

Mike W.

ORIGINAL

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HEARINGS  
Before the

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COMMITTEE ON FINANCE

UNITED STATES SENATE

COMMITTEE ORGANIZATIONAL MEETING

Washington, D.C.

February 1, 1983

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COMMITTEE ORGANIZATIONAL MEETING

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Tuesday, February 1, 1983

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

The Committee met, pursuant to notice, at 10:02 a.m., in Room 2221 Dirksen Senate Office Building, the Honorable Robert J. Dole (Chairman of the Committee) presiding.

Present: Senators Dole, Heinz, Wallop, Symms, Grassley, Long, Bentsen, and Moynihan.

Also Present: Robert E. Lighthizer, Chief Counsel, Rod DeArment, Deputy Chief Counsel, and Michael Stern, Minority Staff Director.

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The Chairman: Let's go ahead and go over the budget. I do not know of any objections. I have not heard any.

Mr. Lighthizer: Mr. Chairman, this is basically a continuation budget from last year. The first item -- and I am using Attachment A to the agenda -- is the Staff salaries, and that is continuing for a full year everybody at current levels.

Senator Long: I know what is in this budget, Mr. Chairman, and as far as I am concerned, it is all right to

1 move on to the next thing.

2 The Chairman: I think Mike has gone over it, haven't  
3 you, Mike?

4 Senator Long: Mike had explained it to me. I am  
5 familiar with each figure in there, and if you want to  
6 explain it in greater detail, you can. But there is no  
7 objection as far as I am concerned.

8 The Chairman: As far as Staff, I think it is a modest  
9 increase and, as usual, this Committee is, I think, quite  
10 frugal. We do not waste any money.

11 Senator Long: If all the other Committees were as  
12 careful about spending money as this one, we would not need a  
13 new office building.

14 The Chairman: Let's just assume that is without  
15 objection. That part is okay.

16 Mr. Lighthizer: The second item, Mr. Chairman, is a  
17 proposed or possible amendment to the rules. It is required  
18 that we approve our Committee rules during this  
19 organizational meeting, so the third item is the approval of  
20 the rules. But the second item is a change in the rules.

21 Basically, right now with respect to markup transcripts  
22 we follow a procedure of allowing members of the public and  
23 the press to look at the transcript as long as they promise  
24 not to Xerox it or to take verbatim quotes. The problem is  
25 that it is an uncorrected transcript and there is a large

1 possibility of having Members be embarrassed by an inaccurate  
2 quote going out.

3 This proposed rule says that, other than Members with  
4 their staffs, no one can look at the transcripts of  
5 markups -- this is just markups -- unless there is a vote by  
6 the Committee to make the transcripts public and all Members  
7 get a chance to correct their own remarks.

8 The Chairman: I would just say I have had a couple of  
9 experiences where the press has insisted that they have a  
10 right to see the markup transcript. It is not that we are  
11 trying to keep it from anyone, but many times we have --

12 Senator Long: I am told that Senator Bentsen had a  
13 question or two about this matter. I would suggest that you  
14 put a call in for him and tell him we are discussing it right  
15 now. If he wants to discuss it, we would appreciate it if he  
16 would come on down here because as far as I know, I do not  
17 know why he should object.

18 Mr. Stern, why don't you give me, if you can recall it,  
19 the illustration you gave me about inaccuracies getting into  
20 that record that had to be corrected.

21 Mr. Stern: Well, the case that I recall is one where in  
22 referring to putting a limitation on the social services  
23 program you had referred to turning off the spigot --  
24 s-p-i-g-o-t -- and the transcript read "turn off the speaker."

25 That occurred during a hearing and the transcript was

1 corrected and so the printed version read the way you  
2 actually said it, but the markup sessions that go on day  
3 after day are not corrected and are there for reference. But  
4 they contain any inaccuracy that was there in the first  
5 place, so they are not really a reliable source and that is  
6 why there is some concern.

7 Senator Long: Now would you explain, for example, how  
8 that mistake came to be there?

9 Mr. Stern: Simply because the person who was doing the  
10 transcription took his or her best guess at what it was you  
11 said, was not really familiar with the subject.

12 Senator Long: Had one of these mouthpiece things like  
13 this lady right there taking this matter down, and was  
14 speaking into it, so that person is speaking behind the  
15 conversation. The reporter hears what is said and then  
16 attempts to get that down.

17 When several people start talking simultaneously, it is  
18 very difficult for the reporter to get it accurately to begin  
19 with. But it is easy enough for the reporter to not hear  
20 precisely what the person said. Maybe it was not pronounced  
21 as clearly as the word could have been pronounced.

22 In any event, from time to time that which appears in the  
23 record is at considerable variance with what was actually  
24 said, and for a point of accuracy it can create problems if  
25 the record did not accurately reflect either what the person

1 said or, to be fair about it, what the person intended to  
2 say. We permit people to correct the Congressional Record,  
3 to make modest changes as long as it does not change the  
4 meaning of what was said.

5 Now as I understand it, we are not quarreling about  
6 someone having the right to see what the reporter took down.  
7 What we are quarreling about is that when they actually quote  
8 what was said, to get what actually was said or what the  
9 speaker thought he said, rather than what the reporter  
10 thought he said.

11 Mr. Stern: I think the proposal would be to limit access  
12 to even the uncorrected transcripts. The practice now is to  
13 say you cannot quote, but you can look at it. This would  
14 limit the access to the transcript to Senators, unless there  
15 is a Committee vote.

16 Senator Long: If it became a matter of great moment to  
17 someone, and I do not know of any case it has, but at some  
18 point if it should become a matter of great moment, of great  
19 importance to someone, to say that one said something other  
20 than what they thought they said, if the raw record were  
21 available the Committee could decide whether they wanted to  
22 release that too, if the Committee decided.

23 The Chairman: There is another problem, I think, even  
24 for the recorder. When you have three or four Senators in a  
25 discussion in a markup, who knows what is going to end up in

1 the record.

2 I have had press tell me that "I have had permission from  
3 another Senator to see the record, so could I see the  
4 record." Well, I do not want to deny the press access to the  
5 record if it is accurate.

6 I think the only point I would make is that I hope we are  
7 doing it not to shut off information but to make certain that  
8 we limit access until we have had a chance to have the record  
9 accurately reflect what we intended to say, and that is the  
10 essence of what you are doing, isn't it?.

11 Mr. Lighthizer: Yes, sir, Mr. Chairman.

12 Presumably some of them you would never vote to let be  
13 opened. For example, this kind of a meeting, it would not be  
14 worth or may not be worth the effort of Senators to correct  
15 the record, but if you were doing a major tax bill, it may  
16 very well be.

17 The Chairman: I think Senator Bentsen had a question  
18 about it. Are there other Committees that follow this  
19 procedure?

20 Mr. Lighthizer: We have done sort of an informal survey,  
21 and I would say that this rule is modeled after the Ways and  
22 Means Committee rule. In the Senate there are no real clear  
23 precedents or clear rules that are followed. Apparently it  
24 is sort of done on an ad hoc basis, which is the way it has  
25 been done here until recently and which is the reason why the

1 Staff is bringing this proposal up, just so that at least  
2 whatever we do, the Members decide to do it, rather than just  
3 have it be followed by sort of staff precedent.

4 The Chairman: Senator Bentsen.

5 Senator Bentsen: Mr. Chairman, I am sorry I was not here  
6 at the beginning of this. I would have liked to have heard  
7 the reasons for proposing this. My concern is this, that  
8 obviously we have been able to get along without such a rule  
9 under the previous Chairman, and I frankly do not know of  
10 abuses of it. Maybe there have been some and perhaps those  
11 have been cited.

12 But again you are talking about utilization of a  
13 transcript that is a transcript of a public meeting. The TV  
14 people off over here have a tape of it, both visually and  
15 orally. Time and time again, Mr. Chairman, I have utilized  
16 that transcript to try to be sure that the final report and  
17 the Committee report carried out what actually happened in  
18 that meeting.

19 And I have seen instances where there has been a  
20 distortion in the Committee report of what happened, and we  
21 have been able to correct it by using that transcript.

22 I know of an instance in the campaign where I was charged  
23 with something that supposedly I had done in this Committee,  
24 and I was able to use the transcript to refute that and to  
25 correct it.

1           We have got another situation here where it says that at  
2 reasonable times it could be examined. I am not sure what  
3 "reasonable times" are, and I have found in the Senate we go  
4 to some extraordinary hours. I do not know who determines  
5 what "reasonable time" happens to be, whether that is the  
6 Staff Director or Staff members or to whom that would apply.

7           I would like for my staff member to be able to have  
8 access to those records, to bring them to me, and give me a  
9 chance to look at them. I have done that in the past. I  
10 certainly do not think I have abused that.

11           When they talk about giving a Member time to correct his  
12 comments, I think that is fine, but I really believe that a  
13 Member ought to have access to that record any time he wants  
14 to, and I think it ought to be his determination and I do not  
15 think we should give up that. I do not believe we should be  
16 in a situation where a majority could negate that -- whether  
17 it is a Republican or Democratic majority. I just do not  
18 think that should happen.

19           Now if you have got something in that record that quotes  
20 another Member, then he should have an opportunity to correct  
21 it if he feels that something he has stated is not properly  
22 reflected in the written word. But unless there have been  
23 some substantial abuses, I think we give up quite a bit when  
24 a member does not have access to this transcript and  
25 utilization of it without having to go to a majority vote to

1 do so.

2 Senator Long: Could I just ask again, is that really the  
3 problem? I would like Mr. Stern to hear this as well. Now  
4 is that really the problem that we are addressing ourselves  
5 to in this rule, what the staff had in mind?

6 I believe what this rule is addressed to is not the right  
7 of any Member to see what is in the transcript, even the  
8 rough transcript, as long as it is available. It is really  
9 the fact that before we release it to the public we would  
10 like to offer Senators a chance to do what they do with the  
11 Congressional Record -- that is, edit or correct it to see  
12 that it properly reflects what they thought they said.

13 Senator Bentsen: I am for that.

14 Mr. Lighthizer: That is correct.

15 Senator Long: Does this proposed rule preclude any  
16 individual Member of the Committee from seeing what is in the  
17 record even before it is edited?

18 Mr. Lighthizer: No, it does not, Senator. What it would  
19 preclude, and what Senator Bentsen is getting at, is a Member  
20 taking what is in the record and having him make it public  
21 individually without having the majority of the Members vote  
22 to do that, and without having all the Members have an  
23 opportunity to correct their own remarks.

24 The Chairman: There is no problem in making his own  
25 statement public, but I guess it is a question of whether the

1 colloquy between myself and Senator Bentsen during a markup  
2 which has not been corrected. I do not think that is of any  
3 great moment.

4 I think the reason for raising it, and we have had a  
5 number of inquiries from press and others saying they have  
6 had authorization from another Member to see the record. Now  
7 I think in most cases we have been able to accommodate them.  
8 Senator Baucus had a couple. Senator Bradley a time or two.  
9 Obviously, every Member has a right to see the record. No  
10 one on the Staff should direct that.

11 I guess what we are trying to figure out is how we can  
12 make certain that if the record is made public that at least  
13 he has had an opportunity to correct it, so you will not be  
14 explaining something that was inaccurate in the record.

15 Mr. Lighthizer: There have been cases where, in at least  
16 one case, a lobbyist has shown up with Xeroxed copies of  
17 verbatim transcripts that were uncorrected, and that sort of  
18 thing getting out is really unfair to a Member who might be  
19 quoted inaccurately in that transcript.

20 Senator Long: All we are really talking about is -- and,  
21 in fact, I would be glad to have it agreed -- and I do not  
22 think the Chairman has any objection -- might I suggest that  
23 once the Members involved have had the opportunity and have  
24 been told that a request has been made for the release of the  
25 record and have had the opportunity to edit their part of it,

1 each person to correct his individual part of it, that the  
2 record will be released.

3 There is no problem about releasing the record. It is  
4 just that we would like the opportunity to make such  
5 corrections as the individual speaker felt were appropriate  
6 to his own remarks.

7 Senator Bentsen: Now I am for that.

8 Senator Long: Then it will be released.

9 As I understand it, there is no intent here to withhold  
10 it. It is just simply that if it is something that ordinarily  
11 would be public, we will make it public. We would just like  
12 to have an opportunity to edit first. I say that because  
13 many times in meetings, I know back in the days when I was  
14 Chairman, I used to talk a lot more than I do right now just  
15 because I was Chairman, frankly, and I think back in those  
16 times when we would be in a long session it is a great burden  
17 to go over and edit all that between that session and the  
18 next session.

19 So if we could have that understanding, I think that  
20 would take care of Senator Bentsen's problem.

21 Senator Bentsen: Well, we are working toward the same  
22 objective. You are not going to get them to go in to correct  
23 the transcript. They are not going to take the time to do  
24 that, and I understand that. We are not trying to develop  
25 legislative history normally, as you think of it from that

1 standpoint, but I want to be darn sure that I have access to  
2 that record when I want it, and I do not want Bob or anyone  
3 else telling my staff member he cannot see the bloody record.

4 I want to be able to see it. And then I want myself  
5 limited or any other Member limited to the release of that  
6 until any other Member has a chance to correct that portion,  
7 if we are utilizing something. So that is what we are  
8 striving for.

9 Senator Grassley: Under your suggestion, if you would  
10 yield, where does the initiative -- can the initiative come  
11 from either the Member or the public?

12 Senator Bentsen: The initiative, the control is with the  
13 Member.

14 Senator Grassley: On the opportunity to correct, but  
15 what about the initial request? Does that have to come from  
16 the Member of the Committee, or can it come from a member of  
17 the public?

18 Senator Bentsen: As far as I am concerned, we are  
19 talking about the Members here.

20 Senator Long: Could I see the exact language, because as  
21 I understand it what we really have in mind is that upon the  
22 request of a Member that the record will be released. We are  
23 leaving it, I believe, in this rule up to the majority to say  
24 when it is being released, I take it. I am not worried about  
25 that.

1 Frankly, the proposition at that point, speaking as a  
2 member of the minority, if we want -- as I understand this  
3 rule, we are all privileged to see it, to know it is that we  
4 are arguing about, if it ever gets to that point, and if we  
5 want it released, we will have it right there. We will just  
6 copy it all down if we want to.

7 If we want to release it, we will have the information.  
8 So the whole point is merely whether people should have an  
9 opportunity to correct what might be an error in their  
10 remarks before it is released. That is all we are talking  
11 about, I take it.

12 If most Senators are like I am, they are not going to  
13 fool around editing that record unless somebody is  
14 interested. If they are interested, then I would like a  
15 chance to see what it I said and see if that is correct. But  
16 otherwise, I might even want to correct a grammatical error.  
17 I like to think I do not make many grammatical errors, and  
18 yet I know I do.

19 So I think each Member would like to have the opportunity  
20 to edit what he said before it is released. We do not want  
21 to change the substance, but I think we can all agree that we  
22 do not want to deny any member of this Committee to go see  
23 what was actually said, according to the reporter, and if  
24 there is a change of substance he has a right to bring that  
25 matter up in any Committee meeting and insist that it be the

1 way he thought he heard it to begin with.

2 Senator Bentsen: I agree with that. Why in the world  
3 can't I, if the television cameras are monitoring this thing  
4 and it is a public meeting, and once the Member has had a  
5 chance to correct his comments, why can't I have the right,  
6 then, as that television cameraman already has, why can't I  
7 have the right to release a comment that I have made?

8 The Chairman: I think you should. What I am concerned  
9 about is the uncorrected.

10 Senator Bentsen: Absolutely, but I do not want to wait  
11 for a full correction of the record. I am talking about any  
12 segment of it that I am interested in. If I give the other  
13 Member a chance to correct his remarks, then why don't I have  
14 the right to release it?

15 The Chairman: I think you should have the right.

16 Mr. Lighthizer: I think we can modify the rule to  
17 accommodate that.

18 Senator Grassley: It is still not clear to me. Under  
19 present rule and also, then, how does the proposed change  
20 affect this: If a constituent of mine wants to check to see  
21 how Senator Grassley, what he said or how he performed on a  
22 certain specific issue, does that constituent have access to  
23 this record to check on my performance?

24 Mr. Lighthizer: You mean under this rule?

25 Senator Grassley: Well, what is the existing rule and

1 what do you propose to do in that specific situation -- a  
2 constituent taking the initiative?

3 Mr. Lighthizer: Under the existing policy -- and there  
4 really is no rule -- the constituent could come in. He would  
5 have to say he would not take any Xerox or any verbatim  
6 quotes, and he could look at the transcript and then leave.

7 Senator Grassley: But he does have access to it today,  
8 to come in and look at it, but he cannot take any of it away.

9 Mr. Lighthizer: That is correct. He cannot take any of  
10 it away and he is not supposed to take any verbatim quotes.

11 Now we have had cases where people have just ignored the  
12 rule and taken verbatim quotes.

13 Senator Grassley: But they at least have access to it  
14 under existing rule?

15 Mr. Lighthizer: Under this rule, if that constituent  
16 came in, he would have to do one of two things. He would  
17 either have to go to you or to some Member and say, "Can you  
18 make the record public?", in which case the Committee would  
19 vote to make it public and every Member would have an  
20 opportunity to correct his own remarks.

21 Or, the constituent could go and ask you -- this is under  
22 the Bentsen modification -- would be able to go and ask you  
23 to see what you said, and you could authorize that, with or  
24 without correction of your own remarks.

25 Senator Grassley: Well, what would be the effect if we

1 still allowed, as under present rule, the constituent access  
2 to it, but with the understanding that any Member that is  
3 involved has an opportunity to change it?

4 Mr. Lighthizer: The effect of that is, then, that I  
5 would have to go back whenever you had a request from one of  
6 your constituents to every Member and tell every Member that  
7 now they have to correct that transcript. I mean, basically  
8 you would have every Member having to correct every  
9 transcript, including, potentially, this one.

10 And the idea is to make Members just have to correct  
11 those transcripts where there is some real interest in it.

12 Senator Grassley: Under your proposed rule, can the  
13 Member, through his inaction, deny or have the effect of  
14 denying the constituent the opportunity to see the record?

15 Mr. Lighthizer: I am not sure I understand.

16 Senator Grassley: A constituent comes to Senator  
17 Grassley and says, "I want to see the record of such-and-such  
18 a meeting on such-and-such an issue." And Senator Grassley  
19 says, "No. I am not going to let you do that."

20 Mr. Lighthizer: Then, unless the Committee voted to open  
21 up the record, the constituent could not see the record.

22 Senator Grassley: Well, why can't we have a situation  
23 where the constituent would have a right to that, but I would  
24 have an opportunity to look it over and to make the necessary  
25 corrections, and then the constituent would have the

1 opportunity.

2 Mr. Lighthizer: But every Member would have to do that  
3 for every transcript where anyone asks to see it, then. Then  
4 every Member would have to correct every transcript where  
5 there was any request to see it. I mean, you could not --

6 The Chairman: And not every Member is going to be  
7 involved.

8 Mr. Lighthizer: But if you have a transcript on a tax  
9 bill and somebody comes in and says "I want to see a copy of  
10 the transcript," basically you would have to have every  
11 Member who had spoken in the transcript have an opportunity  
12 to correct the record.

13 Senator Grassley: Well, I can see now from this  
14 discussion there are problems that need to be tended to, but  
15 I think the end result should not be that a constituent is  
16 denied access to public discussion and public information,  
17 and I would like to see if we could accomplish both the  
18 protection of the Member, to see that the record is straight  
19 with the original intent, and still have the public have an  
20 opportunity for public information to be made public.

21 Senator Long: Might I just suggest that at the end of  
22 this proposed rule here, at the end of the sentence ending  
23 with the word "Committee", if you simply insert a sentence to  
24 say, "All Members of the Committee shall be privileged to  
25 personally review the record at any time," to make it clear

1 that as far as the Members of the Committee are concerned,  
2 any Member of the Committee has the privilege of seeing what  
3 that record says, even before it is released.

4 Now all you have got to do is just go and ask to see it,  
5 and he can see it. As far as anybody in that press corps or  
6 the media who has really got something on the ball, if they  
7 cannot find out what that thing said at that point they are  
8 just not up to what I think they have on the ball.

9 I think that these talented, enterprising members of the  
10 media have a way of finding out what they want to know about  
11 anyway. But that would still then protect the Members' right  
12 to correct something that they believe is totally in error  
13 before the record is publicly released.

14 Senator Symms: May I just ask one question, Mr.  
15 Chairman? I am sorry I was a little bit late, and maybe Bob  
16 explained it.

17 Would you just give me in a very simplified version why  
18 it is we need to change the present rule? What is the  
19 difference?

20 Mr. Lighthizer: The current rule is that anyone who  
21 comes in can look at the transcript and we ask them not to  
22 make a Xerox copy of it or take verbatim quotes. In the  
23 past, there have been few requests. Recently there have been  
24 a fairly large number and not really so much from just the  
25 press as from lobbyists and others in Washington.

1       There has been at least one example of a lobbyist showing  
2 up with Xerox copies of transcripts that no Member had an  
3 opportunity to correct. Somebody just Xeroxed a copy and  
4 gave it to him, and he is coming and using that material.  
5 There also was an example -- and this was during the last  
6 Congress -- of a verbatim quote that appeared in the press  
7 without any Member having an opportunity to correct the  
8 record.

9       What we want to do is set up a procedure. I might say  
10 also, Senator, we really do not have a rule. This has just  
11 sort of been a staff procedure that has developed over the  
12 years. What we want to do is have the Members themselves  
13 address the problem and, if possible, set up a procedure  
14 whereby, before the transcript becomes public the Members have  
15 an opportunity to correct their own remarks.

16       You do not have that opportunity now. That really is the  
17 source of the problem and the reason why this was suggested.

18       Senator Symms: But you are not talking about limiting it  
19 from, say, having Senator Bentsen get that settled, you can  
20 send someone from your staff over here to look at the record  
21 and correct it for you?

22       Senator Long: Senator, the way it stands at the moment,  
23 and without this rule, we could have a Committee session, and  
24 it could be a hot give-and-take session, but that reporter is  
25 doing the best she can to take down everything that we have

1 said. But two or three people are talking at the same time  
2 sometimes, and maybe she is not familiar with the subject  
3 matter that is being discussed at the moment.

4 Someone goes and gets that record on behalf of the Credit  
5 Association and gives out to all his members and you have not  
6 even seen it. It leaves out the word "not" in the middle of  
7 a sentence and someone thinks that you are diametrically  
8 opposed to that position, and what you said was that you were  
9 in favor of that position.

10 This is simply to say that basically the whole purpose is  
11 that before the record is being released that you have the  
12 opportunity of knowing that a request has been made to  
13 release that record and that you have a chance to see what  
14 you are quoted as saying before it is mailed out across the  
15 country. So if the word "not" should have been in the middle  
16 of that sentence, you would have a right to insert it.

17 And at the same time, the purpose is not to interfere in  
18 any way with the right of every member of this Committee to  
19 see what he was quoted as saying or what the other fellow was  
20 quoted as saying, subject to the privilege that you have with  
21 regard to the Congressional Record. You have the right to go  
22 edit that and make some changes to make the record reflect  
23 what you support.

24 As far as I know, we have never had occasion where we  
25 have ever had any real problem about this matter, but it

1 seems to me that a stitch in time is worth nine, and it would  
2 be good to have a rule that would meet the problem before it  
3 ever occurs.

4 Now that we are aware that lobbyists and different people  
5 go take this raw record and mail it out across the country to  
6 members of their constituency or members of their association  
7 and that sort of thing, we would have a record that would  
8 protect all Senators.

9 Frankly, in most cases I have never bothered to edit what  
10 I say in these Committee sessions. I have watched carefully  
11 what I say in the Congressional Record to see that that  
12 reflects what I had in mind, but if this is going to be  
13 released, I would like to have the opportunity to take a look  
14 and see what I am quoted as saying, just like I think  
15 everybody would, and especially if it is going to be mailed  
16 out somewhere. You would like to look and see what you are  
17 quoted as saying and see if you really said that or if what  
18 you said was something different.

19 Senator Bentsen makes a very good point. He wants to  
20 take his right in case the record proves his point to quote  
21 it just as exactly the way it appeared at that point, and I  
22 am just suggesting that we should mention something to make  
23 sure he does have that right. I do not think anyone intends  
24 to deny him that.

25 Senator Symms: This does not in any way deny anybody

1 from coming over here and looking at the record.

2 Senator Heinz: Mr. Chairman, that is the only point I  
3 wanted to be clear about. If I wanted to come over and  
4 review the debate that we have all had on an issue, do I have  
5 to request the permission of Bob Dole and Russell Long and  
6 Lloyd Bentsen?

7 The Chairman: No, we are trying to avoid that.

8 Senator Heinz: It seems to me I have a right to look at  
9 all of the debate.

10 Senator Long: That is what I suggested.

11 Senator Bentsen: But you also have a right, then, to  
12 quote it if the other people that participated in the debate  
13 have had an opportunity to correct and edit their remarks.

14 Senator Heinz: That is right.

15 The Chairman: I have had Senators call me to see if they  
16 can look at the record. I do not know why not. Why should I  
17 have to say -- but I think the one thing that we need to be,  
18 and I assume this was addressed, and the lobbyists are very  
19 resourceful and many of them would like to get you to change  
20 the record to say that you did mean to say this. And when we  
21 get into change of substance, then we have got another  
22 problem.

23 You know, they are always around looking at ways to say  
24 well, you really meant this, and then that changes the  
25 whole -- after you have had an amendment adopted they can

1 come in and change the record around so that they are home  
2 free.

3 Senator Heinz: Mr. Chairman, that is certainly true, but  
4 let me say that we all know that that is unethical and  
5 whether they are lobbyists or not anybody who would ever be  
6 inclined to do something like that will do it. I do not  
7 happen to think there are any people who would do it.

8 Senator Bentsen: By the same token, I have seen  
9 situations where the staff seemed to think that what we  
10 really meant to say was such and such.

11 Senator Heinz: I think the Senator is correct. I am a  
12 little more worried about our well-meaning, energetic staff  
13 members than I am about any Member.

14 Senator Long: That is why I am suggesting that this  
15 right to review the raw record before it has been edited be  
16 the right of Senators. I just think Senators ought to be  
17 sufficiently -- if they want to go see what somebody was  
18 quoted as saying prior to the time he had a right to edit it,  
19 I think Members of the Committee ought to have that  
20 privilege.

21 But I do not think we should leave that to staff.

22 Senator Heinz: Mr. Chairman, as I understand this  
23 proposal, the only thing that would appear to be missing in  
24 it, if I understand it right, is that a Senator has a perfect  
25 right once the transcript has been corrected and Senator Long

1 has corrected his rare grammatical error, to release that  
2 record, if that is what he so desires.

3 Now the only thing that is missing in this is any  
4 reasonable time limitation that Senator Long or any of us  
5 might take to make our grammatical corrections.

6 The Chairman: Good point.

7 Senator Long: Well, this leaves it up to the Committee,  
8 and I honestly do not think you are going to have any problem  
9 with this because, to tell you the truth, we have not had any  
10 problem with it up till now, but now that the staff has  
11 pointed out to us a situation that might become a problem, I  
12 think that really you are not going to need that, to just  
13 leave it up to the majority of the Committee.

14 You see, Senator Heinz, as a practical matter if  
15 something does not involve national security -- and this  
16 would not -- and it did not involve a situation where there  
17 is something that might reflect very badly on the character  
18 of an individual or something of that sort, and you have a  
19 rule of ethics involved there anyhow, then I would just think  
20 that any Member who has information which probably should be  
21 released anyway, if he wants to just go ahead and release it,  
22 here is what it said and just quote it.

23 Part of the time that an edition was made -- I am talking  
24 about not an addition, an edition -- prior to that time, the  
25 person could just go ahead and read it himself in the record

1 or the Congressional Record or anywhere else, and everybody  
2 would know what he is saying is correct, that that is what is  
3 quoted. And then it was changed to read as follows.

4 So once any Senator has it, he has the power to release  
5 it whether you like it or not. And when he does that prior  
6 to the Committee releasing it, he has to take that  
7 responsibility.

8 But if a man is positive he is right about it, you and I  
9 know that if he thinks it is important and he is positive he  
10 is right, he will probably go ahead and release it anyway.

11 Senator Heinz: Mr. Chairman, perhaps, as I understand  
12 the second part of the proposal as to the release, it should  
13 be restated to make it clear that a Senator may release any  
14 part of the record but should afford a Senator whose  
15 testimony is a part of the record being released adequate  
16 notice and accord him a reasonable amount of time in which to  
17 make any grammatical corrections -- not any kind, necessary  
18 corrections.

19 The Chairman: Does the staff understand the  
20 modifications that should be made?

21 Senator Wallop: Could that be restated?

22 The Chairman: How would the rule read if we made the  
23 modifications suggested by Senator Long to take care of  
24 Senator Bentsen's problem, and then the suggestion by Senator  
25 Heinz?

1           Mr. Lighthizer: It is my understanding, Mr. Chairman,  
2 that the rule would be essentially that the record of markups  
3 would not be made public unless the Committee voted to make  
4 it public and gave everyone an opportunity to correct their  
5 own record, and that, uncorrected, any Member could see the  
6 transcript at any time and the Member could make public his  
7 own remarks and he could make public the remarks of another  
8 Senator if that Senator was given an opportunity to correct  
9 his remarks.

10          The Chairman: I think I might suggest that you and Mike  
11 and other staff members would maybe go back and redraft that  
12 so there will not be any misunderstanding and we will take it  
13 up on Thursday when we meet again Thursday morning on the  
14 budget -- is that correct?

15          Mr. Lighthizer: The President's budget.

16          Senator Long: Might I suggest that we approve what is  
17 here, subject to the amendments being discussed, Mr.  
18 Chairman?

19          Senator Wallop: Could I just ask one question? That has  
20 to do with the statement of whether it would be open or  
21 closed to the public. I wonder if there is any reason to  
22 have one closed to the public if you are going to be able to  
23 release the transcript. It seems like there ought to be some  
24 distinction made, as there was a distinction in the character  
25 of the meeting in the first place.

1           Senator Long: There should be. If we are talking about  
2 a nominee and you are talking about something that if in  
3 error would reflect on his character, then obviously it  
4 should not be released.

5           Senator Wallop: A closed meeting is generally for a very  
6 specific purpose.

7           Senator Long: Then that change should be in the rule,  
8 obviously, if it is an executive session and you are talking  
9 about something that is confidential, such as the tax return  
10 of a taxpayer or something of that sort. But if it is a  
11 matter that was in open session, you ought to be privileged  
12 to go ahead and release it. If it is a closed session, then  
13 that would require the consent of the Committee.

14          Senator Wallop: I think that is good, because sometimes  
15 we have trade briefings and others which we clearly do not  
16 want released to the public in a transcript.

17          Mr. Lighthizer: Then the rest of the rules are  
18 unchanged, Mr. Chairman.

19          Senator Bentsen: I want to make a point while we are  
20 talking about making comments available. Someone limited it  
21 to a Senator and another Senator and obviously we are are  
22 talking about a witness too, you know, the instances where I  
23 have utilized it in the past.

24          I can remember David Stockman, in particular, where I was  
25 having a controversy with him, and I utilized his comments

1 and mine.

2 Mr. Lighthizer: In that case, the witness would be given  
3 an opportunity to correct his remarks also. Is that the gist  
4 of what you are saying? I mean, it could come up where you  
5 have a staff member on a committee saying something or the  
6 Assistant Secretary for Tax Policy could say something.

7 The Chairman: Just so long as they do not change the  
8 substance.

9 Senator Wallop: I just do not believe the Senate ever  
10 had a cross-ways comment with Mr. Stockman. Was that the  
11 case?

12 [Laughter]

13 Senator Bentsen: How much time do you have?

14 [Laughter]

15 The Chairman: We may have him again one of these days.  
16 Are there any objections to the other rules? Then we  
17 adopt this rule on the condition that you are going to make  
18 the changes suggested. I think it might be well that we  
19 discuss those changes on Thursday.

20 Mr. Lighthizer: So you do not want us, then, to report  
21 our rules to the Senate -- our Committee rules?

22 The Chairman: Not until we have this one nailed down and  
23 have made sure that everybody understands it. We want to  
24 protect everyone's right and still make the information  
25 public, but not something that may have been -- that some

1 Senator does not have an opportunity to correct what he  
2 intended to say or what he did say.

3 Is there anything else on the agenda?

4 Mr. Lighthizer: No, Mr. Chairman.

5 The Chairman: If not, then we meet again on Thursday  
6 morning at 10:00. That is to hear Don Regan?

7 Mr. Lighthizer: Yes, sir.

8 The Chairman: We have a number of items, just so the  
9 record might reflect what we hope to do before July 1. One  
10 is the Social Security financing package. The unemployment  
11 compensation program expires April 1. Revenue-sharing  
12 extension, the program expires September 30. The budget  
13 savings, I assume we have to do that by July 1. The debt  
14 ceiling, I understand, we may have to address that before  
15 October or the end of September.

16 The so-called "enterprise zones", Caribbean Basin, trade  
17 adjustment assistance, and whatever else may come before the  
18 Committee -- the tax bill.

19 Senator Moynihan: Mr. Chairman, do I detect a certain  
20 skepticism in your term "so-called enterprise zones"?

21 The Chairman: No, I did not mean it that way. I think  
22 we can approve the part of the package that the  
23 Administration proposes.

24 But there are a number of things we hope to accomplish  
25 this year. I cannot go into all of them. One of them is to

1 adjourn in time for the August recess.

2 Don Regan will outline his proposal for a standby tax and  
3 other revenue measures, I guess, on Thursday at 10:00. Is  
4 that correct?

5 Mr. Lighthizer: Yes, sir.

6 The Chairman: We will follow the early bird rule this  
7 year, unless there is some objection. It would seem to me  
8 that those arrived first should have the first shot.

9 Thank you very much.

10 [Whereupon, at 10:42 o'clock a.m., the Committee  
11 adjourned, to reconvene at the call of the Chair.]

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COMMITTEE ON FINANCE

TUESDAY, FEBRUARY 1, 1983 - Organizational Meeting

Room SD-215

10:00 a.m.

A G E N D A

1. Committee Staff Budget (Attachment A)
2. Proposed rule on disclosure of markup transcripts.  
(Attachment B)
3. Adoption of Rules (Attachment C - Rules Adopted 1/19/81)