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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

Washington, D. C.

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EXECUTIVE SESSION

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WEDNESDAY, JUNE 25, 1980

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

The Committee met, pursuant to notice, at 10:15 a.m., in Room 2221, Dirksen Senate Office Building, the Honorable Russell B. Long (Chairman of the Committee) presiding.

Present. Senators Long (presiding), Talmadge, Bentsen, Matsunaga, Baucus, Boren, Bradley, Dole, Packwood, Roth, Danforth, Wallop, Durenberger.

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The Chairman. Let me call the Committee together, please.

How much longer do we have to report on the budget reconciliation package?

Mr. Stern. The reconiliation package contains two parts. You have already transmitted to the Budget Committee the spending part of it, and hopefully you would be able to complete the tax part today, so that the staff could put together the language for report purposes and the bill to

1 transmit by next week, which is when it is required.

2 The Chairman. Do we need to act on this today in order
3 to get it done?

4 Mr. Stern. Well, that would give the staff the amount
5 of time that I think we need in order to have the bill and
6 report prepared.

7 The Chairman. Let me just suggestion that, now, this
8 can stand some fine tuning, if people want to do it, but let
9 me just suggest or propose something which I believe the
10 majority on this side of the aisle are willing to support.
11 Part of it starts out with the proposal that we have agreed
12 to by Mr. Wallop. That is the tax change on foreigners'
13 real estate, \$200 million, tax employer payment on employee
14 payroll tax, \$.1 billion, maintain telephone tax at 2
15 percent in 1981, \$.4 billion, cash management -- minimum tax
16 to estimated tax, that would be \$.5 billion, basic 80
17 percent rule to 85 percent in 1981 for large corporations,
18 that would raise \$.9 billion, require large corporations'
19 estimated tax to be 50 percent current in 1981, that would
20 raise \$2.2 billion, and that would give you \$4.2 billion.

21 Let me just suggest that as a package which would
22 fulfil our responsibility on the budget resolution, and the
23 discussions that I have had indicate that a majority on this
24 side of the aisle would be willing to go along with that,
25 and perhaps someone might want to amend it or make changes

1 in it.

2 Senator Talmadge. Mr. Chairman, may I ask a question?

3 The Chairman. Yes, sir.

4 Senator Talmadge. That seems to me to be a reasonable
5 package, but how are you going to subject minimum tax to an
6 estimated tax? For instance, how do you know you are going
7 to sell some real estate during this year or some stock that
8 is going to subject you to the minimum tax and then make an
9 estimate on that and pay it in advance before you make the
10 sale?

11 The Chairman. How would you do that, Mr. Wetzler?

12 Mr. Shapiro. That is the same way you have today when
13 you have income. You don't always know when you have the
14 appropriate income. Some people have a salary or income,
15 they know they are going to get so much each week or each
16 month. Others have lump sum payments. Others sell capital
17 assets and receive capital gains, and they make those
18 adjustments in the quarterly installment as they receive the
19 income, and the minimum tax would be on the same basis,
20 meaning that to the extent they have it, they have to make
21 their projection.

22 Senator Talmadge. It would be related to installment
23 sales, then.

24 Mr. Shapiro. That's correct.

25 Senator Talmadge. I can understand that. Then they

1 know there is a fixed sum they are going to receive.

2 All right. You take a fellow that owns a farm in
3 Georgia, now. He might not have the slightest idea he is
4 going to sell that farm. He may sell it, and then he is
5 going to be subject to the minimum tax, but he had no idea
6 that he might make that transaction when he filed his
7 estimated tax return.

8 Mr. Shapiro. That's correct.

9 Senator Talmadge. That wouldn't be applicable in those
10 conditions.

11 Mr. Wetzler. Senator Talmadge, there is a rule under
12 the estimated tax where for your first payment which occurs
13 in April, you can base it on your income and deductions for
14 the first three months of the year, and so if you don't sell
15 your farm until the end of the year, you don't really have
16 any objection to make an estimate based on that until the
17 last payment in January.

18 Senator Talmadge. What I am asking is this. The
19 estimated tax would not be triggered until the sale is
20 made. Is that right?

21 Mr. Shapiro. That is correct.

22 Senator Talmadge. Fine. That is all I wanted to know.

23 Senator Packwood. Mr. Chairman?

24 The Chairman. Senator Packwood.

25 Senator Packwood. We had three minor revenue bills in

1 December, all of which had the reforestation provisions I
2 wanted in them, some stock option provisions. They were all
3 dependent for revenue on Senator Wallop's tax gains on
4 foreigners' real estate, and I think if we are going to move
5 that to the reconciliation package, we ought to move those
6 provisions of those bills to the package also.

7 Otherwise, they are all going to be subject to a point
8 of order, because you have taken the revenue out of them.

9 Mr. Stern. They wouldn't be subject to a point of
10 order until after a second budget resolution has been
11 adopted, and if that revenue total is sufficiently low that
12 you wouldn't be able to -- or I should say, if that revenue
13 total is sufficiently high that you wouldn't be able to have
14 any amendments that would lose you any revenue.

15 In other words, if you can bring it up before the
16 second resolution.

17 Senator Packwood. Let me ask you a second question.
18 If indeed there is no problem, why not move them with the
19 reconciliation package?

20 Mr. Stern. Well, I guess this just gets to the
21 question of what kind of legislation you want to include in
22 a reconciliation package. On the spending side, all you
23 included was spending cuts, not other kinds of legislation.
24 It is a fast track for legislation.

25 The Chairman. As far as I am concerned, whatever

1 revenue legislation we have passed is going to have your
2 proposal in there. In other words, that, I think, has a
3 priority claim, because it had overwhelming support, and we
4 have agreed to it a couple of times. It ought to be passed.

5 But you say, though, that this wouldn't apply until
6 when?

7 Mr. Stern. If it affects fiscal year 1980, I am sorry,
8 I just don't know how the revenue total stands against the
9 amount allowed in the fiscal 1980 resolution, but as far as
10 fiscal year 1981 is concerned, a point of order only lies
11 after the second budget resolution is adopted.

12 The Chairman. When is that likely to be?

13 Mr. Stern. Well, you have moved that date up to the
14 end of August, for this year. In the first budget
15 resolution, you have changed the date just as it applies to
16 this year, to the end of August.

17 The other thing, Senator, is that to the extent that
18 you offset revenue savings in the reconciliation package,
19 you would have to raise more revenue. In other words, you
20 have to come up with a net of \$4.2 billion.

21 Senator Packwood. All right. Let me ask you this. If
22 we are aiming to pass the second concurrent resolution --
23 What is the date, August 28th?

24 Mr. Stern. Yes, sir.

25 Senator Packwood. That means that any of these other

1 revenue bills that have the reforestation, stock option,
2 and other provisions in them are going to have to be passed
3 prior to that time?

4 Mr. Stern. That's right.

5 Senator Packwood. Okay.

6 Mr. Stern. And you may have to do something about the
7 effective date so that they don't affect fiscal year 1980.
8 I am not sure of that.

9 The Chairman. Senator Bentsen?

10 Senator Bentsen. Mr. Chairman, on the Wallop
11 amendment, which is part of this, it states, the Committee
12 chose to say it shall not apply to dispositions after
13 December 31st, 1979. For purposes of equity and
14 clarification, I would like that to include those that were
15 subjected to binding contracts prior to December 31st, 1979,
16 if there is no objection.

17 The Chairman. What does that do to the revenue
18 estimate if you do that?

19 Senator Bentsen. It does very, very little.

20 (Pause.)

21 Senator Dole. What was that date?

22 Senator Bentsen. The same date. You know, they say
23 disposition. I want to be sure that a binding contract
24 falls under that classification.

25 Mr. Shapiro. One of the suggestions -- Apparently the

1 binding contract rule would not cause a potential problem of
2 revenue with one exception that we can't get a handle on,
3 and that is that when the Committee made its decision, there
4 probably were not as many binding contracts, and that was
5 December 15th. After that date, and before the end of the
6 year, you may have had a number of situations where people
7 were trying to enter into transactions very quickly.

8 Now, I don't know of any cases, so I am not familiar
9 with any particular case, but if you went back to the date
10 that the Committee made its decision, which is December
11 15th, where no one was on notice, there would not be much of
12 a revenue loss. If you did it after December 15th, and we
13 are talking about a 16-day interval between the 15th and the
14 31st, and many transactions do occur near the end of the
15 year, but if it was done in order to try to change this
16 date, or done very quickly, there may be some revenue
17 implications.

18 We are not aware of the cases. It is just that there
19 is more of a potential for revenue factors.

20 Senator Bentsen. I have no objections to that, Mr.
21 Chairman, if that takes care of the revenue problem.

22 The Chairman. All right. Without objection that will
23 be done.

24 Mr. Dole, do you want to make a suggestion?

25 Senator Dole. Well, I wanted to raise the question for

1 myself and Senator Talmadge on the alcohol exemption, the
2 Brazilian exemption, and I think the staff has a memo
3 prepared on that. It would save, rounded off, about \$100
4 million. It is a matter of interest, I think, to a number
5 of people on this Committee. I know the Treasury wouldn't
6 support it, but that is not unprecedented, either.

7 Mr. Shapiro. What Senator Dole and Senator Talmadge
8 have discussed is to deny the gasohol credit for imported
9 alcohol. Under the present law, which was the provision
10 enacted in the windfall profits tax bill, a blend of gasohol
11 or automotive fuel and alcohol in which alcohol is at least
12 10 percent of the fuel, is exempt from the 4 cents gas tax.

13 There is a 4 cent gas tax across the board, but if you
14 have alcohol in it, there is an exemption, and at least 10
15 percent alcohol, and you do not pay that 4 cents excise tax.
16 The exemption extends through December 31st, 1992.

17 At the time that the Finance Committee originally
18 agreed to its proposal, it would not have applied it on
19 imported alcohol. The proposal was changed on the Senate
20 floor because of the concern about the industry, and they
21 were not as concerned about this particular feature.

22 Subsequent to the passage of the windfall bill, there
23 is a significant amount of alcohol that is coming in from
24 abroad, and as a result of that, there is concern that has
25 been renewed about the possibility of denying that exemption

1 because of the large amount of alcohol that is coming from
2 abroad.

3 The proposal is to deny the exemption, that is, the 4
4 cents gas tax exemption, to any of the gasoline, motor fuel,
5 and alcohol which is imported. The staff would like to
6 suggest an easy way to deal with it, and I think we may need
7 to have some advice from the tariff point of view, or the
8 trade point of view.

9 That is, instead of a 4 cents exemption to convert that
10 into a tariff at 40 cents, which is the same thing. The
11 reason for that is that if you have the imported alcohol
12 coming in and you don't really know whether it is imported
13 or not, the person who has to pay the tax, unless you put a
14 die in it of some sort to know that this alcohol is imported
15 and the other alcohol he is getting is not.

16 , So, once it comes into the country, and it goes back to
17 the United States, you have no way of making the distinction
18 without a lot of complexity. A suggestion that the staff is
19 making, and as I said, it is an administrative one, and I
20 would like to have the advice from Dave Foster with respect
21 to how it relates to MTN or other trade matters, is to
22 convert that into a 40 cents tariff, which means that when
23 it comes into the country, they immediately pay that tariff,
24 and therefore it is exempt down the road, but there is a
25 tariff on it immediately which suggests that you may want to

1 put that tariff into the highway trust fund so that the
2 moneys go right into it, and that would provide
3 administrative convenience.

4 I would need the guidance from Dave Foster as to
5 whether or not that would have any trade problems.

6 Mr. Foster. Mr. Chairman, the imposition of a 40 cent
7 tariff at the border would again be a violation of GATT in
8 that we have formally bound in our international obligations
9 that we would not raise this tariff. In fact, that is an
10 obligation that we have undertaken on most of our duties.

11 However, it would not put us in any more violation than
12 the other proposal, which was to deny the tax exemption to
13 imported alcohol. Both would be equally violative of GATT,
14 unless you could assert some national security defense in
15 the GATT. I think that many people think that a national
16 security defense would be somewhat tenuous, but if the
17 Congress decided it, the Administration would certainly
18 attempt it. They are just not very optimistic that they
19 would be able to succeed.

20 The Chairman. What do you mean a national security
21 exemption would be tenuous? For many years we had -- maybe
22 we still have it, but for many years we had the so-called
23 Defense Amendment in the trade law, and it said, any item
24 that is central to defense was something that we intended to
25 produce our requirements of it, and the President was

1 required to put quotas where necessary to do that.

2 So, we had quotas on all imports for many years. Now,
3 here is something where we are trying to build our
4 capability. We are not anywhere close to providing our
5 requirements for energy. So, we are trying to better our
6 capabilities to produce it. Why can't we assert the same
7 thing we asserted in the law for many years?

8 Mr. Foster. Well, I think, again, the STR would assert
9 in the GATT that it was a proper defense, but generally
10 speaking, the national security exemptions in GATT are
11 rather narrowly written, and even with our oil import quotas
12 and all, those could have been taken to the GATT, but
13 because those are very clearly defense related, other
14 contracting parties to the GATT have simply not chosen to
15 press the issue, and they have accepted that that is a
16 legitimate action by the United States.

17 There is some feeling that with respect to alcohol, the
18 production of ethanol, that that would not be as acceptable
19 an assertion by the United States, and that there would be a
20 challenge in the GATT.

21 Senator Dole. I think you could make a national
22 security argument, if in fact -- this has only been in
23 effect for a few months. Well, we had it, then we renewed
24 it in the windfall profits tax, but I serve on the Alcohol
25 Fields Commission. I think Senator Bayh has been in touch

1 with the Chairman. Not that we have all the expertise, but
2 we have been taking testimony which indicates that this is
3 going to be a disincentive as far as domestic production of
4 ethanol is concerned.

5 That does tie into our national security. You can make
6 a case that by providing this exemption to some foreign
7 producer, that we in effect have an impact on developing
8 more alternate sources of energy and we have had testimony
9 as recently as last week before the Alcohol Fields
10 Commission that this was in fact happening, and I wanted to
11 indicate Senator Bayh's interest to the Committee also.

12 The Chairman. Why don't you just put some language in
13 there, just go look at the old Defense Amendment, and take
14 some of the language out of that amendment that has to do
15 with defense, and just put it in there, that in order to
16 build a defense base and that type of thing, that we are
17 doing this. Just put some defense language in there so it
18 is clear that we are relying on the defense exception.

19 Doesn't the GATT permit that?

20 Mr. Foster. Well, again, the national security
21 exemptions in GATT are narrowly drawn, but if you put in
22 that language, I think you would be in your best possible
23 position in GATT, because that would be a clear recognition
24 that at least the Congress and the Administration felt that
25 way.

1 The Chairman. Meanwhile, if history is any guide to
2 what we will do in the future, meanwhile, while we are
3 arguing about the thing, we will find a better way to
4 achieve the same result.

5 Yes, sir, Mr. Sunley?

6 Mr. Sunley. Mr. Chairman, we have had considerable
7 discussion within the Administration on this pending
8 amendment, and I should tell you that the Special Trade
9 Representative is concerned about it, and it does seem that
10 either of the two approaches that your Committee staff has
11 outlined for you either violates Article III or Article II
12 of our GATT obligations.

13 It also seems to us that, you know, in the windfall
14 profits bill, you required the Administration, the Treasury
15 Department to study this problem on how to get around the
16 GATT problem, and gave us 180 days to look into it. I think
17 the Office of the Special Trade Representative would hope
18 that you would delay action until after that study is
19 completed.

20 The Chairman. Well, you used to have a man over there
21 who was a get it done man over there, running that. I am
22 not sure that you've still got that, but if you did, I would
23 think if Bob Strauss was still running that show, he would
24 find a way where he could accommodate you.

25 Senator Talmadge. May I ask this question? Does

1 Brazil comply with GATT?

2 Mr. Sunely. I believe so.

3 Senator Talmadge. I don't think so. I think there are
4 some things that have outright quotas of 100 percent.

5 The Chairman. I think we are talking to them about it
6 right now, aren't you?

7 Senator Talmadge. There is a tariff on automobiles of
8 about 100 percent in Brazil, isn't there?

9 The Chairman. Aren't we quarreling with Brazil about
10 some GATT matters right now?

11 Mr. Foster. We have disputes with Brazil, and we are
12 trying to encourage them to continue to live up to the GATT
13 commitments, to adopt some of the codes that they have not
14 adopted.

15 The Chairman. Okay. This will give you something to
16 bargain with, at a minimum. It will give you leverage to
17 work with.

18 Senator Dole. Is it easier to do it with a tariff or
19 with the 4 cents per gallon?

20 Mr. Wetzler. The tariff is administratively easier,
21 because the excise tax exemption applies to the person who
22 blends the alcohol with the gasoline, and he doesn't
23 necessarily know whether he is blending domestic or imported
24 alcohol. So I think the tariff is easier.

25 Senator Dole. I don't have any preference. I don't

1 want to put it into the Highway Trust Fund. I wouldn't want
2 to do that. We are going to be using it for something else.

3 Senator Boren. Mr. Chairman, let me ask you about
4 that, because I do want to modify the amendment by making a
5 suggestion about the proceeds, and I wonder if it would make
6 any difference as to whether or not we exempted from the
7 excise or we did it through the tariff.

8 The Chairman. For the purposes of a balanced budget,
9 it doesn't make any difference whether it goes into the
10 Highway Trust Fund or somewhere else.

11 Senator Dole. Well, except that Senator Boren may be
12 offering a little amendment later on that would absorb some
13 of this.

14 The Chairman. But for the purpose of a balanced
15 budget, it doesn't make any difference whether it goes into
16 the Highway Trust Fund or somewhere else. That is the point
17 I am making.

18 Mr. Wetzler. Yes, the budget is a unified budget.

19 The Chairman. We are dealing with a unified budget
20 here.

21 Senator Dole. We will just put in the language then
22 that this is taken because of national security concerns,
23 and that will satisfy Treasury.

24 Senator Boren. I just want to make sure we don't get
25 into this in terms of -- I want to make a modification of

1 the amendment, if it is in order.

2 Senator Dole. Can we adopt the amendment first?

3 The Chairman. Let's vote on this part of it.

4 Mr. Shapiro. What you are really doing is, you are
5 just going to agree to the 40 cents tariff, and without any
6 of the disposition, because there is a question on that,
7 just the 40 cents tariff.

8 The Chairman. All in favor, say aye.

9 (A chorus of ayes.)

10 Senator Bentsen. Let me say this. Let's put it, if we
11 are staying with a unified budget, and it doesn't give us a
12 problem, then where it is supposed to be going finally is
13 the highway trust fund. Let's see if we can.

14 Mr. Shapiro. I think it would be better maybe at this
15 point for the Committee to agree to the tariff.

16 Mr. Wetzler. If you denied the excise tax exemption,
17 then that would go into the Highway Trust Fund. That is the
18 only reason we see.

19 The Chairman. On a unified budget basis, it doesn't
20 make any difference. That is what we are dealing with.

21 Now, those opposed?

22 (No response.)

23 The Chairman. The ayes have it.

24 Senator Dole. Mr. Chairman, may the record just show
25 that we have also had, in addition to the letter from

1 Senator Bayh, a letter from Senator Jepsen supporting this?
2 Senator Bentsen. Mr. Chairman, I don't want to leave
3 this Highway Trust Fund. Now, if it can be done, and
4 accomplishes a unified budget approach, and takes care of
5 the budget resolution, then I would like to see it go to the
6 Highway Trust Fund, where it is supposed to be.

7 Senator Bradley. How can we determine where it goes?

8 The Chairman. It is a unified budget. It doesn't make
9 any difference.

10 Senator Bradley. We can't determine where it goes,
11 unless we spend it.

12 Senator Dole. Unless they send it to the Committee.

13 The Chairman. Well, if somebody wants to put it in the
14 Highway Trust Fund --

15 Senator Bentsen. Apparently staff has a concern, but I
16 would like that probed to see if we can accomplish our
17 purpose.

18 Mr. Shapiro. What had happened is that when the
19 proposal was originally raised, and we were putting together
20 the write-up, it was the idea that were it to be used, if
21 you had had the excise tax put on it, the funds would have
22 gone in the trust fund. So, when we were working on the
23 original proposal, the idea was that it would go where -- if
24 the excise tax was going to the Highway Trust Fund, the
25 tariff should, too.

1 The only concern is that we understand that there may
2 be some other proposals that are coming. The Committee may
3 want to reserve on exactly what they do, depending on where
4 the Committee finishes up on any other modifications.

5 The Chairman. I suggest we just let this go where it
6 ordinarily would have gone, which is into the general fund.

7 Mr. Boren?

8 Senator Boren. Mr. Chairman, perhaps this is time to
9 bring up a proposal I want to make. The fact that we have
10 recouped an additional approximately \$100 million here -- I
11 have written to members of the Committee about the problem
12 that we have run across -- I think it was unanticipated --
13 with the small royalty owners, and I want to make a proposal
14 this morning on behalf of myself and Senators Dole and
15 Wallop, and Chairman Long, Senator Bentsen, and Senator
16 Baucus, that we try to provide relief.

17 Senator Dole and I recently held a hearing attended by
18 some 4,000 people, one morning session and one afternoon
19 session, in Kansas and Oklahoma. What we found, and we
20 followed this up with some studies, indicated that a very
21 large part of the people who are paying the tax on royalty
22 interest under the windfall bill are Social Security
23 recipients and low income people.

24 We also found that over half of the recipients of
25 royalty income were making \$200 a month or less in terms of

1 their royalty income, 54 percent, and so what we have done,
2 in effect, for many of these people, is reduce their
3 retirement income by a net of 36 percent. This is because
4 many of these people had royalty checks based upon stripper
5 oil.

6 I will just read you one quick example. This lady
7 writes to me and she says her husband is 78, she is 74, the
8 two of them together draw \$170 a month Social Security.
9 "Our only other source of income is a check from the Permian
10 Corporation for royalty interests of \$74 a month." That is
11 what they were getting. The windfall tax is now taking
12 \$25.42, so now they are getting \$48.94.

13 So, here we have got a couple with a combined income of
14 \$240 a month that we have reduced by \$26, roughly.

15 I would propose that we take the proceeds that we have
16 recouped, because in essence we are doing away with the
17 credit that was granted under the windfall tax itself, we
18 are recouping it back out of what we did with the windfall
19 profits tax, and that we make whatever additional
20 adjustments we would need to make in the inflation factor on
21 the base price of oil under the windfall tax, to recoup the
22 funds that would be necessary, and I think that would be
23 about \$200 million, to provide as a stop gap measure a tax
24 credit against the windfall tax of \$1,000 for royalty owners.

25 Now, this, of course, would mainly help the small

1 royalty owner, and would be aimed at helping them, and it
2 would be paid for out of what had already been done in the
3 windfall profits tax itself, and it is the kind of thing I
4 think, Mr. Chairman, had it been able to be taken care of in
5 conference, it is the kind of thing that might have been
6 done in conference by just shifting within the tax and
7 trying to take care of these low income people.

8 I think the image is that royalty owners are rich
9 people. Senator Dole and I heard from a lot of them, and I
10 wish all of you could have been there, that were by far not,
11 and they bought royalty just like you would buy a share of
12 stock or something else for their retirement, and here they
13 are getting 36 percent out of the net of their check. I
14 just don't think we should do that.

15 The Chairman. Let me just make the point that I have,
16 been moving around north -- where we have a lot of stripper
17 wells, and it is a point that does very much upset those
18 people. You see, we had already, back on the Alaskan pipe
19 line bill, we voted a proposal that exempted these little
20 stripper wells, so both the producers of those little
21 stripper wells as well as those royalty owners, they were
22 exempt. There was no windfall tax, and they were getting
23 the market price.

24 You take some old man or some widow woman who has got a
25 little check there of \$200 or \$300 a month. They are very

1 happy about the situation, to get a little something from
2 the oil company for their property, and then most of that
3 land is not being farmed any more, but they have a little
4 income from timber, maybe, and a Social Security check, and
5 then when they come back and put the tax on it, their income
6 has been reduced by 36 percent.

7 Now, as far as the people on all the good wells are
8 concerned, that is no real problem. Their income is going
9 to be increased. Well, sure, you are going to pay a tax,
10 but you are going to have more income.

11 So, once you explain that to them, well, after you get
12 through paying the tax, you have still got more money than
13 you had before. That is not the problem. The problem is
14 these little people that just can't understand, why did you
15 do this to us?

16 May I say, when you are talking to some little lady or
17 something, and that is about the only income she has besides
18 that Social Security check, you can't defend it, and
19 frankly, we would have taken care of that in conference, but
20 it wasn't in conference.

21 Mr. Bentsen offered an amendment to exempt the
22 independents. It would only take care of the royalty owners
23 who owned the independent wells. It wouldn't take care of
24 those who owned the major company wells, and six out of
25 seven of those wells were major company wells.

1 So, the only way you can take care of those people is
2 the way you are suggesting. Now, if we had had it in
3 conference, we would have taken care of those little people,
4 and we would have squeezed it out of those who are better
5 able to pay. We would just squeeze it out somewhere else.
6 And that is what you are suggesting.

7 Senator Boren. Yes, sir. I am suggesting that it
8 would have no effect on what we are doing, that we take Mr.
9 Dole's gasohol proposal, which in effect modifies the
10 windfall tax, what we were recouping there, and we adjust,
11 in addition to that, whatever we need to make up the \$200
12 million, we adjust the inflation factor on the base price of
13 oil.

14 Senator Dole. Would the Senator yield there?

15 The Chairman. Senator Dole?

16 Senator Dole. Well, we want to make the point for
17 those who support the windfall profits tax that we are not
18 going outside the tax itself for any revenue. We are making
19 the adjustments within the tax, and having been in Oklahoma
20 City, and in Great Bend, Kansas, and in fact, I think in
21 both cases we asked the retired people in the audience to
22 stand, and about 80 percent of those stood, and 80 percent
23 of those 80 percent were landowners, and they don't have a
24 lot of income.

25 I think if you just look at the facts, we are imposing

1 on the small royalty owner a 70 percent tax in some cases, a
2 60 percent tax in some cases, and on newly discovered, a 30
3 percent tax. They are paying the same rate, the little
4 royalty owner, as Gulf and Exxon and other so-called big oil
5 companies.

6 The thing that astonished the royalty owners, they
7 don't have any lobbyists in Washington. They weren't
8 represented every day at these hearings and during the
9 debate at the conference that lasted for months. They are
10 not organized, and they didn't even know this tax applied to
11 them. They kept hearing President Carter and others saying,
12 we are going to stop this big oil ripoff, and they didn't
13 think it concerned them, because they were getting \$74.36 a
14 month.

15 So, they were somewhat surprised when they got a
16 rollback in their check, and I just say, we are not damaging
17 this. We are still going to have \$227.3 billion. We are
18 going to take care of it within the windfall tax itself.
19 This will be a tax credit against the windfall tax, so it is
20 against the windfall tax. In my state it takes care of
21 about, I think, 70 some percent that have less than that,
22 and I think Senator Bentsen has an even better example on
23 the part of Texas, where some 78 percent would be low income
24 royalty owners who would be helped.

25 So, I would hope that we could change this. We are

1 taking away 36 percent of their income. As Senator Boren
2 has indicated they are not big oil people. I think there is
3 a feeling on the part of the royalty owners that we took
4 care of independents, in many cases, and some of the majors,
5 and we loaded them up with the tax, and they are at least
6 able to pay it.

7 Senator Bentsen. Mr. Chairman, I want to congratulate
8 you and Senator Boren and Senator Dole on what you are doing
9 here. I am very supportive of it. The kind of letters that
10 I received -- here is an example of one of the just
11 voluminous amount of mail I receive. Here is one that says,
12 "My share amounted to \$12.63, less \$4.25 tax, leaving a net
13 value to me of \$8.38. My total income from this particular
14 lease during 1979 was \$110. It seems ridiculous for a widow
15 on a small civil service annuity to pay 34 percent tax on
16 that amount. I am sure there are many others in the same
17 position." And we get that repeated over and over.

18 The big point that you have made, Senator Dole, is that
19 we are talking about taking it out of the windfall profits
20 tax itself. So, in effect, you are trying to take care of
21 some of these people that really are being penalized the
22 heaviest by it.

23 Senator Wallop. Mr. Chairman, if I may, it is not
24 exactly accurate to say we are taking it out of the windfall
25 profits tax, but we are adjusting within the tax, so that

1 the amount will be the same. I don't mean by that that
2 there would be any implication that there is a loss in
3 windfall revenues.

4 Senator Bentsen. No, that is a better choice of words,
5 and I agree to that. That is fine.

6 Senator Durenberger. I wonder, Mr. Chairman, if one of
7 the authors of this measure could explain to some of us that
8 latter point. The Senator from Kansas said it is coming out
9 of the windfall profits tax. The Senator from Wyoming says
10 there is no net loss.

11 Senator Boren. What it means is, if we take Senator
12 Dole's proposal, the effect of which would do away with the
13 tax credit on gasohol, which increases revenues, all right,
14 that increases revenues \$100 million under the windfall tax
15 by doing away with the credit on the foreign gasohol, and
16 then, we add to that whatever adjustment we need to make in
17 terms of the base price adjustment, which is a revenue
18 reducer, by inflation.

19 In other words, the producer gets an inflation
20 adjustment. And we make up -- the staff, I believe,
21 estimates around \$200 million, something like that --

22 Senator Dole. A little less.

23 Senator Boren. A little less, maybe, about \$175
24 million, I believe. Is that correct?

25 Mr. Shapiro. It is in the range of close to \$200

1 million.

2 Senator Boren. Somewhere around that area.

3 Senator Dole. There is a provision in the law that
4 says you adjust for inflation plus 2 percent, and what we
5 don't do, we just don't adjust as much, and we pick up that
6 revenue, so it is really being paid by others in the
7 industry to a forgotten group.

8 Senator Boren. In other words, if we pass these
9 proposals that have been handed out by staff and so on on
10 what we are going to have to do on the revenue side, what we
11 are doing here would have no effect on that. It does not
12 reduce our revenues. We are offsetting it by the Dole thing
13 and the inflation adjustment, and just in essence we are
14 using that to help the small royalty owners, internal within
15 the windfall tax structure.

16 Senator Durenberger. Perhaps we could just explore
17 additionally and briefly who in the industry it is that is
18 going to end up paying it. One of you, I presume, passed
19 out this article from U. S. News that indicates that experts
20 disagree on just how hard royalty owners will be hit by the
21 tax, and points out that the kind of people that are writing
22 me letters and all the rest of you letters are somewhere in
23 the neighborhood of perhaps 60 percent of the persons that
24 are being adversely affected by this.

25 My concern would be about the other 40 percent, and the

1 degree to which they either benefit from this or are being
2 hit in some other way.

3 Senator Dole. They are going to take it out of one
4 pocket and put it in the other.

5 Senator Boren. I would say that on the others,
6 typically a royalty owner, if you could pick an average
7 royalty owner, and take the 60 percent of all royalty owners
8 -- I think this is pretty accurate -- would fall into this
9 category, probably the most typical is the retired farmer.
10 He sold his land somewhere back several years ago, and
11 retired, and is now on Social Security, and when he sold his
12 land, he decided he would keep his mineral interests, and he
13 sold the surface, or he might have kept a portion of his
14 mineral interests, and that is the typical fellow.

15 He is not in the oil business. He is retired, and he
16 is using this as an income. Or his descendents or somebody
17 else who just bought it as part of their retirement plan.

18 Now, that would be typical. I would say your larger
19 royalty owner, the people who have more than \$300 a month
20 income from royalty, which is probably about 25 percent of
21 the royalty owners that have roughly more than \$300 a month
22 income from royalties, very often, those are your producers,
23 who have taken a royalty interest somewhere along the way in
24 making an oil deal, and they may have accumulated -- there
25 are a few people that are really heavy into this. They

1 might have \$10,000 a month income. They are generally your
2 producers who have gotten into it.

3 Now, if you pay for it, partly, whoever is producing
4 gasohol in Brazil will pay a good chunk of the cost of
5 this. If you adjust the inflation base, why, some of the
6 producers will pay a part of this, but I would think that
7 about 90 percent of them are going to recoup part of that
8 back with the \$1,000. They are royalty owners, too,
9 probably.

10 So, I don't think you are going to hit anyone very hard
11 in terms of paying for it, and I think that the major
12 benefit is going to go to people who really do need it, I
13 mean, these people in the low income bracket.

14 The Chairman. You are speaking of the people in the
15 producing end, even a major company, their income will be
16 increased, and we hope that they are going to put most of it
17 back into producing more energy, but there is going to be a
18 big increase in income for those companies, and also for the
19 independent producers, they will have an even better break
20 because of the way we have passed the law.

21 Now, the suggestion is that we -- in fact, even those
22 strippers, on those little stripper wells, we did very well,
23 in relative terms, by the people who produce the stripper
24 wells. The people who get the worst of it because it wasn't
25 in conference to do any better by them. The people who get

1 the worst of it are these little royalty owners. And so, I
2 mean, this second letter is easier to read, and we can see
3 pretty easily what the problem is for people.

4 Here is this person writing in, this woman. She says,
5 the total value of her check -- these are two old people --
6 the total value of their check runs \$114.45. The amount the
7 government took was production tax, \$8.11, windfall tax,
8 \$36.72, total \$44.83.

9 Now, mind you, this is a reduction from the income they
10 were getting previous to the tax. All right, now, so you
11 subtract the \$44, of which \$36 is windfall, and they've got
12 \$69 left. "My husband and I are both \$79 years old, and
13 have depended on this money to help pay our utility bills,
14 and any overage charged for living. We receive a Social
15 Security check in the amount of \$216.70, and still have a
16 small amount of savings."

17 How would you like to be looking for some votes down in
18 Podunk and run into that person and try to explain all that
19 to her? But as I understand it, there are more than a
20 million people like that in this country.

21 Senator Boren. There are more than a million people
22 like that, and the irony of it is that we ended up taxing
23 that couple that you are talking about at the major oil
24 company rate. They didn't even get taxed at the independent
25 oil company rate. You see, we tax them, for example, from

1 looking at their check, I would imagine that their royalty
2 owners under stripper oil production, under oil wells. So,
3 they get that \$36 taken out. Their taxed at a 60 percent
4 rate on the base, as opposed to independent companies, which
5 are only taxed at 30 percent. They are taxed at the major
6 oil company rate.

7 Senator Bradley. Mr. Chairman?

8 The Chairman. Mr. Bradley?

9 Senator Bradley. Could I get one thing straight here?
10 You referred to this letter from Margaret Lutz, and you said
11 that she was getting less than what she got the year
12 before. My question is, these royalty owners, they don't
13 benefit from higher oil prices?

14 Senator Boren. No, they don't.

15 The Chairman. These don't, for this reason. You see,
16 when we passed the Alaskan pipeline bill in 1976, we put an
17 amendment on there that exempted these stripper wells from
18 the controls, so these people were not -- they had the
19 decontrols, and they were not paying any windfall tax, and
20 so, we came along and passed the windfall tax, and that
21 amounted to a rollback, a cut in their income.

22 Now, if you were under a well that was making more than
23 ten barrels, you did not have the decontrols. So, you pay a
24 tax, but your income increases by more than the tax. That
25 is not the case of this lady or a million others like her.

1 They were already paying -- they were already getting this,
2 and we said, well, for these little small stripper wells, we
3 shouldn't have the controls on them, so they were already
4 getting the free world price, and we put the tax on, and
5 that was a disaster to those people. They had adjusted
6 their standard of living to this little income that they
7 had, this little royalty income.

8 Senator Bradley. But if the free world price doubles,
9 don't they get more?

10 The Chairman. Well, if it should double again.

11 Senator Bradley. My question is whether, for example,
12 in all these letters, we see, for example, the Koch Oil
13 Company sends their bill out and places on the bill what the
14 windfall profits tax is taking from these poor old people,
15 and I am just curious as to whether this reflects the
16 increase in price that we experienced in the last year on
17 the world market, and that it is true that stripper was
18 decontrolled, but it is also true that oil prices more than
19 doubled last year, and they could in the future, and we
20 might be in a position where we are eliminating the tax on
21 someone who is actually getting more than they got last year
22 because the world price of oil increased, doubled.

23 Senator Bentsen. If I might respond to that, if we are
24 doing that, on the other side we are in effect increasing
25 the tax on some of the others, because we have not given

1 them as much of the inflation factor adjustment as would
2 happen otherwise. What we are striving to do is to put a
3 little more equity in the tax, and a little more balance.

4 Senator Boren. You are helping the lower income person
5 as opposed to the major oil company.

6 The Chairman. A person in the industry who had a lot of
7 income, he will pay more tax. These people here would pay
8 less.

9 Senator Dole. You are going to have a decline in
10 production, too, you know. If production declines, that
11 affects income.

12 The Chairman. Mr. Sunley?

13 Mr. Sunley. I would like to say, I would agree with
14 Senator Bradley that the stripper case and the rollback is a
15 case of a producer, a royalty holder who, though his income
16 may have decreased from February to March of 1980, he is
17 substantially ahead of where he was in March of 1979, and I
18 would suggest that if this is the logic for adopting this
19 amendment, it would be limited to stripper, royalties from
20 stripper production, because with respect to Tier 1 and Tier
21 3, the small royalty holder has not had a rollback, and you
22 are really going to treat him now much better, more
23 favorably than the independent, the person with the
24 producing interest.

25 The whole discussion in the conference committee, if I

1 recall, was one of, where do you get production? And the
2 conclusion was that you do not get much increased production
3 from more favorable treatment to royalty holders.

4 The Chairman. Mr. Sunley, you go back and put your
5 thinking cap on, and see if you want to tax people in the
6 poverty area with a 60 percent tax on their income, because
7 I don't think even Mr. Carter would want to do that with his
8 eyes wide open. You might do it by accident, and that is
9 the way we did this fiasco, but as far as doing it knowing
10 and deliberately, with malice aforethought, taking somebody
11 who is in poverty and taxing the eyeballs off of them on
12 some little check they are getting for some oil beneath an
13 old piece of cutover land, that is utterly ridiculous. I
14 would like to be a co-sponsor.

15 Senator Boren. Mr. Chairman, you are also going to
16 create horrible administrative problems if you put it on
17 these farmers to decide what kind of oil they've got, and to
18 divide it all out.

19 Senator Bradley. Could I ask Senator Boren if -- I
20 mean, I don't want to tax people who are at low income
21 either, and who happen to get this check. Would you
22 consider putting an income limitation on receipt of the
23 check, for example, anybody that makes under \$20,000,
24 \$30,0000 could get the check, but somebody who makes over
25 that couldn't get it?

1 Senator Boren. I would object to it for this reason.
2 Number One, we are paying for it out of the windfall tax
3 itself, so just a while ago, when Senator Durenberger said,
4 well, who is paying for it, well, at least you are letting
5 the person who is recouping it, the producer, who is going
6 to be paying the bill for this, to help the low income
7 person recoup \$1,000 back himself, and he is paying for it.

8 The other thing is, you are going to create very
9 difficult administrative problems, whenever you put income
10 tests into it, and the way it is now, it is very simple.
11 Everybody involved can file a refund with their income tax
12 return against the windfall profits tax for up to \$1,000 a
13 year. I think it is a simple program. When you are talking
14 about the vast percentage of them being under these income
15 limits anyway, and you are talking about probably 99 percent
16 of any of the others that are going to be paying for it out
17 of the other pocket, recouping a little back, I don't think
18 that is --

19 Senator Dole. Well, there is another point there, too,
20 Dave, and that is, if you live in the farm belt, and you
21 have a good crop, you would be wiped out. I mean, you might
22 not have but about one every three or four years.

23 Senator Boren. That's right. For that one year, you
24 might not get it back, and the next two or three years, you
25 might.

1 Senator Danforth. Mr. Chairman?

2 The Chairman. Mr. Danforth?

3 Senator Danforth. I wonder if anyone has any idea of
4 the geographical distribution of these two million royalty
5 owners.

6 Senator Boren. I would say that they are mainly in the
7 states where there is production, obviously, but it is not
8 limited to that, because you can buy royalties just like you
9 buy shares of stock, so they are scattered all over the
10 country.

11 I worked hard to try to find some producing wells in
12 your states, you know, earlier this year. I think I could
13 find a lot more royalty owners in Missouri for you than I
14 could --

15 Senator Danforth. No, I know there are some, but just
16 generally, the geographical distribution would tend to be
17 concentrated in oil producing states.

18 Senator Boren. I think that is right, and these are
19 the people paying the tax.

20 Senator Dole. We were told back in our hearing in
21 Great Bend, and it surprised me, that there were 200,000
22 royalty owners in Kansas; 120,000 were domestic; 80,000 were
23 living in other states -- they were heirs who had moved
24 away; 600,000 and some in Texas, but a big bulk of those
25 lived in other states, and I don't know, 300,000 in Oklahoma?

1 The Chairman. This is just limited to stripper wells.

2 Is that right?

3 Senator Boren. No.

4 The Chairman. These are only royalty owners of
5 stripper wells.

6 Senator Boren. No. Then you would have administrative
7 problems to figure. It is the first \$1,000 of tax paid by
8 royalty owners.

9 Senator Bradley. Mr. Chairman, I have no objection to
10 this whatever. It is just that --

11 Senator Dole. That is one company broken down by state.

12 Senator Bradley. Good. Sometimes the people of my
13 state ask me what we are doing for them, and I would like to
14 give them an answer.

15 Senator Dole. There are 514 there from Missouri.

16 Senator Bradley. There are 514 from Missouri?

17 Senator Dole. Just from one company, you see.

18 Senator Boren. Well, Mr. Chairman, I think we
19 understand it. I move that we vote on it.

20 Senator Bentsen. Most people in my state want to know
21 what we are doing to them.

22 Senator Dole. This is just for one year, and we still
23 hope to pursue our other exemption.

24 Senator Boren. This is a one year thing that would
25 protect these people who have suffered.

1 The Chairman. I would like to be a co-sponsor. I
2 think Mr. Bentsen would like to be a co-sponsor, and Mr.
3 Baucus might want to be added as a co-sponsor. Would you
4 like to be a co-sponsor?

5 Senator Dole. I would like to get Senator Bradley on
6 there.

7 (General laughter.)

8 Senator Bradley. Mr. Chairman, when I come in in a
9 couple of weeks with some letters from people who have been
10 trying to get a job and haven't been able to get a job, and
11 need a little special treatment, and we don't want to limit
12 it to low income people, you know, so we won't put on a
13 means test or income test, I know the Committee is going to
14 be very responsive to that request.

15 Senator Dole. We did that last week on the trade
16 adjustment assistance.

17 Senator Bradley. That is right. That is why I haven't
18 raised a stronger --

19 (General laughter.)

20 Senator Bradley. -- I made a very weak argument.

21 The Chairman. All in favor of the amendment, say aye.

22 (A chorus of ayes.)

23 The Chairman. Opposed, no.

24 (No response.)

25 The Chairman. The ayes have it.

1 Any further amendments?

2 Senator Dole. Have you agreed to that package yet?

3 Are the Democrats going to vote for that?

4 The Chairman. I proposed a package here. Well, I
5 think we might have it sweet enough now, with your
6 amendments on there, that you can vote for it.

7 (General laughter.)

8 The Chairman. Will all in favor of the package with
9 the amendments let it be known by saying aye?

10 (A chorus of ayes.)

11 The Chairman. Opposed, no.

12 (One no.)

13 The Chairman. The ayes have it.

14 Senator Dole. Senator Durenberger recorded as no. He
15 is against taxes.

16 Mr. Shapiro. Mr. Chairman, we have one other item we
17 would like to bring to the Committee's attention, and that
18 deals with the multi-employer program.

19 As you may know, the expiration date is June 30th on
20 that program.

21 Senator Bradley. Mr. Chairman, before we go to this
22 issue, could I raise one other revenue raising issue?

23 The Chairman. Yes, sir.

24 Senator Bradley. In the original list of revenue
25 raisers, there was the question of the superfund for cleanup

1 of toxic wastes that in the Senate bill was a small amount,
2 and this is a bill that is now working its way through the
3 Environment and Public Works Committee. It has moved
4 through the House, and the Ways and Means Committee
5 addressed it last week.

6 This is a bill that will provide funds to clean up the
7 toxic wastes that are in many states around the country, at
8 least contain them, and I need not say how important it is
9 to many states where there have been toxic wastes dumped,
10 and with no cleanup at all, and it is really a time bomb
11 that ticks until somebody cleans it up.

12 The superfund is directed at cleaning it up. The real
13 question is how it will be funded, what part government,
14 what part industry. I think that from a budgetary
15 standpoint we could get significant revenues if we included
16 the superfund provision in our revenue raisers, and had the
17 industry share of this, at least, say, 75 percent, so that
18 you would end up raising by that close to \$1.8 billion.

19 I am curious as to the staff's assessment of that.

20 Senator Bentsen. I might, being a member of that
21 Committee -- and in fact, they are meeting at this very
22 moment on that particular piece of legislation, and that is
23 a fee that is going to be levied on industry, and it is a
24 very substantial fee, and we are talking about something
25 that is far more extensive than what the House legislation

1 happens to be.

2 That bill may well be reported out this morning, and it
3 at least thus far has been deemed the jurisdiction of that
4 Committee, being on a fee basis.

5 The Chairman. It seems to me that if they are going to
6 -- I don't think that the Finance Committee is divested of
7 jurisdiction just because someone calls a revenue measure a
8 fee rather than a tax. What is your thought about that, Mr.
9 Shapiro?

10 Mr. Shapiro. Mr. Chairman, the same situation occurred
11 in the House, and the parliamentarian referred to the
12 Committee to the Ways and Means Committee. The Ways and
13 Means Committee restructured it as a tax, and they have made
14 some modifications to it, so it is a jointly considered bill
15 in the House of Representatives.

16 Because the Ways and Means Committee had already agreed
17 to the superfund legislation, they have added it in their
18 reconciliation list, because they get credit for it. They
19 have also increased the amount of the tax, so the amount is
20 up to \$300 million right now, so that when you go to a
21 conference on the reconciliation package, if there are no
22 changes in the Ways and Means Committee package, that will
23 be in there, but they did have the same problem that is
24 being referred to now, and that is that the bill was
25 originally introduced as a fee, it was not referred to the

1 Ways and Means Committee. When the issue was raised with
2 the parliamentarian, it was subsequently referred to the
3 Ways and Means Committee with respect to the fee and the tax
4 aspect.

5 The Chairman. It seems to me we have a right to look
6 at it if we want to.

7 Senator Bentsen. Let me say, Mr. Chairman, and the
8 staff can help me on this, because I think we probably do
9 have some grounds here to share a jurisdiction if we desire
10 it. Haven't they tried to draw a line between a fee that is
11 used for a specific purpose in an industry, totally
12 correlated, and said that in effect was not a tax, but that
13 if it was more generalized in its usage, it became a tax?

14 Mr. Shapiro. Questions have been raised from time to
15 time. The Ways and Means Committee, however, is getting
16 very concerned about a number of fees and other Committees
17 getting involved in a lot of areas of their jurisdiction.

18 As a result of that, they are raising the
19 jurisdictional question. The deep seabed mining is another
20 example where it is referred to the Ways and Means and then
21 to the Finance Committee, where it dealt with a
22 self-contained subject matter.

23 You have your trust fund programs, the airway and the
24 highway, and so forth, where you have trust funds set up
25 just for that particular industry. The black lung started

1 out that way, you know, as a fee, and then it was
2 subsequently referred to the tax writing Committees.

3 What happened is, over the course of the last several
4 years, bills have been introduced either by the
5 Administration or by members with fees that were not
6 referred to the tax writing Committees. In effect, they
7 could be referred to as taxes, and many of these have
8 subsequently been considered by the tax writing Committees
9 as taxes.

10 Senator Bentsen. Well, I think, too, that as this bill
11 has progressed, they have broadened its original intent, and
12 the usage of the fee.

13 Mr. Shapiro. That is correct.

14 Senator Bentsen. So I think that it comes more and
15 more into the jurisdiction of this Committee as they have
16 done that.

17 Senator Bradley. The bill that is before the
18 Environment and Public Works Committee now is about a \$800
19 million proposition with seven-eighths of that being picked
20 up by industry, and I am suggesting that we certainly, if we
21 do take jurisdiction over that, can claim more than \$100
22 million in revenues. That gives us more revenues that we
23 can raise. Maybe we cut out some of these other things, or
24 substitute.

25 The Chairman. I don't know how much we are going to

1 want to raise with that. In other words, you are suggesting
2 a lot more than the House bill already, aren't you?

3 Senator Bradley. No, the Ways and Means Committee did
4 75-25, which would raise \$1.2 billion, if I am not mistaken.

5 Mr. Shapiro. The Ways and Means Bill raises
6 approximately \$300 million.

7 Senator Bradley. What was the \$1.2 billion, with 75-25?

8 Senator Bentsen. The Senate is still substantially
9 ahead of the House, I believe, even with the increase.

10 Mr. Shapiro. The Ways and Means Committee has reported
11 the bills out, and they contain a revenue pickup of
12 approximately \$300 million.

13 Senator Bradley. And that is at a 75 percent
14 assessment, 75 percent of costs?

15 Mr. Shapiro. I can't recall the exact provisions in it,
16 but there are a number of modifications.

17 Senator Bradley. It is \$1.2 billion over a number of
18 years.

19 Mr. Shapiro. I am sorry. The \$1.2 billion is the
20 four-year program.

21 Senator Bradley. Four-year program.

22 Mr. Shapiro. I am talking about the first fiscal year.

23 Senator Bradley. \$300 million a year pickup?

24 Mr. Shapiro. That is correct. Right.

25 Senator Bradley. And in the Senate, you are talking

1 about a pickup of, if you just did the fee, \$700 million
2 over the duration of the program. So, actually, it is less,
3 the Senate approach is less on a per year -- You are talking
4 about \$800 million in one year?

5 Well, at any rate, Mr. Chairman, this is \$300 million
6 at least that we could pick up here.

7 The Chairman. How do you know we want to make it a
8 \$300 million tax. And isn't that tax to pay for part of an
9 expenditure?

10 Mr. Shapiro. That is correct, it is.

11 The Chairman. Then, does the budget include the
12 expenditure at this moment?

13 Mr. Shapiro. Well, it is intended to provide for
14 claims of oil spills or certain waste sites for chemicals,
15 and also for certain damages. It raises the revenues, and
16 the spending comes down the road a little bit, so
17 ultimately, the revenues will be spent, but from a fiscal
18 year point of view, it raises \$300 million.

19 The Chairman. There is a net gain of \$300 million?

20 Mr. Shapiro. Well, it is not a net gain, but let me
21 make the observation that what is happening is that you
22 raise the revenues so you get the credit for the revenue
23 increase; the spending comes out of another committee. In
24 other words, it is a spending program that does not go
25 against you.

1 The Chairman. Then maybe we ought to put the revenue
2 in here.

3 Mr. Shapiro. The House has it in their version, and
4 right now, you've got \$4.2 billion without it, so you would
5 have to make an adjustment. In other words, it is the wish
6 of the Committee. Your option is that it is in the House
7 bill, so it is there to negotiate. You have the \$4.2
8 billion without it. You can clearly add the \$300 million,
9 but then again, you would be adding a revenue figure, not
10 necessarily the substance, unless you want to take the time
11 to review the substance of the provisions.

12 The Chairman. I was just thinking, maybe we could
13 accommodate the Senator. Does the House have in their bill
14 the tax gain on foreigners' real estate?

15 Mr. Shapiro. A version of it, yes. It is a lesser
16 amount, and it is different.

17 It is different. In other words, they have made some
18 modifications, because they have some questions on the
19 withholding feature of Senator Wallop's amendment. As a
20 result of that, they want to take an opportunity to look,
21 knowing the Senate bill is in conference, they wanted to
22 work with the Senate amendment, so that that needs some
23 revision. If you were to take that out, it would cause a
24 particular problem with not having the negotiation in
25 conference between the two versions.

1 Senator Packwood. Could I ask a question also? In the
2 House's reconciliation bill, are they putting in their
3 Medicare and Medicaid reforms?

4 Mr. Constantine. That is correct. The House did put in
5 the benefit as well as savings. Yes, sir.

6 Senator Packwood. The reason I ask is, we have a whole
7 variety of reforms in 934, many of them in the area of home
8 health, which are revenue savers, even by the Congressional
9 Budget Office's estimates. And I don't want to see the time
10 pass by and those not be passed, which again are revenue
11 gainers, and if the House is putting, if not those
12 provisions, other provisions in the Medicare, Medicaid
13 field, I would see nothing wrong with our doing the same
14 thing in the reconciliation bill.

15 Senator Dole. Can't you adjust the dates? The whole
16 cost, I understand, is \$146. You could adjust the dates and
17 still come within --

18 Senator Packwood. We could adjust the dates to
19 September 30, and easily come within it, and as I say, on
20 this one, everybody agrees they are revenue gainers. We are
21 not trying to lose money, but all I am saying is, if the
22 House is going to go that route in their reconciliation bill
23 with Medicare and Medicaid, and put in what they think are
24 reforms, then I see nothing wrong with our doing it. We
25 will have to go to conference and hassle out which reforms,

1 but these are money gainers.

2 Mr. Stern. Senator Packwood, are you talking about
3 something that increases expenditures or saves
4 expenditures? Because we included every single provision of
5 H. R. 934 that had savings in it in the --

6 Senator Packwood. Jay can tell you.

7 Mr. Constantine. All of these savings provisions are
8 in the reconciliation bill. The savings are somewhat higher
9 than we estimated, because of revised estimates by CBO. I
10 think we are about \$150 million. The question really for
11 the Committee to decide is the precedent of whether you want
12 to put spending provisions in the reconciliation bill. I
13 guess that is the only issue. Because it could be drafted.

14 Mr. Stern. At this point, of course, it has been
15 transmitted to the Budget Committee already, but at any
16 rate, every provision in there is one that does save money
17 by cutting spending. We did not include any of the others.

18 Senator Dole. What would it cost, Jay, if we made it
19 September 30?

20 Mr. Constantine. If you added the improvements, which
21 have some cost to the bill, the full-year cost is about \$140
22 or \$146 billion. I counted \$140 billion. I guess Sheila
23 counted \$146 billion. If you made the effective date
24 September 30, you would not have an additional cost of -- it
25 could not possibly exceed \$10 million, probably on the order

1 of \$5 million.

2 Senator Packwood. I emphasize again, these are
3 Congressional Budget Office estimates. We are not going to
4 be challenged by the Budget Committee on the floor on these
5 estimates?

6 Mr. Constantine. These are CBO's estimates, yes, sir.
7 Yes, sir. Not the one day. The one day is just our
8 guesstimate.

9 Senator Packwood. Right.

10 Senator Bradley. Mr. Chairman, getting back to the
11 superfund, if we went the route of \$300 million similar to
12 the House Ways and Means Committee, we could drop out the
13 top two on the proposal, the foreigners' real estate and
14 also employer payment, employee payroll tax, and we still
15 would come out with a wash at \$4.2 billion. We eliminate
16 some tax on business, and get rid of some of the inequities
17 involved in that tax on foreigners' real estate.

18 I mean, we would meet our reconciliation efforts, and
19 please certainly the people in New Jersey.

20 The Chairman. That might make some people happy if we
21 did that, just dropped out the top two items, the tax on
22 foreigners' real estate and the tax on employee payment, and
23 just put the \$300 million in.

24 Mr. Shapiro. I can give you another option. Unless
25 Senator Bradley has a specific reason for that, or he is

1 trying to work the \$300 million in, and you are trying to
2 talk about some negotiation with the House, you could take
3 that 50 percent down at the bottom of your list, since the
4 House has 60 percent in their list, take it down by the
5 appropriate percentage points to rate that \$300 million,
6 which would be about 4 percentage points, so you go down to
7 46 percent, and then you have all the items in conference
8 for negotiation.

9 In other words, I don't know if there is a specific
10 reason for that proposal --

11 The Chairman. You mean, go down to 46 percent rather
12 than 50 percent?

13 Mr. Shapiro. That is right. In other words, what I am
14 questioning is whether you are just trying to juggle, which
15 is what I am suggesting, or if there is a specific reason
16 for your suggestion.

17 The Chairman. Let me just make a suggestion in this
18 respect. Now, I don't have the letter with me, but Senator
19 Thurmond wrote me a letter, and it was about this employer
20 payroll tax, and he had a pretty good point, I think, with
21 regard to that tax applying to farmers. A lot of farmers
22 have been paying their workers, paying the Social Security
23 tax. And I know it would ease the burden of defending that
24 tax if we just left the farmers out of it.

25 Mr. Shapiro. Yes, let me suggest this. Your point is

1 well taken on that one. What you can do is drop out that
2 one, because Senator Thurmond did raise a point on that. It
3 is in the House bill, so that is in conference, so to keep
4 your flexibility open, you can drop out that particular one,
5 and then you can reduce the 50 percent by just 1 percentage
6 point or so.

7 The Chairman. What I was thinking, my thought is, to
8 satisfy what Senator Packwood had in mind, it seems to me
9 that if you just, on the tax gain on foreigners' real
10 estate, instead of making it 2 percent, if we cut that in
11 half to make it 1 percent, then we would have \$100 million
12 of slack left in there, to satisfy -- of course, we expect
13 to make \$200 million.

14 That would then protect Senator Packwood's bill over
15 there with enough revenue that we could take care of that
16 part of it, and even if it did pass after the budget
17 resolution were agreed, assuming that part was taken care
18 of, then we would take care of the farmers over here, and
19 then pick up maybe out of the \$300 million they got, put
20 \$200 million in, the theory being that if we didn't want to
21 go as high as the \$300 million, if for some reason we didn't
22 want to go that high, we've got two-thirds of it in here,
23 and we might want to go higher, but anyway, we will say,
24 well, we think we are going to tax at least \$200 million,
25 and that would take care of what you do here.

1 Now, I don't see any point in going below the 50
2 percent. It seems to me that is a good even figure.

3 Senator Dole. If we are going to do anything on the
4 first item, I want to get Senator Wallop back up here. Has
5 somebody sent for him?

6 Mr. Stern. Mr. Chairman, is your suggestion on the
7 Social Security tax question that you exempt farmers? In
8 other words, you do include the provision, but you exempt
9 that part of it?

10 The Chairman. That is right.

11 Mr. Stern. All right.

12 The Chairman. I would suggest that, because we are
13 going to have some complaints from Senator Thurmond out
14 there on the floor anyhow, and some of those who agree with
15 him, and at least if we take care of one of his best
16 concerns, that is, farmers, I think that at least he has got
17 to know that we at least tried to accommodate him and did to
18 some extent. I think he has got a good argument about
19 farmers. Just leave the farmers out of it.

20 Now, I am willing to leave this tax gain over here on
21 real estate where you've got it, but I think it would
22 accommodate Senator Packwood if we could cut that down to
23 just \$100 million, and then if we don't get your bill passed
24 until September, we would still be in a position to have
25 enough budget slack to take care of what you want to do, Bob.

1 Senator Packwood. Well, I would rather get it passed
2 before September, but if you take off \$100 million, it seems
3 to me it still totals \$4.2 billion anyway, because the
4 figures as I add them up come to \$4.3 billion.

5 Mr. Shapiro. Senator Packwood, that is a rounded
6 figure.

7 Senator Packwood. I assumed it had to be rounded.

8 Mr. Shapiro. Yes. It really is only \$4.2 billion.
9 For example, your first item is \$180 million, not \$200
10 million. Your second item, where we put \$100 million, the
11 figure is really \$34 million. And there are a whole series
12 of -- and that was reduced because of the Texas exemption
13 that was put in for your public programs. So, because of
14 all the rounding, it really is only \$4.2 billion. We will
15 have to tell you as you make changes. In other words, you
16 don't pick up \$100 million on that second one. It is really
17 \$34 million right now.

18 Senator Talmadge. Mr. Chairman, I wish to support
19 Senator Packwood and Senator Dole on the Medicare and
20 Medicaid amendments. We should maintain H. R. 934 all
21 intact as a part of the reconciliation process with the
22 adjusted affective dates for the provisions and the costs
23 thereof September the 30th, 1981.

24 Senator Packwood. I would like to thank the Senator
25 from Georgia and say again, we are not doing anything

1 different here than the House is intending to do, different
2 reform provisions, but they are doing the same thing with
3 Medicare and Medicaid on their reconciliation.

4 The Chairman. I am not sure I understand this. Will
5 somebody explain it?

6 Mr. Stern. May I mention to the Committee that those
7 recommendations have been transmitted to the Budget
8 Committee already? What you are talking about is provisions
9 that do raise costs, sometimes to a fair amount, in fiscal
10 year 1982. You have under consideration a major health
11 bill, which I presume you are going to get back to soon, in
12 which you can consider these amendments and others.

13 The staff purposely only took the provisions that saved
14 money out of H. R. 934, because we conceived of the
15 reconciliation process as one in which you made
16 recommendations for savings.

17 The Chairman. You took the savings provisions because
18 you felt you had to have those in order to meet the budget
19 requirements.

20 Mr. Stern. Yes, sir.

21 The Chairman. As you put the spending provisions in
22 there, the ones that are going to increase the costs --

23 Mr. Stern. Even if you do it in such a way that there
24 would be very little effect in fiscal year 1981, which you
25 could do, you still would be reporting out a bill where in

1 some of the, let's say by the second and third year, you
2 would be substantially mitigating your savings.

3 Senator Packwood. Now, Mr. Chairman, there are
4 substantial savings in the second and third year. Whatever
5 loss there is can be legally taken care of with a
6 supplemental this year, but if the House is going to go this
7 route, on the effort to reconcile, I just don't think we
8 ought to be precluded, and I don't like Mike's arguments
9 against this, when it is a perfectly legitimate cost saving
10 -- cost saving. A series of amendments that we have had
11 sitting there on 934 for a long time.

12 Mr. Stern. Well, I believe that all the cost saving
13 amendments have been included in your reconciliation
14 package, Senator.

15 The Chairman. In other words, do I understand this,
16 that your thought would be that we would move 934 and we
17 would take the cost savers and use them in the first year to
18 help balance the budget, but that in the second year, we
19 would put these items in there that increased the cost, so
20 that those people who want to have the benefit of the
21 various things that would cost more money could get it in
22 the second year. Is that it?

23 Mr. Stern. As part of a different bill, yes, sir, not
24 as part of the reconciliation process.

25 Senator Talmadge. Let's hear from Mr. Constantine on

1 that.

2 Mr. Constantine. Yes, sir. I think Mike fairly
3 expressed that the reconciliation bill took out, stripped
4 934 of all the savings provisions, and those are
5 incorporated in the bill that was forwarded to the Budget
6 Committee. The question is, obviously, there are a variety
7 of benefit improvements in 934 as well, but they are all
8 spending provisions.

9 Now, there are really two issues. One is putting
10 spending provisions on a reconciliation bill which the Ways
11 and Means Committee has done, the House has done. The
12 second one is that while you can bring the costs of the
13 improvements down in the first year by a delayed effective
14 date, it does have, obviously, substantial out-year costs in
15 1982, 1983, and 1984.

16 However, on some of the newer provisions, the cost
17 saving provisions which were not in 934 but which you have
18 approved, there are substantial out-year savings as well.
19 That is about as far a presentation, but we don't know what
20 the procedure is or what the precedents are that you are
21 establishing.

22 Mr. Stern. You could just as well take the position in
23 conference that you don't want to accept the House
24 amendments that cost money in the context of a
25 reconciliation bill as to add them here yourself.

1 Senator Packwood. To come back to Mike's question, the
2 out-year savings are much greater than the out-year costs.

3 Mr. Stern. Yes, sir.

4 Senator Dole. Is that right, Sheila?

5 Ms. Burke. Yes, sir.

6 Senator Packwood. That is also CBO's estimate. Those
7 aren't figures we have to worry about or defend as some kind
8 of parochial Finance Committee interest.

9 Mr. Constantine. Yes, sir.

10 The Chairman. Do we have a motion here?

11 Senator Bradley. Mr. Chairman, I move that we adopt
12 the superfund revenue raiser to the level of \$300 million
13 and reduce appropriately the other revenue raisers, say,
14 reduce the employer tax and also the percent on -- what was
15 the second one?

16 Mr. Shapiro. This is the 50 percent large corporations.

17 Senator Bradley. Right.

18 Mr. Shapiro. I think what Senator Bradley is
19 suggesting is that you add the superfund and the Committee
20 make the appropriate modifications to accommodate that.

21 Senator Bradley. That's correct, and where the
22 modifications come is not my interest. My interest is to
23 get the superfund.

24 The Chairman. Then, if the members understand that,
25 that there will be an appropriate reduction, and shall we

1 just leave it up to the staff to make appropriate reductions
2 in it?

3 Mr. Shapiro. What we are suggesting is, and just to
4 make sure that there is no concern, if the staff understands
5 what the Committee is suggesting, it is to take out the
6 farmers in the second item and to make the appropriate
7 reduction in the 50 percent level to make up the
8 difference. It would all be in conference by doing that.

9 The Chairman. Is that all right?

10 Senator Roth. Mr. Chairman, I regret that due to
11 another meeting I could not be here, but I would like to
12 very strenuously object to this proposal for a number of
13 reasons. Number One, what we are in effect trying to do is
14 to prejudge a superfund proposal without knowing what the
15 merits or demerits of the specific proposal is.

16 One of the problems in this country is that there is no
17 question that there is a serious problem, but to go on
18 record favoring a proposal that means \$300 million prejudices
19 the legislation that is going to come up later in Congress.
20 I think the one thing we don't want to do -- we are already
21 throwing people out of work. We have already seen the
22 automobile industry, the steel industry, and others go down,
23 and yet we are falling into the same trap here that we have
24 fallen into in other areas. We are saying, because of a
25 serious problem, we are going to create a superfund, and

1 impose a very substantial liability on the chemical
2 industry, which is facing tough competition.

3 It just seems to me totally improper to use that
4 approach. Once you go ahead with these funds, then you are
5 almost affirmatively saying you are going to buy the
6 legislation which could be very negative, have a very
7 serious impact on the industry.

8 It was my understanding that these proposals here,
9 which really don't do anything substantively, were going to
10 be adopted.

11 The Chairman. Let me ask this question. Let me just
12 ask this question now. Maybe we could accommodate what Mr.
13 Bradley has in mind and also accommodate what Mr. Roth has
14 in mind. I want to ask Mr. Shapiro this. Couldn't we have
15 enough slack so that if we don't think the superfund should
16 be even as much as the \$300 million, that couldn't we safely
17 just say, all right, we will recommend \$150 million for the
18 superfund be added in? Then you could take care of the
19 items that Mr. Bradley is talking about adjusting, and then
20 we indicate that, yes, we expect to do something about
21 superfund.

22 Now, the reason I say that, I haven't studied the
23 legislation, but I have talked to people, some of whom were
24 upset about what the Ways and Means Committee did. They
25 indicated that they would have been content to pay a lesser

1 tax, but they thought the Ways and Means Committee went too
2 far.

3 Now, if you put half of it in, we would indicate, yes,
4 that we did expect to do something in this area. We might
5 want to do a lot more than that, but at least it seems to me
6 as though we could safely buy \$150 million of it.

7 Mr. Shapiro. The Committee can do exactly that, Mr.
8 Chairman. What you can do is agree to a level of revenues.
9 You could increase the \$4.2 billion, or you could take the
10 50 percent down to match the \$4.2 billion, and with the
11 understanding that the staff would adjust the tax levels,
12 the tax rates of the superfund taxes to make up the
13 difference.

14 In other words, we know where the \$300 million is in
15 Ways and Means. It may be that you reduce them in half, if
16 you are saying you want to adopt the same bill that the Ways
17 and Means adopted, just at reduced revenue levels.

18 The Chairman. It seems to me as though that is a good
19 compromise.

20 Senator Roth. Mr. Chairman, of course, one of my
21 concerns is, then you get into conference, and then they
22 will want to compromise further.

23 Senator Bradley. Bill, the thing you have got to
24 realize is that we are only dealing with revenue figures
25 here, and by the time we get to any conference, the

1 authorizing committees will have designed the legislation.
2 The Senate bill is now at \$800 million. The House bill as
3 passed is \$600 million.

4 Senator Roth. The thing that bothers me about this
5 whole concept, whether it is this particular program or any
6 other is, once you use that for purposes of reconciliation,
7 then you are going to face the argument later, well, we have
8 to do this for purposes of reconciliation, so that whether
9 we know whether we are for -- nobody knows whether that
10 legislation is going to be adopted in any form or what form,
11 and yet in substance we are going on record that funds have
12 to be raised from this kind of a program.

13 It seems to me we've got the cart before the horse, and
14 this time it is the chemical industry, and I am concerned
15 about the impact that this legislation could have. I think
16 something is going to be done in this area, but to answer
17 the Chairman, I am not exactly sure what the various
18 proposal are. There are two or three House proposals. The
19 highest one is \$300 million in the first year, but I think
20 others are substantially less. I don't like to put us on
21 record as favoring one approach over another.

22 The Chairman. It seems to me as though if we go -- our
23 job here is to try to guess about what revenue we can cut
24 and what revenue we will have coming in. It seems to me
25 that we could make a safe assumption that we come within

1 \$150 million, and then we can act on the legislation, and I
2 think that the fact that the decision will probably be made
3 in the Senate before this thing ever comes back to
4 conference. Isn't that a fair assumption, Mr. Shapiro?

5 Mr. Shapiro. It would appear that that could be the
6 time schedule.

7 The Chairman. It seems to me that that is a pretty
8 good plan.

9 Senator Roth. Mr. Chairman, could I suggest, are we
10 coming back right after the vote?

11 The Chairman. No, I would like to wrap this up now, if
12 we could. We have been here all morning.

13 Mr. Stern. Mr. Chairman, what you are including is an
14 actual bill and report. It is not just a dollar number
15 recommendation. So, if you want to design something
16 different from what the Ways and Means Committee had agreed
17 to, you would have to actually know where that \$150 million
18 comes from, so it can be drafted. It would not just be a
19 number that you are transmitting.

20 Senator Bradley. That can be done easily, I think. The
21 Ways and Means Committee figured it 75-25. If you go half
22 of that, you are down to, what, 37 percent for the industry
23 assessment.

24 The Chairman. Let me suggest this. We voted on the
25 resolution, and now we are planning to meet again tomorrow.

1 When we come in tomorrow, I would suggest that we make it
2 the first order of business to consider this particular
3 matter, as well as Mr. Roth's suggestion, and I would assume
4 that we could still modify that one thing, if we just leave
5 that one thing open.

6 Senator Bradley. Mr. Chairman, does Senator Roth still
7 have an objection?

8 Senator Roth. Yes, I do.

9 Senator Bradley. All right.

10 Senator Roth. You know, in effect, what you are going
11 to have to do is write a whole bill, and we don't even know
12 what that bill is going to be, and yet we are saying we are
13 going to commit a certain amount of funds for it. I don't
14 know what the right figure is. We have had no hearings. We
15 have no bill. We have no legislation, and yet we are going
16 ahead and saying we are going to commit a certain amount of
17 funds for that purpose, or raise a certain amount of funds.
18 I think this is the whole problem with this country. That
19 is what we have done in the past. We impose burdens without
20 knowing what we are doing, and we are suffering the
21 consequences. We have 1.7 million people out of work in the
22 last six weeks.

23 The Chairman. The Senate is voting. Let us come back
24 and look at this matter tomorrow, then.

25 (Whereupon, at 11:40 a.m., the Committee was adjourned,

1 to reconvene the following morning.)

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