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EXECUTIVE SESSION

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THURSDAY, OCTOBER 25, 1979

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United States Senate,

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Committee on Finance,

7

Washington, D. C.

8 The Committee met, pursuant to recess, at 10:20 a.m. in

9 room 2221, Dirksen Senate Office Building, Hon. Russell B.

10 Long, Chairman of the Committee, presiding.

11 Present: Senators Long, Talmadge, Ribicoff, Byrd, Nelson,

12 Gravel, Bentsen, Moynihan, Bradley, Dole, Packwood, Roth,

13 Chafee, Heinz, Wallop and Durenberger.

14 The Chairman: I would like us to consider this amendment

15 Mr. Packwood would like to offer. It is not a matter of great

16 consequence but it is something the Senator thinks is important

17 to his state.

18 Senator Packwood: In the 1978 Energy Act, we created a

19 class of property called specifically defined energy property.

20 We named some of them, and then we delegated to the Treasury

21 Department the power to add other new properties to that

22 category, science and technology advanced.

23 At the time that we passed the amendment, it was the

24 assumption that they would add to that list of defined property

25 aluminum companies and copper companies and we put in these

1 Senator Packwood: I would like to offer the amendment. I
2 talked once with Bob Shapiro about it and I would like to offer
3 the amendment. It is going to be retroactive to the effective
4 date of the 1978 act because the aluminum company -- I have a
5 proxy from Senator Baucus here. Apparently Anaconda in Montana
6 has the same problem. It acted o good faith under the
7 assumption that Treasury would specify these properties.
8 Certainly they had every reason to assume so, based on the
9 language that we put in the report.

10 Then accommodating Mr. Lubick, the amendment will also
11 provide that the Treasury henceforth will not have this
12 discretion to identify new properties that fall into this
13 category That is at his request. I am happy to include it in
14 the amendment if that is the way it wants it.

15 The Chairman: How does Treasury feel about the matter?

16 Mr. Sunley: Mr. Chairman, Senator Packwood is correct
17 That Treasury is having a considerable difficulty with the
18 discretionary authority in the '78 act. It is provided in
19 three separate amendments, three separate sets of business and
20 individual incentives.

21 People are literally lined up outside the Secretary's door
22 each day wanting to see him on this item or that item. It is
23 going to be very difficult to draw any lines.

24 We would be most pleased, given that this committee in
25 over eight weeks of considering this bill has added to the

1 various types of qualified property many of the items that
2 people have been in to see us on.

3 It seems to us that you ought to say that you have
4 carefully reviewed this bill and that you do not want Treasury
5 to have this kind of discretionary authority.

6 We have had some problems with Senator Packwood's proposal
7 on its merits. It seemed to us that the thrust of the business
8 incentives that were provided in the '78 act -- really the
9 thrust of the movement the Committee has made in this bill --
10 has been to provide an incentive to retrofit existing plants
11 and things of this sort, to make them more energy efficient.

12 As I understand it -- I am not an authority on this type
13 of property ---it is essentially a new process and involves new
14 facilities.

15 If we start down that line of letting new processes in and
16 new facilities in, then we know we are going to have a very
17 difficult time drawing the line.

18 I regret that the administration has not been able to get
19 out even the proposed regulations covering this section. It is
20 tied up in the process, sort of the lawyers, I am afraid, who
21 have to write the regulations after the '78 act found
22 themselves in April backing a new piece of legislation. It is
23 hard to write regulations and handle legislation at the same
24 time, but I recognize that that delay is really unsatisfactory.

25 I would hope two things: that you would not put in new p

1 rocesses as qualified property. That really moves us away from
2 the retrofitting.

3 Second, that you would remove the Secretary's authority to
4 add items to the list.

5 Senator Packwood: I am perfectly willing to limit it to
6 those that were in existence on October 1, 1978. As we passed
7 the bill, the language that we had in the report at that time
8 referred to modifications of existing industrial processes. It
9 was not intended for new installations.

10 Mr. Sunley: I recognized, Senator Packwood, that the item
11 was mentioned in the report. I have no doubt that, under the
12 legislative history, that we have the authority to add that
13 item.

14 We could do so. It is awfully hard to add an item until
15 you have regulations out. When you are trying to develop
16 regulations in a complex area of this sort, you have to be very
17 careful that you do not meet yourself coming around the circle.

18 Senator Packwood: I understand exactly. Don has talked
19 to me at some length about the problems. As science moves
20 onward, you have people knocking on your door all the time.

21 That is why I am trying to very narrowly limit it, at his
22 request -- take away this jurisdiction that you have to make
23 these decisions and let the Congress, from time to time, add
24 them as they want.

25 Mr. Sunley: We are quite excited about it. We would like

1 you to pull our discretion in all three places that we had in
2 the '78 Act, also in the home insulation credit and the solar
3 and the business credits.

4 The Chairman: Do you want to take it from Treasury?
5 Somebody has to draw up some regulations, do they not?

6 Mr. Sunley: We will draw up regulations. The problem is,
7 the authority to add additional items is being good property or
8 good investments. We are finding --

9 The Chairman: You want to take that away, then?

10 Senator Packwood: I do not know about the other two. I
11 cannot speak to them.

12 Mr. Sunley: We will take whatever we can get on that,
13 Senator Packwood.

14 Senator Packwood: If they want to give them back, I am
15 not going to argue. I do not have any knowledge of those other
16 two.

17 The Chairman: Your amendment would do that?

18 Senator Packwood: It would take it away as to one
19 unspecifically defined energy property. I do not have any feel
20 on the other two. I would really leave it to their judgment as
21 to whether they want to give them away.

22 If they want to, I have no objection to it. It makes no
23 difference one way or the other as to the particular amendment
24 I am talking about.

25 The Chairman: Can you tell me, Mr. Shapiro, what is the

1 argument for having these items that can be added by the
2 Secretary?

3 Mr. Shapiro: What happened in your conference last year
4 was that you had a number of energy credits from the Senate
5 bill. There is some question as to some of the differences
6 between the Senate version and House version. When you agreed
7 to your compromise you did it in two respects: one, the
8 question on energy efficiency; second, the revenue constraints.

9 The agreement was at that time, since you could not settle
10 on some of the property of energy equipment, where you agreed
11 on certain ones, you put it on the bill. Then you had a
12 catch-all that said should, in the future, new technology
13 discover additional energy-efficient equipment, or some of the
14 questions that have been raised on some of the items that were
15 in your differing versions last year, the Secretary, in his
16 discretion, could add those.

17 It was an accommodation of conference questions, of
18 equipment that was in your bills and also to recognize future
19 technology. It was put in in that regard.

20 The Treasury, however, as Mr. Sunley has indicated, has
21 had a great deal of trouble in dealing with this because
22 everyone is coming in and saying, we save a great deal of
23 energy. The question is, do you give an energy credit? On
24 what basis? On what standards?

25 They would like not to have the discretion because they

1 are having trouble dealing with it.

2 The Chairman: I suggest that we amend the amendment,
3 Senator Packwood, to remove their discretion, to take care of
4 what you are talking about, but remove the discretion in the
5 future at their request.'

6 Senator Packwood: At their request.

7 The Chairman: All in favor, say aye.

8 (A chorus of ayes)

9 The Chairman: Opposed, no.

10 (A chorus of nays)

11 The Charman: The ayes have it.

12 Senator Dole?

13 Senator Dole: Mr. Chairman, Senator Gravel is here. It
14 might be a time to talk about the hydro. Senator Ribicoff has
15 an interest in that. I know Treasury has an interest in that.

16 I talked to Senator Gravel last week, after making clear
17 to him again I am not aiming at the Alaskan project. I am just
18 suggesting -- and I think you support it -- if in fact we are
19 going to extend that to larger projects of more than 25
20 megawatts then there is no justification for limiting it to one
21 hydro project in Alaska or any other state. We made a quick
22 review last week of pending applications for licenses or
23 license amendments and we found that there are 14 states,
24 California, Pennsylvania, Nebraska, Georgia, Alabama, Alaska,
25 Ohio, Montana, Idaho, Virginia, Oregon, Washington, West

1 Virginia and South Carolina.

2 That would increase the cost of the proposal, I
3 understand, by about \$1.3 billion. I think that it does. It
4 is a general approach rather than a limited approach, or a
5 specific approach, and I would offer that suggestion and make
6 it apply across the board.

7 The Chairman: Could I ask, Treasury is opposed to that.
8 I would like you to state your opposition.

9 Mr. Sunley: Mr. Chairman, we, as you know, have just
10 considerable problems with this expansion of industrial revenue
11 bonds.

12 Senator Chafee: It is awfully hard to hear in here.

13 The Chairman: The Committee will come to order.

14 Mr. Sunley: We have considerable difficulty with the
15 expansion of industrial revenue bonds. We spoke at some length
16 on this subject before Senator Byrd's subcommittee earlier this
17 week.

18 We opposed the expansion in the Gravel amendment and the
19 Dole amendment is more of the same, and just as bad. We are
20 talking about a big piece of money, I understand here --
21 probably about \$800 million, if I remember the figure. It just
22 seems to us that we cannot just continually go down the road of
23 tax-exempt financing.

24 The Chairman: Now, let us hear from the Joint Committee
25 staff. Mr. Shapiro, what can you advise us on this thing? I

1 am concerned about the revenue figure, about the image that the
2 bill has if you put this in here. Does this drastically reduce
3 the revenues we are counting on making available?

4 Mr. Shapiro: Yes.

5 What you agreed to before was to allow tax-exempt bonds,
6 the industrial development bonds being tax-exempt, to provide
7 small hydro-electric facilities at existing, or new, dam sites.

8 The question is coming up now as to whether or not the
9 money is available for the new dams. In other words, you can
10 use the bonds for the hydroelectric facilities, but the
11 question is twofold. One, you get the new dams as well as the
12 hydroelectric facilities. If you do it for the new dams at the
13 low-head sites, under 25 megawatts, you are talking about \$100
14 million.

15 If you broaden it and apply it for new dams above 25
16 megawatts, then you are talking about approximately \$920
17 million.

18 The Chairman: What does that do to your bottom line
19 totals?

20 Mr. Shapiro: It takes almost \$1 billion. Jim is checking
21 that.

22 Mr. Wetzler: The credits total \$22.4 billion. This would
23 make it \$23.3 billion.

24 Senator Ribicoff: May I ask a question? Does anybody
25 know, what would this generate in electricity or power? How

1 many barrels of oil would you save if all of these dams were
2 built?

3 Mr. Sunley: Senator Ribicoff, our understanding at this
4 point, if you are looking at the over-25 megawatt hydro
5 projects, 19 of these projects currently are under
6 construction, so that presumably they were going to be
7 completed anyway.

8 We have 16 applications for new capacity and there have
9 been preliminary permits issued for 14 projects and 20 projects
10 that have preliminary permits pending, presumably not all of
11 those projects would actually ever be built -- maybe half of
12 those projects which have preliminary permits either issued or
13 pending would ultimately be built.

14 Senator Ribicoff: Am I right that the Nelson proposal
15 would save 20,000 barrels per day, that the new 25 megawatts
16 would save 240,000 barrels a day. Now, the proposal of Senator
17 Dole, as I understand it, would generate 420,000 megawatts. I
18 have not extrapolated that to barrels of oil.

19 It would seem to me very substantial.

20 The Chairman: Could you give us some idea as to how much
21 that is? Can you give us some idea as to how much that is
22 compared to the other, what we have before?

23 Senator Chaffe: Also, you would have to have the
24 assumption that none of them would have been built except for
25 this tax credit, which I am not sure is a valid assumption.

1 Mr. Sunley: That clearly is not valid. We know that
2 there are 19 projects under construction and there are
3 applications to a new capacity for 16 other projects that would
4 also qualify.

5 There are a number of permits pending, or recently issued,
6 and a good part of those projects would be economic, even
7 without the incentive, and you would expect them to have been
8 done, whether you add this provision or not.

9 I do not have an estimate as to how much additional
10 capacity would be done because tax-exempt financing has been
11 made available, compared to what would be done if no tax-exempt
12 financing would be available.

13 The Chairman: Let us vote on it, gentlemen.

14 Senator Dole; I just checked. This would be perspective
15 and it would not apply to the 19. It might apply to 16. It
16 would have no impact in fiscal year '80.

17 Mr. Shapiro: All these revenue effects we are talking
18 about are over an eleven-year period. We do not have any
19 significant revenue effect in fiscal year '80 because you are
20 talking about prospective -- let me make another general point.
21 These are eleven-year numbers.

22 Mr. Sunley: Projects under construction you want
23 excluded, that they have started construction.

24 Senator Gravel: If they actually turned dirt, I would
25 think so, and the economics are there. What this is to do

1 through the subsidy projects is to make projects
2 economically --

3 Senator Ribicoff: It would be a considerable period of
4 years before you would get it in the works, before you planned
5 it, by the time they float the bonds.

6 Senator Gravel: The cut off should be in actual
7 construction.

8 Senator Ribicoff: The point I make, Mr. Chairman, soon we
9 will have on the Floor synthetic fuel programs. I do not know
10 how much it is going to cost, \$25 billion, \$30 billion, \$40
11 billion. We are talking about \$1 billion and we are using
12 hydro instead of renewable energy sources.

13 It does not make any sense to me. Not only is this the
14 cleanest type of energy to produce and the most economical, but
15 I think we are very short-sighted by not using hydro instead of
16 synthetic fuel to the fullest extent possible.

17 The Chairman: Let us vote on it, gentlemen.

18 Call the roll.

19 Mr. Stern: Mr. Talmadge?

20 Senator Talmadge: Aye.

21 Mr. Stern: Mr. Ribicoff?

22 Senator Ribicoff: Aye.

23 Mr. Stern: Mr. Byrd?

24 Senator Byrd: Aye.

25 Mr. Stern: Mr. Nelson?

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

1 Mr. Stern: Mr. Heinz?

2 Senator Heinz: Aye.

3 Mr. Stern: Mr. Wallop?

4 (No response)

5 Mr. Stern: Mr. Durenberger?

6 Senator Durenberger: No.'

7 Mr. Stern: Mr. Chairman?

8 The Chairman: Aye.

9 The yeas are nine, the nays two. For now, the amendment
10 is agreed to, and if it changes the result of course we will
11 have to announce it when we find that out.

12 Do you have something else, Senator?

13 Senator Dole: I have another one that I would like to
14 revisit. Under the agreement, that is 501(c)(3). We discussed
15 that at some length and, in a close vote, rejected that. What
16 we have done now, we have scaled down the version that would
17 have applied only to educational and medical facilities.

18 I think that there was some feeling that we were going too
19 far in our previous effort to exempt 501(c)(3) institutions
20 from any windfall tax.

21 It is hard to get any cost estimates, but I would simply
22 indicate that we have scaled it back down to the crippled
23 children facilities and educational institutions and I have not
24 discussed it with Senator Bentsen, who raised it initially, but
25 I think he would support this scaled-down version.

1 Do you have any comments?

2 Mr. Shapiro: We do not have any feeling as to revenue
3 effect on this. We do not have the slightest idea of how much
4 oil is owned by educational institutions. It is clear that
5 many donations have been made to educational institutions and
6 wills, gifts, bequests and so forth. However, instead of the
7 quantity of oil and how much would be exempt from the tax, it
8 is just not available, that information.

9 Senator Dole: We did a little checking. Stanford holds
10 only about \$1.5 million annual in oil royalties. The three
11 Texas schools which probably have the greatest interest have
12 less than \$10 million total.

13 It is not directed at that. We just could not find any
14 areas where there was a big windfall to some private university
15 or the crippled children's hospitals who would benefit from
16 this.

17 The Chairman: Senator, I am inclined to think, though,
18 that this particular thing was for the area that we agreed that
19 we were not going to get into. I thought that we agreed that
20 we were not going to get into these things except by unanimous
21 consent where we had acted on them.

22 There are certain things that we excepted from that. For
23 example, we said that Mr. Roth could bring this matter back up
24 but this particular thing, I think, was one of those things
25 under that agreement that we were not going to get back into,

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1 the things where we had made the decisions.

2 Frankly, I forgot how the decision did go on this thing,
3 the decision went against that amendment.

4 Mr. Shapiro: The decision went against that amendment,
5 but in your last session last Friday, Senator Dole did indicate
6 that these were one of the items.

7 The Chairman: If he brought it up, that is fine. I beg
8 his pardon.

9 Call the roll on it. Let's call the roll.

10 Senator Dole: I will not bring it up any more.

11 The Chairman: Call the roll.

12 Mr. Stern: Mr. Talmadge?

13 Senator Talmadge: No.

14 Senator Gravel: State the issue, please.

15 Senator Dole: Educational and hospitals, crippled
16 children's hospitals, the Shrine hospitals, the private
17 hospitals, would not pay a windfall tax on royalties.

18 Mr. Stern: This only applies to 501(c)(3) institutions.

19 The Chairman: You further limited it.

20 Mr. Stern: Educational institutions and hospitals.

21 Senator Dole: Right, taking out foundations and
22 everything else we can think of, medical facilities, which
23 would be clinics and hospitals.

24 Mr. Sunley: Medical facilities or hospitals?

25 Mr. Stern: The question is, I thought you said just

1 hospitals. You want medical institutions?

2 The Chairman: He wants it bad enough to include that
3 crippled children's home. That is what he has in mind. He is
4 counting on a vote out of Texas.

5 Senator Dole: I understand that there are a number of
6 them who qualify, not just crippled children in Texas.

7 The Chairman: Educational institutions and medical
8 facilities which are 501(c)(3).

9 Senator Dole: Right.

10 Mr. Stern: Mr. Talmadge?

11 Senator Talmadge: Aye.

12 Mr. Stern: Mr. Ribicoff?

13 Senator Ribicoff: No.

14 Mr. Stern: Mr. Byrd?

15 Senator Byrd: Aye.

16 Mr. Stern: Mr. Nelson?

17 (No response)

18 Mr. Stern: Mr. Gravel?

19 Senator Gravel: Aye.

20 Mr. Stern: Mr. Bentsen?

21 The Chairman: Senator Bentsen would vote aye on that. It
22 is his amendment to begin with.

23 Mr. Stern: Mr. Matsunaga?

24 (No response)

25 Mr. Stern: Mr. Moynihan?

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

1 Mr. Stern: Senator Nelson, this is a vote on exempting
2 educational institutions and medical facilities that are
3 501(c)(3) organizations from the crude oil tax. Do you want to
4 be recorded?

5 The Chairman: Vote the way you did before. That is the
6 way you want to vote.

7 Senator Dole: This is just what you did before.

8 Senator Nelson: Did I vote before on this issue?

9 The Chairman: You did.

10 Senator Nelson: What is the issue?

11 The Chairman: I think you voted no.

12 Senator Dole: Whether you want to tax crippled children's
13 hospitals.

14 The Chairman: If you want to tax crippled children's
15 hospitals, the vote is no.

16 Senator Nelson: I want to be on both sides of this thing.

17 Senator Dole: I made it possible to do that.

18 Mr. Stern: Senator Nelson, you voted no on the issue of
19 exempting 501(c)(3) organizations, all 501(c)(3) organizations.

20 Senator Dole: Now we have limited it to medical
21 facilities and private institutions like Princeton.

22 Senator Nelson: I will vote later today, when I take a
23 look at it.

24 Senator Durenberger: Mr. Chairman, may I ask just a
25 question of clarification of Senator Dole? I was handed a

1 two-page explanation of proposed amendment H.R. 3918.

2 The Chairman: The yeas are eight and the nays are four.

3 Senator Durenberger: I have an amendment that is alleged
4 to be Senator Dole's amendment that is much
5 you stated. This includes, in addition to education and
6 hospitals and medical research, churches, conventions,
7 associations of churches, charities --

8 Senator Dole: Medical facilities and educational
9 institutions, period.

10 Senator Durenberger: Thank you.

11 Mr. Shapiro: You have the same provision that it only
12 includes those holdings that they have as of October 1.

13 Senator Dole: They cannot dump them in the pot now and
14 avoid tax. They have to be acquired prior to October 24, 1979,
15 or as received as a bequest after that date.

16 The Chairman: Mr. Heinz?

17 Senator Heinz: Mr. Chairman --

18 The Chairman: Senator Bentsen, we voted you in favor of
19 the crippled children.

20 Senator Bentsen: I came rushing down. I heard about the
21 vote. I am delighted.

22 Senator Nelson: I know what the issue is. I vote no.

23 The Chairman: Eight to five.

24 Senator Heinz: We nearly completed our work on the
25 low-income portion of our efforts here in the Committee and

1 several occasions we have discussed whether we want to tie this
2 into the windfall profits tax bill or not. I think that we
3 ought to be very candid about what is going to happen to the
4 windfall profits tax bill. I suspect that it is not going to
5 hit the Floor for awhile, at least not until people have
6 forgotten the third quarter earnings that the oil companies are
7 coming out with right now.

8 The Chairman: My plan is to call this bill up as soon as
9 we can be ready for it.

10 Senator Heinz: That could be quite awhile. It could be
11 quite awhile for a number of reasons.

12 There could be a filibuster on the Obie-Railsback bill.
13 We are going to have quite a discussion, I think, on the rest
14 of the energy package, the Energy Security Corporation. I can
15 foresee circumstances under which we might not have this
16 windfall profits tax bill on the Floor before December.

17 I hope that is not the case. I know that is not the
18 Chairman's intention. I think we all understand the vagaries
19 of the legislative schedule as we get down here.

20 So I would ilke to move, Mr. Chairman, that we break off
21 the low-income fuel assistance and that we get that to the
22 Floor just as quickly as possible.

23 Senator Ribicoff: If Senator Nelson could answer that, my
24 belief is that we have taken care of the immediate problem with
25 a formula similar to ours in the Senate and the House is going

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1 to consider it today, so we have taken care of the immediate
2 problem and by the time that our bill comes through, it will be
3 supplementary to what has happened in the Nelson committee.

4 Is that not right, Senator Nelson.

5 Senator Nelson: I was taking to staff. You are talking
6 about the formula?

7 Senator Ribicoff: Yes.

8 The Chairman: He is suggesting that we break off the
9 low-income part to this bill and try to put that through ahead.

10 Senator Nelson: For purposes of this amendment?

11 Senator Heinz: Yes.

12 We have had a lot of discussions and we have done a lot of
13 fine tuning of this legislation so it would take immediate
14 effect. That is what the argument is over -- one check or five
15 checks, a check in January, a check in April, have all been
16 about this bill is being written so that it can be of help this
17 winter.

18 Originally, I think, the President did not want it to move
19 unless it was tied directly to the windfall profits tax. That
20 is his opinion. He is entitled to it.

21 I am concerned about helping the poor people this winter.

22 I would like to try and break this off from the windfall
23 profits tax. I think the windfall profits tax is going to go
24 through. It can stand on its own. It does not need this to
25 pull it through. It will get through all right.

1 Senator Nelson: It has been my view from the beginning
2 that there is no way for us to legislate anything other for the
3 appropriation for this winter. The original position of the
4 administration was that they were not going to proceed to spend
5 any money until they had it covered by the windfall profits
6 tax. I understand the administration has changed its opinion.
7 We have now appropriate \$1.6 billion, \$1.2 billion two weeks
8 ago in the Interior Committee Appropriations Bill.

9 My query to HEW is, I have assumed that HEW is simply
10 going to go ahead. They have published a formula the other day
11 which is the same one that we adopted here, the same one that
12 Human Resources adopted.

13 I had assumed there was not anything we could effectively
14 do to affect this winter, or should attempt to do. Maybe I am
15 wrong.

16 Senator Heinz: My understand is, although we have money
17 in the appropriation, that unless there is an authorization,
18 there can be some trouble spending it.

19 Senator Nelson: I do not know.

20 The Chairman: Mr. Stern?

21 Mr. Stern: Mr. Chairman, the Senate has approved the
22 amendment appropriating \$1.3 billion and, according to the
23 paper this morning, the House Appropriations Committee has
24 approved appropriating that much money.

25 I think everything is going to proceed under the authority

1 of the economic opportunity act for fiscal year 1980, which
2 would make it academic, or unnecessary, to do anything for
3 fiscal year 1980.

4 In this bill, that track is working more quickly.

5 Senator Nelson: That is what I had assumed. There is
6 nothing for us to legislate this year.

7 Mr. Stern: The authority does exist. At least they can
8 appropriate under the authority of the Economic Opportunity
9 Act.

10 Senator Heinz: Correct me if I am wrong, Mike. This
11 bill, though, is aimed at helping this winter.

12 Mr. Stern: That is correct.

13 Senator Heinz: Why do we want to postpone action on it
14 when we have just about got it wrapped up? Obviously there are
15 a few wrinkles to be ironed out. I do not want to deprive
16 anybody of their opportunity to iron out those wrinkles. Just
17 as reported the windfall profits tax bill last week and we are
18 still working on it and we could be working on it.

19 The Chairman: Let me say this. It is my understanding
20 that Bob Byrd is planning to bring up this bill before the SALT
21 agreement comes up, so I fully anticipate that this bill is
22 going to be the pending business as soon as the staff can write
23 up the report, prepare the language and make it available to
24 the Senate.

25 When do you think that will be, Mr. Shapiro?

1 Mr. Shapiro: We have communicated with the legislative
2 counsel's office. We expect to have the bill in the report
3 filed on Tuesday evening, which means it will be available to
4 the Senate for three days, give it a three-day layover,
5 Wednesday, Thursday and Friday and it will be available for
6 Senator Floor action on Monday, November 5th.

7 The Chairman: All right.

8 So all you are talking about is trying to gain maybe four
9 or five days. That presents a scheduling problem and all the
10 rest of it. I think we would be better off to keep this bill
11 together.

12 In addition to that, frankly, the low-income parts of the
13 bill, I think are a part of the package that make it possible
14 for some of the Senators from states who have a high energy
15 cost to cooperate and help pass the bill. I think we ought to
16 keep it together.

17 Furthermore, it was not my idea. They have already
18 legislated on the appropriations bill there to provide
19 something for this winter. If we go out there and try to enact
20 this bill before -- break this part off and pass that first,
21 the other people will say, hold on just a minute. You are
22 trying to reverse a decision that was already made. You are
23 trying to overpower and vote down something that already has
24 been agreed to.

25 Maybe we ought to, but we will get into a great big

1 squabble out there with the people from the Appropriations
2 Committee who have already brought the thing up and voted on
3 it.

4 I think we would do better to just go on ahead like we are
5 doing, Senator.

6 Senator Heinz: If it were only a matter of four or five
7 days, I would agree entirely. I do not think it will prove to
8 be a matter of four or five days. Certainly what you suggest
9 could happen but I think the likelihood of its happening is
10 very, very small for two reasons.

11 First of all, it is not entirely clear what kind of
12 schedule Senator Byrd wants to have. It is his prerogative.

13 Secondly, it is not entirely clear that the windfall
14 profits tax bill is going to go sailing through in a day or
15 two.

16 I am confident it will pass, but I could anticipate a
17 considerable amount of debate which could stretch out for two
18 or three weeks under those circumstances ---and you remember,
19 Mr. Chairman, just how long it took us to pass the bill two
20 years ago on natural gas. It took months.

21 My concern is, when you talk about a matter of two or
22 three weeks, when we are this close to the winter season, that
23 it does make a difference.

24 So I would urge that the Committee split this low-income
25 assistance off from the windfall profits tax bill and if, Mr.

1 Chairman, if in fact the majority leader decides to take up the
2 windfall profits tax bill by November 5th, then I would have no
3 objection to reuniting them but I do not think that is going to
4 happen.

5 I would renew my motion.

6 The Chairman: Let's vote on it.

7 All in favor, say aye..

8 (A chorus of ayes)

9 The Chairman: Opposed, no?

10 (A chorus of nays)

11 The Chairman: The nays have it.

12 Senator Heinz: Could we have a recorded vote on that, Mr.
13 Chairman?

14 The Chairman: Call the roll.

15 Senator Nelson: May I ask a question first, for
16 clarification?

17 If we pass something here are we going to then tie -- are
18 we going to slow the process up because the administration will
19 have to put out rules and regs based upon statutory mandates in
20 this legislation.

21 Senator Heinz: I do not think so, Gaylord. We have
22 already passed this legislation. It is a question of whether
23 we will divide it into two pieces.

24 Last week we reported everything from the Committee and
25 the question is how, procedurally, are we going to manage.

1 The Chairman: I would hope we could just call the roll.

2 Senator Moynihan: May I just say, in explanation of my
3 vote, the subject came up last week and I said I thought the
4 low-income provision should remain a part of the tax program,
5 that would help the tax program get through the whole of the
6 Senate which is what you just said.

7 But I wonder if it would be fair of me to understand your
8 statement as indicating that you expect all things going as can
9 be expected, you expect this bill to be on the Floor on
10 November 5?

11 I see Senator Dole nods his head?

12 The Chairman: That is right.

13 Senator Moynihan: We are confirming that we are not going
14 to do this, if the vote goes that way. It is also confirming
15 that we are doing this other thing.

16 Senator Heinz: Let's do the motion this way. If the
17 legislation does not come to the Floor by November 5th, we will
18 divide it.

19 Senator Dole: A day or two in there?

20 Senator Moynihan: On or about.

21 Senator Heinz: The week of November 5th.

22 The Chairman: What is this now?

23 Senator Heinz: The motion is, if the legislation as a
24 whole does not come to the Floor by the week of November 5th
25 then we will divide it and urge the Majority Leader to schedule

1 the windfall profits portion of it immediately.

2 The Chairman: November 5. What is November 5?

3 Senator Heinz: Monday.

4 The Chairman: You mean if we do not have the bill on the
5 calendar by that date?

6 Senator Heinz: On the Floor, unless debate has been
7 initiated during that week.

8 Senator Bentsen: Mr. Chairman, that puts us really under
9 the gun. Are we not trying to see --

10 The Chairman: That is trying to straightjacket the Senate
11 for one or two days. You would proceed to do it?

12 Senator Bentsen: Unless you pass this tax you are not
13 going to have the money to do what you were trying to
14 accomplish for the poor here and you are trying to hold this
15 together so you can get the vote for it, are you not?

16 Senator Roth: As I understand it, the action we took the
17 other day helps the poor during this winter. What we are
18 really talking about here is the following year, is it not?

19 The Chairman: The action that the Senate took takes care
20 of this winter.

21 Senator Roth: That is what I mean.

22 The Chairman: Time has marched off and left here. What
23 we are talking about, we will have time to act on it.

24 We are going to move as fast as we can.

25 Yes, sir.

1 Senator Moynihan: Mr. Chairman, I think we must not
2 infringe upon the Majority Leader's authority to schedule
3 legislation. What we are indicating is our expectation that
4 the bill will be on the Floor November 5 or thereabouts.

5 The Chairman: That is what I am doing. I am pushing to
6 get the bill up as soon as we can.

7 Senator Dole: I agree with Senator Heinz's concern. I
8 think one thing you want to keep in mind here, there are some
9 who want to filibuster any tax and I think one way to end that
10 filibuster will be to keep the bill together, put the pressure
11 on those who would want to have extended debate on the theory
12 that there should be no tax.

13 We are preparing right now to have the bill on the Floor
14 that week

15 The Chairman: Yes, sir.

16 Mr. Stern?

17 Mr. Stern: There is one consideration. If you just took
18 the low-income part of the bill separately including the tax
19 credit for heating oil, if you extended it to other things,
20 that would be subject to a point of order because it loses
21 revenue after the Second Budget Resolution is agreed to.

22 The Chairman: Let's vote on it. Call the roll.

23 Senator Heinz: The motion, Mr. Chairman, is amended as
24 follows, that this would only apply if the bill is not taken up
25 by the Senate during the week of November 5th.

1 Senator Nelson: Can we hear from HEW as to whether or not
2 this will expedite the process of getting assistance to the
3 poor.

4 That is what we are trying to do here.

5 Senator Heinz: Does it make any difference to HEW whether
6 or not we pass this bill.

7 Mr. Van Lare: I would prefer to answer Senator Nelson's
8 question.

9 Senator Heinz: All right, but answer mine first.

10 Mr. Van Lare: It is important that the bill be passed in
11 terms of its impact this winter. We believe that the action by
12 the Senate on the appropriation and the House on the
13 appropriation provide us with the funds and the statutory
14 authority to operate this winter.

15 We plan assuming positive action on the House Floor to be
16 able to move in that direction.

17 The Chairman: Let's vote. Call the roll.

18 Mr. Stern: Mr. Talmadge?

19 Senator Talmadge: No.

20 Mr. Stern: Mr. Ribicoff?

21 Senator Ribicoff: No.

22 Mr. Stern: Mr. Byrd?

23 Senator Byrd: No.

24 Mr. Stern: Mr. Nelson?

25 Senator Nelson: No.

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

1 Senator Heinz: Aye.

2 Mr. Stern: Mr. Wallop?

3 (No response)

4 Mr. Stern: Mr. Durenberger?

5 Senator Durenberger: Aye.

6 Mr. Stern: Mr. Chairman?

7 The Chairman: No.

8 Senator Heinz: It was close.

9 The Chairman: Three yeas, nine nays. The absentees will
10 record themselves.

11 Let me just ask that the Chair lay before the Committee
12 this proposal that the staff people worked on yesterday. Where
13 is Senator Moynihan? I would like to have him here when this
14 comes up.

15 This was in line with the suggestion Senator Moynihan made
16 yesterday. This is following the suggestion Senator Bentsen
17 made and the suggestion Senator Moynihan made yesterday.

18 Would you mind explaining what that is?

19 Mr. Stern: The staff was asked to prepare a suggestion on
20 the assumption that you would have an average of \$2 billion
21 rather than \$1 billion for the tax credit in an attempt to
22 broaden it to include more than just heating oil and see if it
23 could result in a somewhat broader distribution of funds among
24 the states.

25 The staff suggestion is to take the tax credit that the

1 Committee had tentatively agreed to, that would only apply to
2 heating oil, propane and Canadian natural gas and apply it to
3 all forms of energy used for heating, but to set a \$30 minimum
4 tax credit so that users of natural gas would get a \$30 credit.
5 That would be a \$30 credit. Renters that use heating
6 oil as well as renters who use other forms of energy would get
7 at least a \$30 credit.

8 Other than that, the credit is basically what the
9 committee had tentatively agreed on.

10 If you flip the page over, you will see the distribution
11 of the \$2 billion no longer has the anomalies of some of the
12 states getting virtually nothing because everybody uses some
13 form of energy for heating.

14 So all states get something. The heating oil states get
15 relatively more.

16 Senator Dole: How much more money is there?

17 Mr. Stern: This assumes \$2 billion rather than \$1
18 billion.

19 Senator Dole: Through '82.

20 Mr. Stern: The credit would be enacted through 1982.
21 When we talk about an average of \$2 billion, if you will look
22 over the next eleven years, the average credit would be -- it
23 starts a little lower. About \$1,700,800,000* and it gradually
24 increases over the period.

25 The Chairman: As I understand it, this does not take

1 anything anyone would have had under the previous arrangement.
2 It adds \$1 billion to it and makes more people eligible for it
3 and it puts a minimum in.

4 Mr. Stern: That is correct.

5 For heating oil persons, principally renters, it would be
6 probably a little bit higher than what had been approved before.
7 Many renters would not have been able to get a credit as high
8 as \$30 under the previous proposal.

9 The one suggestion, the one question that we have for you,
10 what do you want to do about 1979. The impact of this in the
11 first year would be about \$1.8 billion.

12 The Chairman: \$1.8 billion?

13 Mr. Stern: Associated with calendar year 1979. If you
14 gave everybody taht \$1.8 billion and in addition gave at least
15 a little portion of the calendar year 1980 credit, to the
16 extent that people reflect that in withholding, it would have
17 an impact of \$2.1 billion in fiscal year 1980 which practically
18 is everything you are raising under the tax, compared to \$2.4
19 billion

20 Senator Dole: What do you suggest?

21 Mr. Stern: The question is, what do you want to do in
22 fiscal year 1979? Do you only want to do the heating oil
23 credit for 1979 and not the broader package in the one case of
24 calendar 1979 or how do you want to handle it?

25 It is a very substantial revenue loss in fiscal year 1980.

1 Beginning with calendar year 1980, there is no problem.

2 Mr. Sunley: I would agree that there are no problems in
3 1980 in terms of this proposal in terms of trying to administer
4 it. I would be glad to go into it, but I think --

5 Mr. Stern: No budget problems beginning in calendar year
6 1980.

7 The Chairman: Are we within the budget to begin with,
8 before we started out with this?

9 Mr. Stern: Without regard to this credit, you raise \$2.4
10 billion.

11 You are over the \$2 billion that has been assigned to the
12 windfall profits.

13 The Chairman: You mean this would cost us more money than
14 the bill would raise in the first year?

15 Mr. Stern: More or less use it all up. To do this for
16 1979 would cost \$2.1 billion.

17 Senator Dole: Why could you not phase in the maximum
18 credit? It would not be as much in '79 as it would be in '80.

19 Mr. Stern: The maximum credit pretty much applies only to
20 heating oil and I do not think your savings would be that
21 substantial.

22 Senator Dole: I am not talking about maximum, if you
23 phased in the credit.

24 The Chairman: If you reduced everything by one-third,
25 would that take care of it for the first year?

1 Mr. Stern: If you provide for a \$20 minimum credit
2 instead of a \$30 minimum credit I think you would save about
3 \$400 million.

4 The Chairman: Would that squeeze you inside?

5 Mr. Stern: Well, you would still have quite a small net
6 revenue from the bill.

7 If you are other words if you are now at \$2.2 billion
8 minus whatever the credit cost you and if the credit would cost
9 you \$1.6 billion and \$1.7 billion even with the \$20 minimum,
10 that would only leave you about \$500 million or \$600 million
11 net revenue gain.

12 Senator Dole: If you added an \$80 credit the first year
13 and divided it by half, then the next year you would have the
14 100 percent whatever it would be.

15 Mr. Stern: Well, you can certainly scale down the cost of
16 this. The question becomes how small a credit would you want
17 it to be.

18 The Chairman: I would just think that if you would trim
19 it down by a quarter or one-third across the board, would that
20 not get you inside?

21 Mr. Stern: Well, you would still wind up with some net
22 revenue, Mr. Chairman. It is a question of how much.

23 If you were ble to cut the entire cost down to \$1.5
24 billion, you would still only have a net revenue of \$700
25 million which is pretty substantially lower than \$2 billion.

1 Senator Dole: if we only had \$1 billion when we started
2 out the first year and \$2 billion the second year, you are
3 going to have a \$1.2 billion?

4 The problem is, we dumped another billion dollars into the
5 program, right?

6 Mr. Stern: That does not become a problem from a
7 budgetary standpoint beginning in calendar year 1980, fiscal
8 year 1981. It is a problem for you in the one year to which
9 the budget resolution applies.

10 The Chairman: Why do we not trim it down enough to come
11 inside the Budget Resolution and go out there with a \$500
12 million --

13 Senator Moynihan: For '79?

14 The Chairman: That is right. We are talking about --

15 Senator Dole: You have to leave something for the other
16 80 or 90 members.

17 The Chairman: Calendar year '79.

18 Sentor Chafee: Another alternative Mr. Chairman, to go
19 with the original proposal. The discussion on the Floor seems
20 to be all based on the so-called Bentsen proposal. I am not so
21 sure that is the best way to proceed. We will have a chance to
22 discuss that, I presume?

23 Mr. Stern: If you only did that for calendar year 1979
24 that would cost about \$600 million.

25 Senator Chafee: The original proposal?

1 Mr. Stern: The original proposal for calendar year 1979
2 if you only did this for heating oil.

3 Senator Dole: Have this the second year.

4 Mr. Stern: That would be one way you could do it.

5 Senator Dole: Does that satisfy the Senator from Texas?

6 Senator Bentsen: Of course it does not satisfy me and I
7 do not think it will satisfy the Floor either if you just did
8 it for heating oil.

9 We have gone through all of those numbers. You are talking
10 about the poor. You are talking about 14 percent of the people
11 who are using heating oil among the poor.

12 I cited you the study that has been done here. That does
13 not take care of the energy costs of the rest of the poor
14 across this nation.

15 We are facing some tough choices. It is a question of
16 whether they choose heating or eating. It applies just as much
17 to our people as it does to the rest of the nation.

18 I understand very well that there are some situations
19 where we have to compromise, and I agreed to do that with the
20 Nelson formula which gives half credit for degree days and the
21 other half credit for energy costs per household and in turn we
22 weighted the first half of that formula by the poor.

23 But I just cannot imagine anything surviving out there on
24 the Floor or the Conference or the House that just says that we
25 look purely to heating oil when you have electricity generated

1 by number two distillate, that affects just as much the cost of
2 those people who receive their heat that way.

3 We have the problem of northern gas coming across from
4 Canada as was told to us by some of the Senators who were
5 directly affected. There you have new gas coming out of
6 Mexico. That is the start of what we are going to see there.
7 \$3.62 -- that is an incredible increase and that is going to be
8 duplicated in other gas contracts being let now out on the
9 Gulf.

10 There is not a uniqueness to heating oil. This same
11 problem is shared by the rest of the poor across the nation.

12 Senator Moynihan: Mr. Chairman?

13 The Chairman: Yes, sir.

14 Senator Moynihan: May I ask Senator Bentsen whether the
15 proposal we have here is acceptable to him and would have his
16 support and does he think that it would have the support of the
17 Floor?

18 Senator Bentsen: If we solve the budgetary problems, is
19 that what you are saying?

20 Senator Dole: If we scale down the first year.

21 Senator Moynihan: Start off with the question of formula.
22 We may have to scale down.

23 The Chairman: Here is the thing. It seems to me that
24 this formula here is one that I think can come near to passing
25 the Senate.

1 Senator Bentsen: I would agree to that, that it would
2 come near to passing the Senate.

3 The Chairman: It is the one we come nearest selling.

4 Senator Bentsen: The one that the staff has?

5 The Chairman: The one right here, the one the staff came
6 up with.

7 It seems to me that basically by adding an additional
8 billion you come up with these figures. I hope that if we
9 could have the \$2 billion we would not have to reduce anything
10 on anybody that we had previously agreed to, but if we come out
11 with the \$2 billion and with the bigger formula, it seems to me
12 that the fair thing to do is to take this formula and scale it
13 back across the board, just scale back on a pro rata basis.

14 Everybody takes their share of the cut, if you think that
15 is a fair formula.

16 I know in Louisiana we get less than any formula I have
17 seen. We get 1.14; Arkansas gets .60; Mississippi would get
18 0.66. They come out about as low as you could expect them to
19 come. And it would seem to me as though the best way to do it
20 would be to cut back. If you like the formula, if you think
21 the formula is fair, just agree to it.

22 Senator Bentsen: Mr. Chairman?

23 The Chairman: Cut it back across the board.

24 Senator Bentsen: No formula is going to satisfy any one
25 of us. I think this is a reasonable compromise. I would go

1 along with it scaled back to fit into the budgetary problems.

2 Senator Bradley: Does the staff have any specific amounts
3 that would go to states in a scaleback, if there was a
4 scaleback?

5 We cannot have \$2 billion but we have the formula that is
6 now under consideration. You scale back \$1 billion. That
7 leaves some states in a worse position than they would have
8 been had we had only heating oil or fuel oil.

9 It was my impression that the Senator from Texas was
10 satisfied with the fuel oil tax credit -- indeed when we were
11 arguing about the state allocation and he compromised, one of
12 his arguments was because I have already agreed to the fuel
13 oil tax credit.

14 I want to be fair in this thing too. I wonder what you
15 felt about that, Senator Bentsen?

16 Senator Bentsen: When we looked at the numbers, it is
17 obvious when we got to the working poor on that benefit, we did
18 not have the numbers at that time, as we discussed it, but when
19 we got the numbers, obviously the working poor in many states,
20 most states, but nothing, or virtually nothing.

21 Obviously, the numbers, I thought, then proved that there
22 was not equity there and we could not live with that kind of a
23 deal.

24 Senator Bentsen: What is the definition of the working
25 poor?

1 Mr. Stern: In this particular credit, you do not define
2 what working poor is but what you say is it is a nonrefundable
3 tax credit so it has to be a taxpayer. It goes up to 20,000
4 and then phases up from there.

5 Perhaps -- here is something that would probably cost \$1.2
6 billion. Preserve the heating oil tax credit as you had it
7 before and cut the minimum to \$15.

8 That would not disadvantage any heating oil state as to
9 what you tentatively agreed to before because you are giving
10 them about the same. It would cost \$1.2 billion in fiscal year
11 1980. For future years, you could go to the full \$30.

12 Senator Bentsen: A better term would be low-income
13 although some of them, I am sure, feel they are the working
14 poor.

15 The Chairman: Let me explain this. Some Senators do not
16 understand what we are talking about. This is the point that
17 Mr. Stern raised.

18 This formula here that you here before you is what you get
19 by following the Moynihan suggestion that we add an additional
20 \$1 billion and spread the \$1 billion around in such a way that
21 everyone would come under it and everybody would be eligible
22 and you would have a minimum. When you do that, you would come
23 out with a formula that would be far more acceptable,
24 particularly to those states that wound up with zero or near
25 zero.

1 Then Mike Stern asked the point -- he said that we had not
2 discussed it. That is all fine. If you want to agree to that,
3 what do you do about the next fiscal year because that is going
4 to run over, that is going to run you over the revenue you
5 raise in the first fiscal year.

6 The only way -- the most logical way to do that is if you
7 think that this formula is fair, then for the first year just
8 to cut back across the board on a pro rata basis, reduce
9 everybody some so everybody loses a little something. On the
10 other hand even the states who are the biggest beneficiaries,
11 the benefits are more broadly spread even within those states.

12 Those people who are renters or not using fuel oil but
13 using some other source of fuel would get some benefit who
14 would not otherwise get it.

15 I really think that really if you think this is a fair way
16 to do it, the best way to get the genie inside the bottle is to
17 squeeze it down on a pro rata basis so everybody has to take
18 some share of the cut. If that is the case we have a formula
19 that we can live with. Even in the states that would do the
20 best under the formula, it would still benefit a broader number
21 of people and it would tend to provide a more uniform justice.

22 It would do better by people who are renting property.

23 I think that is the best way to do it, even though it does
24 mean that the states who appear to do the very best would have
25 less but on the whole you have a formula that you can sell.

1 Senator Ribicoff: The only question I would like to ask
2 the staff, under this so-called \$2 billion formula, are the
3 people who are in the Nelson formula with \$1 billion, are they
4 worse off? Will they be worse off under the \$2 billion than
5 they would have been under the \$1 billion if you scale back?

6 Mr. Stern: What we are talking about is the tax credit
7 for heating fuels. This does not change it.

8 Senator Ribicoff: There is no invasion of what the poor
9 were getting under the Nelson formula?

10 Mr. Stern: No, sir.

11 Senator Durenberger: Mr. Chairman, I think Mike had a
12 suggestion a little earlier that maybe all the members of the
13 Committee did not hear.

14 Senator Moynihan: Let us hear it, Mike.

15 Senator Durenberger: For a possible scaledown.

16 Senator Dole: Keep the credit the same for heating oil.

17 Mr. Stern: I have just been told this costs \$1.5 billion.
18 Cut the \$30 minimum to \$15 and keep the rest of the proposal
19 the same for the first year. That would cost \$1.5 billion.
20 That would still allow you to come out with a net of \$700
21 million revenue gain from the bill.

22 Senator Bentsen: Why can we not do what the Chairman says
23 and cut the whole thing down percentagewise, proportionately?

24 Mr. Stern: You could cut down the percentage of the
25 heating oil, increase expenditures that the credit represents.

1 This suggestion would not actually cut back on what anybody got
2 on heating oil.

3 Senator Durenberger: The answer is you are hurting some
4 of the people who were hurting the most at the front end of the
5 program if you cut back on heating oil by dropping the maximum.

6 Senator Dole: Propane.

7 Mr. Stern: And propane and Canadian natural gas.

8 The Chairman: Senator Moynihan?

9 Senator Moynihan: Senator Durenberger, if I may make a
10 suggestion, there is no point in not being very open here. We
11 will all find out what we agree to.

12 It was in the spirit of compromise that we put up the
13 other billion and brought everybody into this program but if
14 for the first year we have to hold back, I think that we should
15 hold back in that area which we are going to extend and that
16 the heating oil credits, which are going to be the real crunch
17 and the propane and natural gas, I think that for one year that
18 has to be a priority.

19 That is my view.

20 The Chairman: Let me just suggest that we cut the \$30
21 minimum back.

22 Senator Moynihan: May I say to Mr. Stern that I support
23 Mr. Stern's proposal.

24 The Chairman: Let me just suggest in squeezing the genie
25 back inside the bottle that we cut the \$30 credit back to \$20.

1 We would take two-thirds of the cut we are talking about and
2 then ask you fellows from the states who get most of this money
3 to take that other one-third.

4 Senator Dole: There is a maximum of 200. You are
5 reducing that to 150?

6 The Chairman: How about that.

7 Senator Dole: 175.

8 The Chairman: Fine, if you can find a way to squeeze a
9 little bit out of yours. I am suggesting that we take
10 two-thirds of it by reducing the minimum from 30 down to 20 in
11 the first year.

12 How can you best squeeze down ---you do not have to find
13 much now to take that other one-third of it.

14 Mr. Stern: That saves one-third, Mr. Chairman, to go from
15 30 to 20.

16 The Chairman: If you thought you could make the grade by
17 going from 30 down to 15, then two-thirds of that thing -- it
18 has to be going from 30 down to 20.

19 Mr. Stern: I see what you mean.

20 The Chairman: You have two-thirds of it. What would
21 it cost -- you say it is going to cost you -- it would save
22 \$500 million if you cut that minimum in half.

23 Is that what you are saying?

24 Mr. Stern: Yes, sir. That is right.

25 Maybe \$600 million.

1 The Chairman: You think you would save \$600 million by
2 doing that?

3 Mr. Stern: The fiscal 1980 effect, it would be 400 by
4 what the Chairman is saying.

5 The Chairman: Look at the big share of it. All you need
6 to save is \$300 million out of the big part of it.

7 That would get us inside.

8 Mr. Stern: Cutting the maximum does not save as much as
9 you might like. There are not very many people who would be
10 eligible.

11 The Chairman: How could you do it so as to save -- you
12 only need to pick up \$200 million now. How could you do it, to
13 pick up \$200 million?

14 Mr. Stern: The only across-the-board way of scaling back
15 on the heating oil credit would be to reduce the percentage.

16 The Chairman: From what to what?

17 Mr. Stern: Something like 25 percent to 20 percent.
18 Right now, under the proposal --

19 The Chairman: That is a reduction of one-fifth. We will
20 take a one-third reduction on the minimum and you are inside.
21 You have it inside, the package.

22 Senator Dole: We could lower the \$22,000 to \$18,000.

23 Senator Durenberger: Mr. Chairman, I think the problem
24 here is everything between 30 and 200 has to be earned.

25 Everything below the 30 ---the 30 is a minimum or the 20 is a

1 minimum or the 15 is a minimum. You do not have to earn that
2 because of an actual increase in price.

3 What we are doing when we talk about voting to retain the
4 \$200 maximum is to say we probably actually earned 400 or 500
5 because heating oil prices have doubled. There are no electric
6 prices or gas prices that have doubled anywhere in this
7 country.

8 Every dollar above 30 has to be earned by the taxpayer.
9 That is why I do not see a problem with reducing the minimum.
10 Everything over that is earned.

11 Senator Bentsen: The reason for that is of course, that
12 we have not given the credits for the energy cost to these
13 people when we take in the other types of fuel over this period
14 of time and when my friend from Minnesota says that this has
15 all happened in the last year, a lot of it, I think that the
16 acceleration in the last year generally has been more in
17 heating oil, but if we want to go back to a little bit further,
18 if we want to go back to deregulation and natural gas -- which
19 was not very long ago ---then you began to see a very fast
20 moderation in that and we have been under that problem longer.

21 Maybe we have been derelict in not representing our people
22 better and getting them some relief earlier. We sure do not
23 want to be cut out just because we were -- we would like to
24 play catch-up if we could.

25 The Chairman: Let me ask Senator Moynihan, if you are put

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1 to a hard choice, if you had to save something, which way would
2 you rather do it? Would you rather do it by reducing the
3 \$22,000 figure to make less people eligible or would you rather
4 reduce it by reducing the 25 rate down to 20?

5 Senator Moynihan: I think at this point, Mr. Chairman, we
6 have to ask ourselves how do we take a bill to the Floor that
7 will pass. It would be my judgment -- but I would like to hear
8 Senator Ribicoff and Senator Durenberger, everybody, to go down
9 to \$18,000 with a cut-off of \$20,000 would, in fact, be at the
10 median ---just about exactly median income.

11 Is that not right, Mr. Shapiro?

12 Mr. Shapiro: In that range, yes.

13 Senator Dole: What would that save?

14 Senator Moynihan: You could make that case.

15 Mr. Stern: It might save about \$200 million as decreasing
16 the percentage.

17 Senator Moynihan: If I had to take a vote, I would vote
18 to reduce with the option to raise in out years.

19 Mr. Stern: We assume that is across the board. If you
20 save \$18,000 it would not only be for heating oil but natural
21 gas and everything else.

22 Senator Chafee: Mr. Chairman, if we look at this formula
23 that is on page 2 before us here, you just see that it does
24 some strange things. Why get over \$6 million in theory, to
25 take care of heating?

1 Mr. Chairman, it seems to me we have gone so far astray --
2 the suggestion is that we cannot go to the Floor with a formula
3 that is really designed to take care of the problem we are
4 trying to do, people who are suffering from very substantial
5 increases due to deregulation of oil.

6 I do not think that the formula on page 2 here is a very
7 good one but I would suggest, since everybody seems to think
8 that is what we have got to have -- and I am not sure that I
9 agree with that -- why can we not take, for the current year,
10 the formula as originally presented?

11 That is true that does not give Louisiana or Texas, those
12 states, substantial sums but at least it gets us through this
13 year. Then everybody can look at this very generous formula on
14 page 2 which, in effect, is a tax credit. It gives everybody a
15 30 percent ---every householder in the United States a \$30
16 credit even though they have not earned a nickel extra of any
17 type of fuel.

18 Is that not tempting enough?

19 To me, it goes way beyond the object of what we are here
20 for.

21 We have all sat around and we voted very generous cuts for
22 everything. We have deregulated all types of oil, no taxes
23 whatsoever on different types of oil, and it seems to me that
24 those states that are going to suffer from this so-called
25 original formula are going to benefit very generously from the

1 state severance taxes -- Lord knows what they will be for the
2 various states involved.

3 If they have extreme problems, some of that money, it
4 seems to me, can be used for this type of assistance.

5 I cannot imagine that we cannot get through this year
6 staying within the limits, with the \$900 million and then show
7 them that they are all going to get this in the following two
8 years.

9 The Chairman: Let me just talking about that for the
10 minute. When you talk about telling a state how to spend their
11 money, the state is going to tell you, look, we are not -- you
12 are writing the energy laws and you can do whatever you think
13 you ought to do, but those Governors and those legislatures,
14 they are not going to volunteer to get involved with this.

15 They are going to take the attitude that it is a Federal
16 problem. You have made a Federal problem. You have passed
17 laws to regulate and imposed a big bureaucracy on them and as
18 far as they are concerned, they are handling it. They are just
19 going to take the view that that is your business.

20 When we passed -- furthermore, there are lot of low-income
21 states that do not have any oil, not enough to even talk about,
22 like Alabama, Georgia, South Carolina. Arkansas has very
23 little. Tennessee practically none.

24 When we passed the revenue sharing bill the people who did
25 not like revenue sharing made a big, strong case of why were we

1 putting any money into Scarsdale, New York; why were we putting
2 anything into Beverly Hills, California and so forth.

3 The fact was that if you want to put a program into
4 effect, you are going to put it into effect that some Americans
5 are in on it and other Americans are out, completely under a
6 Federal program. It is just a lot harder to sell it that way.

7 And if you look at what the people's energy costs were in
8 these Sun Belt states for example, their costs have gone up --
9 admittedly not as much as they are in those New England states.
10 I am not arguing about that, but not as much as they have in
11 others.

12 The way you come out with a national program, you come out
13 with a formula and you just start excluding certain areas and
14 put them in for nothing, or practically nothing, you are going
15 to have great difficulty with it. It leads to a big fight
16 out there on the Floor.

17 Where the states do not get such a bad case, or the worst
18 of it, then we have something that we can join together and
19 support on the low-income part of it. The Mayor of New
20 Orleans, an outstanding black mayor, highly regarded, sent me a
21 wire which I read yesterday protesting about the formula that
22 we have right now. I expect to go out and defend that formula
23 -- basically, that is the Nelson formula ---and explain it to
24 him and all his constituents that that is the best that could
25 be worked out under the circumstances and why we did that.

1 But when you get it down to where we get zero or 0.01 or
2 0.02, that is hard to explain. That is very difficult to
3 explain.

4 We are just asking you to include us inside the program
5 on the basis to at least recognize some reality that energy
6 costs have gone up for us, too.

7 I agree with regard to Hawaii. That would be the weakest
8 case. But all that cost is 0.31, 0.3 to include that state in
9 the program, really it is at the expense of --

10 Senator Chafee: Those are percentages, Mr. Chairman.

11 Senator Bentsen: If I may on this, when my friend from
12 Rhode Island says they have not earned it, I am not sure what
13 is meant by that statement.

14 I assume by that he means that our energy costs have not
15 gone up. Obviously they have. They have been going up longer
16 and we have been suffering longer on it.

17 I look at the btu cost in Houston, Texas; I look at it in
18 Austin, Texas and it is equivalent to what it is in Boston,
19 what it is in the Twin Cities. Then when we talk about this
20 deregulation of oil and what that one means, that really -- one
21 phase in January 1st of next year and that phase in over some
22 22 months.

23 So we are talking about '79. So our poor are going to be
24 hurting at the same time that the rest of the poor are going to
25 be hurting around the country.

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1 Finally, we get to the household energy costs and we have
2 compromised that substantially to try to give some additional
3 credit to degree days, and I am not really quarreling with
4 that.

5 I am going to have the same problems you are going to
6 have, Mr. Chairman, in trying to defend this when I go home.
7 They are not going to understand that kind of a compromise. I
8 understand it has to be, in trying to work it out here, and I
9 think you are right.

10 Senator Ribicoff: Mr. Chairman, you know, when there is a
11 flood or tornado in Louisiana or Texas, we vote for the relief
12 to help the people who have been damaged by the floods and
13 tornadoes in Texas and Louisiana. We do not say, well, this
14 did not happen in Rhode Island or Connecticut, why do we not
15 get a piece of it?

16 Now you have a disaster that is an economic disaster for
17 the people in the cold areas of the country and for the life of
18 me, I do not think that the people of Texas or Louisiana say,
19 let those bastards up there freeze to death because we do not
20 freeze to death down in Louisiana and Texas.

21 Funny, I do not think the people of Texas and Louisiana
22 are that mean and that small. I think that they are generous,
23 like the people all over the United States are generous to the
24 problems that one section of the country has or not.

25 I have a feeling that the Senators on the Floor will not

1 take the attitude that we do not care about the people in Maine
2 or Minnesota or Wisconsin or Connecticut or New Hampshire or
3 Vermont. I really do not think they feel that way about it.

4 Senator Bentsen: I do not think they are mean, either. I
5 do not think that the people in Connecticut are mean. I think
6 they are all fine folks around this country of ours and we all
7 face the same problems of trying to make mortgage payments and
8 when we find the utility bills are exceeding the mortgage
9 payments or you find people, elderly people who thought they
10 finally had their home paid for and it was theirs and the
11 utility bills are such that they cannot trim them, it is the
12 same kind of economic crunch whether it is in the north or
13 whether it is in the south.

14 We have agreed to make some extra consideration for degree
15 days and try to balance it out and that is where we come up
16 with this formula.

17 Senator Bradley: Mr. Chairman, I would like to simply say
18 that I can appreciate the higher energy costs in Texas that are
19 a result of the deregulation of natural gas. Maybe we should
20 have had a windfall profits on that to pay for the energy costs
21 that are a result of the deregulation of natural gas, because
22 what we are talking about here are windfall profits on oil as a
23 result of the deregulation of oil.

24 The Committee has considered this, has arrived at a tax
25 that it thinks is passable. Some of us would like to have

1 more. Some of us would like to have less. But we have
2 a reduced amount in some cases, according to some perceptions.

3 Now, what we are arguing out of that reduced amount of
4 revenue that comes from the windfall profits tax because of the
5 deregulation of oil, we are now going to make room in all three
6 sections of this low-income assistance for energy costs that
7 are the result of the deregulation of natural gas.

8 I want to be fair in this thing, too. I think that you
9 have to call it the way it is there and that is, to me, the
10 fact that higher energy costs in Texas are because of higher
11 gas costs which are the results of the deregulation of gas.

12 If the tax is bigger, maybe we could spread it around and
13 take care of all of the taxes, all of the higher energy costs
14 across the country, but it is not bigger. We have \$30 billion.
15 Maybe if we were going to adequately provide relief to the oil
16 users and to the gas users, maybe we need the \$50 billion, but
17 we do not have that.

18 The question is how we most equitably distribute it.

19 The Chairman: Senator Dole?

20 Senator Dole: As I understand it, Senator Moynihan has a
21 proposal that we stick to the formula the first year, we lower
22 the cap from \$22,000 to \$18,000 and we also lower --

23 The Chairman: You mean \$22,000 down to \$20,000.

24 Senator Moynihan: That is right. If \$18,000 is the peak,
25 you drop off at \$20,000.

1 Senator Dole: Phase it out at \$20,000. Then we lower the
2 minimum fro \$30 to \$20. That would give us \$600 million.

3 Is that right, Mike?

4 Mr. Stern: As a crude guess, yes, sir.

5 Senator Dole: In the first year, that would seem to be
6 satisfactory. In the next year --

7 The Chairman: The next year you would go with this
8 formula, the figures you have got here.

9 Senator Moynihan: That is the proposal, Mr. Chairman.

10 Senator Durenberger: Mr. Chairman, I like the formula and
11 I do not like the civil war tone that is going on around the
12 table. I could read you the white Lt. Governor of Minnesota's
13 statement accusing the Nelson formula of being a Carter
14 political ploy to buy off Southern primaries.

15 I am going to go back to Minnesota and defend Gaylord
16 Nelson even though he is up for re-election.

17 Senator Nelson: Spare me that, will you.

18 Senator Durenberger: I think this is a good proposal.

19 Senator Moynihan: The Republican Senator from Minnesota
20 endorses Nelson. All right-thinking people will understand his
21 formula was based on economic realities.

22 The Chairman: Would you like a roll call on that?

23 Senator Chafee: Where are we?

24 The Chairman: We are voting on the formula with the first
25 year being phased down from \$22,000 down to \$20,000 and the

1 phase out starting at \$18,000 to \$20,000. That is where the
2 phase out would occur and the minimum being \$20 the first year.
3 Otherwise, it would be as shown here the second year.

4 Senator Dole: Let us vote.

5 The Chairman: Call the roll.

6 Mr. Stern: Mr. Talmadge?

7 (No response)

8 Mr. Stern: Mr. Ribicoff?

9 Senator Ribicoff: Aye.

10 Mr. Stern: Mr. Byrd?

11 (No response)

12 Senator Bentsen: Mr. Talmadge votes aye by proxy.

13 Mr. Stern: Mr. Nelson?

14 Senator Nelson: Aye.

15 Mr. Stern: Mr. Gravel?

16 (No response)

17 Mr. Stern: Mr. Bentsen?

18 Senator Bentsen: Aye.

19 Mr. Stern: Mr. Matsunaga?

20 (No response)

21 Mr. Stern: Mr. Moynihan?

22 Senator Moynihan: Aye.

23 Mr. Stern: Mr. Baucus?

24 (No response)

25 Mr. Stern: Mr. Boren

1 (No response)

2 Mr. Stern: Mr. Bradley?

3 Senator Bradley: Aye.

4 Mr. Stern: Mr. Dole?

5 Senator Dole: Aye.

6 Mr. Stern: Mr. Packwood?

7 (No response)

8 Mr. Stern: Mr. Roth?

9 Senator Roth: Aye.

10 Mr. Stern: Mr. Danforth?

11 (No response)

12 Mr. Stern: Mr. Chafee?

13 Senator Chafee: Aye.

14 Mr. Stern: Mr. Heinz?

15 (No response)

16 Mr. Stern: Mr. Wallop?

17 Senator Wallop: Aye.

18 Mr. Stern: Mr. Durenberger?

19 Senator Durenberger: Aye.

20 Mr. Stern: Mr. Chairman?

21 The Chairman: Aye.

22 Senator Moynihan: The War Between the States is over. We
23 are brothers again.

24 Senator Wallop: The white flag has been raised.

25 The Chairman: Statesmanship has prevailed, twelve to

1 zero.

2 Senator Nelson: May I ask a question?

3 The Chairman: Yes, sir. Do you want to ask a question?

4 Senator Nelson: For clarification, the other day when
5 Senator Moynihan proposed a \$5 billion or \$3 billion assistance
6 to the poor, \$2 billion on the tax credit, did I understand we
7 did not finally adopt the \$3 billion. Is that correct?

8 Mr. Stern: Mr. Chairman, the way I understood it, the
9 staff was directed to come back with a suggestion for how \$2
10 billion might be used and if that was acceptable to the
11 Committee, then at that point you would reconsider \$3 billion
12 for the poor.

13 Perhaps it would be appropriate then at this time.

14 Senator Moynihan: Could we so move, Mr. Chairman, that
15 the \$2 billion formula that we just agreed to was intended to
16 be accompanied by a \$3 billion allocation to the dependent
17 poor?

18 The Chairman: Is that to increase the amount of money to
19 the low-income people in the second year?

20 Mr. Stern: That is correct. It would be the same formula
21 as you had agreed to before, being \$3 billion rather than \$2
22 billion.

23 The Chairman: More money the second year?

24 Mr. Stern: Fiscal years '81 and '82.

25 Senator Moynihan: That is the understanding. Is that

1 agreeable to Senator Nelson?

2 Senator Nelson: Yes.

3 Senator Moynihan: Can the committee agree to that?

4 The Chairman: Without objection, agreed.

5 If somebody is not here, somebody who is here may raise
6 the question at some point. As far as I know, there is no
7 objection.

8 I promised to call on Senator Roth. I think he has
9 something we might be able to resolve.

10 I would like to be able to resolve what Gaylord Nelson
11 had. I will call you next.

12 Senator Roth: Mr. Chairman, last week I proposed that
13 there be one-year freeze on the Social Security increase that
14 would take place in the year 1981. I lost by a vote of ten to
15 ten but I think a number of people who voted against my
16 proposal said that they thought it was a good idea and I have
17 since then tried to come up with an approach and have discussed
18 this with a number of individuals.

19 May I have the attention of the Committee, Mr. Chairman,
20 please?

21 The Chairman: Come to order, please.

22 Senator Roth: I have tried to come up with a compromise
23 that is a genuine effort to respond to the concern of those who
24 said that they thought it was a good idea but were reluctant to
25 vote for it at that time. But I think that one of the basic

1 concerns that they expressed, particularly Gaylord Nelson who
2 was Chairman of the Subcommittee, that we ought to have some
3 hearings first.

4 So what I am proposing today is an approach that I think
5 maintains this option for the Committee, provides the
6 flexibility that we need, will give the Subcommittee on Social
7 Security, headed up by Senator Nelson, the opportunity
8 to hold hearings as soon as possible,
9 but this would make it possible to go along some of the other
10 lines that I am proposing.

11 What I am proposing is instituting now a taxpayer's
12 trust fund.

13 We already set up under this legislation a trust fund to
14 help the poor, which I strongly support. We have also set up
15 one to provide mass transportation and for other purposes.

16 What I am suggesting is that in the year 1981 we take the
17 additional corporate taxes ---we are not talking about the
18 windfall profits taxes. We are talking about the additional
19 top corporate taxes resulting from decontrol that would be put
20 into a taxpayer's trust fund, setting it aside for purposes of
21 trying to provide some relief against the increase that is
22 otherwise scheduled in 1981.

23 This has a number of advantages, Mr. Chairman. First of
24 all, if we do not set aside these funds, there is a grave
25 possibility that someone else will see some reason to spend

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1 them.

2 Secondly, we all agree that there has to be some relief in
3 Social Security and setting aside the funds for that purpose
4 is, in a very real sense, taking care of those individuals who,
5 in many ways, are facing as difficult a problem as anyone --
6 that is the working people of America.

7 It is the working people who are paying the higher taxes.
8 It is the working people who are paying higher prices through
9 inflation. It is the working people who are paying the higher
10 energy costs.

11 What I am proposing is that we give a signal to them that
12 we are concerned about their plight, that we are going to set
13 aside this money and as the Washington Post, as Walter Heller,
14 as many other people have said, one of the best approaches we
15 can use to help the working people and also have a beneficial
16 effect on the economy is by lowering payroll taxes.

17 So I propose, Mr. Chairman -- I have discussed this with
18 you as well as others ---that we set aside for one year the
19 increased taxes resulting from decontrol. It will be in a
20 trust fund.

21 Senator Nelson, I am sure, is willing to agree that we
22 ought to have hearings and move expeditiously -- or I would
23 hope he would be.

24 Senator Nelson: I did discuss this with both the Chairman
25 and Senator Roth. I think his proposal is a good one and makes

1 good sense.

2 My concern about earmarking it immediately in any way is
3 that I think we need to have some hearings to find out where we
4 are at. I do not know, frankly, and I am concerned about the
5 tax rate in 1980.

6 So we set the base rate and we set the tax rate based upon
7 a factor of 5.5 inflation. Obviously that is up to 14. I
8 would like to have hearings later this year; I will at least
9 have hearings early next year and we will get a careful
10 evaluation of the status of the disability fund, the HI fund
11 and the other payroll fund.

12 Based upon that information, it is up to this Committee
13 and the Congress to decide whether they want to do something
14 with that money in the trust fund. It is good to leave that
15 decision until after the hearings, so I am perfectly prepared
16 to go along with the Senator's proposal.

17 The Chairman: I think you have got something we could all
18 agree to. I suggest we vote. I hope it is unanimous.

19 All in favor, say aye?

20 (A chorus of ayes)

21 Senator Roth: I would like to have a roll call vote. A
22 number of people have asked me for one.

23 The Chairman: Well, fine. Let's call the roll.

24 Mr. Stern: Mr. Talmadge?

25 (No response)

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

1 Senator Roth: Aye.

2 Mr. Stern: Mr. Danforth?

3 Senator Roth: Aye by proxy.

4 Mr. Stern: Mr. Chafee?

5 Senator Chafee: Aye.

6 Mr. Stern: Mr. Heinz?

7 (No response)

8 Mr. Stern: Mr. Wallop?

9 Senator Wallop: Aye.

10 Mr. Stern: Mr. Durenberger?

11 Senator Durenberger: Aye.

12 Mr. Stern: Mr. Chairman?

13 The Chairman: Aye.

14 Senator Roth: I have a proxy, Mr. Chairman, for Mr.
15 Boren. He votes aye, and Mr. Gravel and Mr. Heinz, by proxy.

16 The Chairman: The motion is agreed to.

17 Senator Durenberger?

18 Senator Durenberger: It is a question I do not think we
19 have raised before, Mr. Chairman, relative to how, in certain
20 Indian tribes, Federally recognized Indian tribes, might
21 be handled under the block grant approach in income assistance.

22 I hate to rock the boat on the very general and very good
23 description we have had for how the states would use the money
24 but I also want to make sure that in those states where Indian
25 tribes do not receive social services from a state that we

1 protect the right of the Indians in those tribes to receive
2 monies from the income assistance fund.

3 If that would be the consensus of the Committee, that
4 there would be appropriate language.

5 The Chairman: Can you handle that all right?

6 Mr. Stern: The only requirement that you have put on the
7 states up to this point is that if they do take the block grant
8 option they would have to agree that the funds would be used
9 solely to provide assistance to lower income households under a
10 state definition to meet needs related to increased energy
11 costs.

12 That is the only requirement that you place on states as
13 of now, so the question is whether you want to place an
14 additional requirement on states. You could put a requirement
15 that says, should the state opt to run its own program it would
16 have to treat Indians in the same way as other low-income
17 persons. That would be a simple way to do it.

18 The Chairman: Without objection, we will do that.

19 Senator Dole, do you have something?

20 Senator Dole: Mr. Lubick is here. We missed him earlier
21 on hydro.

22 I think Senator Bradley may have wanted to raise this.
23 Maybe it is out of order based on the agreement at the last
24 session, but the Senate Finance Committee adopted a
25 recommendation made to staff to provide a 20 percent energy

1 investment tax credit for equipment to process biomass,
2 including garbage, into a combustible solid fuel. The staff
3 did not recommend, and the Committee did not adopt, a provision
4 to authorize that the same tax credit be made available for
5 equipment used to burn solid biomass garbage directly.

6 I have given a copy of the memo to the staff and I am
7 raising it because I have been asked to raise it. I do not
8 have any expertise in the area.

9 Senator Nelson: Did the Byrd amendment not cover that?

10 Senator Dole: I do not think so. . At least, as I
11 understand it, the action by the Committee creates a
12 competitive advantage for one type of municipal solid waste
13 disposal system.

14 Mr. Shapiro: Are you suggesting an additional 20 percent
15 credit when you burn the garbage directly?

16 Senator Dole: Right. A 20 percent additional investment
17 tax credit would be made available to both what they call
18 refuge-derived fuel processes and direct combustion systems.

19 I think now it only applies, as I understand it, to direct
20 combustion systems.

21 Senator Wallop: You are not suggesting they get both but
22 something they qualify for for the 20 percent that we have
23 already put in?

24 Senator Dole: Right.

25 As I understand it, the action that we took creates a

1 competitive advantage of 10 percent energy ITC for one type
2 municipal solid waste system, generally referred to as an RDF,
3 at the expense of a heretofore competitive system referred to
4 as a direct combustion system.

5 I think there you are talking about the additional 10
6 percent energy tax credit.

7 Let me give you this memo here --

8 Mr. Shapiro: We are not sure of the sole effect of all of
9 this. Let me comment generally.

10 The question raised is the inconsistency, or a concern
11 about the inconsistency, about what the Committee has already
12 agreed to based on the staff recommendation to give a 20
13 percent credit when you process the biomass into combustible
14 fuel and what they would like to have is a 20 percent credit
15 when you burn the garbage directly rather than when you make it
16 into a combustible fuel.

17 Those who receive the additional 20 percent are converting
18 it into a fuel. This equipment apparently is to have it burned
19 directly. You can either reduce the 20, which is clearly not
20 what is being advocated, or give it to the equivalent to burn
21 directly. It is the type, you know, of proposal that was not
22 agreed to by the Committee originally. That is why the staff
23 did not have it when it made its reconciliation.

24 Senator Dole: It amounts to an additional 20 percent.
25 You gave it to the RDF and not to the direct combustion system,

1 that both are in commercial use today and I guess the question
2 raised by those who have an interest is that some plant in
3 Massachusetts that I am not familiar with wanted to raise it.

4 Mr. Lubick: Senator Dole, I wonder if we could at it
5 between now and the Floor and see if there is an inconsistency
6 and what the appropriate cut off point is? You have us caught
7 quite unawares.

8 Senator Dole; My only point was that we get into a budget
9 problem on the Floor. Someone can raise a point of order that
10 it was revenue losing.

11 The Chairman: I will tell you what we will do. I suggest
12 that we just accept the amendment. If it is going to cause any
13 trouble we can drop it out without it causing a budget point of
14 order.

15 Do you have any estimate as to what the cost would be?

16 Mr. Shapiro: We are estimating approximately \$100
17 million. That is a rough estimate.

18 The Chairman: Over the period of the program?

19 Mr. Shapiro: Yes.

20 The Chairman: I suggest we agree to it with the
21 understanding that after you study it and look at it we can
22 drop it out without having a budget problem. We cannot put it
23 in without creating one.

24 Without objection.

25 Senator Nelson: While we are on that question, I am

1 concerned about what we did do on the Byrd amendment in
2 providing that the electricity generated by a municipality -- a
3 municipality could not be sold to private.

4 I think that is a mistake and we should rectify that.

5 Number one, we have a tremendous solid waste disposal
6 problem. Taxpayers are paying to get rid of it. If it can be
7 a source of energy, we should use it, and we get into a
8 situation where a municipality may not be able to use all
9 that it produces. What do we do about it?

10 I do not think that is possible.

11 The Chairman: In so far as we did act it is a
12 liberalization. We are not taking away anything from anyone we
13 did before. What we did was give them a right that they did
14 not have up to that point.

15 In so far as the Committee acts, it is to broaden the
16 area.

17 Senator Nelson: That is correct. I think we ought to be
18 giving inducement to municipalities to utilize trash to produce
19 energy. Why should we inhibit that activity by saying that
20 they could not sell it privately?

21 Suppose that they can use half of it and the rest of it
22 just goes to the power company?

23 The Chairman: Senator, may I suggest that you hold up and
24 discuss that with Mr. Lubick. He has a lot he can tell you
25 that they will let you do a lot. He just does not want to go

1 as far as some people would like to go and he has a good
2 argument. He has a good argument.

3 Senator Nelson: He always has good arguments.

4 The Chairman: If you would discuss it with him. I
5 believe you fellows could come to terms on that.

6 There is one more thing you wanted to offer?

7 Senator Nelson: You wanted to put it in the bill and if
8 it is any good we take it out?

9 The Chairman: Senator, I think if we do, you are going to
10 agree it ought to come back out. I honestly do.

11 Senator Nelson: I am talking about only municipalities
12 and only about producing power from trash.

13 Mr. Lubick: I am very troubled about eroding that line we
14 set up under the various rules about distribution of electrical
15 energy under the local furnishing rule.

16 The Chairman: After you discuss that with this man and
17 you are convinced you ought to pursue it further, I will try to
18 help to see that we find a way to get in there. I really do
19 not think you are going to want to pursue it after you study
20 it.

21 After this get with Mr. Lubick and talk it over.

22 Senator Nelson: If you think he is going to change my
23 mind, I do not want to talk to him.

24 The Chairman: If you two cannot agree, then I will find
25 some way to accommodate you.

1 Go ahead, Sentoar Dole.

2 Senator Dole: One is a clarification I discovered in
3 reading the overview on page 8. We did adopt the so-called
4 stripped down stripper amendment. I am just trying to define
5 who might be eligible for that and I share the concerns
6 expressed by the staff.

7 I suggested a compromise that I think should satisfy the
8 staff because we never voted on this proposal. Do you see any
9 problem with a compromise, Mr. Shapiro?

10 Mr. Shapiro: The Committee agreed to the stripper
11 exemption by indicating an interest to limit the 1,000 barrel a
12 day to independent producers. The question is that you have
13 many properties where you have majors as well as independents
14 involved and you have royalty holders on both and the Committee
15 wanted to give it to royalty holders where they were
16 independents and not where major producers had it.

17 The rule that the staff came up with and copied it
18 somewhat from the percentage depletion rules. If there was a
19 50 percent working interest in the majors, no independents or
20 royalty holders would get an arbitrary way of determining who
21 was an independent whether the majority working interest was by
22 the majors or not.

23 Senator Dole has suggested a modification of that which
24 would have three parts. It would say that you would agree with
25 the staff position with two modifications: one, to deny to

1 royalty holders if there is less than a 50 percent working
2 interest by independents and second, to allow the independents
3 who own a trade or business to take the exemption even if they
4 are less than 50 percent.

5 One of the important aspects of it, it is in trade or
6 business which means if there is a drilling fund that is set up
7 by the managers, those in the drilling fund that are not in the
8 trade or business, maybe investors, would not be covered.

9 Senator Dole: I think that addresses what you were
10 getting at and what I agree with. It should not have a bunch
11 of people go to a major company and say we get the exemption
12 because we put money into this program. I think my compromise
13 addresses that and it limits it to those who are actually in
14 the trade or business because some do make agreements with
15 major firms, but they are actively in the business -- not a
16 group of physicians or whatever.

17 Anybody with money trying to invest and take advantage of
18 the exemption.

19 I would hope we could modify it in that way.

20 The Chairman: Let me see if I understand this. You are
21 talking about if you drill a well and you have, say, 60 percent
22 of the working interest is held by a major company but you have
23 some independents who are participating for the other 40
24 percent that they would be regarded as independents.

25 Senator Dole: All new oil would be exempt in any event.

1 Mr. Shapiro: Existing production on the stripper wells to
2 the extent that any independent producer in trade or business
3 that would have an interest of less than 50 percent, they would
4 be entitled to the exemption up to the extent of their interest
5 not to exceed the 1,000 barrel per day allocation.

6 The Chairman: Without exemption.

7 Senator Chafee: Wait a minute.

8 The Chairman: That is not one I anticipated you would
9 object to, Mr. Chafee. I thought you were going to object
10 later. I do not think this is one you can object to. There is
11 one coming.

12 Senator Dole: We have worked with staff trying to tighten
13 this up.

14 Senator Chafee: Well, I am entitled to more objections
15 than you forecast.

16 The Chairman: Go ahead.

17 Senator Chafee: I want to see if I understand this.

18 Under this, you have a field where the majors are in for
19 60, the independents in for 40 in some kind of partnership
20 basis.

21 Mr. Shapiro: Senator Dole's modification would allow the
22 independents to have on the exemption to the extent of their 40
23 percent interest.

24 The Chairman: What we agreed was that the independents
25 would be exempt if they have stripper wells and the major

1 companies would not be exempt. Working out the technical
2 point, they came up with a 50 percent rule.

3 If you have a well where the majors own more than 50
4 percent, you are talking about the royalty owners under that,
5 it would be limited to the same situation that the majors would
6 be limited to.

7 Mr. Shapiro: Right. Under Senator Dole's modification,
8 the royalty holders would not get it in any case, where the
9 majors have a working interest of 50 percent or more.

10 Senator Dole: That is the only time they are exempt.

11 What I thought happened after we agreed on the amendment
12 -- I do not fault the staff -- that we, in effect, restricted
13 the amendment, I thought, if you are a bona fide independent in
14 the business and have some association with a major company,
15 you do not lose your exemption. We are talking about wells
16 that are already drilled, anything new.

17 Senator Chafee: Just strippers.

18 Senator Dole: Yes.

19 Senator Chafee: Thank you.

20 The Chairman: Without objection, that is agreed to.

21 What is your other amendment?

22 Senator Dole: I thought, Mr. Chairman, we might want to
23 close this session the way we started -- that is to figure out
24 how to find more oil to preserve what we had.

25 One of the first actions taken by this committee was to

1 increase the tax rate on Tier I oil. Now, I know we have all
2 the profits. We are not talking about the companies with all
3 those profits. We are talking about trying to preserve some
4 oil and some production.

5 I do not intend to try to disturb the tax rate. It seems
6 to me that the Committee has voted on that, as I suggested the
7 other day. You know, it would be a different modification, but
8 what I would suggest is we go back to the administration's
9 proposal of increasing the decline curve from 1.5 percent to 2
10 percent.

11 Under the way that we have it now, the Finance Committee's
12 75 percent tax rate, the producer will keep 8 cents on an
13 incremental dollar earned on Tier I oil.

14 The current average price for lower tier oil is around \$6
15 and four years ago the average price was about \$5.03. Right
16 now we have a lower tier volume of oil declining at
17 approximately 4.8 percent a year.

18 A year ago, the decline rate was 15.2 percent and I guess
19 the question is if we could slow that decline rate, and we are
20 going to have an additional if the decline curve were cut in
21 half. We could cut that in half.

22 It would mean 400,000 additional barrels of daily
23 production by '81 and if we could slow that decline rate to
24 about a third it would mean 250,000 barrels per day of
25 additional production.

1 So that, in effect, is the proposal that I would recommend
2 that we change the decline curve by 1.5 to 2 percent and leave
3 the tax rate as suggested by the Committee by a vote of 12 to
4 8, which I did not vote for, at 75 percent.

5 Senator Chafee: What would this cost?

6 Mr. Lubick: It is our understanding that the revenue
7 effect of this would be a loss of \$1.6 billion.

8 Senator Chafee: How much?

9 Mr. Lubick: \$1.6 billion.

10 It seems to us, Senator Dole, that while we originally
11 thought a 2 percent decline rate was appropriate, that was in
12 the context of the total package we were talking about. You
13 have now taken out of the first tier a lot of that oil such as
14 the high water cut for example and you have put that into tier
15 two. Some of that would cause a problem.

16 At this stage, the historical decline average, as you
17 indicated, is 15 percent a year, is 1.25 so the 1.5 is giving
18 you a healthy margin over that.

19 In addition, there is a point that we talked about that we
20 have a level decline of 1.5 so that after a short period of
21 time even for those few that might be declining faster than
22 that, they are going to be back in phase.

23 So we think if you judge what the Committee has done as a
24 whole that it is much more appropriate to stick with the 1.5
25 percent; changing it to a 2 percent would presumably benefit,

1 for the most part, those major oil companies which are already
2 experiencing the healthy profits we have been reading about.

3 We think that we ought to stick to about where you are at
4 this stage.

5 Senator Dole: The only point that I would make -- and I
6 am prepared to vote on it -- I am not ceratin that the consumer
7 is going to make any distinction between Tier I and Tier II or
8 upper tier or old oil or new oil. What they are looking for is
9 energy and some way to meet their needs.

10 And I know that the easiest thing in the world today or
11 yesterday or tomorrow is to stand up and kick around the oil
12 industry because they are making big profits overseas. The
13 point is, after all the shouting dies, we still have a problem
14 in this country of trying to find energy. We still have a
15 problem of trying to preserve what we have in this country.

16 We can all posture ---and I do not suggest anybody here
17 does. It is a very difficult -- Treasury even outside
18 Congress, that could happen because you raise the high
19 profits.

20 But there are high profits. Maybe we had better address
21 that in the foreign tax credit, which I assume the
22 administration will have a view. We are talking about
23 domestic production. We are talking about old oil. We are
24 going to lose it unless we get into some of the higher cost
25 recovery methods.

1 Essentially, that is the argument. The Committee can
2 decide if, by increasing the tax as we did, if that is the way
3 to go, we have made that choice.

4 It seems to me now that we can address, or redress, part
5 of that mistake, as I view it, by changing the decline curve to
6 2 percent.

7 I assume the House bill has 1.5 percent. We probably
8 would come out of conference with 7.5 percent, which would cost
9 about \$500 million.

10 The Chairman: Call the roll on it.

11 Mr. Stern: Mr. Talmadge?

12 (No response)

13 Mr. Stern: Mr. Ribicoff?

14 Senator Chafee: Mr. Ribicoff votes no.

15 Mr. Stern: Mr. Byrd?

16 (No response)

17 Mr. Stern: Mr. Nelson?

18 (No response)

19 Mr. Stern: Mr. Gravel?

20 (No response)

21 Mr. Stern: Mr. Bentsen?

22 (No response)

23 Mr. Stern: Mr. Matsunaga?

24 (No response)

25 Mr. Stern: Mr. Moynihan?

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

1 We will poll the absentees.

2 Senator Chafee: I have a couple of proxies, Mr. Chairman.
3 Mr. Packwood votes no. Mr. Moynihan votes no. Mr. Nelson
4 votes no.

5 How does the Treasury vote?

6 The Chairman: They have to vote no, you know.

7 Senator Dole: Senator Lubick votes present.

8 The Chairman: Four yeas, six nays. The absentees can
9 record themselves.

10 Mr. Stern: Before you break up, could I raise these
11 administrative issues related to the low-income?

12 Senator Roth: May I make one comment?

13 Mr. Chairman, I am not going to offer a further proposal
14 with respect to income and other taxes but I did want to make
15 it very clear that I think it is important that Congress face
16 the problem of the increases in personal taxes, some of
17 the problems of capital formation, and I do expect to offer
18 some amendments in that area on the Floor.

19 I wanted to make that clear.

20 It is not related to this, but before we finish up, we
21 took the trade adjustment act a couple of days ago and reported
22 it out. In my discussing one compromise that had been worked
23 out between the administration and the labor unions, I was not
24 clear on one point.

25 They had agreed that the compromise would continue the

1 present 26 out of 52 week requirement but certain kinds of
2 leave would be included within the 26 weeks I only mentioned
3 sick leave and vacation leave. I should have also mentioned
4 military leave, maternal leave and union bargaining leave.
5 That was the compromise worked out by the administration with
6 the unions.

7 The Chairman: Well, the staff would take note of that and
8 see if we could include military leave in there.

9 Senator Roth: Thank you, Mr. Chairman.

10 Now, what are your administrative items?

11 Mr. Stern: Going back to the document that is called
12 additional issues related to low income energy assistance, Mr.
13 Chairman, these begin at the bottom of page 2 and there is a
14 series of matters related to the administration of this program
15 that the Department of HEW has asked.

16 First, they ask that 10 percent of the available funding
17 be set aside for administration of the programs, that this be
18 100 percent Federal money paid over to the states, that if
19 there are any erroneous payments under this program, it not
20 count when you calculate the error rates for AFDC-SSI and food
21 stamp programs, that the Secretary be given the discretion to
22 account for these programs either through the existing program
23 accounting structure or separately, that the administration
24 make the payments based on the information that they have on
25 file without making retroactive adjustments, that the payments

1 be made twice a year, and that any certification of eligibility
2 under the proposal of Senator Heinz of a state heating fuel
3 credit, that that certification be made by the states.

4 Those are seven separate items that they requested.

5 The Chairman: Without objection, so ordered.

6 Mr. Stern: This may be academic. You may simply use the
7 appropriations process for 1980, but if you do have a program
8 for 1980, the administration is suggesting that there just be a
9 one-time payment about 90 days after enactment, that that is
10 the best they can do administratively.

11 The last item is when we originally had described the tax
12 credit we described it that it would be offset against any
13 payments to AFDC and SSI households. It would be our
14 impression at this point that there would be relatively few
15 households that would qualify for both and it would be simpler
16 just not to have the offset requirement because it is a
17 nonrefundable credit and basically goes to people who are on
18 AFDC and SSI and it would be kind of complicated, to make sure
19 that you did not make duplicative payments.

20 The Chairman: Without objection, agreed. If anybody
21 finds something wrong with those administrative positions we
22 can modify them on the Floor.

23 Mr Shapiro: Mr. Chairman, we have one so-called
24 modification we would like to suggest.

25 We have found out that in the highway trust fund,

1 there is a provision that was added by the Urban Mass
2 Transportation Act that says that you can use funds of the
3 highway trust fund for mass transit, but if you use any other
4 program, then you cannot use the highway trust fund.

5 I think, for purposes of your transportation trust fund,
6 you may want to say that any monies used in that would not
7 affect the allocation on the Highway Trust Fund.

8 The Chairman: Without objection, agreed.

9 Is that all?

10 Mr. Shapiro: Yes, sir.

11 The Chairman: Senator Dole?

12 Senator Dole: Mr. Chairman, I want to thank the Chairman
13 for all the courtesy extended to our side and also the staff,
14 all the staff, for their excellent cooperation.

15 The Chairman: Let me thank all the staff and all the
16 members of the Committee for the cooperation and consideration
17 that they have given to the Chairman. I appreciate all the
18 cooperation they have had, and I would like to thank the
19 Treasury also.

20 Thank you, gentlemen.

21 Mr. Stern: 10:00 tomorrow morning, Mr. Chairman, on
22 disability?

23 The Chairman: We will recess until 10:00 tomorrow
24 morning.

25 (Whereupon, at 12:20 p.m. the Committee recessed, to

1 reconvene on Friday, October 26, at 10:00 a.m.)

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