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HEARINGS

Before The

COMMITTEE ON FINANCE

UNITED STATES SENATE

EXECUTIVE SESSION

LEGISLATION REQUIRED BY RECONCILIATION
INSTRUCTIONS IN THE FIRST BUDGET RESOLUTION

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1 EXECUTIVE SESSION

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6 TUESDAY, JUNE 17, 1980

7
8 United States Senate
9 Committee on Finance,
10 Washington, D. C.

11
12 The Committee met at 10:35 a.m., in Room 2221, Dirksen
13 Senate Office Building, The Honorable Russell B. Long
14 (Chairman of the Committee) presiding.

15 Present: Senators Long (presiding), Byrd, Nelson,
16 Bentsen, Boren, Baucus, Bradley, Dole, Packwood, Danforth,
17 Chaffee, Heinz, Wallop, Durenberger.

18 - - -

19 The Chairman. Let's come to order, gentlemen, and see
20 if we can do some business here this morning.

21 Mr. Stern. Mr. Chairman, there are two pieces of older
22 business that I would like to mention briefly.

23 One is that the Committee earlier had decided to hold
24 at the desk a House debt limit bill that extends the debt
25 limit through the end of February, 1981, and to approve it

1 if it is at a level of \$905 billion.

2 In fact, the estimate has been modified to \$925
3 billion, and that is the version that has passed the House
4 and is being held at the desk. So, the Committee would have
5 to look and see if it would be willing to go along with that
6 higher figure.

7 The Chairman. Well, part of that has to do with some
8 of the decisions that have been made, such as the fact that
9 we have knocked out the fee on gasoline. Isn't that part of
10 the reason?

11 Mr. Shapiro. That is correct, and there are a number
12 of changed economic assumptions that were done earlier, and
13 they also want to make sure that there is enough money to
14 cover it so that when the Congress has adjourned, during the
15 period after adjournment until the Congress comes back, that
16 there is no pressure to come back because of the debt
17 ceiling.

18 The \$925 billion was re-estimated to make sure that it
19 covers that period. As we understand, it is consistent
20 with both the Treasury Department and the CBO. It takes the
21 same date that the Finance Committee has already decided
22 upon and that is the February 28th date, but it increases
23 the amount from the \$905 billion to \$925 billion that, as
24 Mike indicated, that is the resolution that was part of the
25 budget resolution, and the House has already said, here is

1 the resolution. The House didn't vote on it separately.

2 So, it is held at the desk, and if the Finance
3 Committee agrees to that figure, presumably then you can
4 take it from the desk, and that will be sent right down to
5 the White House as the figure through February 28th of 1981.

6 The Chairman. I would so propose.

7 Yes, sir, Senator Byrd?

8 Senator Byrd. I would ask the staff, now, this does
9 not in any way change the Senate procedure insofar as the
10 way the Senate handles the increase in the debt limit?

11 Mr. Shapiro. That is correct, Senator. What has
12 happened is that the House under their new procedures has
13 the resolution at the desk. That is available for the
14 Senate to deal with it in the same manner that you did in the
15 past.

16 In other words, it can come to the Committee. You can
17 send it out with a report. You have chosen to speed up the
18 process, to keep it at the desk. You could have kept the
19 House-passed bill at the desk. So, the fact that it is at
20 the desk is no change. It is what you could have done in
21 the past.

22 You now have available to this Committee and the Senate
23 the same procedures that you have always had.

24 The Chairman. I have no objection to the procedure. I
25 do want to observe that the financial condition of the

1 government has deteriorated to the extent of \$20 billion in
2 less than a month.

3 What was the date, Mike, that this Committee approved
4 that \$905 billion?

5 Mr. Shapiro. It was probably in mid-April.

6 The Chairman. The Committee approved it when?

7 In mid-April there was a hearing on it, but when did
8 the Committee approve the \$905 billion? More recently than
9 that.

10 Mr. Stern. I think it was around mid-May, Senator --

11 The Chairman. I think it was.

12 Mr. Stern. -- that the matter was actually brought up
13 in Committee.

14 The Chairman. What I want to observe is that the
15 government's financial condition has worsened to the extent
16 of \$20 billion in a period of 30 days. This Committee
17 approved increasing the debt ceiling to \$905 billion about a
18 month ago. Now the Administration requests that it be
19 increased to \$925 billion.

20 That emphasizes again to the American public that this
21 so-called balanced budget is a phony one. I contended when
22 the first budget resolution passed the Senate that there
23 would be a deficit of at least \$30 billion. Most economists
24 now are putting the deficit at \$50 billion to \$60 billion.

25 I think the Congress and the Administration are

1 misleading the public as to what is being done by the
2 Congress and by the Administration in regard to controlling
3 government spending. The budget resolution calls for an
4 increase of \$65 billion in government spending, as compared
5 to the resolution adopted by the Congress in November of
6 1979, just seven months ago.

7 I have no objection to the procedure. I do want to
8 emphasize, however, that it dramatizes, it points out again
9 that this government is not getting its spending under
10 control, and this is additional evidence of that. In 30
11 days, the estimate as to the amount by which the debt limit
12 must be increased has gone up \$20 billion.

13 Senator Dole? Mr. Chairman?

14 The Chairman. Senator Dole.

15 Senator Dole. Senator Baker mentioned this to me
16 yesterday, and I haven't had a chance to get back with him.
17 We were going to discuss it today at the ranking members
18 meeting. There is some feeling that that is too much of an
19 extension through next year, some Republican feeling maybe
20 we ought to look at it again nearer time of adjournment,
21 nearer election.

22 The action we take doesn't change anybody's rights,
23 does it, doesn't deprive anybody of any rights they would
24 have had? I mean, what are we going to do here?

25 Mr. Stern. Well, what you would be doing is taking a

1 Committee position favoring approval without amendment of H.
2 Joint Resolution 559, the resolution that is pending at the
3 desk.

4 Mr. Shapiro. In other words, there still could be a
5 floor amendment in the Senate to change the date or the
6 amount. It is just, the Committee position would be to
7 agree to what the House level is and also the date, but when
8 it is actually brought from the desk, no one is precluded
9 from their right to change either the date or the amount.

10 Senator Dole. Right.

11 Senator Byrd. Would the Senator yield for a moment?

12 Senator Dole. Yes.

13 Senator Byrd. Would you say that again, that you don't
14 have a right to --

15 Mr. Shapiro. No, I said it does not preclude anybody's
16 right.

17 Senator Byrd. It does not preclude anyone?

18 Mr. Shapiro. That's correct. In other words, any
19 Senator, on the floor, when the resolution comes up, can
20 offer to change the date or the amount.

21 Senator Dole. Or they could add a tax cut to it, or --
22 (General laughter.)

23 Mr. Shapiro. That is correct.

24 Senator Dole. Well, I want to preserve the rights. Is
25 it necessary that we act on this today, or are we going to

1 meet again tomorrow morning?

2 Mr. Stern. The Committee has three days set aside to
3 work on the budget process, today, tomorrow, and Thursday.
4 We don't know how long you are going to take.

5 (General laughter.)

6 Senator Dole. Could we just withhold taking action
7 until I talk to Senator Baker? I will do it on the
8 telephone.

9 The Chairman. All right.

10 Mr. Stern. The second piece of old business that I
11 wanted to bring up, at the end of last year, when you were
12 discussing ways of achieving spending cuts in 1980, the
13 Committee agreed to offer a floor amendment to reduce the
14 state's share of revenue sharing in Fiscal Year 1980, the
15 fiscal year that is ending this September, by something over
16 \$200 million.

17 At this point, it is not assumed in the modified 1980
18 budget resolution that such savings will be made, and it
19 would be the staff's suggestion that you simply vitiate that
20 earlier decision, and not offer that amendment.

21 The Chairman. It would be all right with me, but since
22 the Senate did not go along with it, I think it makes sense
23 to say, well, all right. We will just drop it.

24 All in favor, say aye.

25 (A chorus of aye.)

1 The Chairman. Opposed, no?

2 (No response.)

3 Mr. Stern. That brings us to the reconciliation
4 instructions, Mr. Chairman, which require that the Finance
5 Committee make recommendations for spending savings
6 totalling \$2.2 billion, and for revenue increases for Fiscal
7 Year 1981 totalling \$4.2 billion.

8 The Chairman. All right. Now, why don't we discuss
9 the tax part of it first, because I think that is easier to
10 understand. I think the joint tax staff has worked out
11 recommendations.

12 Mr. Shapiro. Mr. Chairman, the staff had submitted to
13 each of the offices last week a list of possible measures to
14 provide for the \$4.2 billion. The staff has tried to
15 concentrate on items that would -- and that list includes
16 over 20 some items. It does not include traditional type
17 tax reform items other than any that may have been suggested
18 by the Administration.

19 The list includes all the Administration proposals,
20 measures that the Finance Committee had previously acted on,
21 and some other options the staff put on the list that
22 appeared to be the type that the Committee may want to
23 consider.

24 However, in making a suggestion, you have before you a
25 list of \$4.2 billion. The main objective of this is to try

1 to do it in the way that has the least amount of adverse
2 economic impact. The traditional type of tax reform items
3 are very controversial, and in addition, they also have very
4 little revenue impact in the first fiscal year because they
5 are paid through estimated taxes, and therefore you will not
6 get the credit in the first fiscal year.

7 As a result, the staff has tried to put together a
8 package which raises the \$4.2 billion and by and large
9 without increasing the liabilities of individuals or
10 corporations, and to keep that a minimum.

11 In the list that you have before you, the first one is
12 an item that the Senate Finance Committee has already passed
13 and reported out to the floor. It is the tax to gains on
14 foreigners' real estate, Senator Wallop's bill that was
15 passed by the Committee. It has a \$200 million revenue
16 effect. It is effective from January 1, 1980.

17 So, since the Finance Committee has already reported
18 it, we have that on the list.

19 The second item is to tax employer payment of the
20 employee payroll tax. That is a measure that the Finance
21 Committee has also reported in the disability bill. It was
22 modified on the Senate floor, and as a result of those
23 modifications, in the conference, the House and the Senate
24 conferees both agreed to drop it.

25 This is essentially the same version that the Finance

1 Committee has already passed. The effect of this is to tax
2 the employees on the -- an example I could give is, let's
3 say if there are \$10,000 of wages, the employer would
4 volunteer to pay the employee's share of the FICA or the
5 FUTA tax, and that would be \$613.

6 The advantage to the employer is that he would in
7 effect be telling the employer he is increasing his wages
8 because he is paying that \$613, and the employer has an
9 advantage in that it reduces the amount of the Social
10 Security tax or the FUTA tax on that amount, so it can be a
11 savings of \$100 or more per employee, and the employer saves
12 as well.

13 This is not used extensively today, and that is why
14 there is a \$100 million revenue effect. I should point out,
15 however, that it is being proposed to be expanded by
16 businesses and state and local governments in the future,
17 and if that proliferates, that \$100 million would be a
18 significantly larger figure. It would also be one that
19 would be even more difficult for the Congress to deal with.

20 Since the Finance Committee has already agreed to this
21 on one other occasion, that was put on the list as well.

22 The third item on the list is to maintain the telephone
23 tax at 2 percent in 1981. As you may recall in 1971, the
24 telephone tax, that is, the excise tax on telephones, was 10
25 percent, and as part of the inflationary measures that were

1 proposed by the Administration in 1971, it was proposed to
2 repeal the excise tax and phase it out over a ten-year
3 period, one percentage point per year. That phase-down is
4 presently at 2 percent.

5 If the Congress leaves that at the present level, that
6 is, to maintain present law at 2 percent, which is the rate
7 for 1980, if you keep that for 1981, you would maintain a
8 \$400 million revenue figure by not lowering that amount.

9 The next items are three cash management proposals.
10 The first one deals with the minimum tax, and it applies to
11 both individuals and to corporations. Under present law,
12 the minimum tax is not taken into account for purposes of
13 estimated tax either for individuals or corporations.

14 This would provide that the minimum tax would have to
15 be taken into account for purposes of the estimated tax.
16 That would raise approximately \$200 million from individuals
17 and \$300 million from corporations.

18 The next item is dealing with the estimated tax for
19 corporations. Under present law, corporations are required
20 to pay estimated tax essentially in four quarterly
21 installments. However, there are penalties if they do not
22 pay it. They are not subject to the penalties under two
23 basic rules, and that is if they pay 80 percent of their
24 estimated tax on the installment basis, there would be no
25 penalty.

1 Alternatively, if they pay 100 percent of their
2 previous year's liability, there is no penalty. This
3 particular proposal would say that the 80 percent rule under
4 which they would not pay any penalty would be increased to
5 85 percent beginning in January of 1981, and that would
6 raise approximately \$900 million.

7 Once again, this is a speed-up of tax. It does not
8 increase tax liability. It would require corporations to
9 pay it sooner. The proposal would only apply to larger
10 corporations, and that is, those corporations whose taxable
11 incomes are \$1 million in any of the three preceding taxable
12 years, so it would not apply to your smaller corporations
13 below those levels.

14 The third item under the cash management proposal would
15 deal with the rule that would allow the corporations to pay
16 their previous year's tax and not be subject to any
17 penalty. So, for example, a corporation that has no tax
18 liability for a previous year, they would not have to pay
19 any tax in the current year and could withhold and pay their
20 tax when they filed a tax return, and in effect have a
21 year's deferral on the payment of their current year's tax.

22 This requirement would provide requiring at least a 50
23 percent current tax liability installment payment, so even
24 though they may be able to rely on their previous year's
25 payment, they have to be at least 50 percent current, and

1 that would raise \$2.2 billion.

2 The total of this package is the \$4.2 billion that you
3 are required to raise, and it does it essentially in ways
4 that do not increase liability but in a way that just speeds
5 it up. As a result of the economic situation today, we
6 believe that this would be a better way to raise that \$4.2
7 billion, to the extent the Finance Committee has been
8 charged with that from the Budget Committees.

9 Senator Dole. Mr. Chairman?

10 The Chairman. Senator Dole.

11 Senator Dole. There is no objection to the first one,
12 is there?

13 Mr. Shapiro. The Committee has already done that.

14 Senator Dole. That is a lot of proposals. There is
15 some objection to the second one. I know we had an
16 amendment offered by either Senator Helms or Senator
17 Thurmond on the theory that it would impose an
18 administrative hardship on small business, non-profit
19 corporations, farmers, that this has been in the law for 40
20 years, so it shouldn't be considered a loophole, and I
21 understand all we have to do is report this to the Senate
22 floor, but I am just suggesting we would probably have some
23 opposition to this provision.

24 Maybe we will have opposition to all the provisions. I
25 think in this particular one, I think they can make a fair

1 case. Does this include domestic employees? Are they
2 included, or are they excepted?

3 Mr. Shapiro. It does not include domestic employees,
4 and they also were not in the Finance Committee proposal,
5 either.

6 Senator Wallop. Mr. Chairman, in line with what
7 Senator Byrd said, and the comment that Senator Dole just
8 made regarding the state of the economy, I don't know
9 anybody who knows what the state of the economy is. Most
10 people know that it's bad, but I wonder if this is an
11 appropriate time for us to be talking about raising taxes
12 until we know.

13 Would it be possible in any way for us to have some
14 hearings on the state of the economy? Because if we are
15 going to start taking money out of the private sector at a
16 time when it is already strapped -- I hear what you are
17 saying that this isn't any increase, but it is sure sleight
18 of hand, because somebody is going to feel it. If the
19 government gets it, somebody else doesn't have it.

20 The Chairman. Well, here is our problem. We have a
21 budget resolution to comply with, and this is the first time
22 we have had this reconciliation process, but time is pretty
23 close on us, and this is apparently -- the budget resolution
24 has been voted through, has it not?

25 Mr. Shapiro. That is correct. Yes.

1 The Chairman. All right. So the budget resolution is
2 thre, and we are required to comply on our end. Now, I
3 would quite agree that before this happened, between now and
4 January 1, it may be appropriate for somebody to say, hold
5 on a minute, we are headed in the wrong direction. Here we
6 are still tightening up on the economy, when the economy
7 needs stimulus. We ought to put this money in circulation
8 rather than squeezing it out.

9 But from where we stand at the moment, we are committed
10 to the concept that we are going to balance the budget, and
11 we are going to fight inflation, and based on where we were
12 headed at the time we passed the budget resolution, about
13 the time we got started, this was the direction that the
14 Senate and the House agreed to go, so I don't think we have
15 much choice but to go ahead and comply, and this would
16 comply with it.

17 Senator Wallop. Well, I appreciate the fact that we
18 are trying to fight inflation, and I appreciate the bind
19 that you are in by the process, but I will be darned if I
20 can see how you are fighting inflation by increasing the
21 costs to people who are out there in that thicket.

22 I just don't understand where that lowers the rate of
23 inflation, in terms of what somebody has that is reality.

24 The Chairman. Well, here is our budget man, Bob
25 Packwood.

1 (General laughter.)

2 The Chairman. Tell us, Mr. Expert, do we have to
3 comply with this budget or not? I would just as soon not
4 comply if we had the option.

5 Senator Packwood. I suppose, Mr. Chairman, the bottom
6 line comes down to the fact that the majority of the Senate
7 can do anything it wants, whether that is on a -- and you
8 have said this a number of times -- whether that is on a
9 point of order that somebody objects to and you overrule the
10 Chair. That is your bottom line.

11 My intuitive feeling is, from my service on the Budget
12 Committee, that they would accept \$6 billion in cuts, if we
13 could come up with them and if we could find a way to work
14 that into the rules. Whether or not the combined weight of
15 the Budget Committee and the Finance Committee could sell
16 those cuts on the floor, I don't know.

17 But I think the Budget Committee would not hold us to
18 \$4.2 billion in revenue and \$2.2 billion in cuts, if we could
19 come up with the total in cuts.

20 The Chairman. We will be on the cuts in a few minutes,
21 once we get this behind us, and my impression is that what
22 we have here is easier than some of those cuts we are going
23 to have to recommend. We can look at those later.

24 Senator Dole. Mr. Chairman, I wonder if you might
25 substitute for the second one in that list, in the place of

1 4 cent per gallon excise tax exemption for gasohol be denied
2 to gasohol blended with alcohol produced outside the United
3 States.

4 That gets about \$100 million. The expected rate of
5 importation is about 20 million gallons per month. There
6 are a number of reasons to do this. I think we are trying
7 to encourage the domestic industry, and we are talking about
8 loan guarantees, and it is to provide a market for
9 domestically produced grain, among other things.

10 Now, I am not certain what problem we might have with
11 gas, but that is a matter that I think we have discussed
12 before in the Committee.

13 Mr. Shapiro. Do you want someone to talk on the GATT
14 issue?

15 Mr. Foster. Mr. Chairman, we have looked at this issue
16 before, and I have talked with the people in the
17 Administration and the other experts on GATT. I think
18 everybody generally agrees that denying this to imported
19 alcohol would be a violation of GATT absent some ability to
20 justify it on national security grounds.

21 As a general rule, when national security grounds have
22 been asserted, and there has been a reasonable basis for
23 asserting those grounds, most countries in GATT have not
24 pressed the case, and this is, for example, when the
25 Administration in the past has taken actions on oil under

1 Section 232 of the Trade Expansion Act. This has not been
2 challenged in GATT, and has generally been recognized as
3 justifiable.

4 The issue would be, is it justifiable with respect to
5 imported alcohol to assert a national security defense in
6 GATT, and that is a judgmental question. If the Congress
7 were to adopt this and the President were to agree to this
8 in some fashion, presumably he would be willing to at least
9 make the case. Whether in fact it could be maintained, and
10 whether we would ultimately be subject to some sort of
11 retaliation would be dependent on the outcome of that
12 defense in GATT.

13 Senator Dole. Well, we have an energy problem, and
14 that has some relationship to our national security, and it
15 seems to me we could dependent on Brazilian alcohol just as
16 we are on OPEC oil, plus, we have all sorts of programs,
17 maybe too many, already geared up on gasohol, domestic
18 programs, loan guarantees, grants, the elimination of the
19 tax up to the year, what, 1990? I can't remember what we
20 finally agreed on.

21 I just raise that as maybe something that wouldn't be
22 controversial on the floor, as I am fearful that second item
23 might be. But what happens if it violates GATT? When would
24 we find that out? In about ten years?

25 (General laughter.)

1 Mr. Foster. Well, it could be that long. What would
2 happen is, the Brazilians would have to raise the matter in
3 GATT, presumably a factfinding panel would be formed, and
4 they would issue a decision, and ultimately before Brazil
5 could take retaliatory action, the contracting parties would
6 have to agree that there was a violation and retaliation was
7 appropriate.

8 Under the amendments to the GATT made in the
9 Multilateral Trade Negotiation, this process has been
10 speeded up, so where in the past it took years, literally,
11 for some decisions, presumably it wouldn't take quite that
12 long, but there are ways to delay the decision. But it
13 would become an issue of contention between the United
14 States and Brazil, and quite possibly could become a GATT
15 case.

16 It would be, in effect, the option of Brazil to take it
17 to GATT.

18 Senator Dole. I am not certain, and I should have the
19 facts, but there is some indication they may subsidize their
20 exports now of alcohol, ethanol.

21 Mr. Foster. If there is a subsidization involved, of
22 course, the countervailing duty laws offer a remedy right
23 now where if that alcohol is being subsidized, and is
24 causing material injury, the domestic industry affected can
25 bring a case under the countervailing duty law, and if they

1 prove their case, offsetting duties, duties to offset the
2 subsidies could be imposed.

3 Senator Dole. Would it be appropriate to offer this as
4 a substitute for the employer payment of employee payroll
5 tax?

6 Mr. Foster. I would assume the procedure you are
7 working under is that if you are starting from this list and
8 you want to substitute, that you have to reach the \$4.2
9 billion, and if you want to take one out and want to
10 substitute something, it is a procedure the Committee may
11 want to --

12 Senator Dole. It is the same amount, \$100 million.

13 The Chairman. Yes, sir?

14 Senator Bentsen. I would like to speak for a moment on
15 the FICA II point. The State of Texas has been picking up
16 that particular payment, and what this would mean, if you
17 put it in effect, it would mean that we have 165,000 state
18 employees who would be taking a pay cut under this kind of
19 approach, and our legislature will not be back into session
20 until next year, and it operates on a biennium basis.

21 So, even then they would be talking about September,
22 1981, for anything to be done, so it poses a real problem
23 for us, and if the Committee deems it fit to go ahead on
24 FICA II, I would urge very strongly that we have some kind
25 of a transition rule.

1 The Chairman. Well, let me just make a suggestion. It
2 is all right with me to agree with what Senator Dole was
3 suggesting, but might I suggest that we just put a
4 grandfather rule here, so that at least we hold this thing
5 where it is, so we say that with regard to all taxpayers,
6 including the state, just whoever, with regard to all
7 taxpayers who are presently using this approach, that they
8 can continue to have the benefit of it, but that it does not
9 apply to anyone else.

10 In other words, it is the grandfather right. Just
11 grandfather those that are doing it, for a time. Nothing is
12 permanent in tax law. I mean, nothing is permanent. You
13 can always change it. What is your thought, Mr. Sunley?

14 Mr. Sunley. Mr. Chairman, my question is, are you
15 grandfathering the employer or the employee? So if the Stat
16 of Texas hires a new employee, you treat them one way, where
17 existing employees are different?

18 Mr. Shapiro. What Senator Long is saying is that if
19 you would agree to the Senator Dole proposal, substitute it,
20 to at least keep this in so that new people can't come in

21 Mr. Sunely. I understand, but is that --

22 Mr. Shapiro. He is talking about new employers, as far
23 as the future is concerned.

24 Mr. Sunley. New employees in the State of Texas would
25 be subject to the new rule?

1 The Chairman. No, I am talking about the employer. The
2 employers that are doing it --

3 Mr. Sunley. The employers. You are grandfathering the
4 employers?

5 The Chairman. That's right. That way it wouldn't
6 create any problems for the State of Texas. All I am
7 saying is, this loophole is going to keep getting bigger and
8 bigger, and at least you hold it where it is, if you could
9 get that agreed to.

10 Senator Nelson. Mr. Chairman, I can understand the
11 Texas problem. But I would think a whole class of employers
12 will make that adjustment in a few years. I think it is
13 very bad policy to put into law that some employer who has
14 taken advantage of the proposition when it has never been
15 acted into law in the first place, I think it is bad here
16 and it is bad in principle. I don't think we ought to treat
17 that as law, as long as we have got something that we give
18 public employer, county or state, a year, whatever, to make
19 the adjustment, then it would apply to all employers right
20 away, because this loophole would be gone.

21 Senator Bentsen. Or, say, Mr. Chairman, as I
22 understand it, it may be, and I am not sure of the law on
23 this, that we will choose to go a constitutional amendment
24 route in the state, and I would agree with Senator Nelson
25 that there ought to be some termination date on that kind of

1 an exemption, but I would certainly hope that it would be
2 somewhat longer than that. We are talking about two or
3 three years, to give us time to go through the
4 constitutional amendment process if we have to.

5 The Chairman. Well, why don't you just say that the
6 State of Texas can continue this matter for four years? I
7 mean, we aren't trying to zero in on Texas. Basically, we
8 would just like to get the genie inside the bottle. That's
9 all.

10 Senator Bentsen. I think it ought to have a
11 termination date.

12 Senator Chaffee. Mr. Chairman?

13 The Chairman. Senator Chaffee.

14 Senator Chaffee. I don't know the situation in Texas,
15 but I would be amazed if in every state there isn't a
16 capability of the governor calling the legislature back. If
17 it is a constitutional matter, that is something different,
18 I don't know, but I have trouble seeing why we should have
19 exceptions to one state. It is odd that the private
20 employers can do it but the public employer doesn't do it.

21 I have trouble following that, and I just can't believe
22 that if -- as I say, unless it is in the constitution of
23 Texas, and it seems an odd thing to have in the Constitution.

24 Senator Bentsen. No, Senator, I don't think it is in
25 the Constitution, but as a former Governor, I am kind of

1 surprised that you are eager about calling the legislature
2 back in session.

3 (General laughter.)

4 Senator Chaffee. Well, if the Governor feels strongly
5 enough about his people getting a pay cut, he will get them
6 back, and they can have limited sessions. The happiest day
7 of the year was when the legislature went home. I will
8 admit that.

9 Senator Bentsen. I understand that, but I would urge
10 that we be allowed to continue and give us time to go
11 through the normal process of changing our situation down
12 there, and that we have three or four years, and I believe,
13 just like Senator Nelson, you have to have a termination on
14 the exemption.

15 The Chairman. Yes, sir.

16 Senator Dole. How much would it cost if you would also
17 exclude anyone with 25 employees or less in the private
18 sector?

19 Mr. Shapiro. We are not quite sure of an estimate at
20 that stage right now. The problem we are having right now
21 is that this is a growing loophole, meaning it is not very
22 large yet, but there have been some articles recently --

23 Senator Dole. Well, hasn't it been there for 40 years?

24 Mr. Shapiro. Well, it is just that what has happened
25 right now is that it hasn't been used extensively, and in

1 some of the tax journals there have been these notes talking
2 about a gimmick as the way to reduce your costs, and people
3 are starting to use this, so it is just starting to grow and
4 grow, and in a couple of years you will find it will be -- I
5 mean, where it says \$100 million now, and it is not quite
6 \$100 million, it may be several billion if it grows out of
7 proportion several years down the road.

8 The Chairman. It's just like having one hole in the
9 net. All the fish will swim through it if you give them
10 time to do it.

11 (General laughter.)

12 The Chairman. So, really, it is a loophole we ought to
13 close. Now, how much will it cost if everybody does this?

14 Mr. Stern. It had been estimated when you took this up
15 in connection with a disability bill that if every employer
16 did it it would result in \$6 billion worth of loss to the
17 trust fund.

18 The Chairman. Well, so it costs \$6 billion if you
19 don't repair the net. So, you have to find \$6 billion more
20 in taxes to put on somebody, and frankly, my view about this
21 is, the only people who are really screaming are these tax
22 people down there in South Carolina who've got the firm out
23 there trying to say, pay us a figure and we will show you
24 how to deduct taxes.

25 We don't have any firm like that in Louisiana. I don't

1 have any constituents to contend with along that line,
2 because it is easy enough for me to vote, to say, well, let
3 me close the tax loophole before I do have a constituent to
4 argue with about this matter.

5 (General laughter.)

6 The Chairman. I think we ought to just close it, but
7 it is all right with me to have a grandfather right, but for
8 anybody that is adversely affected, well, if Texas is
9 adversely affected, give them four years. It is all right
10 with me to say that anybody else who has been doing it prior
11 to this time could have some time. If it is a public
12 employer, give them four years. If it is a private
13 employer, why, give them some time, but basically, we ought
14 to close the loophole.

15 Senator Dole. But if you give them time, you don't
16 pick up any revenue, do you?

17 Mr. Shapiro. Well, if you are only talking about the
18 State of Texas, for example, and that is the only one that
19 we know, a public employer, that is involved, that would not
20 affect the revenue significantly. If you gave everybody
21 time, then you would lose this \$100 million.

22 Senator Dole. We are going to get \$100 million by not
23 giving Brazil that incentive to produce alcohol.

24 Mr. Shapiro. We are checking that estimate right now.
25 Our estimate is lower than that, and the staffs are

1 discussing how the estimates were calculated.

2 The Chairman. Well, it is all right with me to
3 consider the Dole proposal on its merits, and maybe we ought
4 to do that anyway, but my thought is that here is a
5 loophole. It is a potential \$6 billion loophole. And it is
6 our job to close these loopholes, and we ought to just close
7 it.

8 Now, as a Committee, we measured up to the challenge.
9 We took it out there, and they did a selling job on us and
10 said, oh, this only affects the small business people, and
11 by the time they got through, what they sold us was a
12 fraud. So, by the time it got to conference, the Treasury
13 just said, well, look, if you can't do any better than that,
14 forget about it. Forget about it. It doesn't do any good
15 at all if that is what you are going to do. Just forget
16 about it.

17 Senator Danforth. Why does it take four years to close
18 a loophole instead of, say, one? All legislatures are
19 meeting next year.

20 Senator Bentsen. As I understand it, Senator, one of
21 the things being considered is the process of the state
22 moving in and picking up a share of the pension contribution
23 itself, but that requires a constitutional amendment to
24 accomplish it. I must say, I don't have all the details on
25 that point.

1 I do know that the House, as I understand it, the House
2 went along with this, did it not?

3 Mr. Shapiro. With what?

4 Senator Bentsen. The House provision was one that
5 allowed the State of Texas time to make the adjustment.

6 Mr. Shapiro. The House hasn't acted as yet on these
7 proposals.

8 Senator Bentsen. Well, I think they previously did on
9 this particular point, though.

10 Mr. Stern. The House had no comparable provision on
11 the disability bill. When the matter was discussed in
12 conference, Mr. Pickle, one of the House conferees, did
13 raise the question that if it were to be done, that he would
14 hope that some transitional provision would be put in for
15 Texas.

16 Senator Danforth. I think that transitional period is
17 way too long.

18 Senator Bentsen. Well, are we going to act on some of
19 these matters today, Mr. Chairman?

20 The Chairman. I hope to act on all of them. It is all
21 right with me to have a grace period for Texas. How long do
22 you think you need? If you need four years, it is all right
23 with me if you have four years.

24 Senator Bentsen. Well, I am trying to arrive at
25 something that is equitable in this, and I am trying to

1 answer the concern of Senator Danforth.

2 Senator Dole. To get a constitutional amendment, you
3 would have to wait until the next general election, I
4 suppose, which would be 1982.

5 The Chairman. Why don't we make it three years?

6 Senator Bentsen. All right. That is fine.

7 The Chairman. Without objection, it will be three
8 years.

9 Senator Chaffee. Well, Mr. Chairman, I don't want to
10 be an off force here, but we say to industry, private
11 business, you do these things immediately. We say to the
12 public sector, you've got a lot longer to do these things.
13 And I don't understand it. I think they ought to be able to
14 do it in a year.

15 The Chairman. Well, we have discussed it. All in
16 favor of saying that Texas has to do it in one year, raise
17 your hand.

18 (A show of hands.)

19 The Chairman. All right. Those that say they should
20 have three years, raise your hand.

21 Senator Bentsen. It is a big state.

22 (General laughter.)

23 (A show of hands.)

24 The Chairman. It seems to me that they get the three
25 years. All right?

1 (General laughter.)

2 Senator Dole. Now what happens to Strom Thurmond?

3 The Chairman. Well, he can complain.

4 (General laughter.)

5 Senator Bentsen. Mr. Chairman, I assume that is drawn
6 for any state, in case we find that another state has been
7 utilizing it.

8 The Chairman. Pardon?

9 Senator Bentsen. I assume this is drawn for any state
10 in case we find another state is utilizing that, and I would
11 say we ought to go ahead and include the State of Rhode
12 Island, in case that --

13 (General laughter.)

14 Senator Chaffee. They are not doing it. They haven't
15 woken up to it yet.

16 The Chairman. Any state that is doing it at this
17 point, then, without objection, we would --

18 Senator Nelson. Or municipality?

19 The Chairman. If they are doing it in any states or
20 municipalities, if they are doing it now, they can continue
21 to do it.

22 Senator Danforth. Mr. Chairman?

23 The Chairman. Yes, sir?

24 Senator Danforth. In the last three items on the staff
25 recommendation, now, the minimum tax, part of that would be

1 from individuals and part from corporations. Do you know
2 how much would be from individuals?

3 Mr. Shapiro. Yes, approximately \$200 million would be
4 for individuals and \$300 million for corporations.

5 Senator Danforth. All right. So that means a total on
6 this left of \$4.2 billion additional revenues for 1981, of
7 that amount, \$3.4 billion would come from corporations. Is
8 that right?

9 Mr. Shapiro. That is approximately correct, yes.

10 Senator Danforth. Now, granted, much of that is simply
11 an acceleration of payment, but the fact of the matter is,
12 as I understand it, that from this list of \$4.2 billion,
13 \$3.4 billion would come from corporations, meaning that
14 during FY 1981, Federal revenues would be increased by \$3.4
15 billion, which amount would come from corporations.

16 Now, Mr. Chairman, every economist in this country is
17 telling us that we are going to have to increase our
18 productivity, we are going to have to increase our
19 competitiveness, we are going to have to invest in new plant
20 and equipment. The Joint Economic Committee issued a report
21 saying that we have to pay more attention to the supply side
22 of economics, and yet we are now proposing to take \$3.4
23 billion away from the productive sector of our economy.

24 Now, I am always reluctant, Mr. Chairman, to beat a
25 dead horse, but I want to beat one again, and that is to say

1 that we would be producing approximately \$1 billion extra
2 revenue for 1981 if we would tax the state royalty receipts
3 from oil production. That is \$1 billion. It doesn't come
4 from individuals. It doesn't come from corporations. It
5 does not come from the productive sector of our economy. It
6 does not injure the economy at a time when it is severely
7 crippled by growing unemployment and by unacceptable rates
8 of inflation.

9 It comes from the public sector, the bloated sector of
10 our economy, government, and therefore, Mr. Chairman, just
11 for one year, only for one year -- I will be as reasonable
12 as possible -- only for one year, I think that we should tax
13 the state royalty receipts.

14 The Chairman. All states?

15 Senator Danforth. All states.

16 Senator Wallop. Mr. Chairman?

17 The Chairman. Senator Wallop?

18 Senator Wallop. You know, back in Wyoming, when a
19 horse is dead, we take little delight in shooting it again
20 and again and again.

21 (General laughter.)

22 Senator Wallop. I think we laid to rest that issue on
23 the basis of constitutional requirements.

24 Senator Danforth. Oh, no.

25 Senator Wallop. Well, I think most people would agree

1 with me.

2 Senator Danforth. It is based on political
3 requirements.

4 Senator Wallop. No, I don't think it is. The plain
5 fact is that in the same moment when you are suggesting
6 that, this same government and this same Administration and
7 some people on both sides of the aisle helping it have seen
8 fit to reduce the in lieu of taxes payments which those
9 public land states have perceived to take into account the
10 fact that we have fewer acreages to tax of our own, and we
11 have to support a good deal of the Federal Government's
12 acreages, and buy police support, fire support, roads across
13 them, and do all of those things.

14 At the same time, you have seen fit to make proposals
15 through this Congress to limit our ability to levy severance
16 taxes to try to pay for the impact the rest of you create by
17 your need for our energy. At the same time, you have seen
18 fit in issue after issue to lower the ability of those
19 states to confront the issues which are there, and they are
20 real issues, and they are there as service to the rest of
21 the country.

22 I think also we had a fairly long and articulate debate
23 -- the Chairman conducted most of it -- about the
24 constitutional issue there, and I think it was clearly
25 settled in most people's minds that in a Federal republic,

1 that units of government do not tax other units of
2 government. They never have, and it is a darn poor time to
3 start it.

4 Senator Packwood. Mr. Chairman?

5 The Chairman. Senator Packwood?

6 Senator Packwood. I voted against Senator Danforth on
7 this proposal, but I am not sure we ever joined the
8 constitutional issue, and I am not sure we can. I think it
9 is sufficiently controverted that it would go -- it would go
10 to the court if we passed it, and I don't know where the
11 court would come out on it. I think Jack was more accurate
12 when he said it wasn't a constitutional loss, it was a
13 political loss, when he offered it, and he got thrashed
14 rather soundly.

15 I think the question really is whether the horse was
16 shot, in which case it is dead, or whether it had a heart
17 attack and might be revived.

18 Senator Wallop. Well, I haven't sent for first aide.

19 The Chairman. Well, why don't we call the roll on it,
20 and let the absentees record themselves.

21 Senator Danforth. Mr. Chairman, if I could just make
22 one brief comment, the question is how we are going to find
23 this \$4.2 billion, and the question is, who is it going to
24 come from? It is either going to come from individuals or
25 from corporations or both. Or part of it is going to come

1 from a small number of states who are extremely well off
2 economically -- I mean, extremely well off economically. A
3 small number of states who are going to have their revenues
4 doubled or more than doubled, given the most modest
5 projection of what is going to happen to world oil prices
6 over the next ten years.

7 Mr. Stern. Senator Danforth, which was the year that
8 this would be effective?

9 Senator Danforth. 1981.

10 Mr. Stern. Calendar year 1980, payments made in 1981,
11 or what?

12 Senator Danforth. I don't know. I haven't thought it
13 out. My judgment was to write it to meet the needs of the
14 budget.

15 Mr. Stern. Mr. Talmadge?

16 (No response.)

17 Mr. Stern. Mr. Ribicoff?

18 (No response,.)

19 Mr. Stern. Mr. Byrd?

20 The Chairman. No.

21 Mr. Stern. Mr. Nelson?

22 Senator Nelson. Aye.

23 Mr. Stern. Mr. Gravel?

24 (No response.)

25 Mr. Stern. Mr. Bentsen?

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

1 Mr. Stern. Mr. Durenberger?

2 Senator Durenberger. Aye.

3 Mr. Stern. Mr. Chairman?

4 The Chairman. No.

5 (Pause.)

6 The Chairman. The ayes are four, and the noes are
7 seven, and the absentees will be permitted to record
8 themselves.

9 Now, shall we proceed to vote on the rest of this
10 thing?

11 Senator Dole. Can we agree on my little amendment, or
12 my proposal on the taxation of gasohol produced from foreign
13 alcohol?

14 The Chairman. It is all right with me to add it. I
15 have no objection to adding it.

16 Senator Chaffee. Do I understand, Mr. Chairman, that
17 increases the revenue. That has nothing directly to deal
18 with the tax employer payment of employee payroll tax. It
19 is just a new source of revenue. Is that right?

20 Senator Dole. A loophole. I am proposing a loophole.

21 Senator Wallop. Mr. Chairman, before we get into that,
22 let me just bring one thing in front of the Committee. If
23 we went to immediate decontrol right now we would raise \$15
24 billion to \$16 billion. The decontrol is going forward now
25 at a rate of about 4.6 percent a month, and there is

1 absolutely no reason why we couldn't structure the rate of
2 decontrol to achieve \$4.2 billion this year, and do
3 something for the country in terms of greater incentive to
4 production, and leave this money, as Senator Danforth
5 suggested, we are trying to take out of corporations and
6 individuals, in the hands of those corporations and
7 individuals.

8 There is no reason we couldn't structure that thing to
9 achieve \$4.2 billion or the whole thing, if you wanted to,
10 by accelerating the rate of decontrol.

11 Mr. Shapiro. Senator Wallop, you would probably have
12 to do that on the Senate floor, because the budget structure
13 in the Committee is to do something within your
14 jurisdiction, and price controls are not within finance.

15 Mr. Stern. We should caution you, though, that there
16 is a germaneness rule on a reconciliation bill, so that if
17 there is nothing directly related to this matter in what the
18 Energy Committee puts in its portion, it wouldn't be germane
19 to offer an amendment to this extent.

20 Senator Wallop. So the country remains frustrated by
21 the inability of the Congress to make a sensible decision,
22 and so we have to tax and increase inflation and decrease
23 the rate of productivity in the country. That is insane.

24 The Chairman. The President has the power to do
25 something about it, if he wants to do it, and furthermore,

1 on some other legislation you could do it, Senator.

2 Senator Wallop. I am just trying to avoid levying a
3 bunch of taxes on an economy that I don't think can stand
4 it, Mr. Chairman. My goodness sakes, there are automobile
5 dealers and home builders and farmers and people going out
6 of business all across the country every day, and we sit
7 here and won't make a decision because there is some kind of
8 a germaneness rule. We ought to be able to even go to the
9 Budget Committee and ask for a way around it. This would be
10 of benefit to the country.

11 The Chairman. All we are talking about here is just a
12 speed up on mainly, most of this money would just come from
13 a speed up on people who owe the taxes.

14 Senator Wallop. It is hard to eat without that speed
15 up, though.

16 The Chairman. Pardon?

17 Senator Wallop. It is hard to eat without that speed
18 up. I mean, somebody is going to be without it. And the
19 government is going to be with it. And we could supply that
20 money.

21 The Chairman. Well, I would not be at all surprised to
22 see that this Administration or the successor to this
23 Administration, whoever, come in here within the next nine
24 months or the next six months and ask us to turn the thing
25 around and to ease up on taxes, cut taxes rather than raise

1 taxes, but we are mandated to come in here and bring in some
2 money.

3 Yes, sir?

4 Senator Danforth. Mr. Chairman, let me ask you if
5 exactly the same thing that Senator Wallop proposes could
6 not be achieved solely within the province of the Finance
7 Committee by imposing a tax equal to the difference between
8 the controlled price of oil and the world price of oil, and
9 by providing a refundable tax credit to the producer equal
10 to what he would be able to keep had there been decontrol
11 and the windfall profits tax element were subject to the
12 windfall tax.

13 Couldn't you simply by income taxation reconstruct
14 exactly the effect of the windfall tax from the standpoint
15 of both the producer and the Federal Government's proceeds?

16 Mr. Shapiro. You are describing a version of the COET,
17 the Crude Oil Equalization Tax, which is a way of raising
18 the price up to the world price, and then providing credits
19 back to the producers. Now, having credits is something
20 clearly within this Committee's jurisdiction, without a
21 problem. When you get to refundable credits, then you've
22 got to go to the Appropriations Committee.

23 So, as far as imposing a tax to raise the price, that
24 does not present a problem. As far as having credits to
25 producers, that would not present a problem. Your

1 refundable portion of it just would add a question -- you
2 may not even have to make it refundable, because today they
3 are making the income, they are paying the windfall profit
4 tax, they are paying income taxes. It may be that you may
5 not want to make it refundable, just make it a credit
6 available to producers, a credit paid from either their
7 income tax or their windfall tax.

8 Senator Danforth. All right. Then if we were to just
9 simply make it a credit, couldn't we reconstruct exactly
10 what Senator Wallop was talking about?

11 Mr. Shapiro. You could.

12 Senator Danforth. Do we know how much revenue that
13 would raise, Jim? This could be done to raise \$4.2 billion,
14 couldn't it?

15 Mr. Shapiro. What you could do is decide how much you
16 want to raise, and it could be designed accordingly. Now,
17 the \$4.2 billion, I don't know.

18 Mr. Wetzler. I think if there were immediate
19 decontrol, you would probably get another \$6 billion or \$7
20 billion in windfall profit tax receipts, plus some more
21 corporate income tax receipts.

22 Senator Wallop. There are \$15 billion to \$16 billion
23 if it went through immediate decontrol.

24 Senator Danforth. Why don't we do that? Then we could
25 solve all of our problems. I am serious. That is exactly

1. what Senator Wallop proposed. It provides greater
2. incentives for production, increases our revenues, and is
3. solely within the province of the Finance Committee.

4. The Chairman. Mr. Sunley?

5. Mr. Sunley. Mr. Chairman, I think there is at least
6. one significant difference from what Senator Wallop
7. proposed. If you immediately decontrol, then to the extent
8. that domestic oil prices go up as a result of full
9. decontrol, consumers have to pay that price, whereas under
10. the proposal as I understand it from Senator Danforth the
11. credit is really paid out of general revenues.

12. So the consumers and users of oil are not paying the
13. higher prices due to decontrol. Instead, we are paying it
14. out of general revenues by providing a credit equal to the
15. increase in gross revenues that producers would have
16. received if we had decontrolled.

17. Senator Danforth. Well, although the price of oil
18. would be increased to the world price, would it not?

19. Mr. Sunley. No, I don't believe it is, because the
20. producer is getting part of his proceeds from the Federal
21. Government in the form of a credit. The price paid by
22. consumers would still be the controlled price. You are
23. leaving the producers the same as where they would have been
24. if you decontrolled, but you are leaving consumers better
25. off, so all the conservation benefits that we would normally

1 expect from decontrol, I don't believe you are getting,
2 because you really haven't raised the price to consumers.

3 Senator Wallop. If we were to do that, there would be
4 nothing to prevent the rest of it from taking place on the
5 floor, to give the opportunity for the conservation measures
6 as well.

7 The Chairman. You can't amend this thing out on the
8 floor. Whatever comes out here, it can't be amended -- When
9 this thing goes out there, you've got to blow it up or down,
10 the way it goes. Isn't that right?

11 Mr. Stern. As a practical matter, that is correct.
12 The germaneness requirement is a very tight one in the
13 Senate, and about the only thing that one can do is change,
14 modify a provision that is already in the bill as reported,
15 change a number or modify a provision in some way, or
16 perhaps to strike a provision.

17 Mr. Shapiro. I should point out, too Mr. Chairman,
18 that the way the procedure technically works is that you are
19 making recommendations to the Budget Committee, and you are
20 actually doing it by way of a bill and a report, but your
21 report and bill will go to the Budget Committee. They have
22 the right to ignore what you send over.

23 Mr. Stern. Not true. Not true. They have to put it
24 together. They perform a ministerial function on it. The
25 Budget Act just allows them to put it together. They can't

1 ignore your recommendations.

2 Mr. Shapiro. Well, we had the impression on the House
3 side -- maybe the Budget Committees work differently, but
4 the suggestion we have is that if the Committee just doesn't
5 report it, they can fill it up or they can modify it.

6 The Chairman. You fellows check that out, because Mike
7 Stern is under the impression that at the time we send it
8 over there, that they've got to put this in there.

9 Mr. Stern. Yes, that is correct.

10 Senator Danforth. Mr. Chairman, I wonder if Mr.
11 Shapiro could trace through for us under this kind of steam
12 exactly what would happen. The credit that would be
13 received, the amount of the credit that would be received by
14 the producer would not be the entire difference between the
15 world price and the controlled price. Rather, it would be
16 equal to the amount by which, had there been what is going
17 to happen in a year anyhow, what would have been kept by the
18 producer after the windfall tax would be paid.

19 The refiner would pay the additional tax, and would
20 pass that tax on to the consumer, so the consumer would be
21 paying more. It would seem to me that it would be precisely
22 the same result as would exist if there were decontrol. It
23 would simply accelerate that date, and all the tax
24 consequences flowing from it.

25 Mr. Shapiro. It clearly can be designed in that

1 fashion.

2 Senator Danforth. Well, Mr. Chairman, why don't we do
3 that?

4 The Chairman. Well, I guess I don't think that we can
5 sell it. Now, mind you, I am for the decontrol, and I am
6 happy to say I come from a state where the majority of
7 people are for the decontrol, so it doesn't give me any
8 problem in that respect, but I don't think we can sell that
9 to the Senate. I think that the same reasons that caused
10 the Senate to vote down the crude oil equalization tax and
11 the same logic that caused the Senate to vote against the
12 ten-cent add-on fee would cause the Senate to vote against a
13 rapid speed up in the decontrol, which would have to mean an
14 increase at the pump, I would assume. Isn't that right, Mr.
15 Wetzler? That if you have immediate decontrol, that would
16 push up the price at the pump?

17 Mr. Wetzler. Yes. There is some dispute about just
18 exactly the effect -- how successful the controls are in
19 holding down the price to consumers, but there would
20 probably be some increase at the pump, at least in the short
21 run, if you decontrol. But the price is going up there by
22 September, 1981, anyway.

23 Senator Chaffee. Mr. Chairman, I think also you've got
24 to think about the home heating oil situation. It would
25 force up the price of that, would it not? I have been for

1 decontrol in the past, and have voted for it. Unhappily, I
2 am from a state that does not favor decontrol as
3 enthusiastically as Louisiana does, apparently, but there is
4 a time and place for everything, and I am not sure at this
5 particular time I am for this measure here, which would
6 increase the price of fuel oil to the consumer, thus having
7 an effect on the inflation rate, would it not?

8 Mr. Shapiro. It would, to the extent that you increase
9 the prices by providing a crude oil equalization type tax,
10 it would have the effect of raising the prices, which would
11 affect fuel oil.

12 Senator Heinz. Mr. Chairman, just to explore Senator
13 Danforth's proposal further with the staff, as I understand
14 it, economists who look at energy prices are split on the
15 question of whether prices that consumers pay, whether it is
16 John Chaffee or my consumers of heating oil in Rhode Island
17 or Pennsylvania, are already paying the world market price
18 or not because many economists will argue that it is the
19 cost of the last barrel oil, which is the imported barrel,
20 the most expensive barrel, which sets marginal prices, no
21 matter what you think you are doing with controls,
22 notwithstanding, therefore, the entitlements program, that
23 you just can't keep the cork in the bottle.

24 What is the staff's judgment on that argument? Because
25 if the argument of the economists is right, then somebody is

1 making a profit that hasn't been taxed, notwithstanding all
2 our windfall profit tax, then Senator Danforth's proposal
3 has some logic to it. If the economists in your judgment
4 are wrong, then Senator Chaffee's point, it seems to me, has
5 validity.

6 Mr. Wetzler. Well, Senator, we have looked at this
7 question in some detail over the last several years we have
8 been working on oil pricing, and I think our judgment is
9 that the argument you make is partly true, that --

10 Senator Heinz. Which argument?

11 Mr. Wetzler. The question is, to what extent are the
12 price controls on crude oil really holding down prices of
13 end products like heating oil and gasoline to consumers.
14 Basically, the argument -- you know, they hold down the
15 price of crude oil, but the controls have caused so many
16 other problems that are being reflected in higher consumer
17 prices in terms of refining capacity and gasoline marketing
18 that it is open to question just how much they really have
19 been benefitting consumers.

20 I think our judgment is that consumers are getting some
21 benefit from the price controls, but not nearly as much as
22 the producers are losing in terms of lowered crude oil
23 prices that they are receiving.

24 Senator Heinz. What would you guess, that consumers
25 maybe are getting 30 percent of the benefit of a possible

1 100 percent? I mean, can you put some general number
2 roughly, not to be taken literally, but just
3 proportionately, on it? Say, that 30 percent is being
4 passed along, 70 percent is being passed on?

5 Mr. Wetzler. I would say somewhere probably between 30
6 and 70. I would hesitate to try to quantify it.

7 I think you can say if the controls were continued,
8 let's say, to 1985, you can probably argue that by that
9 time, consumers wouldn't be getting very much, if any,
10 benefit from them, because the problems multiply if the
11 controls stay on for longer periods.

12 Senator Heinz. Is there a particular reason that you
13 say that by 1985, there wouldn't be much benefit? I mean,
14 what is the magic about four and a half years?

15 We have had controls for 15 years.

16 Mr. Wetzler. Fifteen years, because they have been on
17 since 1971. I would hesitate to quantify any of these
18 things. It is just a rough impression.

19 Senator Heinz. My impression would be that if what you
20 say is happening is happening, and it is sensitive to time,
21 that an extra four years won't make a lot of difference,
22 because since 1973, when we passed the Petroleum Allocation
23 Act, I would guess that whatever is going to happen will
24 probably happen.

25 Mr. Wetzler. One of the serious problems with controls

1 has been, they have created some rather unfortunate
2 incentives in the refining industry, encouraging small
3 refiners who can't refine gasoline and discouraging big
4 refiners from building new refining capacity to make
5 products like unleaded gasoline, and these problems, you
6 know, you can't correct.

7 If you eliminated the controls, let's say, on gasoline
8 immediately, it would still take some time to build the
9 refining capacity, so you would probably have -- you know,
10 you wouldn't get the benefits of the additional refining
11 capacity for a period of years.

12 Now, when I say four years, I am really just guessing.

13 Senator Heinz. Mr. Chairman, Senator Danforth's
14 proposal has some interesting appeal for me, particularly if
15 it is true that it isn't really going to be something that
16 our Senator Chaffee's and my heating oil customers are going
17 to bear the brunt of. Thank you.

18 The Chairman. Are you for it or against it?

19 Senator Heinz. I stand on my statement.

20 (General laughter.)

21 Senator Durgenberger. Mr. Chairman, I find this
22 discussion very interesting, but with all due respect to you
23 and Senator Boren, who have been here for the last hour and
24 45 minutes, I find it a little incongruous that all the
25 Republican members are here arguing for decontrolling oil

1 prices, increasing gas and home heating oil prices, and
2 increasing taxes generally, and I would like for us to get
3 back to this list, as I am sure you would, and vote up or
4 down on some of these proposals that are before us.

5 Senator Chaffee. And don't have all the Republicans on
6 that side of increasing home heating oil.

7 Mr. Stern. Mr. Chairman, on the question of the role
8 of the Budget Committee, what the Budget Act specifies is
9 that when the Committees make their recommendations to the
10 Budget Committee, it says, "Each Budget Committee shall
11 report to its House a reconciliation bill or resolution or
12 both carrying out all such recommendations without any
13 substantive revision."

14 So, it is simply a matter of changing section numbers
15 of whatever is involved to put it into the appropriate bill
16 form, but they would simply take the Finance Committee's
17 suggestions as they come out.

18 The Chairman. Well, if you want to vote on the
19 proposed decontrol -- Let me just say this. I have got no
20 deep conviction against speeding up the decontrol. It seems
21 to me that is one way -- I think it makes a lot of sense.
22 If the Administration would go along with us on it, I think
23 that is one way to raise some money.

24 Mr. Sunley?

25 Mr. Sunley. Let me try again, because maybe I did not

1 fully understand Senator Danforth's proposal. Let me try by
2 an example, and then correct me if I am wrong.

3 Suppose that the controlled price of oil was \$15, and
4 the world price was \$32, and we had a 50 percent windfall
5 profits tax. I think we have some tier in some group that
6 has a 50 percent rate, if I recall.

7 You would propose, as I understand it, Senator
8 Danforth, that the effect of decontrol would be to increase
9 the gross income of the producer by \$17, and if that \$17 was
10 taxed at 50 percent, he would have net \$8.50 left, so he
11 would get a tax credit for \$8.50. He doesn't really have to
12 pay the windfall profits tax, but he gets a credit, which
13 would give him what he would have in terms of his after-tax
14 proceeds due to decontrol plus the windfall profits tax.

15 So, therefore, the producer sells his oil for \$15. It
16 is still controlled. He gets \$8.50 net from the government,
17 but the first purchaser has paid \$15, and I assume that that
18 is the \$15 which gets used in the entitlement system in
19 terms of settling up the price of oil and everything else,
20 so that nothing from "decontrol" is going beyond the
21 producer. I do not see how it does show up in higher prices
22 of home heating oil.

23 Now, maybe there is something I am missing, because I
24 think you have a very ingenuous proposal to leave the
25 producer where he would be if we had decontrol and made the

1 increase in income due to decontrol subject to the windfall
2 profits tax. What I don't see is how we leave the consumer
3 in the same place, because instead of having customers pay
4 the higher oil prices, this credit is coming out of general
5 revenue. It is an offset against the windfall profits tax
6 or the income tax that would otherwise be paid.

7 So, I may be not understanding your proposal. I think
8 it is very ingenuous, and I think it ought to be studied. I
9 would like at least a little time to figure out how this
10 thing works through the entitlements system. I don't think
11 that has been addressed. It seems to me that the price in
12 my example, for purposes of the entitlement system, in
13 settling up and sort of equalizing refiner acquisition costs
14 would be the \$15 control price, in my example.

15 But maybe I am not doing your proposal justice. I
16 think it is one that really ought to be looked at. I am
17 afraid I can't do it just sitting here.

18 Senator Danforth. Well, it is my understanding that
19 this could be fashioned in such a way as to exactly
20 duplicate the effect of decontrol.

21 Mr. Wetzler. Senator Danforth, you couldn't exactly
22 duplicate it, because there is this knotty problem of the
23 state severance tax, where if you decontrolled and the price
24 went up, the states would collect some severance tax. Under
25 your proposal, in effect, you would be dividing that

1 severance tax take up between a crude oil equalization tax
2 that goes to the Federal Government and an income tax credit
3 that goes to the producers.

4 I suppose from your standpoint that is an advantage of
5 the proposal, but it is a different thing.

6 Senator Wallop. Mr. Chairman, I would just say once
7 again that one of the things that we would seek to do by
8 such a proposal is to avoid establishing a new tax such as
9 is on these lists, and simply provide the money out of the
10 productive genius of America.

11 Mr. Danforth. Mr. Chairman, Missouri produces hardly a
12 barrel of oil, and here I am surrounded by these very able
13 Senators from oil producing states, and I have just floated
14 an idea. Senator Wallop thinks it is a good one, but I
15 don't see too much support for it.

16 Senator Boren. Mr. Chairman, I am a little mystified
17 by it. I have been listening to it, and I think your
18 proposal will reduce revenues to the government. If no one
19 pays any more for the oil, you know, if the consumer doesn't
20 pay any more, the first purchaser doesn't pay any more, and
21 we go around and give a credit for what they would have
22 gotten if the decontrolled price would have been, so we give
23 them an \$8.50 barrel credit, and the general revenue gives
24 that to the producer, and no one pays any more for the oil,
25 Mr. Chairman, I am a little mystified by how that is going

1 to increase revenues.

2 I just don't see how you are going to have decontrol
3 and no one paying more for it.

4 Senator Wallop. Those costs are already in there, in
5 the entitlements program, where people -- you know, one
6 refinery will have to buy \$50 million in entitlements in
7 order to refine the crude they have. And that money is
8 there. That is paid out. That is why Senator Heinz's
9 question is relevant.

10 Senator Boren. It is bound to go on to the consumer
11 then. There is no way that that doesn't filter on. There
12 is just absolutely no way that you can have decontrol and --

13 Senator Wallop. It will be passed on to the consumer,
14 but it will accelerate the advantages of decontrol and
15 provide the money we are seeking without establishing a new
16 tax.

17 The Chairman. Well, let's call the roll on the
18 Danforth proposal.

19 Mr. Stern. Mr. Talmadge?

20 (No response.)

21 Mr. Stern. Mr. Ribicoff?

22 (No response.)

23 Mr. Stern. Mr. Byrd?

24 (No response.)

25 Mr. Stern. Mr. Nelson?

1 (No response.)

2 Mr. Stern. Mr. Gravel?

3 (No response.)

4 Mr. Stern. Mr. Bentsen?

5 (No response.)

6 Mr. Stern. Mr. Matsunaga?

7 (No response.)

8 Mr. Stern. Mr. Moynihan?

9 (No response.)

10 Mr. Stern. Mr. Baucus?

11 (No response.)

12 Mr. Stern. Mr. Boren?

13 Senator Boren. No.

14 Mr. Stern. Mr. Dole?

15 I don't know what it is.

16 (General laughter.)

17 Mr. Stern. Well, at this point I have described it as

18 in effect bringing about decontrol through tax mechanism. I

19 am not sure I know much more than that.

20 Senator Dole. I will vote for that.

21 (General laughter.)

22 Mr. Stern. Mr. Packwood?

23 (No response.)

24 Senator Danforth. Mr. Chairman, I think it is premature

25 to vote on it. Frankly, I hate to interrupt your vote, but

1 I have had precious little support for the notion, which was
2 floated without sufficient, I think, forethought, so I would
3 like to withdraw it.

4 The Chairman. All right. Senator Wallop, did you have
5 one in mind you wanted to offer? If you do, we will put it
6 to a vote.

7 Senator Heinz. I think we ought to have a lot of
8 people here, Mr. Chairman.

9 The Chairman. You've got a lot of people.

10 (General laughter.)

11 The Chairman. I mean, if I were you, I would -- It
12 seems to me that you ought to stop complaining. You've got
13 plenty of troops over there.

14 Senator Heinz. Mr. Chairman, don't you think that this
15 should be a bipartisan decision?

16 (General laughter.)

17 The Chairman. Well, what we lack in members, we make
18 up in quality.

19 (General laughter.)

20 Mr. Heinz. Mr. Chairman, there are so many brilliant,
21 articulate people, and it is true that they are certainly
22 well represented, but Mr. Talmadge, Mr. Ribicoff. Mr. Byrd,
23 Mr. Nelson, Mr. Bentsen, Mr. Baucus, Mr. Bradley, all of
24 whom I am sure would be interested in this subject, really
25 ought to have a chance to participate in the debate. Not

1 that you and Mr. Boren are not brilliant and articulate.

2 You certainly are.

3 Senator Wallop. Mr. Chairman, I would be happy to make
4 a motion that we instruct the staff to see if by tomorrow's
5 meeting we cannot achieve through some modified measure of
6 decontrol coupled with the existing windfall profits tax the
7 \$4.2 billion increased revenues that we are trying to put
8 together here.

9 Senator Dole. I've got a little plan here that will
10 raise \$4.3 billion.

11 The Chairman. Well, it looks like we are not going to
12 conclude all these matters today. We have a lot more work
13 to do.

14 Senator Dole. Could we take care of that little
15 gasohol thing before Treasury gets geared up any more?

16 (General laughter.)

17 The Chairman. Well, I would think that we ought to just
18 let it go with the rest of them, so we would know more about
19 it tomorrow. Why don't we meet here at 10:00 o'clock
20 tomorrow morning, then, and hope in the meanwhile we can all
21 better inform ourselves on what we are discussing.

22 (Whereupon, at 11:55 a.m., the Committee was adjourned,
23 to reconvene at 10:00 a.m. of the following day.)

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