
5 a broader base and a stronger tax as a means of reducing the
6 impact of the proliferation of tax preferences.

7 Surely it is preferable to firm up our present tax
8 base, and take measures to improve tax compliance, before
9 we consider slapping on new taxes that may have uncertain
10 effects on the economy. If we cannot reach a consensus
11 on our revenue target by taking the kinds of items I have
12 suggested, then we will have to consider increasing some
13 present taxes or adding new ones. But perhaps we can give
14 some meaning to the much-abused term "revenue enhancement"
15 if we emphasize base-broadening as the best policy goal
16 when it comes to raising revenues.

17 This is the time for advocates of a simpler and fairer
18 tax system -- and I consider myself among that group -- to
19 come forward and take the first steps that are needed.
20 Over the weekend we saw a dramatic demonstration of the
21 growing support for a lower-rate, much simpler income tax.
22 And this is the place to start taking measures needed to
23 expand the tax base sufficiently to facilitate lower rates
24 and easier compliance. That is the direction we started
25 to take last year, and this is the logical way to carry

1 forward the campaign for a fairer tax system.

2 Many of us would prefer to leap ahead into a new
3 tax system. But this does need to be a step-by-step
4 process. In order to drastically cut tax rates and eliminate
5 deductions and credits, we need to know how the tax burden
6 is presently distributed as a consequence of a particular
7 tax preference. We need to know how that distribution would
8 be changed by specific simplification proposals. Most
9 importantly, we need to have a fair system. And I would
10 suggest that until we generate a consensus that we have
11 got a lot of work to do. And, of course, the job before
12 us is to raise the \$21 billion in 1983. And I have said --
13 and I know there is a lot of interest in the flat rate --
14 that we will have hearings on such a proposal when we finish
15 our other work sometime this fall.

16 Now I hope we can end our session. And perhaps
17 tomorrow morning at 10:00 come prepared to start voting on
18 revenue matters.

19 Thank you.

20 Senator Bradley. Mr. Chairman, I suppose we will be
21 able to make our opening statements in the great tax debate
22 of 1982 tomorrow?

23 The Chairman. Or now if you prefer.

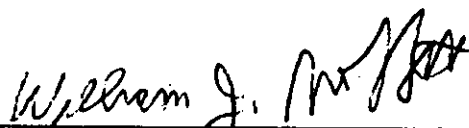
24 Senator Bradley. I prefer to wait until tomorrow.

25 The Chairman. Okay. Thank you.

(Whereupon, at 3:45 p.m., the meeting was recessed.)

C E R T I F I C A T E

This is to certify that the foregoing proceedings before the United States Senate Finance Committee, an Executive Session, held on Tuesday, June 29, 1982, in room 2221, Dirksen Senate Office Building, were held as herein appears and that this is the original transcript thereof.



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Official Reporter

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