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EXECUTIVE SESSION

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TUESDAY, OCTOBER 3, 1978.

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

The Committee met, pursuant to notice, at 9:10 a.m. in room 2221, Dirksen Senate Office Building, Hon. Russell B. Long (Chairman of the Committee) presiding.

Present: Senators Long, Talmadge, Ribicoff, Byrd, Nelson, Gravel, Bentsen, Hathaway, Matsunaga, Moynihan, Curtis, Hansen, Dole, Packwood, Roth and Danforth.

The Chairman. Let me call this meeting to order. We have a lot of things we want to cover this morning. You have an agenda in front of you. I want to follow that agenda, except that I believe we agreed to dispose of one matter fairly quickly. That would be the deep seabed mining legislation.

The part that concerns this Committee has to do with the tax and with the revenue sharing part of it, and I would hope that we could just zero in on the part that we have jurisdiction over and not get involved in the rest of it because it seems to me the answer is fairly simple.

That is a bill out of another committee. The only thing that concerns us really is the tax and where the tax goes.

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1           Would you kind explaining that part of it, Mr. Shapiro?

2           Mr. Shapiro. Yes, Mr. Chairman. The House bill has a tax  
3 that was considered by the Ways and Means Committee which is  
4 three-quarters of 1 percent of the value of the minerals that  
5 are received from the deep seabed. This is essentially the deep  
6 seabed nodules that contain at least one of the following miner-  
7 als: manganese, nickel, copper or cobalt.

8           Under the House bill, these monies were intended to go to a  
9 trust fund which was intended for revenue sharing under an  
10 international deep seabed treaty. The tax was effective on  
11 January 1, 1980 and it would terminate either ten years after  
12 enactment or after an international deep seabed treaty which  
13 met the requirements that would be adopted by the United  
14 States.

15           As of now, there is not any anticipation that there will  
16 be any deep seabed mining within the next five years or so.  
17 One of the suggestions, as I understand it, for the full committee  
18 to consider, is agreeing with a provision in the House bill for  
19 the amount of the tax, that is three-quarters of 1 percent.  
20 However, having to go into just a deep seabed fund and not hav-  
21 ing any reference to any of the provisions that relate to  
22 revenue sharing.

23           It is contemplated that after this treaty is negotiated  
24 that the Congress will review the effects of the treaty, the  
25 amount of the tax and any further disposition of those funds so,

1 at a future date, there would appear to be ample opportunity for  
2 the Congress to make a determination as to what it wants to do  
3 with the money, because it is contemplated that a review of the  
4 treaty will be done at that time, in any event.

5 The Chairman. I personally do not want to commit this  
6 Committee or the Congress at this point to revenue-sharing with  
7 the United Nations, nor would I want to commit the Committee at  
8 this point to any concept that the United Nations own the deep-  
9 water of the ocean, because once you do that you get yourself  
10 into great trouble. It sets the stage for an argument over  
11 where the United States' jurisdiction terminates and where the  
12 United Nations' jurisdiction commences.

13 I would hope that they would go on ahead and negotiate that  
14 treaty, do the best they can, and hope that they can sell it, if  
15 it is a good treaty. As far as I am concerned, if we just say  
16 they can go ahead and collect the tax and put the tax in a trust  
17 fund and we can decide at a future date after they get their  
18 treaty written, we can decide what to do about it.

19 Mr. Roth?

20 Senator Roth. Mr. Chairman, I would agree with you. I think  
21 we would be making a most serious mistake to agree with some kind  
22 of a tax set-aside for the so-called enterprise. Frankly, I have  
23 serious reservations about the whole concept. Certainly I do  
24 not think that we ought to be in a position of putting ourselves  
25 on record in favor of some kind of revenue-sharing at this

1 juncture.

2 The Chairman. Senator Matsunaga?

3 Senator Matsunaga. As members of this Committee know, the  
4 bill has been gone over by three committees -- the Energy and  
5 Natural Resources Committee, the Commerce Committee, and the  
6 Foreign Affairs Committee, and all have now agreed to that one  
7 bill which is on the President's desk -- that is, on the Senate  
8 Floor now -- and while differences of opinion prevail relative  
9 to the very issue that the Chairman raises, I think that they  
10 would go along with the suggestion made by the Chairman.

11 I am prepared to go ahead as the prime mover of this  
12 measure to accept the suggestion of the Chairman and I believe  
13 that we have arrived at language which will be acceptable.

14 The Chairman. We have a great American here who served  
15 as a Cabinet officer -- Secretary of Defense, Secretary of HEW,  
16 Attorney General, Ambassador to the United Nations.

17 Ambassador Richardson, would that be all right with you,  
18 if we resolved that issue that way? Put this in a fund and  
19 let Congress in the future, if you bring a treaty in, say what  
20 we want to do with the fund?

21 Mr. Richardson. Yes, Mr. Chairman. Indeed, we certainly  
22 believe that this would satisfactorily meet the purposes of the  
23 legislation and avoid the problem that you have identified. We  
24 share the opinion expressed by Senator Matsunaga that these  
25 changes are acceptable to all of the other committees who have

1 considered the legislation. And we also support the belief that  
2 it would be highly desirable for the legislation to be able to  
3 go through. Thank you, Mr. Chairman.

4 The Chairman. Thank you, Mr. Ambassador.

5 If there is no objection, I would propose that we simply --  
6 is that bill in Committee right now, Mr. Shapiro? In the  
7 Committee, or at the desk?

8 Mr. Shapiro. It is not in the Committee; it is at the desk.  
9 We will just have it a Committee amendment so when it comes up,  
10 this will be in a Committee amendment for the tax portion.

11 The Chairman. I suggest we offer an amendment that the tax  
12 proposed in the bill simply go in a trust fund, that trust fund  
13 not being designated for any particular purpose.

14 What name would you suggest? Deepsea Management Fund?

15 Mr. Shapiro. Deep Seabed Trust Fund. We will have a name  
16 that carries the intent of the Committee.

17 Let me say we would also need the authority of the Committee  
18 to make the necessary technical and conforming amendments through-  
19 out the tax provision.

20 The Chairman. Give it a name to show where it comes from  
21 rather than where you expect it to go. We will decide where it  
22 is to go.

23 If there is no objection, then, that is what we will do.  
24 Without objection, agreed.

25 Now, then, could we resolve the Sugar Stabilization Act?

1 Mr. Matsunaga is Chairman of our Sugar Subcommittee. I believe  
2 we have Mr. Cassidy here to help with it.

3 Senator Hansen. Mr. Chairman, if I could interrupt for just  
4 a moment, I was sorry to have been out. What is the amount of the  
5 tax?

6 The Chairman. The tax is three-quarters of 1 percent.

7 Senator Hansen. Thank you, sir.

8 Mr. Cassidy. Mr. Chairman, the Committee will be working  
9 from Staff Document A, which is in the materials before you. It  
10 is labeled Sugar Stabilization Act of 1978 at the top.

11 This morning we have Mr. Howard Hjort, Director of Economics  
12 and Budget, representing the Administration. The Committee has  
13 before it 2990, the Sugar Stabilization Act, and the purpose of  
14 this bill would be to establish a 17 cent domestic market price  
15 for raw sugar from cane and beets in the United States. It  
16 would achieve this price by restricting imports of sugar through  
17 the use of quotas and import fees.

18 The bill contains no provisions for direct payments to  
19 sugar growers, and contains no provisions relating to labor  
20 standards for workers in the sugar industry. It, furthermore,  
21 would prohibit the entry of refined sugar and would permit  
22 restriction on certain products containing sugar. It would  
23 also, in Title I, implement the International Sugar Agreement,  
24 a treaty which is now pending before the Foreign Relations  
25 Committee.

1 The International Sugar Agreement is an international  
2 commodity agreement which is an attempt to stabilize the world  
3 price of sugar between 10 and 21 cents a pound. It would achieve  
4 this through export controls by major producing countries.

5 For example, in a period of exceedingly low prices, the  
6 major exporting countries would be required to hold reserves of  
7 sugar according to a certain schedule created in the treaty and  
8 during times of very high prices, those reserves would have to  
9 be released by a schedule provided in the treaty.

10 There is a free trade range where there would be no stopping  
11 or destopping between 15 and 17 cents a pound. Title I of the  
12 bill would permit the President to implement that treaty by  
13 prohibiting the entry of certain sugar from countries that are  
14 not members of the International Sugar Agreement and other  
15 provisions which are necessary to implement the agreement.

16 As a procedural note, there is in the House two versions of  
17 this Act, at this time. There will be a vote either Wednesday  
18 or Thursday of this week. In the House, there is the House  
19 Agricultural Committee version which differs slightly from S.  
20 2990, the principal point of difference being that the House  
21 Agriculture Committee bill provides for a 16 percent price.

22 There is also an amendment to the House Agriculture  
23 Committee bill which has been reported out by the Ways and Means  
24 Committee. It is quite different in detail from S. 2990 and  
25 the House Agriculture Committee bill. The most significant

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1 feature there is that it would provide a domestic market price  
2 objective of 16 cents.

3 Senator Roth. Mr. Chairman, I have an amendment.

4 Senator Matsunaga. Mr. Chairman, if I may be recognized  
5 first, in as much as the bill was referred to my Subcommittee,  
6 as Chairman of the Subcommittee on Sugar and Tourism, we did  
7 hold a full day of hearings on this and, of course, there are  
8 differences between the Senate bill and the House measure.  
9 The problem, of course, is to come out with a bill which is  
10 satisfactory to the industry as well as one to provide protec-  
11 tion to the consumer, including industrial users.

12 The housewives, the individual consumer, in the hope of  
13 obtaining their support, industry got together with representa-  
14 tives of industry -- got together the producers from the various  
15 states, including Hawaii, Louisiana, Florida and the eight beet  
16 states, and they have suggested and I am inclined to support  
17 them in the following amendments to the Sugar Stabilization Act  
18 of 1978, proposed in S. 2990.

19 And I would like to offer the following amendments. We  
20 have copies circulated.

21 Mr. Cassidy. Senator Matsunaga's proposal is discussed  
22 in the sheet entitled, "Proposal by Senator Matsunaga."

23 Senator Matsunaga. I propose to adopt the provisions of  
24 S. 2990 as introduced with the amendments as follows:

25 A, adjustments to the price objective. S. 2990 provides for

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1 orderly adjustments to the U.S. market price objectives based  
 2 on changes in the parity index of the wholesale price index.  
 3 I would propose to amend S. 2990 to provide for semi-annual  
 4 adjustments beginning October '79.

5 And B, relationship to fees. S. 2990 provides import  
 6 quotas as a primary mechanism for achieving the market price  
 7 objective. Import fees are provided as a complementary device.  
 8 Amend S. 2990 to make import fees a primary device for achieving  
 9 the U.S. market price objective. Quotas would be used only if  
 10 the market price falls below the market price objectives.

11 This would be accomplished by: one, requiring the Secretary  
 12 of Agriculture to proclaim an import fee as a condition of  
 13 entry of sugar imports when he determines that the average of  
 14 daily import prices for sugar during a sugar supply year or  
 15 applicable semi-annual period thereof would be less than the  
 16 relevant U.S. price objective.

17 Two, requiring that the fee be equal to an amount not in  
 18 excess of 20 cents per pound which when added to the daily price  
 19 for raw sugar, the Secretary determines will it be the  
 20 applicable U.S. market price objective with the basis of an  
 21 average of daily import prices for the applicable sugar supply  
 22 year, or semi-annual period thereof.

23 Three, requiring the Secretary to establish a global quota  
 24 which in conjunction with import fee will achieve the market  
 25 price objective for the applicable sugar supply year or

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1 semi-annual period thereof.

2 And C, refined sugar, S. 2990, generally prohibits the  
3 importation of direct consumption of refined sugar. Amend S.  
4 2990 to make this prohibition more explicit.

5 And finally, D, labor provisions. S. 2990 contains no  
6 provision of minimum wages for sugar field workers and other  
7 labor matters. Amend S. 2990 to include labor provisions of  
8 H.R. 13750 as reported by the House Agriculture Committee.

9 So I make those proposals, Mr. Chairman, in the hope that  
10 we will have the broadest possible support for the measure which  
11 will be reported out of this Committee.

12 Senator Curtis. May I ask a question? Would you tell us  
13 what sugar growers are supporting this legislation?

14 Senator Matsunaga. We have growers from Hawaii -- staff  
15 can answer that.

16 Mr. Cassidy. Mr. Curtis, I understand that this proposal  
17 is supported by growers of cane and beet sugar in Florida, Texas,  
18 all of the beet growers, all of the beet refiners, Hawaii cane  
19 growers. Also, one of the major sugar refining companies sup-  
20 ports the proposal.

21 Senator Hansen. Do the beet sugar growers?

22 Mr. Cassidy. The beet sugar growers support this proposal  
23 and the beet sugar refiners support this proposal.

24 Senator Curtis. At what price level is it fixed?

25 Mr. Cassidy. This proposal of Senator Matsunaga's does not

1 affect the price level which is set in the Senate bill. That is  
2 defined as the median of the free trade range in the International  
3 Sugar Agreement, which means 17 cents.

4 Senator Curtis. 17 cents is not in this legislation.

5 Mr. Cassidy. It is in this legislation, but Senator Matsu-  
6 naga's amendments do not touch that price. It will remain 17  
7 cents.

8 Senator Matsunaga. We would just leave the 17 cents as  
9 proposed in S. 2990 as is. We will leave it as is.

10 Senator Curtis. The House fixed it at 17 cents.

11 Mr. Cassidy. This is the Senate bill introduced by Senator  
12 Church, with 30 co-sponsors.

13 Senator Curtis. Then the measure does have a price?

14 Mr. Cassidy. Yes, sir, it does. All I am saying is that  
15 Senator Matsunaga's amendments do not touch that. It just stays  
16 at 17 cents.

17 Senator Curtis. The growers that you reported on the  
18 concern, those that supported the bill in general?

19 Mr. Cassidy. They support the bill in general and support  
20 these amendments also, I understand.

21 Senator Curtis. That is all, Mr. Chairman.

22 The Chairman. Let us hear from the Department of Agricul-  
23 ture.

24 Mr. Hjort. Mr. Chairman, these amendments that have been  
25 proposed would move S. 2990 towards the Administration position,

1 but it would be a considerable distance away, nevertheless,  
2 with these amendments. With respect to the market price adjust-  
3 ments, the Administration supports a market price objective of  
4 15 cents a pound.

5 That is the level that is in the amendment passed by the  
6 House Ways and Means Committee. That is a cent below the measure  
7 reported by the House Agriculture Committee and two cents below  
8 the measure under consideration here.

9 The second, and perhaps the major problem that the Adminis-  
10 tration would have with this measure, is the automatic escala-  
11 tion or the indexing formula which is in here. This measure  
12 would automatically escalate the price, the market price for  
13 sugar -- not the producer, but the market price for sugar.

14 We do not have other legislation in this case where that  
15 happens, and that automatic escalation, together with the price  
16 level of 17 cents a pound, initial level, would mean that we  
17 would be guaranteeing a significant rate of inflation over the  
18 life of this measure.

19 The Ways and Means Committee has reported a measure that  
20 has no indexing. It has no escalator, automatic escalator, and  
21 the estimates indicate that the difference over the five-year  
22 life of this bill would mean as much as \$4.7 billion in  
23 additional costs to consumers and users of sugar.

24 It is that potential and persistent inflationary impact  
25 that is the major concern to the Administration.

1 The Chairman. That is based on the theory that if every-  
2 thing else goes up, the cost to these farmers is going to go up,  
3 is it not?

4 Mr. Hjort. Mr. Chairman?

5 The Chairman. Wages would go up. Can you not expect, if  
6 everything else goes up, that the wage cost will go up, and the  
7 cost of fertilizer and feed and everything else going up with it?

8 Mr. Hjort. Yes, sir. What we propose to do about that is  
9 use existing authorities to protect the return to the producer  
10 in the same manner that that return is protected under the other  
11 major programs such as wheat and corn and the other feedgrains  
12 and cotton.

13 We would use that same cost of production formula, but we  
14 do not need legislation to do that, and that has been one of  
15 the major problems, I think, in gaining an understanding between  
16 these two measures.

17 What this bill would escalate would be the market price.  
18 We are saying that we will use existing authorities and there is  
19 a series of criteria that we would have to follow in providing  
20 protection to the producer and his return, and we would, in that  
21 calculation, take into account changes into labor and other  
22 costs as they go up over the years.

23 The Chairman. Senator Hansen?

24 Senator Hansen. Maybe the representative from the Department  
25 of Agriculture could explain to me something that so far I have

1 failed to understand. I am from Wyoming and in 1973, the  
2 average per farm and ranch income stood at \$14,788, per farm  
3 and ranch, according to USDA figures. In 1976, that income had  
4 dropped to \$241.

5 A principal component of the income of farmers and ranchers  
6 in Wyoming is the production of livestock, cattle specifically.  
7 What the President did to respond to that situation when the  
8 price of cattle started to come up a little bit this year was  
9 to raise the quota that could be imported by 200 million  
10 pounds.

11 Now, it seems one thing to me to talk about staying within  
12 the concept of supply and demand. The livestock industry, as  
13 you know, has not been supported, and we could not understand  
14 the philosophy behind the Department -- I presume it is support-  
15 ing the President; if it did not, I would be interested in  
16 knowing that, too. But we suffered through four very seriously  
17 critical years, as a lot of ranchers just went flat broke, and  
18 is this that same sort of unconcern for farmers that was  
19 exhibited with respect to livestock that promises the recommenda-  
20 tion of the Department in sugar?

21 Mr. Hjort. No, sir, it is not.

22 Senator Hansen. Do you support the treatment that the  
23 livestockmen got in increasing imports, authorizing the increase  
24 of 200 million pounds?

25 Mr. Hjort. I believe, Senator Hansen, first of all, you

1 are exactly right. The four years ending last fall when prices  
2 started moving up, were the end of about four of the most diffi-  
3 cult years our cattle industry has seen in its history. The  
4 decline in the inventory was the most rapid that we have observed.

5 This spring, in May, the price of fat cattle, as shown in  
6 current markets and in the future where you are getting a price  
7 on the order of \$62 a hundred, that was up from the high 30's  
8 six months or so before.

9 That increase appeared, according to the analysts across  
10 the country, was a more rapid increase at a higher level than  
11 would be justified. While that was happening, feeders were  
12 starting to put a considerably higher proportion of their animals  
13 into the feed lots and sending considerably fewer straight into  
14 market as they had been doing during that inventory liquidation.  
15 That meant that the price of the lean grades of beef was moving  
16 up significantly.

17 For example, today, even with the additional 200 million  
18 pounds authorized of lean beef -- not fat beef, but lean beef --  
19 the price of hamburger is up above 50 percent from a year ago  
20 while the price of steak is up only 20 to 25 percent.

21 The announcement came just at about that market was going  
22 to top, and the market did top and it came down. It would have  
23 come down with or without that increase. The 200 million  
24 pound increase compares with 53 billion pounds of meat, including  
25 poultry meat, that we consume in this country. 200 million out

1 of that total could not have been a significant factor.

2 The Chairman. Let me ask, Mr. Cassidy, what is the reaction  
3 of the producers to that argument, that they do not need that  
4 escalator?

5 Mr. Cassidy. My impression is that the producers feel that  
6 the escalator is essential to account for the inflation that they  
7 have faced for their increased cost of production and will face  
8 over the period of the Act. Furthermore, they believe that the  
9 formula which the USDA has proposed and I believe exists under  
10 the 1977 Agriculture Act, that formula for cost of production is  
11 sufficiently vague. Essentially, they do not believe that the  
12 USDA would make an accurate assessment of the increase of costs  
13 faced by producers, therefore, the statute to increase that is  
14 to increase costs explicitly and build in a definite cost  
15 escalator.

16 The Chairman. I would like to make a point. I would like  
17 the record to show what Senators are present for a quorum.

18 (Senators Long, Talmadge, Gravel, Bentsen, Matsunaga, Curtis,  
19 Hansen, Dole, Roth and Danforth were present and in the hearing  
20 room at this time.)

21 The Chairman. I know I cannot speak for all. I know in  
22 Louisiana, our farmers cannot make it on less than 17 cents.  
23 Going below that, we are going to lose some farmers and proces-  
24 sors. The refiners, as long as they can get sugar, refiners can  
25 make it, I assume. They have to bring it in from abroad.



1 The same is not true of the sugar farmers.

2 Shall we vote on the Matsunaga amendment?

3 Those in favor, say aye.

4 (A chorus of ayes.)

5 The Chairman. Opposed, no?

6 (A chorus of nays.)

7 The Chairman. The ayes have it.

8 Senator Roth. I have an amendment.

9 The Chairman. Mr. Roth.

10 Senator Roth. Mr. Chairman, I have an amendment to Section  
11 212 regarding the inapplicability of quota provisions. My amend-  
12 ment would entitle the section, "The inapplicability of quota  
13 and fees," since 2990 contains exemptions here from both the  
14 quotas and the fees established under the bill. It would also  
15 reword the exemption of hydric alcohols to clarify that the  
16 exemption not apply to polyhydric alcohol as use as a substitute  
17 for sugar or as a sweetener in human food consumptions.

18 However, the exemption would cover their use in food  
19 bulking agents, such as manito and sorbito that are in no way  
20 competitive with the use of sugar.

21 Without this clarification, the domestic manufactures of  
22 manito and sorbito would be at a competitive disadvantage compared  
23 to foreign producers -- namely France.

24 This amendment has been examined by the Committee staff  
25 and we know of no objection to it. I move its adoption.

1 The Chairman. Senator Matsunaga, does that sound all right  
2 to you?

3 Senator Matsunaga. I am familiar with this. Staff?

4 Mr. Cassidy. We are familiar with the amendment. The  
5 thrust of it would be to exempt from import restrictions sugar  
6 imported for the production of polyhydric alcohols which are  
7 not a substitute for sugar as a sweetener in human food consump-  
8 tion. Along these lines does the Bureau in S. 2990 now, and  
9 a similar exemption has appeared in all sugar legislation since  
10 1948.

11 The purpose of Senator Roth's amendment is to clarify the  
12 application of this exemption to this particular kind of poly-  
13 hydric alcohol that is used in the manufacture.

14 The Chairman. What percentage of sugar imported would this  
15 amount to?

16 Mr. Cassidy. Very small.

17 The Chairman. All those in favor say aye.

18 (A chorus of ayes.)

19 The Chairman. Opposed, no?

20 (No response)

21 The Chairman. The ayes have it.

22 Senator Dole?

23 Senator Dole. Mr. Chairman, I am sorry I was not here  
24 earlier, but I think I understand the sugar legislation. I  
25 understand how difficult it is. I do not agree with Secretary

1 Bergland who said, on the 14th of September, that maybe those  
 2 in the sugar business ought to find alternate crops, because he  
 3 was not very encouraged about the long range prospects of the  
 4 sugar industry. I think one area that has brought a lot of the  
 5 bad publicity to the industry had been the direct payments.  
 6 We have had direct payments of \$188 million for 63 sugar  
 7 refiners. Eventually they are going to receive \$200 million  
 8 for just one crop-year, sugar.

9 I understand some of the difficulties and I understand that  
 10 there is no direct payment authority in the legislation, but there  
 11 is in the law, and I would simply like to add a provision which  
 12 would state that the Secretary should not make direct payments  
 13 to sugar refiners.

14 As far as I can tell, nobody wants direct payments. They  
 15 are not asking for direct payments. The authority is there,  
 16 and we have seen what has happened in the past insofar as  
 17 administering the sugar program. It would seem to me that this  
 18 is an amendment that could, and should, be accepted.

19 Mr. Cassidy. Direct payments to producers or processors?  
 20 Senator Dole. Refiners. I have the language here.

21 Senator Matsunaga. Mr. Chairman?  
 22 The Chairman. Senator Matsunaga?

23 Senator Matsunaga. The Senator from Kansas is correct,  
 24 there is no direct payment as in other agricultural crops and  
 25 of course, sugar growers would prefer not to be placed under the

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1 same program as other agricultural commodities because then they  
2 would be subject to limitations as other crops.

3 I believe the limitation now is \$50,000 per grower and the  
4 constant efforts would be made in the House, especially, to cut  
5 that down to \$20,000 per grower.

6 One thing I would like to emphasize, and the Chairman will,  
7 I am sure, support me in this, is that we must remember, in  
8 dealing with sugar, that for forty years, from 1934 to 1974,  
9 sugar was the only agricultural commodity which received no  
10 support from government. As a matter of fact, the sugar industry  
11 paid into the Federal Treasury an excess of \$600 million during  
12 that period over and above the cost of operating the program.

13 We must keep that in mind, because too frequently we find  
14 individual members of the Congress taking the Floor and castiga-  
15 ting the sugar industry, saying how much it has cost the tax-  
16 payer, the consumer, et cetera. We must also remember that  
17 sugar in 1974 was up to 67 cents and today it is down to 7  
18 cents, and we are merely asking that we maintain, in S. 2990,  
19 a market price of 17 cents. That is way below what the price  
20 was in 1974, and all you read about is that this is a rip-off  
21 for the consumers.

22 Rip-off? Sugar has been, as a matter of fact, one of  
23 the most stable agricultural commodities over the years and  
24 the consumer has paid less for sugar over the years than any  
25 other agricultural commodity. With this in mind, I would say

1 that I would not object to the amendment except that I would  
2 much prefer to leave things as they are in the event that things  
3 get to a point where the Secretary of Agriculture has to use  
4 his discretion in order to meet unforeseen circumstances.

5 The Chairman. Senator Bentsen?

6 Senator Bentsen. Mr. Chairman, I just want to comment on  
7 the statement that Senator Dole made, that perhaps that they  
8 could go into another line of business.

9 Senator Dole. I did not say that.

10 Senator Bentsen. Quoting the Secretary.

11 Senator Dole. Mine have already gone into other businesses.

12 Senator Bentsen. What we ran into in Texas five or six  
13 years ago, the farmers went together in cooperatives and built  
14 over a \$30 million mill to process this, and they have mortgaged  
15 all of their farms and they are in debt up to the hilt, and the  
16 cost of production would just barely be covered at this 17 cents.

17 I do not think that these fellows have any option as far  
18 as having to go into some other line of farming. They have to  
19 pay off the mortgage on that mill. It is a very heavy encumbrance  
20 for them, and they have to work their way up with a balance of  
21 trade that approaches at times \$3 billion a month, it is also  
22 to the best interests of the country in trying to protect our-  
23 selves against that balance of trade deficit.

24 The Chairman. Mr. Hjort?

25 Mr. Hjort. First of all, let me say that the payments that



1 other countries do; the European countries trading with us are  
2 seeing that our producers, our farmers, are able to stay in  
3 business and hopefully make a decent profit.

4 If we are not able to come together with the Administration,  
5 and they will not buy what we are trying to do, and in the end  
6 we cannot prevail in what we are trying to do, rather than see  
7 people just lose out completely, lose everything they own in  
8 life, even have to sell their farms, it would be better to take  
9 a payment than just to go broke, if that is your choice, if you  
10 have a payment or go broke. Then if you cannot, to come together  
11 on any other terms.

12 Senator, I hope worse comes to worse only for the purpose  
13 of giving the poor fellow a chance to hold out, that he can  
14 find something else to do, that we can have it available to us.

15 Senator Dole?

16 Senator Dole. I want to support the bill. I do not want  
17 to get it fragmented on the Senate Floor with somebody reaching  
18 out for the direct payment. It is better to put it in the bill  
19 right now, because one way to make certain they are not going  
20 to administer the bill is to give them an out. That out is direct  
21 payments.

22 I do not suggest just this Administration, but if you have  
23 a choice between low payments out of the Treasury and the market  
24 price, they are going to pay out of the Treasury because they do  
25 not think that the consumers are going to feel that as much.

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1           That was the same philosophy that we had in recent farm  
2 legislation. We can go to the Floor and argue about direct pay-  
3 ments and probably use some of the support we are oging to need  
4 to pass the bill in the first place.

5           But it seems to me with the quotas and fee system we can  
6 reach the market objective without relying on the Federal  
7 Treasury. It is pretty difficult to explain -- although we  
8 understand it -- but it is pretty difficult to explain to someone  
9 who writes in, "Why did such and such a company get a \$20 million  
10 payment under the Sugar Program?"

11           I offer, in the spirit of trying to help get the bill passed  
12 through the Senate and signed by the President.

13           The Chairman. What the Senator says makes a lot of sense  
14 but it has the effect of burning our bridges behind us, too, if  
15 we wind up with nothing.

16           Senator Dole. If we wind up with nothing, they still have  
17 that authority.

18           Mr. Hjort. I believe that is an important point. At the  
19 present time, the Administration has the authority. There is no  
20 limit on our authority for payments, so there is no need for  
21 any measure that authorizes payments. They are already there.  
22 We do not need any legislation,

23           Senator Dole. Are you for the Matsunaga 17 cent proposal?

24           Mr. Hjort. No, sir.

25           Senator Dole. You are not going to be for that in any event?



1 Mr. Hjort. No, sir, and the basic reasons are that that is  
2 an inflationary level. The average cost of production -- there  
3 was a reference made to the cost of production -- the average  
4 cost of production, using the highest, using the assumption that  
5 would lead to the highest estimate, is just a little over 15 cents  
6 a pound.

7 The Administration has said it is prepared to support a  
8 15 cent market price objective. What I meant by highest, to get  
9 to that kind of estimate on cost of production, you have to,  
10 in effect, assume that everybody bought their land this year and  
11 paid the full rate of interest on it. That is not so.

12 That is the second point I would make on that, that that cost  
13 of production is higher than is being used in connection with  
14 the wheat and the feedgrain and cotton programs and providing  
15 the level of income support to those producers. It would already  
16 be above that.

17 The Chairman. I am told that price is only 61 percent of  
18 parity. 17 cents represents 61 percent of parity.

19 Historically, the price received for sugar cane and beets  
20 never averaged less than 68 percent of parity.

21 Mr. Hjort. Yes, sir, the difference, of course, being that  
22 what we are talking about here is the cost of production where  
23 the parity price calculation does not take into account changes  
24 in productivity, and so that we have seen a situation in much  
25 of agriculture and this society has been a beneficiary, that they

1 have been productive and they continue to increase their produc-  
2 tivity and that has made it possible for them to cover their  
3 cost at a declining percentage of the parity price comparison.

4 The reason for the current low level of price is you are  
5 comparing only prices, in one case and in the other case, you  
6 are taking into account the yields and the productivity.

7 The Chairman. I do not know why it is that when people are  
8 up here in Washington and need air conditioned chambers and  
9 air conditioned office buildings that somehow the atmosphere  
10 is a little different than if you get out in the field.

11 A while back, your people contended that 13.5 cents was  
12 fine. Since that time, the cost has gone up and everything has  
13 gone up, so we are not talking about 13.5 cents anymore. One  
14 would have thought that 13.5 cents at that point, he would be  
15 able to make it. I know what they were telling me up here.  
16 They were saying, representatives of those farmers were saying,  
17 you are not going to have many farmers making any 13.5 cents.

18 I attended a meeting with a vast number of farmers and,  
19 after talking with them, I became convinced that their situation  
20 was a lot different than what you are describing now. Frankly,  
21 I felt that I was lucky to escape all in one piece after hearing  
22 from those people and talking to them, and I do not th-nk you  
23 can be among those people without realizing that those people  
24 have a real problem. They were suffering. Those people are  
25 sincere.

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1 It is my feeling -- you were talking about this thing,  
2 productivity and one thing and another. You are well aware  
3 in Louisiana, the price I have seen, if those people stay in  
4 business they need 17 cents in order to survive, and your  
5 answer to that would be some of them would have to go. That  
6 is basically about your position in regards to those people, is  
7 it now?

8 Mr. Hjort. Not necessarily. You are absolutely right that  
9 the calculations that we have show that Louisiana has the highest  
10 cost of production for cane. The figure is a little over 17  
11 cents, as I remember it -- 17.1, something like that.

12 Again, that assumes that all of those producers down there  
13 just bought their land, and we know that is not so. So the  
14 actual cost of production is below that.

15 There is another major concern with respect to the price  
16 level which is a factor that needs to be taken into account,  
17 and that is, with respect to the high glucose corn sweetener  
18 that apparently has a cost of production lower than for sugar  
19 and certainly far below the 17 cent level that is being talked  
20 about here.

21 That would provide a very favorable climate for investment  
22 and growth. It would also appear that this 17 cents would  
23 stimulate the domestic sugar industry, perhaps not more than  
24 moving up to fuller capacity in some areas, another factory or  
25 so.

1           The Chairman. My attitude about this whole thing is if  
2 corn farmers can produce more cheaply within this country and  
3 put us out of business, that is just it. Sorry, we are gone.  
4 And if the other sugar farmers can produce more efficiently and  
5 run us out of business, fine. I do not like to see Washington  
6 run us out of business by adopting trade policies that are at  
7 a variance with what our trading partners do.

8           They do a lot more, it seems to me, to protect their  
9 agriculture and farmers than we are doing to protect ours. What  
10 we are voting on here now is whether to repeal the provisions  
11 for the payments. At that point, you are aggregating against  
12 that, and I believe I would support your position on that.

13           Let us vote. Are you ready to vote?

14           Senator Dole. I just want to bring out another point. I  
15 may not want to press the amendment. It will be offered on the  
16 Floor as we fight it out there, I assume.

17           We talk about cost. I have a statement here Secretary  
18 Bergland made on September 14th when he said we know it costs  
19 about 16 cents a pound to produce American sugar and so therein  
20 lies the problem, and complicating matters a great deal. So  
21 I do not think -- although we will not see the American industry  
22 sacrificed, but I do think we will see a shifting from sugar-  
23 based sweeteners to corn over a period of time.

24           Then he goes on to say, maybe they should find something  
25 else to do. It supported the arguments that the Chairman is

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1 making. I do not know how you can say 16 cents -- and you say  
2 15 today. Has there been a drop in the cost?

3 Mr. Hjort. No, sir. He apparently misspoke. 15.1 is  
4 the figure we have been using.

5 The Chairman. Let's vote on the Dole amendment.

6 Senator Dole. Mr. Chairman, I do not want to frustrate  
7 getting a bill out of the Committee, so I will withdraw the  
8 amendment, but I just suggest that one way to support it is not  
9 to let it be fragmented.

10 The Chairman. The Senator has a point. Maybe we ought to  
11 fight a little harder to move forward. I can also see the  
12 opportunity, no way to retreat, no where to retreat, that you  
13 cannot make it.

14 Thank you, Senator.

15 All in favor of reporting the bill, say aye?

16 (A chorus of ayes.)

17 The Chairman. Opposed, no?

18 (No response)

19 The Chairman. The ayes have it.

20 Mr. Cassidy. Mr. Chairman, this is a Senate bill. It is  
21 a revenue measure. It must go back to the House on a House-  
22 passed bill.

23 The Chairman. What House-passed bill do we have around  
24 here? A trade bill with a minimal amount of controversy to it.

25 Senator Dole. Indexing.

1 Mr. Humphreys. There is a possibility that the House bill  
2 might be over here within a couple of days.

3 Mr. Cassidy. By the end of the week. Of course, we do not  
4 know.

5 Mr. Humphreys. We do have some bills in Committee --  
6 H.R. 5551 is one that has been added to another bill, the text  
7 of that has been added to another bill.

8 The next on the list is H.R. 7108, the Yankee dryer  
9 bill, which has been added to another bill, so we just have a  
10 number here in Committee.

11 Senator Curtis. Is the tax bill a revenue bill?

12 Mr. Cassidy. The tax bill has been reported.

13 Senator Curtis. I know.

14 Mr. Cassidy. Yes, it is a revenue bill.

15 The Chairman. If the Yankee dryer bill has been added to  
16 another bill, has that bill been passed?

17 Mr. Cassidy. Yes, it has been passed.

18 The Chairman. It has been passed by the Senate. We could  
19 simply strike the House language.

20 If there is no objection, I suggest we add it to that bill  
21 and report it out.

22 Without objection, agreed.

23 Now, that takes care of the sugar matter for the time being.

24 Now let us --

25 Mr. Cassidy. Mr. Chairman, the next thing on the agenda

1 if you want to move down the list is minor tariff bills, which  
2 will just take a second.

3 The Chairman. All right.

4 Mr. Cassidy. If you will refer to Staff Document B which  
5 is before you, the caption at the top of the page is "Miscellane-  
6 ous Tariff Bills."

7 The Chairman. Senator Bentsen wanted to bring up a matter  
8 which I think we could take out of order. It will just take a  
9 moment to do it.

10 Senator Bentsen. Mr. Chairman, we have the question of  
11 the extention of the Highway Trust Fund and the House has acted  
12 for the extention of it for five years. They have, in addition,  
13 added a provision to allow taxicabs not to pay the four cent  
14 gasoline tax and that is a cost to the Treasury of some \$30  
15 million.

16 Now, as you know, we have been working very hard to try to  
17 get back within the Budget Resolution and, in as much as we would  
18 like to pass out these things, we are not able to do so and we  
19 are having to cut back on some of those items and there is some  
20 question as to this actually being an energy-saving move.

21 So that I would urge that we go ahead and pass the five-year  
22 extention of the Highway Trust Fund which will be needed for  
23 the highway bill which has passed the Senate and has just passed  
24 the House and we will be going into conference on it. That  
25 we pass the five-year extention but that we delete the substitute

1 effect for the taxicabs.

2 I defer to the staff for further amplification.

3 Mr. Shapiro. Senator Bentsen has summarized the House  
4 bill, that is Title V, the tax title. Before you, we have  
5 distributed one sheet, a five-part explanation of what the five  
6 parts of the House bill are.

7 Senator Bentsen is suggesting that the Finance Committee  
8 agree to the tax title except for Item III which is a provision  
9 that the House provides an exemption for taxicabs from the  
10 four-cent fuel tax.

11 The other provision Senator Bentsen is suggesting that the  
12 Committee adopt is a five-year extension of the tax from  
13 October 1, 1979 through October 1, 1984. That is the first item  
14 on the list.

15 The second one is the modification of the trust fund amend-  
16 ment. What that does, where in present law there are portions  
17 only for the interstate system, when the anticipated trust fund  
18 revenues are inadequate for expenditures, the House bill would  
19 modify that apportionment requirement to pro rate the apportion-  
20 ment between all of the Highway Trust Fund programs.

21 The third item is the taxicab exemption that Senator  
22 Bentsen has proposed be deleted from the Committee amendment.

23 Senator Hansen. To be deleted?

24 Mr. Shapiro. To be deleted.

25 The fourth and fifth items are two studies. The first one



1 is a highway cost allocation study. The fifth one is a study  
2 of highway excise tax structures. The procedure that would appear  
3 appropriate for the Committee is to have the Committee adopt  
4 the remaining four parts of the tax provision that the House  
5 passed as a Committee amendment and when the highway bill comes  
6 up on the Floor, the Committee amendment can be offered on the  
7 Senate Floor on behalf of the Committee.

8 The Chairman. I think that is appropriate.

9 Senator Moynihan?

10 Senator Moynihan. Mr. Chairman, I would like to say that  
11 the question of the taxicab exemption is a close one. There is  
12 a strong case that can be made for it, obviously, as with any  
13 exemption of this kind. I would like to say that if we accept  
14 the deletion here that the matter would still be in conference  
15 and I hope that we could be open to the position put forth by  
16 the House when that time comes.

17 Is that agreeable to Senator Bentsen?

18 Senator Bentsen. Yes, of course.

19 I will be representing the viewpoint of this Committee.  
20 That does not mean that we will not be listening to the other  
21 side. That is my obligation, as we would try to work out an  
22 acceptable compromise in conference.

23 I understand and share with the Senator from New York the  
24 concern for the taxicabs. I have a couple of fair-sized cities  
25 within the state of Texas, and I guess three of the ten largest

1 in the United States, and I guess fortunately all have not done  
2 enough on mass transit and should do a great deal more, and we  
3 have made some things in the way of incentives for the buses  
4 and others, but we begin to get into a little more marginal  
5 area when we got to taxicabs.

6 As you know, we had a meeting at length to try to see what  
7 incentives that we have in the system on energy saving. As much  
8 as I would like to see this amendment, this is not something  
9 that we have referred.

10 The Chairman. Let us vote on it.

11 Senator Moynihan. Mr. Chairman, if I may make one other  
12 suggestion very quickly, in the study of highway excise tax  
13 structure, I wonder if I could ask -- this is very openly on  
14 the behalf of the states of the Northeast of which my own state  
15 was first, which built its portion of the Interstate system as  
16 a toll road and continues to operate it, even though it is a  
17 toll road, even though it is a part of the interstate system.

18 If the study that is to be turned out by the Secretary of  
19 Treasury inquired into the contributions made by the tolls in  
20 the state system and its operation or whether the completion  
21 of the system was not good enough that with the completion of  
22 the system that the government would take up the business of  
23 replacing, of taking over the bond obligations that are outstand-  
24 ing on those parts of the system that have tolls and replacing  
25 them and making them toll-free as well, what would be involved

1 in such an effort?

2 Mr. Shapiro. Senator Moynihan, the way I think that can  
3 be handled, probably to your satisfaction, on part four of the  
4 sheet that you have, there is a highway cost allocation study  
5 and what we can do and the explanation in the Committee amendment  
6 will make it very clear that the Committee intends that that  
7 be part of that study, to take those factors into account.

8 Senator Bentsen. I think that is fine. I certainly agree  
9 with the Senator. We discussed this some within the Public  
10 Works Committee, as I recall. I thought you expressed the point  
11 of view very well and we will put it in these studies to try  
12 to make some determination.

13 Senator Moynihan. Thank you.

14 Senator Danforth. Obviously such a study covering such a  
15 matter would not, in any way, pre-judge it. The fact that we  
16 are asking for the study does not indicate a predisposition in  
17 favor of it.

18 Senator Bentsen. No, certainly not. But what the Senator  
19 from New York has raised is the question that we have a number  
20 of places around the country. It is certainly worth a study to  
21 try to arrive at some determination.

22 The Chairman. Let us understand. What we are talking  
23 about is simply giving the Committee's support to an amendment  
24 to be offered on the Floor by Mr. Bentsen. All in favor, say  
25 aye?

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1 (A chorus of ayes.)

2 The Chairman. Opposed, no?

3 (No response)

4 The Chairman. The ayes have it.

5 Let's go to these tariff bills.

6 Mr. Cassidy. The next item on the agenda is minor tariff  
7 bills, and it is Staff Document B. It says, "Miscellaneous  
8 Tariff Bills" on the top.

9 Here I am afraid that the Committee must review action  
10 it took on August 9, 1978. The staff was trying to be too  
11 efficient and the Committee was considering a number of tariff  
12 bills on the House suspension calendar. Subsequently, two of  
13 these bills did not pass the House on suspension and the Committee  
14 had ordered reported H.R. 5265 with two amendments. One was  
15 already passed, House bill H.R. 5551 which would permit temporary  
16 duty-free entry of imports of 2-methyl 4-chlorophenol.

17 The second amendment to 5265 was an amendment by Senator  
18 Curtis to change the definition of mixed feed and mixed feed  
19 agreements in the agricultural schedule of the TSUS to include  
20 soybeans and animal feed containing soybeans and soybean products.  
21 This would make those products duty-free.

22 Since 5265 has not passed the House, the Committee may wish  
23 to reconsider its favorable report of that bill, and one thing  
24 you could do is merely substitute H.R. 5551, which has passed  
25 the House, together with the Curtis amendment, and just delete

1 5265 altogether.

2 Senator Curtis. I so move.

3 The Chairman. All in favor, say aye?

4 (A chorus of ayes.)

5 The Chairman. Opposed, no?

6 (No response)

7 The Chairman. Without objection.

8 Mr. Cassidy. The second bill is H.R. 11409. That bill  
9 has passed the House. All of these bills are described in the  
10 subsequent pages. On page 4, you will see H.R. 40199. That bill  
11 has passed the House and you have favorably reported it also.  
12 You also amended that House in the substance of H.R. 12729 to  
13 provide for temporary duty-free entry of live worms. This bill  
14 did not pass the House, and you may wish to consider deleting  
15 that amendment and order H.R. 11409 reported alone.

16 The Chairman. Any objection?

17 Senator Matsunaga. Mr. Chairman, I discussed this matter  
18 with you on several occasions. I think this would be an appro-  
19 priate bill to attach the bill, the bill which passed, which was  
20 reported out unanimously by this Committee. It went into confer-  
21 ence with the House and on the Floor I voluntarily withdrew it  
22 for the reason it was an item of rifle scopes manufactured in  
23 the United States.

24 Now, we have taken out the rifle scope. It would mean  
25 merely duty-free binocular manufactured in Japan which today are

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1 in no way in competition with the United States manufacturers.

2 As a matter of fact, it is a protective tariff that protects  
3 no one and which merely adds on to the cost of the American  
4 consumer, an ad valorem duty of 20 percent. And I would move that  
5 we add that on as an amendment in as much as it has already  
6 passed this Committee as well as the Senate, and I am offering  
7 it in a lesser form at a cost of \$500,000 a year.

8 Senator Hansen. If the Senator would yield for a question,  
9 you say -- do I infer from your statement that there are no  
10 binoculars manufactured in the United States today?

11 Senator Matsunaga. Of this type, no. The Senator is  
12 correct.

13 Mr. Cassidy. A description of Senator Matsunaga's bill is  
14 before you. He introduced the bill S. 3387. It would provide  
15 for the duty-free entry of certain field glasses and binoculars  
16 until December 31, 1978.

17 The Chairman. The Committee has approved it before?

18 Senator Matsunaga. Yes.

19 Mr. Cassidy. It approved it last year.

20 The Chairman. All those in favor, say aye.

21 (A chorus of ayes.)

22 The Chairman. Opposed?

23 (No response)

24 The Chairman. The ayes have it. Without objection, then,  
25 we will report the bill.

1 What else do you have? Do you have any more tariff bills?  
2 Mr. Cassidy. Mr. Chairman, that is all we have on the

3 tariff bills.  
4 Senator Roth. Mr. Chairman, I do not know whether this  
5 would be a proper time or not, but I do intend to bring up the  
6 Trade Adjustment bill this morning.

7 The Chairman. What I was doing, Senator, I assumed -- I  
8 have it listed to come at the bottom of the list on the theory that  
9 we have these other things that we were scheduled to act on.  
10 After that, we will go with this one. So why do we not put it  
11 on the list here and go on down and take it in order.

12 Next is the airports, the aircraft and airport noise reduc-  
13 tion act.

14 Mr. Cassidy. Excuse me, Mr. Chairman, if we might take  
15 one moment, we have Ambassador Wolff here from the Special Trade  
16 Representatives' Office. I do not know if Senator Ribicoff would  
17 like to take up the matter that Ambassador Wolff wants to speak  
18 to at this time.  
19 Senator Ribicoff. It is up to what the Chairman wants to

20 do.  
21 We have a very serious problem of countervailing duties.  
22 To amend the law, it is on an emergency basis, I would leave that  
23 up to the Chairman in scheduling what he prefers to do.

24 The Chairman. If there is no objection, let's talk about  
25 that for a moment. That is something that the Administration

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1 finds very pressing.

2 Mr. Cassidy. Mr. Chairman, one thing. You have before  
3 you Staff Document K, a description of this problem. The caption  
4 at the top of the document is "Extention of Countervailing Duty  
5 Waiver."

6 Senator Curtis. Mr. Chairman, we could make quick work of  
7 this if we could agree on a termination date. I can understand  
8 the very difficult situation that countervailing duties impose  
9 when these negotiations are going on, but I certainly do not  
10 want it to be indefinite or open-ended.

11 Senator Ribicoff. I think the presnt one, Senator Curtis,  
12 is August 1st.

13 Mr. Cassidy. The President has proposed -- if I may, I  
14 will explain the problem first of all.

15 Under the Trade Act of 1974, there is a provision that  
16 permits the Secretary of Treasury to waive the imposition of  
17 countervailing duties under certain conditions. Those conditions  
18 are that the foreign government subsidy -- the foreign government  
19 is substantially reducing the effect of the subsidy on the  
20 imported product.

21 Two, there is a reasonable prospect that the Multilateral  
22 Trade Negotiations will create nontariff barriers, such as  
23 subsidies.

24 Three, the imposition of the countervailing duty would  
25 jeopardize the completion of the Multilateral Trade Negotiations.



1 This provision would mean that the Secretary of Treasury cannot  
2 collect countervailing duties on subsidized products for a period  
3 of time. That period of time ends on January 3, 1979. It was  
4 apparently the intention at the time we drafted the Trade Act  
5 to use this January 3 date as an encouragement to our foreign  
6 and trading partners to complete the negotiations.

7 However, the situation that has arisen right now is that  
8 the target date for completion of the trade negotiations is  
9 December 15th of this year. Congress must then review the  
10 implementing package of legislation of the trade negotiations  
11 and even under the most optimistic schedule, that could not  
12 be completed until August 1, and that even assumes that Congress  
13 never goes on recess.

14 What the President has done is to ask in a message that we  
15 received on Friday is that this waiver provision be extended  
16 until August 1, 1979. This would give time for Congress to  
17 decide whether or not it likes the trade negotiation package.

18 Senator Ribicoff. I think the basic problem that we have,  
19 Mr. Chairman, is that as a part of the trade agreement, there  
20 will be an agreement concerning the subsidies on an international  
21 level, and you and I and everybody on this Committee is going to  
22 have to make the determination whether we would like an agreement  
23 or not.

24 If this goes out, then there will never be an agreement that  
25 is entered into. The feeling is to extend it, not open-ended,

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1 to give this Committee, and the Congress, a chance to see  
2 whether the agreement the Special Trade Representative reaches  
3 is satisfactory towards us or not. I would hope we would have  
4 a reasonable extention. It is expected that, by the middle of  
5 December, that agreement will have been reached and, of course,  
6 it will be submitted to us at the beginning of the next session.

7 The Chairman. What date do we agree on?

8 Senator Dole. August 1st.

9 Senator Roth. I object to the date of August 1st, and I  
10 will object on the Floor, for the reason that I would want to  
11 support what we are trying to do here, but normally August is  
12 the month of recess, some of us have families, and I just feel  
13 that we should avoid a situation where we put ourselves in a box  
14 where we cannot do something about that.

15 And I recognize why the Administration wants to make it  
16 August 1st, but I find that date unsatisfactory.

17 Senator Ribicoff. What date would you like? What date  
18 would you suggest?

19 Mr. Cassidy. The description of the proposal of the  
20 Administration and Ways and Means Committee does appear on page  
21 2 of the staff document.

22 Senator Roth. You could use one or two approaches,  
23 Senator Ribicoff. Either 90 days after the agreements are  
24 submitted or, I would say, no earlier than September 1st.

25 Senator Ribicoff. September 1st, you know, when you consider

1 what the timetable is, September 1st would be preferable, I  
2 think.

3 Mr. Cassidy. If the President does submit implementing  
4 legislation to this Committee on March 15th, the target date for  
5 this submission, then the Congress will have 90 working days.  
6 This translates, if you assume no recess, five working days every  
7 week, into eighteen weeks, four and a half months. In other  
8 words, that would take you to August 1st. That assumes no  
9 recesses whatsoever. If you go to September 1, you are assuming  
10 four weeks of recess at least, in your slippage.

11 The Chairman. Ambassador Wolff?

12 Mr. Wolff. Let me say I think that the private industry  
13 and private sector support for the amendment would be dependent  
14 on a fixed date. I do not think it would be August 1 or September  
15 1. The Farm Bureau supports this amendment and the dairy pro-  
16 ducers. They are affected by this amendment. Without a fixed  
17 date, we would have trouble getting their support.

18 The Chairman. Let's make it September 1.

19 Senator Dole. Or October 1? Is there any objection? I  
20 think we could agree to this very quickly, but just put it on,  
21 if it is not too late to add it on, to the sugar bill we just  
22 passed. Then they could go through together.

23 Senator Ribicoff. I do not think we ought to do that.  
24 The sugar bill will be controversial.

25 The Chairman. This could get controversial by itself. I

1 discussed this matter with Ambassador Strauss. I told him that  
2 we do not want the Congress to adjourn and go home without acting  
3 on a sugar bill. They do not want to go home without acting on  
4 this. One way to be sure that they both get the attention they  
5 deserve is to put one as an amendment to the other, that we  
6 agree to put this on the sugar bill.

7 Ambassador Strauss at that time did not want to object.  
8 He may want to object now. I understand it. Let's take care of  
9 my business and your business can wait. We will talk about your  
10 problem later on; right now, let's look after mine. That is all  
11 fine, but sometimes other people have problems besides the fellow  
12 who is moving a particular problem.

13 To me, I think -- let me put it this way. Secretary  
14 Strauss did not seem to have any objection to that approach at the  
15 time. He may have changed his mind since that time. At that  
16 point, he thought that was a fair proposition. It seems to me  
17 that that is fair.

18 Have we agreed on September 1?

19 Mr. Cassidy. September 1.

20 The Chairman. Without objection, it will be September 1,  
21 then.

22 All in favor of adding this to the same bill that we are  
23 adding the sugar amendment to, say aye.

24 (A chorus of ayes.)

25 The Chairman. Opposed, no?

1 (No response)

2 The Chairman. The ayes have it.

3 Mr. Cassidy. That would be an amendment to H.R. 7108?

4 The Chairman. I move that we consider that bill, that we  
5 report that bill, without objection agreed to. Then I move that  
6 we move this amendment.

7 All in favor, say aye.

8 (A chorus of ayes.)

9 The Chairman. Opposed?

10 (No response)

11 The Chairman. The ayes have it. Without objection, we will  
12 report the bill.

13 What is the next thing that we have? Is aircraft next?

14 Mr. Humphreys. Next.

15 Mr. Shapiro. On the noise bill, the House passed the bill  
16 H.R. 8729 and that has been referred to the Commerce Committee and  
17 is still before that Committee. The Commerce Committee has been,  
18 at the same time, marking up another version of the bill, S.  
19 3279, and that bill has been referred to this Committee.

20 The effect of these bills are to reduce the present  
21 ticket taxes and provide that that amount of reduction will be  
22 made available to airline operators for noise abatement.

23 I think I can briefly summarize the background. In the  
24 early and middle-1970's, the FEA has been reviewing the noise  
25 problem around the airports with the airlines and had come up

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1 with a number of standards for noise reduction. The last one  
2 required the airlines to meet certain noise requirements by  
3 1985, and that is for the existing aircraft at that time.

4 The FEA did determine that the airlines had sufficient  
5 funds in order to retrofit their existing aircraft to meet those  
6 noise abatement requirements. However, the airline industry has  
7 indicated that they can provide more noise reduction and possibly  
8 could have more energy efficiency if instead of just retrofitting  
9 that they would replace their engines, or purchase new aircraft.  
10 That would provide for next noise, plus more modernization of  
11 their fleet would provide more energy efficiency, and they would  
12 need additional funds to do that.

13 The existing airport trust fund which was enacted in 1970  
14 included the increase in passenger taxes as well as on the trust  
15 und itself, and essentially those funds go for safety purposes.  
16 That is for a period of about ten years, and that right now has  
17 a surplus of about \$2 billion in it.

18 The prospect here is, under the House bill, they reduce  
19 the existing transportation taxes. First, for example, there is  
20 an 8 percent ticket tax; that is being reduced to 6 percent. And  
21 then, for example, there are 5 percent freight taxes which are  
22 reduced to 3 percent and then there is a \$3 international depar-  
23 ture tax. When anybody flies on an international flight, they  
24 pay \$3 tax, and that is increased to either \$2 or \$10, depending  
25 on the fare.

1 Under the House bill, these are set forth in a structured  
 2 user-type tax where the airlines, if they were to spend the money  
 3 for new aircraft, could get those funds refunded, as long as  
 4 they would use it for this purpose.

5 The Senate Commerce Committee did not adopt this type of  
 6 procedure but, in lieu of that, adopted a procedure that reduces  
 7 the taxes of the airlines and then provided a five-year structure  
 8 whereby there would be a domestic and foreign tax, and after  
 9 that period of time, after one year, CAB could review those taxes  
 10 to determine whether or not the airlines still needed it.

11 There has been some controversy and debate over this bill  
 12 over to what extent these monies should be transferred from the  
 13 trust fund to the airlines, to what extent the airlines need it,  
 14 and there are several alternatives. It has been suggested it  
 15 is possible to give the CAB some authority to review that situa-  
 16 tion. The decision before the Committee is the bill presently  
 17 before you, the Commerce Committee bill, which is S. 3279, which  
 18 I indicated, in Title III, gives the mandatory authority to CAB  
 19 to provide these charges and, in Title IV, reduces the taxes.

20 Technically speaking, the tax reduction is before this  
 21 Committee, however Cannon has indicated that he feels that Titles  
 22 III, Titles IV, to the extent that they relate to a package of  
 23 the taxes being introduced could be reviewed by this Committee.

24 There are alternative ways to deal with it, depending on  
 25 what the Committee's wishes may be.

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1 The Chairman. Let me make this point. The more I am aware  
2 of the opposition, the more logical it is. If the airlines are  
3 not making enough money, the CAB ought to let them make more  
4 money. They should come in with an application to raise their  
5 rates and make more money. The CAB also ought to require them  
6 to make these planes more efficient and less noisy.

7 Now, this idea of us saying, the argument being that we  
8 ought to take the two points to reduce the tax, take the 8 percent  
9 going into the Transportation Fund, take 2 percentage points of  
10 that and give that to the airlines to make them more efficient,  
11 it just works out as though we are putting a 2 percent tax on  
12 tickets and then giving that to the airlines to retrofit air-  
13 planes.

14 That is not how we ought to improve the equipment. They  
15 ought to improve it by CAB's requiring them to reduce their noise  
16 levels.

17 Mr. Shapiro. The FAA requires them to do so. There is a  
18 period of time between now and 1985 where they have to meet  
19 these requirements.

20 The Chairman. The law requires them to do it. The CAB  
21 fixes the rates, do they not?

22 Mr. Shapiro. That is correct.

23 The Chairman. The CAB ought to let them make enough  
24 money so it can be done. It is all right with me if they want  
25 to reduce some of the delays in the CAB act so that if they have

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1 a case for higher rates than they can make it. The idea of  
2 saying that we put a tax on them and we give them the tax money,  
3 I think, is a bad precedent to put a tax on somebody and then  
4 give them the tax money to do something that he ought to be doing  
5 anyway, and it appeals to me to say let us just cut the tax.  
6 If you have too much money going into the fund, just cut the  
7 tax. Cut it from 8 percent down to 6 percent. You do not need  
8 that much money in the fund.

9 If they are not making enough money, let the CAB raise  
10 their rates. They have procedures to do that. Let them make  
11 their applications. Let CAB look at it.

12 The idea of putting a tax on, putting a tax on the consumer  
13 to let the airlines make more money is something that is hard  
14 to sell and frankly I do not think we are going to pass it. I  
15 predict that it will run into opposition. We know of some already.

16 Congressman Vanik talked to me in the conference and he  
17 said that he thought -- of course, he opposed it on the House  
18 side. The House passed the proposition, but the House does not  
19 have what the Senate had. The Senate has the rule of free debate  
20 out here and if Mr. Vanik were supporting that thing on the  
21 Senate side, he would be standing there quoting it still.

22 I found myself saying, why do we not find a way to cut  
23 the tax?

24 Mr. Shapiro. I should make this clear for the record.  
25 This would not necessarily impose an additional tax on the

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1 consumer. It is shifting. It is viewed by the opposition that  
2 the trust fund does not need the money because the trust fund  
3 has a \$2 billion surplus. Possibly the tax should be reduced  
4 to the consumer.

5 But under the House bill, where the Senate Commerce  
6 Committee voted, there would not be an additional tax to the  
7 consumer, it would be a shift from the revenues that otherwise  
8 would go to the trust fund. It would be shifted to the airlines.

9 Senator Curtis. I feel that the Chairman's remarks are  
10 very persuasive, but I have some doubts in my own mind. In the  
11 first place, the CAB may not be able to increase revenues to the  
12 airlines by increasing rates. It has been proven when they  
13 reduce rates they get more revenue.

14 Also, our airlines are competing with foreign lines that  
15 are largely government owned and I do think that every time a  
16 plane takes off and creates a lot of noise that it is taking off  
17 for the benefit of passengers who want a fast ride and to get  
18 away, and all of that.

19 So that is really a part of it, to the extent of maintaining  
20 an airline. And I do not find it difficult to say that some of  
21 that tax could be used to abate noise.

22 On the other hand, I recognize the Chairman's argument,  
23 and it has considerable merit.

24 The Chairman. Senator Dole?

25 Senator Dole. I would just like to make a comment. I do

1 not know whether it is possible in this legislation -- you  
2 mentioned the word "safety." Maybe we should be a lot more  
3 concerned about airline safety. If you figure what the claims  
4 are going to be in the recent crash in San Diego, it is probably  
5 going to cost a great deal more than the money we are talking  
6 about here.

7 Is there any way you can divert any of this money to  
8 safety rather than to noise?

9 Mr. Shapiro. Senator, the present law provides that  
10 safety -- that the monies in the trust fund be used for safety  
11 purposes. In addition, Titles I and II that are in the Commerce  
12 Committee bill has a significant effect on some of the safety  
13 measures.

14 Senator Cannon believes Titles I and II are very important  
15 to be passed.

16 Senator Dole. Nothing in this tax that diverts any money  
17 into the safety fund?

18 Mr. Shapiro. The general belief is there is a \$2 billion  
19 surplus in the trust fund right now, and with the present collec-  
20 tion coming in, even with this tax reduction, there should be  
21 sufficient funds to cover the safety aspect of the program.

22 There is a great deal of concern about safety, as you indi-  
23 cated.

24 Let me make one other observation here. This whole tax  
25 and trust fund program was put into effect in 1970. Prior to

1 1970, there was just a 5 percent tax on passengers and a 2 cent  
2 tax on fuel for general aviation.

3 In 1970, you provided an 8 percent ticket tax. You pro-  
4 vided freight taxes and increased the general aviation taxes  
5 from 2 cents to 7 cents. This was put on a ten year period.  
6 All the money is going into a trust fund. The money would be  
7 used for safety and airport planning and expansion, things rela-  
8 ting to the safety in the airway system.

9 On June 30, 1980, that program expires. Before then, the  
10 Congress does have to review the tax structure and the tax fund  
11 as well as the purposes to determine what to do in the long  
12 range with regard to trust funds.

13 Senator Dole. Maybe we have enough money for safety, but  
14 I do not know whether it is being spent.

15 The Chairman. Mr. Packwood?

16 Senator Packwood. I would hope that we would not pass  
17 this bill. It is the wrong bill, at the wrong time, for the  
18 wrong people. The airline industry, if their profit records are  
19 any indication, are doing adequately. They are close to being  
20 the biggest crybabies of all the industry people who come to  
21 talk to us. They oppose deregulation. They get along very well  
22 with the government giving them a hand-out. I hope we do not  
23 give them this further hand-out. They do not deserve it, and  
24 they do not need it.

25 Senator Bentsen. Mr. Chairman, I think this is a windfall

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1 for the airlines. If it is passed, it is a precedent that we  
2 will have the rest of industry up here talking about some way of  
3 funding the EPA regulations that we put on them, the job safety  
4 regulations that we put on them. When you talk about \$2 billion  
5 being in the trust fund, my guess is with the new trust fund,  
6 relatively new, that you have some shortfalls in the obligations.

7 Some of these safety systems that we are talking about today,  
8 putting them in, are incredibly expensive and we have deep  
9 concern about it.

10 I share Senator Dole's concern, but the Highway Trust Fund  
11 is supposed to be utilized for that. If it is more than we need,  
12 we ought to cut the tax and let that pass on to the consumer and  
13 lower fares for the consumer. I certainly agree with the Chair-  
14 man. I strongly oppose this approach.

15 Mr. Shapiro. If the Committee wants to take action along  
16 the lines that some of the Senators have suggested, you should  
17 make two changes in the bill before you. First, amend Title III  
18 to strike out mandatory imposition of charges. This is where the  
19 Commerce Committee would be mandating that the CAB impose charges  
20 that would increase the revenues to the airlines.

21 You would strike out mandatory imposition of charges.

22 Second, in Title IV, you could reduce the taxes. You  
23 could reduce them, for example, the 8 percent passenger tax,  
24 you could reduce it to 6 percent. The 3 percent -- I am sorry.  
25 The 5 percent freight tax you could reduce to 3 percent.

1           There is presently an international tax of \$3. It may be  
2 since that is the only tax on the international you might want  
3 to leave that alone and just reduce the domestic passenger and  
4 freight taxes.

5           The Chairman. That sounds simple enough to me, and that  
6 would be good news to consumers.

7           Senator Matsunaga. Mr. Chairman, if I may raise the point,  
8 the Airport Operators Council International, I believe which  
9 represents the operators of the different states, including the  
10 state of Hawaii, of the airports, the Council has written to  
11 you -- I received a copy of that letter -- expressing concern  
12 about reduction which has been proposed here, of the taxes,  
13 that if the taxes are reduced then there will not be sufficient  
14 funds to carry on the normal expansion programs which the Trust  
15 Fund normally takes care of, in addition to taking care of the  
16 noise abatement program.

17           So I am wondering --

18           Mr. Shapiro. Senator Matsunaga, what we would suggest to  
19 you in this regard, because of the budgetary constraints, that  
20 your reductions be effective July 1, which is going to be one  
21 quarter of this fiscal year. Then the entire program terminates  
22 on June 30, 1980, so these reductions would be for only one  
23 year.

24           There is presently a \$2 billion surplus. In the meantime,  
25 Congress would have to review the entire program and I would

1 assume that you would continue the trust fund and put appropriate  
2 monies in the trust fund by way of taxes needed to carry out the  
3 safety and other measures that the airport operators are  
4 concerned about.

5 The Chairman. There is a \$2 billion surplus in the fund.  
6 We will have to review it between now and 1980 to extend it.

7 I think that is taken care of.

8 Senator Danforth. Mr. Chairman, obviously I am in a  
9 minority in this regard, but I would like to make a few points,  
10 with respect to this bill. First of all, airlines are just not  
11 like just any other business. It is a highly regulated industry,  
12 highly regulated by government. We impose all kinds of restric-  
13 tions on airlines. We certify them to operate. We tell them  
14 what routes they can operate on, regulate the rates that they  
15 can operate on, so that I think to draw a parallel between  
16 airlines and just any other industry and say this is a rip-off  
17 for some business is not fair and accurate.

18 Secondly, the airlines have been in a period of flux  
19 recently. They have been in a period of flux caused by government's  
20 changing their rules that we have set under which they were to  
21 operate. We have changed the rules with respect to noise. We  
22 have changed the rules with respect to the rate structure. We  
23 have changed the rules under which they are operating.

24 Thirdly, in response to Senator Packwood, he said the  
25 airline industry is healthy. I say that kind of generalization

1 is a little bit dangerous to make.

2 Some airlines are healthy. Some airlines are quite pre-  
3 carious, and when you think about the health of an industry I  
4 think you also have to think about communities which are served  
5 by routes of specific airlines which may be healthy and may not  
6 be healthy.

7 It seems to me that when you change the rules under which  
8 the industry is operating, when you rock the boat substantially,  
9 it is not amiss to provide that government will share the cost  
10 that the airlines are going to incur.

11 The Chairman. Let us vote.

12 All in favor of cutting the taxes, 8 percent down to 6  
13 percent, 5 percent to 3 percent on freight, say aye.

14 (A chorus of ayes.)

15 The Chairman. Opposed?

16 Senator Danforth. Period? You are talking about the  
17 opposite of the Senate bill, is that correct?

18 Mr. Shapiro. That is correct. What Senator Long is  
19 proposing is to strike out the mandatory imposition of charges  
20 in Title III and Title IV to reduce the taxes, the passenger  
21 tax from 8 percent to 6 percent; the freight tax from 5 percent  
22 to 3 percent and make that effective on July 1, 1979.

23 That would be for a one-year period.

24 The Chairman. Those opposed, no.

25 (A chorus of nays.)



1 The Chairman. The ayes have it.

2 Mr. Shapiro. We will, of course, need the normal, technical  
3 authority that the Committee gives us to make modifications in  
4 the bill, in the procedure. I have just talked with the staff  
5 of the Commerce Committee and they would like that the Committee  
6 put this in the form of a Committee amendment and therefore take  
7 this bill and report it, refer it back to the normal channels  
8 to the Senate Floor, to have the amendment agreed to, to be  
9 brought up on the Senate Floor as a Committee amendment to either  
10 that bill or the House-passed bill, whichever one is brought  
11 up.

12 The Chairman. We will just report this bill back to the  
13 Floor.

14 Mr. Shapiro. We will handle that procedurally. Instead  
15 of having your action be in this report, have your action be a  
16 Committee amendment, and we will see what procedure is appropri-  
17 ate -- either put this bill as it is without any action, with a  
18 Committee amendment to be taken.

19 The Chairman. Any objection? Without objection, agreed.

20 Senator Bentsen. Let me ask you, do I understand that  
21 the Committee amendment will be on the bill, or offered on the  
22 bill, the Committee bill?

23 Mr. Shapiro. Offered on the Floor as a Committee amend-  
24 ment.

25 The Chairman. Hopefully, that Committee amendment will

1 reduce the opposition to this measure, because there is certainly  
2 opposition the way it stands now.

3 What is the next item, then?

4 Mr. Humphreys. The next item has to do with Medicaid  
5 payments to Puerto Rico and the Virgin Islands and Guam. Mr.  
6 Constantine will explain it.

7 Mr. Constantine. Mr. Chairman, this is legislation in  
8 connection with H.R. 9434, a House-passed bill to increase the  
9 Federal ceiling on Medicaid payments to Puerto Rico, Guam and  
10 the Virgin Islands, but the present ceilings which were enacted  
11 in 1972 as a part of H.R. 1.

12 Puerto Rico and the Virgin Islands and Guam are limited.  
13 They get the Federal matching rates, but up to a maximum. This  
14 is designed -- the House sought to increase the maximums to take  
15 account of the increased costs of health care and increased  
16 populations, to provide the same matching rate as other states,  
17 but simply on an increased ceiling, but also provide that the  
18 maximums would be increased, plus a cost of living increase.  
19 That would be automatic.

20 The House bill went from \$900,000 to Guam to \$1,475,000  
21 this fiscal year and to \$1.8 million in 1979.

22 Puerto Rico would go from \$30 million to \$50 million in  
23 fiscal '78 and \$60 million in fiscal '79; and the Virgin Islands  
24 from \$1 million under current law to \$1.6 million and \$2 million  
25 in 1979.

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1 In the case of Puerto Rico particularly, they are spending  
2 far more than the Federal share. They are putting up a great  
3 deal of their own money.

4 We would recommend that if you take this, that you not  
5 allow any increase for fiscal '78 and allow the increased  
6 ceilings to \$1.8 million for fiscal '79, \$60 million for Puerto  
7 Rico from \$30 million, and \$2 million from the Virgin Islands  
8 from \$1 million, but do not include the automatic cost of living.  
9 Our sense was that that would be an awkward precedent for a  
10 grant program, that increasing those limits automatically by  
11 cost of living does not take into consideration changes in  
12 population, services cost.

13 The reason we recommended not doing it for fiscal '78,  
14 Mr. Chairman, was because under the budget, we had been advised  
15 that the Committee had \$64 million for benefit improvements,  
16 including Puerto Rico in fiscal 1979, that any increase for  
17 fiscal 1978 would be counted in the fiscal '79 as well. If you  
18 increase this starting in 1979, it would be \$32 million of the  
19 \$64 million.

20 Senator Dole. Does this include the Northern Mariannas?

21 Mr. Constantine. No, sir. We were going to recommend it.  
22 The Administration has requested that there was an oversight.  
23 They would like to have the Northern Mariannas included and we  
24 would suggest that the Mariannas be included with a ceiling of  
25 half a million.

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1 Included in that would be the \$160,000 you voted, I  
2 believe. Joe?

3 Mr. Humphreys. As a part of the tax bill.

4 Mr. Constantine. This would be an overall ceiling of a  
5 half-million for Medicaid.

6 Senator Dole. Your suggestion is we knock out the automatic  
7 increases and the ceiling in fiscal years after '79?

8 Mr. Constantine. Yes, sir.

9 Senator Dole. Across the board?

10 Mr. Constantine. Yes, sir.

11 Senator Dole. You do not want to index?

12 Mr. Constantine. Yes, sir.

13 The Chairman. Those in favor of the recommendation, say  
14 aye.

15 (A chorus of ayes.)

16 The Chairman. Opposed, no?

17 (No response)

18 Senator Talmadge. I have an amendment, Mr. Chairman.

19 Mr. Constantine. Senator Talmadge introduced legislation,  
20 S. 3544, along with Senators Inouye, Matsunaga, Hathaway, Nunn,  
21 to establish a demonstration program to train only people who  
22 are on AFDC or have been on the rolls within the past six months  
23 as homemakers and home health aides in eight states to provide  
24 supportive services to people who are determined to otherwise  
25 require institutionalization. These are people who would be in

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1 nursing homes, and so on.

2 They then could be employed by any public or private non-  
3 profit agency, supervised and operated by the state, by the  
4 health services agency designated by the governor. It is a  
5 program which, in New Mexico, took 200 people off the welfare  
6 rolls. I believe, in the last four years, only three are still  
7 receiving any kind of welfare assistance.

8 The determination would be made reasonably, that these  
9 people would be required to be put into an institution if they  
10 did not receive this service. The eligibility would be those  
11 within 200 percent of the state income standard and they would  
12 essentially be the aged, blind, disabled, the retired, and so on.

13 The reason for putting it within 200 percent of the income  
14 standard would be because you have an older person who is a  
15 couple of thousand above the state's income test, and in the  
16 event they would provide intermediate care, they would be Medicaid  
17 eligible.

18 So to the extent you can prevent or postpone their going  
19 into long-term care, we are ahead.

20 Senator Dole. What is the cost?

21 Mr. Constantine. The program would be financed by 90  
22 percent matching under Medicaid under Title XIX for a five year  
23 period, which four years would be for services within the eight  
24 states.

25 The cost estimate, we estimate a zero cost the first year

1 based on the experience at probably cost savings substantively,  
2 because it is only available to people who would otherwise be  
3 expected to be in an institution at a much higher cost.

4 Senator Dole. I move that it be adopted.

5 The Chairman. Who is here from the Department?

6 Mr. Gage. We do believe this will not result in any  
7 increased costs. It is limited to demonstrations in eight states.

8 The Chairman. What are the eight states?

9 Mr. Constantine. The Secretary selects the eight states.  
10 In Senator Talmadge's introductory statement, he strongly sugges-  
11 ted the particular states of Georgia and Hawaii that have been  
12 encouraging and working very hard on this proposal. Georgia,  
13 for example, estimates that over 4,000 people could come off  
14 AFDC to provide service. New Jersey, Michigan, Florida. Paul  
15 Rogers is going to introduce the bill on the House side.

16 Florida, and California is quite interested. It could be  
17 more than eight states.

18 Senator Curtis. I could suggest a very easy formula.  
19 It would be unbiased and simple, to select. There are seven  
20 Minority members, and the Chairman makes eight.

21 Mr. Constantine. The assumption is that once the program  
22 gets going and demonstrates its efficacy that you would obviously  
23 reconsider and open up.

24 Senator Matsunaga. It is a good program, Mr. Chairman.

25 The Chairman. I think it would be good to stay as an

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1 eight-state demonstration program.

2 Senator Talmadge. It worked outstandingly well in New  
3 Mexico.

4 Mr. Constantine. Yes, sir, quite well.

5 Senator Talmadge. The Governor of Georgia is extremely  
6 interested in it. He thinks he can keep a lot of people out of  
7 nursing homes and take a lot of people off welfare at the same  
8 time.

9 Mr. Constantine. There is interest in Louisiana, too.

10 The Chairman. Is Louisiana eligible for it?

11 Mr. Constantine. Yes, sir.

12 The Chairman. Are we eligible to be considered?

13 Mr. Constantine. Louisiana is eligible for anything under  
14 these programs.

15 The Chairman. Would there be any objection to making it  
16 eleven states so that a few more might be considered?

17 Mr. Constantine. There is no reason why it cannot be done,  
18 or twelve states. Just a substantial number. Very quickly you  
19 would probably be going across the board. You might make it a  
20 dozen states, depending how many apply.

21 The Chairman. Let's make it twelve states. May I move that  
22 it be made twelve states and make a few more states eligible?

23 All in favor, say aye?

24 (A chorus of ayes.)

25 The Chairman. Opposed?

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1 (No response)

2 The Chairman. The ayes have it.

3 Senator Ribicoff?

4 Senator Ribicoff. Since we dealing with Medicaid, S. 1392,  
5 the Child Health Assessment Act should go on that particular  
6 bill. It would save a lot of time without an extra bill.

7 Jay is prepared to explain that. I think Senator Dole has  
8 some amendments to do that, which I personally believe are good  
9 amendments.

10 Mr. Constantine. Mr. Chairman, S. 1392 is the Administra-  
11 tion proposal as introduced in the Senate by Senator Ribicoff  
12 and the Subcommittee on Health did hold hearings on that proposal.  
13 Essentially, it is a system designed to significantly expand the  
14 early periodic screening, diagnosis and treatment of low-income  
15 children.

16 Basically, the EDSTP program is now available to children of  
17 Medicaid recipients and, in some states, where the states have  
18 chosen to cover children in families with incomes low enough to  
19 qualify for the state standard. It is also available to them.

20 The program has been very spotty. It did well in some  
21 states.

22 The data the Administration provides are that, in a large  
23 part, only a relatively small proportion, something like two  
24 million out of an estimated twelve million children are being  
25 screened, diagnosed and treated.



1 The Administration approach and the S. 1392 approach is  
2 to provide increased matching for the states, the states that have  
3 a great deal of difficulty with the program in terms of finding  
4 enough providers to provide the service and actively pursuing  
5 it, and to expand the eligibility to all low-income children  
6 regardless of categorical AFDC families and so on, and unemployed  
7 parents whose income qualifies under the state plan.

8 The object is to screen, diagnose and treat those kids for  
9 a broad range of vision, hearing and so on diseases. It is a  
10 major effort. The estimated cost is something like \$600 million  
11 the first full year.

12 Senator Talmadge. How could that cost be reduced?

13 Mr. Constantine. There are several approaches. That would  
14 be roughly, I believe, the cost of the Administration bill as  
15 well as Senator Ribicoff's bill as modified.

16 Senator Bentsen. Is that effective September 1st, so it  
17 is the last month of the fiscal year? Would that not help us  
18 on our budget resolution?

19 Mr. Constantine. Yes, sir. That helps you with the budget.

20 On what you did with Puerto Rico, the \$33 million for  
21 Puerto Rico, the Medicaid increase, plus one month of this, you  
22 basically used up whatever money is in the budget for this.  
23 You can bring that cost down substantially.

24 Number one, the proposed modifications that Senator Ribicoff  
25 has included, Medicaid, that the states cover all children up to

1 18 and then optional to age 21. If you went back to the original  
2 bill proposed by the Administration covering children to age 6,  
3 and then leaving it up to the states to determine on what basis  
4 that they cover children, or age 6 to age 21, that that would  
5 reduce the cost by \$120 million.

6 Senator Curtis. Mr. Chairman, may I be heard?

7 The Chairman. Senator Curtis.

8 Senator Curtis. I realize the strong pull that there is  
9 for legislation in this field, but I doubt that this should be  
10 considered at this time, and here are my reasons.

11 There was one day of hearings by the Subcommittee. That  
12 hearing was pretty much the hearing of the proponents, and after  
13 this was spread upon the record there have been no further hear-  
14 ings by the Subcommittee or by the full Committee.

15 It is a far-reaching measure. For instance, for the first  
16 time it would extend AFDC treatment to intact families, and  
17 heretofore this category of welfare was confined to one parent  
18 with some children, if the other parent was disabled. That is a  
19 major welfare change. It would expand eligibility.

20 It would delgate authority to the states to expand the  
21 eligibility. It would increase the Federal matching formula up  
22 to a maximum of 90 percent.

23 It would provide 75 percent matching for Out-Reach instead  
24 of the present 50 percent administrative match.

25 The cost, in what I have handed to me, is -- by 1982, the

1 added cost would be over \$1 billion. By '83, \$1.2 billion.

2 It may be something that this Committee would want to do,  
3 but I would point out that it is a major change in concept. It  
4 is an expansion of those eligible and it is an expansion of the  
5 matching formula and it has had one day of hearings on the part  
6 of the proponents.

7 It may be, if this is gone into thoroughly, that the Commit-  
8 tee would approve it anyway, but at least that would be a better  
9 procedure.

10 I dislike being an obstructionist, but I think that this  
11 has a change in policy, a change in concept, as well as an  
12 expansion and delegation to the states to expand it more, as well  
13 as a change in the formula.

14 Senator Bentsen. Mr. Chairman, I understand Senator  
15 Curtis' concern, but it seems to me that this is an area where  
16 we can change a child's life early and make certain corrections  
17 if we spotlight them in time. And in turn, I think in the long  
18 run, it will result in great savings to the taxpayer.

19 So many things can be done now in diet control where you  
20 have early deficiencies in children. I am particularly concerned  
21 about the question of mental health in young children and would  
22 like to ask Senator Ribicoff what has been done in this particular  
23 piece of legislation to protect work already underway in some of  
24 the states and what has been done for any application of that.

25 Senator Ribicoff. This bill does not expand services. It

1 makes sure that the program reaches more children. It gives  
2 an opportunity to take care of the needs.

3 May I say to Senator Curtis, no opponents asked to come to  
4 the hearing. The hearing was open. It does not extend AFDC,  
5 only health coverage for the children.

6 States currently can expand eligibilty. The states can  
7 determine which children are covered.

8 Congress has committed itself to treating and screening  
9 children and this would make the program worth the cost, the total  
10 cost of the screening and treatment.

11 Concerning the overall cost, I would be willing to suggest  
12 this suggestion of Mr. Constantine, to cut back.

13 Mr. Constantine. Mandating coverage of children through  
14 six rather than through eighteen would reduce it. Making it  
15 optional after six would reduce the cost by \$120 billion accord-  
16 ing to the Administration.

17 If you used the matching formula which was in the bill as  
18 proposed by the Administration and in your original bill,  
19 Senator, that would reduce the cost by another \$88 million,  
20 bringing it down to \$400 million, with just those two changes  
21 alone.

22 In answer to your question, in discussing the bill and in  
23 going over it, I think the concern that you have that there be  
24 no reduction in any existing service for mental health, I believe  
25 it would be drafted in such a way so that there would be no

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1 cutback in mental health services where a state is providing  
2 them.

3 Senator Ribicoff. Make sure the language report specifi-  
4 cally states that.

5 Senator Bentsen. The original bill, as I understood it,  
6 did not protect us on that point.

7 Mr. Constantine. Yes, sir.

8 Senator Curtis. Would this make all children under six  
9 years of age eligible for Medicaid?

10 Mr. Constantine. If they were low income, if they met the  
11 states' income test, except for categorical.

12 Senator Curtis. The states would have to determine?

13 Mr. Constantine. That is right, the state eligibility  
14 standard.

15 Senator Talmadge. I move the adoption of the amendment  
16 proposed by Senator Ribicoff.

17 The Chairman. Sentaor Moynihan wanted to be heard.

18 Senator Moynihan. I did not, but I will take the opportu-  
19 nity to say that it has been the constant theme of this Committee  
20 that we should make social service and income supports available  
21 to intact families on an equal condition as with families that  
22 are single-parent families.

23 Senator Ribicoff's proposal is a sensible one.

24 The Chairman. Senator Dole?

25 Senator Dole. I want to ask a question. As I understand

1 it, it will be mandatory for all children under the age of six  
2 if the family meets the state income test for AFDC.

3 Mr. Constantine. Yes, sir.

4 Senator Dole. What is the second limitation to further  
5 reduce the cost?

6 Mr. Constantine. The second one would be to use the  
7 matching in the Senate bill and the modifications that you have  
8 before you.

9 Senator Ribicoff suggested for consideration the House  
10 match, which is more literal.

11 Between the two, you would reduce the cost by \$200 million  
12 right there in the first full year.

13 We would also suggest for consideration, in the interest  
14 of symmetry, this is the one that you raised, Senator, the bill  
15 would continue eligibility for six months as it now stands  
16 following the entry of employment. Medicaid generally continues  
17 where you have that in law for four months. If you conform the  
18 continuation of eligibility for CHAPS to four months, as it is  
19 to Medicaid generally, that affects your cost by \$25 million.

20 Senator Ribicoff. I will accept that.

21 The Chairman. Without objection, agreed.

22 Senator Talmadge. Do you have Senator Cranston's letter?

23 Mr. Constantine. Yes, sir.

24 Senator Talmadge. Would this be a good bill to add that  
25 amendment to?

1 Mr. Constantine. HMO's under Medicaid.

2 Senator Curtis. Could we finish this one here?

3 The Chairman. We agreed on the Ribicoff amendment, as  
4 modified.

5 Senator Curtis. Mr. Chairman, I would like to file a  
6 Minority Report.

7 The Chairman. By all means.

8 Let's vote on the Ribicoff amendment. Do I understand that  
9 the Administration favors the Ribicoff proposal?

10 Mr. Gage. Yes, sir, we do.

11 The Chairman. All in favor, say aye?

12 (A chorus of ayes.)

13 The Chairman. Opposed, no?

14 (A chorus of nays.)

15 The Chairman. The ayes appear to have it. The ayes have  
16 it.

17 Let's talk about the Cranston amendment.

18 Mr. Constantine. Yes.

19 Senator Talmadge has asked to raise this one. It is a  
20 minor change, minor modification to Medicaid eligibility for  
21 HMO's. Under providing prepaid health services for HMO's, they  
22 must have at least more than one-half of their members covered  
23 by a private -- other than Medicaid or Medicare -- to show they  
24 are competitive within three years of entering that contract.

25 That is under existing law. The problex has arisen that

1 there is a lag in HEW's certifying their eligibilty for partici-  
 2 pation, and the three years -- there are a couple of plans, like  
 3 California, which has not had three years to get up to the  
 4 records requirement of 50 percent. Well, this would give them  
 5 three years to meet the test so that at least half of the  
 6 members not being Medicare or Medicaid show that they are being  
 7 competitive in the area from date of determination of eligibility  
 8 rather than date of start-up.

9 It is essentially a technical change. We see no problem  
 10 with it.

11 Senator Talmadge. I move its adoption.

12 The Chairman. All in favor, say aye.

13 (A chorus of ayes.)

14 The Chairman. Opposed, no?

15 (No response)

16 The Chairman. The ayes have it.

17 Senator Bentsen. Mr. Chairman, I had an amendment.

18 The Chairman. Senator Bentsen has an amendment.

19 Senator Bentsen. Mr. Chairman, this amendment deals with  
 20 the problem of epilepsy and people having that condition having  
 21 trouble getting adequate health insurance.

22 The Commission for the control of epilepsy and its conse-  
 23 quences recommended that a study be mandated on the part of HEW  
 24 to deal with this problem and similar incapacitating conditions  
 25 and see what the options would be in trying to find adequate

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1 health insurance, whether Medicare coverage is a good option,  
2 or are there better answers.

3 It is estimated that the cost to the state would be  
4 \$300,000. This Committee approved such an amendment once before  
5 and it was attached to a bill and did not go anyplace. I would  
6 like to move it again.

7 The Chairman. All in favor, say aye.

8 (A chorus of ayes.)

9 The Chairman. Opposed, no.

10 (No response)

11 The Chairman. The ayes have it.

12 Senator Dole. Mr. Chairman?

13 The Chairman. Mr. Dole.

14 Senator Dole. I have three amendments. I do not believe  
15 they are controversial. First, I believe Jay is aware of them,  
16 staff is aware of, would be to provide Medicaid coverage to  
17 children in state or public juvenile institutions if presently  
18 eligible for services. That is based on present law. That  
19 includes coverage of any individual who is an inmate of a public  
20 institution.

21 This has been further expanded by regulations so it would  
22 affect even those under six, because it talks about public child  
23 care facilities, such as training schools or camps for delinquents,  
24 group homes that are under lease by the government agencies.

25 I do not think it would add a great deal of cost to the

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overall program based on the changes made. It would probably even be less than the \$5 million or \$6 million in the first year. There is a similar House provision which is supported by the Children and Youth Association, and I do not know of any objection to the amendment.

Mr. Constantine. I believe the estimated cost is \$5 million. It is for children who were previously eligible for screening.

Senator Dole. That is right.

Mr. Constantine. Then they go into a public institution subsequently. Senator Dole. It does not apply to all, but just to those who had been previously eligible for Medicaid, so there is a limited impact on the budget.

Senator Danforth. I do not understand how it works. Supposing that a child is incarcerated in a state training school and gets sick. Does the child send for some doctor, or what?

Mr. Constantine. I believe that the program continues. Where a child has been diagnosed and has some long-term problem, they continue the treatment after they are under the juvenile detention facility, or something like that.

Senator Danforth. Is that not an obligation of the state now?

Mr. Constantine. In large part, yes.

Senator Danforth. Does it not come within those cases

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1 having to do with minimum standards of treatment?

2 Mr. Constantine. I am sorry, Senator.

3 Senator Danforth. Does it not come within those cases,  
4 Wyatt v. Stickney, dealing with minimum standards of treatment?

5 It seems to me that the state would have a legal duty to  
6 provide adequate medical care. I do not understand how this  
7 works. It would seem that you would not be assuming -- we, the  
8 Federal government -- would not be assuming the responsibility

9 of a parent caring for a child, but would be assuming the respon-  
10 sibility of the state for caring for the child, which would be  
11 in the place of the parent as long as the child is incarcerated.

12 Mr. Constantine. There is something to that, Senator. It  
13 is the question of what the adequate medical care is. I suppose

14 that the proposal was designed to deal with treatment which would  
15 not be determined to be immediate medical care needs, the-  
16 dental care, that kind of thing, other than the treatment of an  
17 acute sort.

18 Senator Danforth. You have that now. I am confident that

19 you have all kinds of physicians who treat children at the  
20 expense of the state government, and I do not understand how

21 this is supposed to apply. Mostly kids -- I would think a lot  
22 of kids who are in these training schools would probably be  
23 Medicaid children. It would seem to me that this would just be

24 a shifting of financial responsibility from the state government  
25 to the Federal government.

1 Senator Dole. It is estimated at \$40,000 to \$50,000,  
2 as I understand -- the effect of this amendment -- so that may  
3 be reduced by the previous action.

4 Mr. Constantine. I just do not know, Senator. I gather,  
5 from what we are told, that this is an attempt to deal with some  
6 of the inadequacies in some of the juvenile homes and the provi-  
7 sion of care, even though it may be a requirement to follow up.

8 Senator Dole. You get the same argument. HEW says the  
9 state can do it and the state says their resources are drained.  
10 When the state takes someone out of a home, I do not know why  
11 that would increase their ability to address their problems.

12 It does not attempt to extend Medicaid coverage to every-  
13 body in the institution. You have to be eligible in the first  
14 instance, so it is a rather narrow --

15 Senator Danforth. Practically, what happens. Suppose a  
16 child gets sick who is an inmate in a state training school in  
17 Kansas. He gets sick. He is treated in the infirmary in the  
18 school or the regular doctor who does the treating of the kids.  
19 They do not call in an outside doctor.

20 Does the state get reimbursed, or what?

21 Mr. Constantine. I do not think they are reimbursed for  
22 that kind of care, if it is a part of the regular screening,  
23 a part of the overall program for periodic screening and treat-  
24 ment, unless that treatment, Senator, is a part of what was  
25 previously diagnosed, and it is a continuation of the treatment

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1 which has been diagnosed preivously.

2 Senator Danforth. They cannot do that. You do not have  
3 doctors from St. Louis, as far as I know, going to Boonesville,  
4 Missouri to treat kids in the state training schools. It is just  
5 not done.

6 Mr. Constantine. To some extent there would be some fiscal  
7 relief there for states.

8 Mr. Gage. To a certain extent it is replacing state  
9 expenditures with Federal. The original proposal, as I under-  
10 stand it, was to cover all children in such institutions under  
11 Medicaid, and the Administration was opposed to that proposal.  
12 The one adopted in the House, as I understand it, is being pro-  
13 posed here and would cover any children who would not be in these  
14 institutions would be eligible.

15 Senator Dole. Would that mean that Medicaid would pay the  
16 salary of a physician or a dentist who spends half of his time,  
17 or two-thirds of his time, in a state training school?

18 Mr. Gage. It is my understanding that this applies only  
19 to care that they are already covered for inpatient services.  
20 Ambulatory care under Medicaid is not reimbursed by paying the  
21 salary of physicians.

22 Senator Danforth. I just do not understand at all. I am  
23 sorry. It sounds like, \$5 million is nothing, by our terms, but  
24 it sounds to me like it is another shipment of money.

25 Senator Talmadge. Ready for the vote? All in favor, say

1 aye.

2 (A chorus of ayes.)

3 Senator Talmadge. Opposed, no?

4 (A chorus of nays.)

5 Senator Talmadge. The Chair is in doubt.

6 All in favor, hold up your hands.

7 (A show of hands.)

8 Senator Talmadge. Opposed?

9 (A show of hands.)

10 Senator Talmadge. It is agreed to.

11 Senator Dole. The second amendment, Mr. Chairman, would  
12 require the maintenance of effort on the part of the state for  
13 service provided to children. It requires a receipt of Federal  
14 matching for certain ambulatory services provided in the bill.  
15 It is conditional on the state's taking no action to reduce the  
16 benefits.

17 This is a current -- it is always around, that argument.  
18 There are some exceptions, but it seems to me we are talking  
19 about -- we intend this to be an improvement and an expansion of  
20 EPSDT programs, then we should not place others in jeopardy,  
21 and it is not our intention for the Federal government to  
22 increase funding and the state to reduce funding, and not to  
23 have that maintenance of effort.

24 I did not know of any objection to this amendment.

25 Mr. Constantine. It is not a maintenance of effort. It

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1 is service.

2 The Chairman. What is the cost?

3 Mr. Constantine. I do not believe there would be a cost,  
4 Senator. The only cost would be in the state planning cutback  
5 in services.

6 The Chairman. Is this required, to have a maintenance of  
7 effort?

8 Mr. Constantine. Only in the terms of the type of services  
9 and in the services the state now is providing for those people.

10 The Chairman. Not necessarily a level?

11 Mr. Constantine. Yes, sir. The only thing we would sug-  
12 gest, the Committee has objected in the past or has had concern  
13 about fiscal maintenance of effort because they are very difficult  
14 to enforce and to apply, that you put a safety valve in author-  
15 izing the Secretary to approve.

16 Senator Dole. We have that for fiscal crises in the state,  
17 and the Secretary has the right to waive the requirements.

18 The Chairman. Maintenance effort for what?

19 Mr. Constantine. That if the state, for example, covers  
20 pediatric services for children, it cannot cut that out. It  
21 cannot reduce those services.

22 It does not have to maintain the level of expenditures that  
23 it is now spending, but it must maintain -- if it includes a  
24 service, it cannot cut that out.

25 Senator Ribicoff. Would that take care of Senator

1 Bentsen's question?

2 Mr. Constantine. Yes, sir, the same question. If it now  
3 covers mental health services, it would not cut those out.

4 The Chairman. Now, would they have to get the consent of  
5 the Secretary if they wanted to cut from \$200,000 to \$100,000?

6 Mr. Constantine. I believe that they would have to get  
7 the consent of the Secretary under the amendment. They would  
8 not be able to reduce the level of service. That is, if they  
9 provide unlimited mental health treatment following a diagnosis  
10 of that kind of a condition, they could not cut that back to  
11 one visit a month, as I understand it, Senator, unless the state  
12 were able to demonstrate that they had a fiscal crisis.

13 The Chairman. I think a state should be able to shift its  
14 money around to put it where they think it is going to do the  
15 most good. This maintenance of effort thing that I believe I was  
16 the first one to start. After getting it started, I met myself  
17 coming back on it when I kept running into situations where  
18 actually we were forcing them to waste money on things where they  
19 could make better use of it somewhere else.

20 I do not want to be in the position of saying that a state  
21 cannot make some reduction in some program so they could put more  
22 money into one that claims a higher priority and seems to do more  
23 good.

24 Why do we not agree that they will not discontinue the  
25 service, but they do not have to go to the Secretary of HEW to



1 shift money from one thing to another for what they feel will  
2 be a better use of their funds?

3 Senator Dole. Would that protect your problem, Lloyd?

4 Senator Bentsen. My concern is in general about the  
5 expenditure in the area, and they are not withdrawing funds just  
6 because the Federal government is starting to assist and put more  
7 funds into it. I understand the concern of the Chairman that  
8 they use these in the most effective way to accomplish their  
9 general objective. I still have a concern that we are not pick-  
10 ing up the tab and they are not continuing to cover.

11 Can we find a way to reconcile those objectives?

12 The Chairman. What I would suggest, as you say, that they  
13 would have to continue this service, but do not let them have to  
14 get the approval of HEW if they want to shift emphasis from one  
15 part to another part of the program.

16 Senator Bentsen. If we could find a way to do that so  
17 they just do not turn around and build highways with the money.

18 Mr. Constantine. One approach possibly would be to have  
19 the dual test, that they would show a fiscal maintenance of effort,  
20 that they have not reduced the money, but they want to drop this  
21 service and put the money over here into this one.

22 If they meet either test, that they are all right. You  
23 just have a fiscal maintenance of effort or a services maintenance  
24 of effort, so the state has the choice, that way, has the discre-  
25 tion to say this service is not doing anything and we want to put

1 it over here.

2 The Chairman. I suggest that you should say that they  
3 have to have a maintenance of effort for the overall program and  
4 they will not discontinue a service that they have, but that  
5 within the service, that if they can do more in one service that  
6 is doing more good than another, they can put more money into  
7 that one and shift money from one that seems to be doing less  
8 good, having less benefit, they ought to be doing that much with-  
9 out the approval of the Secretary, as long as they are putting the  
10 overall amount into it.

11 Mr. Constantine. Yes, sir. If I could suggest a technical  
12 thing, you generally put a time limit on maintenance of effort  
13 provisions, certainly on financial. It is an administrative  
14 nightmare anyway.

15 We would suggest a couple of years, whatever fiscal effort  
16 requirement is made of the state that it not be more than two  
17 years.

18 The Chairman. Is that all right?

19 Senator Dole. Fine.

20 The Chairman. Without objection, that you have a maintenance  
21 of effort on your program and you have a right to shift within  
22 it and that you have a two-year limitation.

23 All in favor, say aye.

24 (A chorus of ayes.)

25 The Chairman. Opposed, no?

1 (No response)

2 The Chairman. The ayes have it.

3 Senator Dole. Mr. Chairman?

4 The Chairman. Yes.

5 Senator Dole. The last amendment would be to require that  
6 the administrator of the Health Care Financing Administration  
7 should be appointed by the President with the advice and consent  
8 of the Senate. That is a very responsible position, about a  
9 \$50 billion program. It is a successor to previous positions,  
10 the Director of Social and Rehab Services, which did require  
11 Senate confirmation, and the agency originally proposed three  
12 years ago that it was a provision that would require confirma-  
13 tion by the Senate, and there have been some difficulties in that  
14 agency.

15 The Chairman. Is there any objection?

16 Without objection, agreed.

17 That takes care of that matter. Without objection, we will  
18 report the bill.

19 What else do we have?

20 Senator Hansen. Mr. Chairman, I have an amendment that  
21 I would like to offer on behalf of Senator Cranston. I am not  
22 as familiar as I should be. Basically --

23 Senator Talmadge. The HMO's?

24 Senator Hansen. This has to do with estate taxes with a  
25 closely held family corporation.

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1 The Chairman. Go ahead.

2 Senator Hansen. If you have other things you want to  
3 bring up first --

4 The Chairman. It is all right with me. What bill is it  
5 being offered on?

6 Senator Hansen. To the tax bill, H.R. 12578, Miscellaneous  
7 Revenue Act. And if Mr. Shapiro is here, perhaps he could explain  
8 it.

9 The Chairman. Where is that?

10 Mr. Humphreys. It is not on the agenda.

11 Senator Hansen. It is not on the list. It would be subject  
12 to the Committee's approval, to add it to the appropriate  
13 legislation.

14 The Chairman. Tell us about the amendment.

15 Senator Hansen. Let me just read what Senator Cranston  
16 has prepared here. "It is proposed to add to the tax bill sections  
17 of H.R. 12578, the Miscellaneous Revenue Act passed by the House  
18 of Representatives on September 12th. Section 7 of H.R. 12578  
19 deals with the treatment of certain interests held by a decedent's  
20 family for purposes of extension of time for payment of estate  
21 taxes under Section 6166 of the Internal Revenue Code.

22 "The purpose of the amendment is to enable the estates of  
23 members of large claims of which the distribution of stock  
24 among the family results in the deceased's estate under the  
25 current attribution rules of Section 6166, failing to meet the

1 20 percent test to attribute interest held by the decedent's  
2 immediate family in counting the number of shareholders or  
3 partners for determining application of the section.

4 "Under this provision, a ten-year deferral with interest  
5 payable at the regular rate would be allowed." And then he  
6 notes a special rate of 4 percent will not apply under this  
7 provision.

8 The amendment has the support of the American Tobacco  
9 Association, the California Farm Bureau and a number of other  
10 organizations. Immediate interest in the amendment has been  
11 expressed by the Gallo family, owners of the Gallo winery.

12 Effective date is the day of enactment.

13 I would say I am not as familiar with this proposal as I  
14 wish I were. I do know, from personal experience, that farms  
15 and ranches, if they have been incorporated and if there are  
16 several members in the family, oftentimes are forced, so I am  
17 told, to sell out if there has been a dispersal of the members of  
18 the family, and some of them want to get their money out of it.

19 There is not any way that two or three members who may  
20 desire to continue the farming operation or ranching operation are  
21 able to get sufficient finances together to make it possible to  
22 satisfy the interest of other members.

23 That is a personal observation. It may not be as relevant  
24 to the situation as I suspect it could be. That is basically the  
25 background. I do it on behalf of Senator Cranston.

1 Mr. McConaghy. Senator Hansen, there are three provisions  
2 presently in the tax law that allow for the extentions of the  
3 payment of estate tax in situations where generally there are  
4 the estate, a large part of the estate is comprised of an inter-  
5 est in a closely-held provision. Two of those provisions require  
6 that the closely-held business be a certain percentage of the  
7 estate. In determining whether it is an interest in a closely-held  
8 business, two of the three provisions require that the interest  
9 in the stock would be less than ten stockholders or that the  
10 decedent held 20 percent of the voting rights of the closely-held  
11 business interest in his estate.

12 The third provision does not go to any percentage of owner-  
13 ship test. It depends on whether there is reasonable cause, and  
14 the Treasury Department or Internal Revenue Service can grant  
15 extentions under that third provision, up to ten years, if they  
16 find reasonable cause.

17 The percentage test, however, cannot be met in certain  
18 kinds of situation wuch as the one you are talking about where  
19 there are more than ten shareholders or that particular decedent,  
20 by himself, did not have 20 percent of the voting stock of that  
21 corporation in his estate.

22 The amendment basically that you are talking about would  
23 permit family attribution in meeting those tests so that the  
24 family members would be counted as one shareholder and the family  
25 who would attribute their voting stock to the stock of the

1 decedent for purposes of determining the 20 percent tax.

2 The amendment, as drafted, would then just permit a ten-  
3 year extention if those requirements were met, taking into  
4 account attribution at the regular interest rate.

5 Senator Hansen. Thank you very much.

6 The Chairman. All in favor of the amendment -- those in  
7 favor of the amendment say aye.

8 (A chorus of ayes.)

9 The Chairman. Opposed, no?

10 (No response)

11 The Chairman. Then, I take it, we would approve the  
12 amendment and would offer it on the appropriate bill.

13 Senator Hansen. Thank you, Mr. Chairman.

14 The Chairman. Now, let's turn to the next thing we have  
15 on this calendar.

16 Mr. Humphreys. The next item is a series of social  
17 services provisions which have not been dealt with. We received  
18 from the House a bill, H.R. 12973, that provided for extending  
19 the funding of the Title XX social services program and also  
20 providing a number of additional matters relating to social  
21 services.

22 The Committee already acted on the provision of extending  
23 the funding for the tax bill. We had an increase in Title XX  
24 funding to \$2.9 million in fiscal year 1979, but we did not  
25 deal on the tax bill with these other matters.

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1           The first matter has to do with the use of --  
2           Senator Curtis. Mr. Chairman, may I say that I have had  
3 these gone over. I think they are all right. I do have one  
4 proposal, not in the nature of changing law in reference to these,  
5 but I would like to ask for GAO -- to have them appropriate a  
6 study for the cost benefits situation in regard to Title XX.  
7 I have some suggested language here -- I will not go into it in  
8 detail, but I will submit it to staff.

9           Title XX covers a number of programs. We do not know which  
10 ones pay off the best. We do not know what standards the state  
11 uses in determining their outline, but I think the GAO study --  
12 if you come in with one after enactment, it would be a good  
13 thing.

14           As far as the provisions are concerned, I believe they are  
15 all right.

16           Senator Dole. Mr. Chairman?

17           The Chairman. Yes.

18           Senator Dole. I do not have any quarrel with what Senator  
19 Curtis says, but I am wondering whether this would be a good time  
20 to clarify what we may, or may not, have meant.

21           Last week, we raised Title XX funding to \$2.9 billion. It  
22 was my impression that that was a permanent increase. There has  
23 been some indication that it was only going to be temporary,  
24 that it would revert to \$2.95 billion, which makes it difficult  
25 for the states to have program growth knowing funding would have



1 to be cut back the next year.

2 Was it, in fact, permanent, or did we vote for one year?

3 Mr. Humphreys. Senator Dole, the decision was a one-year  
4 increase to \$2.9 billion, after which it would revert to \$2.5  
5 billion. The tax bill was reported in that way.

6 Senator Dole. Senator Moynihan, is that what we intended?

7 Senator Moynihan. Yes. Then next year we would have a  
8 general, some large, comprehensive welfare changes that would  
9 be sent to us by the Administration. The Administration had  
10 wanted to go back to \$2.5 billion on the three-year schedule.  
11 It would seem to me that if you could get the \$2.9 billion in the  
12 next year with the clear explanation that we mean to make that  
13 permanent, but to do so in a general restructuring that once  
14 again we are going to try to bring about. If it does not come  
15 about, we will keep that \$2.9 billion as far as I am concerned.  
16 I think I would share that with you.

17 Senator Curtis. May I ask the Senator from New York if he  
18 has any objection to this GAO study?

19 Senator Moynihan. None whatsoever. I would welcome it,  
20 sir.

21 Senator Curtis. Could we have a ruling on that?

22 The Chairman. All in favor, say aye.

23 (A chorus of ayes.)

24 The Chairman. Opposed, no?

25 (No response.)

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1 The Chairman. The ayes have it.

2 Senator Talmadge. Mr. Chairman, I have an amendment at the  
3 appropriate time that Bill Galvin will explain.

4 The Chairman. Have we discussed the bill itself?

5 Mr. Humphreys. No, we have not completed discussion.

6 The Chairman. Explain the bill first.

7 Mr. Humphreys. The second item is a use of the funds, of  
8 the \$2.9 billion that was approved for next year. \$200 million  
9 was specifically earmarked for use in child care programs, and  
10 this has been the case for the past three years.

11 However, there is an existing law which would be extended  
12 under the House bill, a directive that states, use this money  
13 in ways that serves to increase employment of welfare recipients,  
14 particularly in child care jobs.

15 The law also provides the existing law, which would be  
16 extended for a year under the House bill also has some special  
17 provisions enabling the use of funds in connection with the tax  
18 credit provisions in such a way as to totally reimburse up to  
19 \$5,000 per year the payments that are made to hire a welfare  
20 recipient in a job providing child care.

21 This particular part of the House bill requires some  
22 modification, particularly in view of the changes that the  
23 Committee just made in the welfare recipient tax credit. The  
24 child care tax credit is sort of a component of the general  
25 welfare recipient WIN tax credit provision. So what we would

1 suggest is just modify this special child care tax credit  
2 provision generally to conform with the new provisions that are  
3 in the tax bill, or how the general welfare recipient tax credit  
4 applies.

5 However, there are also two additional things that this  
6 Committee approved previously on H.R. 7200 related to that,  
7 related to that tax credit, and one of these is to permit it to  
8 be used for employing welfare recipients on a part-time basis  
9 in child care jobs, and the other is to permit the tax credit  
10 to be computed in such a way that it takes into account the  
11 direct subsidy being made by the welfare agency.

12 The general rules of the tax credit is that you can only  
13 count on reimbursed expenses. If you reimburse the tax credit  
14 to the level you have, it seems that the way, if you wanted to  
15 accomplish the same objective, as you did in 7200, the way to  
16 do this would be to allow the tax credit to take into account  
17 reimbursed expenses by the welfare agency to the extent necessary,  
18 that you wind up with a result that the combination of what the  
19 welfare agency pays and what the child care operator gets in the  
20 tax credit can go up to -- it cannot exceed 100 percent of the  
21 first \$6,000 paid to the individual. Under present law, it is  
22 \$5,000, but you raised the amount to \$6,000 to make it comparable  
23 to the minimum wage in the tax bill.

24 The Chairman. They could get -- could they get the  
25 earned income credit in addition to that?

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1 Mr. Humphreys. Yes. The individual would get the earned  
2 income credit. This deals with the credit that goes to the  
3 employer.

4 The Chairman. All those in favor, say aye.

5 (A chorus of ayes.)

6 The Chairman. Opposed, no?

7 (No response)

8 The Chairman. The ayes have it.

9 Mr. Humphreys. Also, in H.R. 7200, you did that for five  
10 years, but since the Committee only extended the \$200 million  
11 child care funding for one year, you may want to limit that to the  
12 one year, which is what the House bill does in this case.

13 The Chairman. What do you do?

14 Mr. Humphreys. A special provision for how you use the  
15 child care money that is available under Title XX. In H.R. 7200,  
16 you had actually made this child care money available on a  
17 permanent basis, but since it is only available on a one-year  
18 basis now, the suggestion is that you make these special provisions  
19 relating to the hiring of individuals for child care jobs only  
20 effective for one year.

21 The Chairman. Could we make it for two years?

22 Mr. Humphreys. We could make it for two years. We could  
23 make it for five years, the same as we did in H.R. 7200, if you  
24 wanted, and then you would not have to address this issue again  
25 when you extended the money in the future.

1 Senator Moynihan. Mr. Chairman, five years is reasonable.

2 The Chairman. All in favor of making it five years say  
3 aye.

4 (A chorus of ayes.)

5 The Chairman. Opposed, no?

6 (No response)

7 The Chairman. The ayes have it.

8 Mr. Humphreys. The next provision in the House bill has to  
9 do with allowing Title XX money to be used in certain circumstances  
10 for programs dealing with addicts and alcoholics. This is a  
11 provision that, I think, Senator Hathaway originally sponsored  
12 and this Committee has voted several times to make it permanent  
13 and, up to now, the House has insisted on doing it one year at  
14 a time.

15 In the present House bill, the House has agreed to make it  
16 permanent. The Committee also did it in 7200.

17 The Chairman. It is in the bill already?

18 Mr. Humphreys. It is in the House bill already.

19 The Chairman. All right. Without objection, so ordered.

20 Mr. Humphreys. There is another provision in the House bill  
21 that allows Title XX social services money to be used by the  
22 states to provide emergency shelter for adults in certain circum-  
23 stances -- cases of battered wives, and problems like that, where  
24 there is a need for actually putting somebody up in a residence  
25 for up to 30 days in any six month period.

1           Generally, you cannot use Title XX money for room and board  
2 type thing, but the House provision would allow this for  
3 emergency shelter.

4           The Chairman. Is there any objection? Without objection,  
5 so ordered.

6           What else?

7           Mr. Humphreys. The next issue in the bill is one that has  
8 come up considerable times when Title-XX was originally adopted,  
9 there were some fairly stiff staffing standards for child care  
10 included in the Title XX legislation. The standards that apply  
11 to children of pre-school age have been postponed several times  
12 in the past and the House bill would postpone them for another  
13 year until October 1st, 1979.

14           This is something that the Committee, when it last dealt  
15 with this, made one modification in. In the last extention,  
16 the Committee had proposed to delete -- there is a requirement in  
17 the law that the Federal standards are postponed, but states  
18 must stay at least as high as they are in terms of standards  
19 as they were in September, 1975.

20           In H.R. 7200, the Committee deferred the Federal standards  
21 but knocked out this requirement of continued compliance with  
22 the 1975 state standards. It is an issue whether you want to do  
23 what you did in 7200.

24           The Chairman. I suggest we do the same as in 7200.

25           Those in favor, say aye.

1 (A chorus of ayes.)

2 The Chairman. Opposed, no?

3 (No response)

4 The Chairman. The ayes have it.

5 Mr. Humphreys. In addition to suspending the standards  
6 as such, there have been two provisions allowing waivers of some  
7 of the standards that are not suspended. The standards can be  
8 waived if you have a child care center which has only a few  
9 children in it who are getting funds under the Title XX program.

10 No more than 20 percent of the children in the center are  
11 subsidized. It is permissible to waive the Federal standards in  
12 that case. Also, where a woman has taken care of children in  
13 her home, there are some standards that apply as to how many  
14 children she can take care of.

15 The Chairman. That is in the bill. We do not need to vote  
16 on that.

17 Mr. Humphreys. The only difference between that and 7200  
18 was that in 7200 you extended it for five years; in the bill, they  
19 do it for one year.

20 The Chairman. Let's look at the other two things.

21 Mr. Humphreys. The next item in the bill is a requirement  
22 that the House bill would put on the states that in developing  
23 the Social Security plans, they have to solicit comments from  
24 local officials and publish in the plan a sort of a summary of  
25 the views of the local officials that they got in response to

1 this.

2 The Chairman. What is the other?

3 Mr. Humphreys. The other thing has to do with funding for  
4 Puerto Rico, Guam and the Virgin Islands, and the Commonwealth  
5 of the Northern Mariannas.

6 Under existing law, those territories have Social Security  
7 plans that do not operate under Title XX so they do not get part  
8 of the overall Title XX allotment. But they are permitted -- the  
9 states do not use up their money, to get up to a certain amount:  
10 \$15 million for Puerto Rico and half a million for Guam and the  
11 Virgin Islands and \$100,000 for the Mariannas.

12 What the House bill would do would be to say you give this  
13 money to these territories first, thereby reducing the total  
14 amount of funding available to the states by \$16 million and  
15 then you allocate what is left over to the states, which is  
16 \$2.9 billion, less the \$16 million that you gave to the terri-  
17 tories.

18 The Chairman. Do you want to offer your amendment now,  
19 Senator Talmadge?

20 Senator Talmadge. Yes.

21 Explain it, Bill.

22 Mr. Galvin. The first part of the amendment provides for  
23 child support management information system. It would provide  
24 an incentive for the child support agencies in the states and  
25 localities to develop such a system, utilize model systems



1 developed by HEW's Office of Child Support, or to develop,  
2 enhance or expand the existing systems by increasing it 90  
3 percent for the cost of developing and implementing, provided the  
4 system with the requirements of the amendment.

5 The other part of the amendment is detailed in the child  
6 support amendments, dated 9-29-78, as revised. It provides  
7 totally for accounting for accounts receivable billing, support  
8 collection, distribution, expenditures, interface with your  
9 management systems to provide management information, have inter-  
10 state activity for cases, interaction for AFDC records and  
11 necessary data for Federal statistical reporting requirements.

12 And, vital to it, it also requires security against  
13 unauthorized access to other use of the data.

14 HEW has no objection to that amendment.

15 Senator Talmadge. This is designed to further chase the  
16 runaway fathers who will not support their children.

17 The Chairman. All in favor, say aye.

18 (A chorus of ayes.)

19 The Chairman. Opposed, no.

20 (No response)

21 The Chairman. The ayes have it.

22 Mr. Galvin. The second part of the amendment authorizes  
23 access to wage information of child support collections. At the  
24 present time, this is allowed for AFDC determining eligibility.  
25 Child support has different requirements and needs basically the

1 same information.

2 It would allow them to require the wage information by  
3 providing the authority for the states and the localities to  
4 have access to earnings information and records maintained by  
5 the Social Security Administration on any individual, and also  
6 for the state employment security records.

7 These records would be only those that are necessary as  
8 determined by regulations of the Secretary for purposes of estab-  
9 lishing, determining and enforcing an individual's child support  
10 payments.

11 The Chairman. All in favor, say aye.

12 (A chorus of ayes.)

13 The Chairman. Opposed, no?

14 (No response)

15 Ms. Amadei. We had two questions on that one, if I may.  
16 Senator, we were hoping we could reference Section 6103 of the  
17 Internal Revenue Code, which would be appropriate in this  
18 instance, and also whether, in the area where it says "The  
19 Secretary of HEW would establish necessary safeguards", since it  
20 also provides employment security records from the Department of  
21 Labor, we would like to include the Secretary of Labor in that  
22 instance.

23 Mr. Galvin. There would be no objection to the Secretary  
24 of Labor. The reference to 6103 was not done for AFDC access.  
25 If you wish to do it here, I think you should approve it for

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1 both AFDC and child support access.

2 The Chairman. Is there any objection to it?

3 Without objection, we will do that. We agree.

4 Mr. Galvin. The third part of the amendment is collection  
5 of child support by families not on welfare by the Internal  
6 Revenue Service. Present law authorizes the collection only for  
7 AFDC, pursuant to a court order. The only thing that would be  
8 changed in that is to add the collections also made to families  
9 not on welfare.

10 This issue was discussed in September of last year.

11 Recommendations from the ERISA organization.

12 Treasury responded in a letter dated 12-77, signed by  
13 Donald Lubick for Larry Woodworth saying that they did not approve  
14 the one addition of non-AFDC.

15 The Chairman. You say Treasury said they do not agree?

16 Mr. Galvin. They have no objections to it.

17 The Chairman. All right.

18 All in favor, say aye.

19 (A chorus of ayes.)

20 The Chairman. Opposed, no?

21 (No response)

22 The Chairman. The ayes have it.

23 Mr. Galvin. The last part of the amendment is child  
24 support reporting procedures. This was discussed on the tax bill.  
25 At that time, HEW, since there was not a provision in '72 and

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1 did not have time to acquaint themselves in it, asked that we  
2 hold off until they could look into it.

3 They have looked into the question now, and have no objec-  
4 tions.

5 The Chairman. All in favor, say aye.

6 (A chorus of ayes.)

7 The Chairman. Opposed, no.

8 (No response)

9 The Chairman. The ayes have it.

10 Are there any other amendments to the bill?

11 All in favor of reporting the bill, say aye.

12 (A chorus of ayes.)

13 The Chairman. Opposed, no?

14 (No response)

15 The Chairman. The ayes have it.

16 Senator Curtis. If we are going to go to number 7 -- I am  
17 not for it, but I wonder if that could be brought up? I have a  
18 meeting beginning in ten minutes.

19 The Chairman. All right.

20 Mr. Humphreys. That is the next item on the agenda. There  
21 are two bill swchich we have from the House of Represetnatives  
22 pending in Committtee here, dealing with disability benefits under  
23 the SSI program.

24 Senator Curtis. May I ask a couple of questions? Have  
25 we had hearings on this?

1 Mr. Humphreys. We did have a hearing on these bills last  
2 week, yes, sir. The Subcommittee on Public Assistance.

3 Senator Moynihan. We held a hearing last week, sir.

4 Senator Curtis. In due time, I would like to hear the  
5 recommendations of the Administration.

6 Mr. Humphreys. The two bills, both are intended by the  
7 House to deal with a disincentive problem arises when a severely  
8 disabled person who is on the SSI program goes to work. The law  
9 right now provides that you can work up to nine months and no  
10 account whatever will be taken of your earnings. The Department  
11 does not even look at them until you have gone beyond that nine  
12 months of work.

13 Once you go beyond the nine-month trial work period, they  
14 do take another look and see whether or not you still meet the  
15 definition of disability in the Social Security program. The  
16 definition of disability is essentially not a medical definition  
17 but a definition that relates to whether you can work or not.

18 So they are faced with a situation that if they do go to  
19 work, they have proven themselves to be no longer disabled because  
20 by definition, being able to work means that you are not disabled  
21 for the purpose of benefits. And this creates a significant  
22 disincentive to trying to go to work.

23 The first of the two House bills, H.R. 10848, addresses  
24 one of the concerns that the disabled individuals have when they  
25 go to work -- suppose I can't make it? Suppose my condition gets

1 worse? I have to go through a very long application process to  
2 begin with. Then if I have to stop working too, I have to go  
3 through that same process over and over again.

4 In present law, the answer is yes. This particular bill,  
5 H.R. 10848, if you have been on the disability rolls for the  
6 past five years and you were terminated because you went to work  
7 and then you stopped working for some reason and then you come  
8 back in to apply for benefits, if you meet all the other require-  
9 ments apart from this question of whether you are still disabled,  
10 they will put you back on the rolls immediately and do the  
11 determination afterwards. If it turns out that they find you had a  
12 medical recovery and you were not disabled, you will really not  
13 qualify and those are the payments you would have to pay back.

14 But, in most cases, they would find, where somebody has a  
15 severe disability and they stopped working, they would find that  
16 they, indeed, were again disabled.

17 Essentially this would just save people waiting for a  
18 period of time while their application was being processed, in a  
19 circumstance where it would be most likely that they would be  
20 found eligible, in any case.

21 The Administration has opposed this particular bill,  
22 apparently mainly on the basis of objecting to any kind of  
23 piecemeal action. They plan to make some suggestions next year.

24 The staff thinks that probably that particular bill makes  
25 a lot of sense, and we do not see any objection to it.

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1 The Chairman. Senator Moynihan?

2 Senator Moynihan. Mr. Chairman, I would like to say that  
3 this bill makes a very great deal of sense, and let me report  
4 to the Committee that the testimony on behalf of, and including,  
5 Congressman Stark was immensely persuasive. It goes to a simple  
6 point. If you are disabled and you take a job and you do not  
7 know whether you are going to be able to hold onto it, or the  
8 job may not be that safe, do you take the risk that you will then  
9 leave your SSI disability benefits and then you may not work out,  
10 or the job may not work out. How do you get back?

11 What this says is that you can go right back, and then we  
12 will do our best to do it after you get back on the program. It  
13 means that this very large, psychological alarm of leaving the  
14 system to try to work is reduced. It just makes sense.

15 I think the Administration is opposed to it because they  
16 want to do a more general program eventually. I simply report  
17 that this was persuasively presented to us.

18 Senator Bentsen. Mr. Chairman, on those expenses that are  
19 attributable to the person's disability, for example, an atten-  
20 dant, that type thing, that might be necessary for a person to be  
21 able to be gainfully employed, are they given some kind of  
22 credit for that, Senator?

23 Senator Dole. Not the disabled.

24 Senator Moynihan. We go into that in the next bill.

25 Senator Bentsen. All right.

1 Senator Curtis. Does the next bill deal with this problem?  
2 Here is a severely disabled person who decides to work, and they  
3 do work, and by that they go off the eligibility of SSI. At the  
4 present time, I believe, they lose their Medicaid benefits, do  
5 they not?

6 Mr. Humphreys. Yes, sir.

7 Senator Curtis. I did not get to attend the hearing, but  
8 I have been wondering if this all or nothing was a wise thing  
9 from the government's standpoint, or just to the individual, that  
10 there may be some people that could break away from being an  
11 SSI recipient, but could not go the whole way. They could support  
12 themselves but they would need some help.

13 Does the other bill deal with this?

14 Mr. Humphreys. This is generally on the problem. The other  
15 bill deals with it also. It does not deal with it quite in the  
16 way you were suggesting.

17 The second bill attempts to deal with the problem that  
18 occurs when an individual goes to work, proves he is not disabled  
19 by working, loses his SSI, also loses his social services, also  
20 loses his Medicaid, and this could be worth a lot more to him  
21 than the value of work.

22 However, in this case, the Administration does have some  
23 very substantive objections to the bill and we think that they  
24 are probably well-founded objections. The problem is a real one.  
25 There are probably ways it can be solved, to deal with it, but the

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1 way that this particular bill deals with it is by essentially  
2 changing this definition of disability.

3 As I said earlier, the definition of disability under the  
4 law relates to whether you have the ability to work or not and  
5 the way H.R. 12972 attempts to deal with this is by loosening up  
6 this definition of disability. Instead of saying being disabled  
7 means not being able to work, earn \$240 a month which is pretty  
8 clearly a total disability, being disabled means not being able  
9 to earn at a higher level and that, under the bill, there are  
10 different expenses, but the level would vary from person to person  
11 but it would tend, on an average person, to be something like  
12 \$700 to \$900 a month. In a severely disabled person, it could  
13 be a much higher level.

14 Senator Moynihan. Mr. Chairman, may I say we are now  
15 distributing a substitute interim proposal which I will offer on  
16 this matter, when we get to it, which is the next bill. But the  
17 one we now have before us that Senator Curtis has raised is  
18 immediately pending business. As soon as we deal with this ques-  
19 tion --

20 The Chairman. Let me ask this. I think it would be well  
21 to hear the statement of the Administration's view on this thing  
22 about people going back to work. Who wants to state that?

23 Ms. Amadei. Do you want me to comment on the Stark bill?

24 Senator Dole. We do not have any problem with that one.

25 Ms. Amadei. We do not support it at this time but, as

1 Senator Moynihan characterized our position quite accurately, it  
2 is because of our interest in bringing forward a more comprehen-  
3 sive proposal next year. We do not have a generalized objection  
4 to the merits of that proposal.

5 The Chairman. On the merits, you do not object to it?

6 Ms. Amadei. We do not support it at this time because we  
7 expect to be making a proposal next year which will be much more  
8 comprehensive and would like to take it up then.

9 Senator Matsunaga. Mr. Chairman, may I ask this question?  
10 Last Sunday evening, I do not know how many of the Committee  
11 members watched the 60 Minutes show on SSI. I am wondering whe-  
12 ther this bill takes care of the problems that were so dramatically  
13 pointed out in that show.

14 Senator Curtis. I regret that I am compelled to leave.  
15 I prefer the Moynihan substitute.

16 Thank you.

17 Mr. Humphreys. We are dealing with two bills here, and  
18 H.R. 10848, I guess there is no real, substantive objection to  
19 that on anybody's part. The Administration has an objection on  
20 procedural grounds, but they would rather put that off.

21 The Chairman. Do we have any amendments to be considered  
22 on H.R. 10848, any further amendments?

23 Without objection, we will report the bill.

24 Let us consider the other one.

25 Ms. Amadei. Excuse me, Mr. Chairman, could I offer one

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1 technical possibility? If the Committee does decide to pass it,  
2 we would be amenable to drop the provision that says you have  
3 to go back and collect money in those rare instances where you  
4 found that someone who had been disabled was, in fact, not dis-  
5 abled later. We think the instances would be very few in number  
6 and the problem of going back and collecting money of those  
7 individuals would outweigh any benefit you might get in getting  
8 back that money.

9 We would have no objection.

10 Senator Moynihan. Drop the last sentence in the paragraph.  
11 That makes sense.

12 The Chairman. All in favor say aye.

13 (A chorus of ayes.)

14 The Chairman. Opposed, no.

15 (No response)

16 The Chairman. The ayes have it.

17 Without objection, the bill will be reported.

18 Senator Dole?

19 Senator Dole. I move we report 12972.

20 Mr. Humphreys. I believe the Administration has more  
21 serious reservations.

22 Senator Dole. Before we have the reservations, we should  
23 hear the reasons to report it.

24 Senator Moynihan. Let me say, first, that we received  
25 very powerful testimony on behalf of this legislation also.

1 Senator Dole. I understand some of the reasons why the  
2 Administration -- I am not certain that I disagree with those.  
3 I think we are talking about in April of '78, 50 percent of SSI  
4 recipients qualify on the basis of disability, 2 percent on the  
5 basis of blindness, 48 percent on the basis of age. So I think,  
6 to understand that the maximum amount a single person can receive  
7 is \$190 and a \$65 disregard, then we know what happens after that.  
8 We get back to the CBS 60 Minutes program; you start earning  
9 more money, you lose benefits. But there is a restriction placed  
10 on the disabled by the so-called SGA test which does not apply in  
11 other cases. It arbitrarily limits the earnings to \$240 a  
12 month and says that if you earn \$1 more than this, you are out,  
13 you do not get any benefits if you earn \$1 more.

14 And if the disabled not only lose the SSI and Medicaid  
15 benefits, according to the witnesses before the Public Assistance  
16 Subcommittee, the loss can amount to \$16 per month.

17 I am not here to quarrel about one group of handicapped  
18 might receive, as compared to another, but the blind, for example,  
19 can subtract work-related expenses to determine if they qualify  
20 for benefits. The disabled cannot.

21 In addition, in summary, the current law favors the blind  
22 and the disabled because, first of all, it restricts the earn-  
23 ings, as I have said, to \$240 as defined by the SGA. It allows  
24 the blind, but not the disabled -- let me again report that 48  
25 percent of SSI recipients are in the disabled category -- it

1 allows the blind, but not the disabled, to claim work expenses.

2 H.R. 12972 passed the House by a vote of 299 to 4. It  
3 was taken up by suspension procedure in the House. It changed  
4 the definition of disability.

5 The disabled would be able to earn up to the break-even  
6 point, \$440, without losing all benefits. That would, in effect,  
7 change the SGA from \$240 to \$440.

8 It would place the disabled on a par with the blind and  
9 benefits would begin to be phased out after earnings are passed  
10 with a \$65 disregard.

11 It also allows the disabled to disregard work-related  
12 expenses as the blind do, and they could claim itemized deduc-  
13 tions for expenses that are reasonably attributable to the  
14 earning of income. Thus, they raise the break-even point, I  
15 believe the testimony was \$700 to \$800.

16 We touched on the point that Senator Bentsen raised. It  
17 permits a disregard cost of attendant care, and this would be a  
18 new provision for both the blind and disabled.

19 I understand that CBO estimates the cost to be \$114 million.  
20 Some suggest it might go to \$181 million. The Administration does  
21 oppose the bill because they plan to bring in, I understand, a  
22 comprehensive program next year and then, of course, I am not  
23 certain what will happen next year, but the problem was here  
24 this year and it was here last year and the year before.

25 It would seem to me that one way to resolve it is to support

1 12972, and I would hope that we could defeat the Moynihan  
2 substitute and approve the other.

3 The Chairman. Let us hear what the Moynihan substitute is.  
4 Senator Moynihan. Mr. Humphreys, do you want to present  
5 it?

6 Mr. Humphreys. Well, first of all, the basic problem that  
7 the staff -- and, I think, the Administration finds with 12972  
8 is that it does modify the basic definition of disability and  
9 that is where initial determinations are as well, and it might  
10 well end up qualifying a lot of people for disability who are  
11 less severely disabled, even though its intention is to help the  
12 more severely disabled.

13 The substitute that Senator Moynihan is proposing is  
14 really strictly limited to the most serious problem and to those  
15 who have very severe disability and who face this danger of losing  
16 benefits because they go out and try to work.

17 It allows the Secretary, where somebody would be cut off,  
18 somebody who has a very severe disability, one that got him on  
19 the rolls without even looking at the question of whether he can  
20 work or not, because it was so severe, allows the Secretary to  
21 keep him on the SSI rolls with a nominal payment of \$10 a  
22 month, which could be paid quarterly for efficiency, but this  
23 would permit the individual to keep his Medicaid benefits and his  
24 Title XX benefits, and these are the things that really constitute  
25 a very severe disincentive to work because the individual, to some

1 extent upsets his loss to SSI by virtue of the fact that he is  
2 earning some money. But he does not offset the high medical  
3 costs he has, or social services that may, in some cases, provide  
4 attendants and whatnot.

5 A second element of Senator Moynihan's proposal would say  
6 that even if the individual's earnings would reach a point where  
7 he would normally be taken off the SSI rolls under these circum-  
8 stances, he can continue to receive this minimal benefit which  
9 would permit him to retain his Medicare and Medicaid eligibility.

10 This is with people who are already on the rolls. It would  
11 be a third year beginning in next January and continuing through  
12 fiscal year '81 to see what impact it had on costs.

13 It would include a directive to the Secretary to do some-  
14 thing we understand they are planning to do anyway, but to be  
15 sure that they report to Congress no later than March 15th what  
16 his recommendations, or other things that we can do, to deal  
17 with this problem of work incentives.

18 In the case of those who are on the rolls with the severe  
19 disabilities, it would allow determining gainful activity,  
20 whether or not they were no longer disabled. I guess they would  
21 direct the Secretary to not count, in looking at their income,  
22 the cost of any attendant. I believe it is attendant care.

23 What it does, it is clear the most severe problems are  
24 people who are most severely disabled losing their Medicaid and  
25 Social Services by virtue of going back to work.

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1 Senator Dole. What does that bill cost?

2 Senator Moynihan. We do not know what it costs, sir.

3 I would say to you that this is an interim measure. It responds  
4 to the fact that the Administration has testified that they did  
5 not want to see the bill that came to us from the House enacted,  
6 that they are going to make a major proposal to us next year  
7 about the whole question of disability, but in the meantime,  
8 there is no question about it. The disabled person makes his  
9 way, earnings go up, up, up. He reaches a point where an extra  
10 dollar or nickel -- he loses everything. He loses Medicaid, he  
11 loses Title XX services. It is as absurd a notch, to use a  
12 familiar term, as we have in the whole social welfare system.

13 This would prevent that from happening until we saw what  
14 the Administration thinks should be done and decide how we feel  
15 about that:

16 I do not claim it to be anything more than an interim  
17 measure with respect to a clearly indefensible situation, which  
18 is a disabled person who earns an extra dollar at a certain point,  
19 \$1 more takes away all of his medical care and social services.

20 Senator Dole. How does it work, then? How many more  
21 dollars can you earn?

22 Mr. Humphreys. In that sense, it goes further than 12972,  
23 in terms of avoiding the shart cut-off, because under 12972 at  
24 a certain point, at this higher break-even point, you lose the  
25 Medicaid and social services. Under this bill, the Secretary



1 would be able to continue the person on the programs until he  
2 got to a level of income where he could be self-supporting.

3 Senator Moynihan. If I may make the point, Senator Dole,  
4 it does not change the existing definition of who is disabled.  
5 It says, for people who meet that definition, can go on earning  
6 and not lose these other supports. The problem with the House  
7 bill is in ways we are very confident of -- I will let the  
8 Administration speak -- it seems to expand the definition of  
9 disabled, and this would mean anybody who, today, faces this  
10 awful notch would no longer do so under this provision.

11 I make no larger defense, because no larger defense is  
12 possible, but anybody who is in the situation today, which is an  
13 indefensible one, would no longer be. They would be taken care  
14 of.

15 I think that is right, Mr. Humphreys?

16 Mr. Humphreys. Yes.

17 Senator Dole. Is that because of the disregard for the  
18 attendant?

19 Senator Moynihan. Yes.

20 Mr. Humphreys. Partly, but it is also partly because this  
21 allows a continuation of a special payment.

22 Senator Dole. Where is that?

23 Mr. Humphreys. In number two, at the bottom. Essentially  
24 they would be given a special benefit which would be available  
25 as long as their earnings are insufficient to provide a reasonable

1 equivalent of combined benefits available under Title XVI, XIX  
2 and XX.

3 Senator Dole. Do you think that would take care of some  
4 of the disincentives?

5 Mr. Humphryes. It would take care of the most severe  
6 disincentive -- loss of Medicaid and social services.

7 Senator Dole. I think the loss of Medicaid and the social  
8 services, we addressed that in S. 2505, so that would certainly  
9 be some improvement.

10 The Chairman. I think we need a vote on it so we can move.  
11 We have other things to look at. If you want to change it on  
12 the Floor, amend it.

13 All in favor say aye?

14 (A chorus of ayes.)

15 The Chairman. Opposed, no?

16 (No response)

17 The Chairman. The ayes have it.

18 All in favor of reporting the bill, say aye.

19 (A chorus of ayes.)

20 Senator Dole. We did not vote on 13972.

21 Senator Talmadge. Senator Moynihan's was a substitute for  
22 that one.

23 The Chairman. If we can pass it, the whole thing will be  
24 in conference so we can have it -- theoretically you can have the  
25 best of both worlds in conference.

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1 Senator Dole. I am voting against it to preserve any  
2 rights I might have, any right on the Floor, to offer the other.

3 The Chairman. What remains? Mr. Roth, here.

4 Senator Ribicoff. Number five remains on the list.

5 Senator Matsunaga. Mr. Chairman, may I bring up one draft-  
6 ing error? Staff reminds me there is a drafting error which  
7 omitted opera glasses from my bill, as drafted a second time. I  
8 ask that my bill be modified to include opera glasses.

9 The Chairman. Without objection, agreed.

10 Tell us about the Ribicoff amendment.

11 Mr. Cassidy. Senator Ribicoff is referring to item number  
12 5, under matters which may be brought up. I refer you to staff  
13 document L, which is before you, and the caption at the top of  
14 staff document L is "Duty-free Imports from the Possessions of  
15 Watch Movements Containing Parts from Non-MFN Countries."

16 Senator Ribicoff. I think you should know a little bit  
17 about this history of this. This is a very worrisome problem.  
18 During August, when we had a lot of tariff to clean up, someone  
19 in the audience raised their hand and said that they had a prob-  
20 lem with watches coming in from the Virgin Islands, and I was  
21 very sympathetic to what they were saying, and there was nothing  
22 listed. We did not know anything about it. This is the first  
23 complaint that we have ever had.

24 And I asked the staff to look into it. This was in August,  
25 and I recommended that if anybody wanted to say something about

1 this, write to the Committee and let us know, and we did.

2 We were inundated with everybody in large business. The  
3 Administration never really had a chance to testify or talk about  
4 the problem. And I think that we have a very worrisome problem  
5 about everything coming in from the possessions.

6 What you have is the Virgin Islands and Guam, foreign  
7 countries ship their goods in almost completed. Somebody in the  
8 virgin Islands or Guam turns a screw or puts in a little part,  
9 the goods come into the United States. They are not labeled  
10 where they come in, whether they come from the Soviet Union or  
11 Germany or France or England or Korea or Taiwan and this is a  
12 problem.

13 There is no question that the Soviet Union in the last  
14 couple of years have been sending watch parts into the Virgin  
15 Islands and they have increased 800,000 a year. They send in the  
16 movements, and then someone in the Virgin Islands turns a screw.  
17 They come in, and they are not labeled "Soviet Union."

18 As far as that goes, neither are they labeled Swiss, German,  
19 Korean, Taiwanese, or anything else.

20 I would say that probably the company that is most affected  
21 is a company in Connecticut -- Timex -- and I am very sympathetic  
22 to their problem. But what you have here, there is an overall  
23 quota generally on all such watches coming in from the Virgin  
24 Islands,, no matter where they came from, so I told the staff to  
25 try to figure out what can you do. Until we really go into this

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1 whole problem of value-added in our possessions, and the staff  
2 came up with the suggestion that since there is an overall quota,  
3 until we know where we are going, let us put a quota to freeze  
4 what is coming in from the Soviet Union now, not meaning that  
5 these sort of watches come from the United States, because there  
6 is an overall quota on all watches coming in to the United  
7 States from the Virgin Islands, no matter where their starting  
8 point is.

9 This is so complex that my feeling is to really make an  
10 intelligent judgment you are going to have to have Commerce,  
11 Treasury, State, Interior look into this whole problem but come  
12 back and advise us. We have not been invited by anybody. The  
13 watch manufacturers want to stop it. I do not blame them. These  
14 people are just coming in from all over the world. They are  
15 supposed to go into the Virgin Islands and Guam so to keep the  
16 people in the Virgin Islands and Guam busy. There is only a  
17 few cents of labor put on in the Virgin Islands and Guam, but most  
18 of them work.

19 I do not know the answer, and we can come out of here with  
20 a horseback decision and pass a law, but that does not solve the  
21 basic problem that we are wrestling with. And to me, the only  
22 way to handle it is a stop-gap -- freeze what is coming in,  
23 freeze what the Russians send in, that is in the quota, because  
24 they come in as a part of the quota anyway.

25 They come from Taiwan, Germany, France. They come from

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1 Italy. They come from all over anyway.

2 And I think it does not add to what comes into the United  
3 States one way or the other. The State Department has got a  
4 concern. We have been trying to lessen the tensions between the  
5 United States and the Soviet Union. Everybody is trying to get  
6 back from the abyss that we have been in the last few months.  
7 Suddenly, just to pick on the Soviet Union -- it seems to me the  
8 only way to handle it is to freeze what they have coming in,  
9 which is within the overall quota coming from all over, so there  
10 are no added watches coming into the United States.

11 Then, let the Committee ask the State Department immediately,  
12 the Treasury Department, the Labor Department, Commerce, the  
13 Interior Department, to come in and tell us what exists, all  
14 of that.

15 I confess, I did not know a darn thing about it, Mr.  
16 Chairman.

17 Senator Talmadge. If the gentleman would yield, we have  
18 two plants in Georgia that are very adversely affected: Westclock  
19 and the entire watch manufacturing industry is very opposed  
20 to a quota approach.

21 First, they think it would be a very costly regulatory  
22 scheme to administer.

23 Senator Ribicoff. It is done every year. There is a  
24 quota approach now. There is a quota now. We are not adding  
25 anything new. There is an overall quota of all watches coming

1 in from the Virgin Islands and Guam to the United States and  
2 many countries. This is within the overall. We are not enlarging  
3 the overall quota. We are just freezing whatever the Russians  
4 could put in the overall quota. If it is not the Russians, it  
5 would be Swiss; if it is not Swiss, it would be Germans; if it  
6 is not German, it would be French; if it is not French, it would  
7 be Taiwan.

8 It is like quicksilver. It goes all over. Cut them off.

9 Senator Talmadge. Let me finish their argument.

10 In effect, they said that they called the Russians cheating  
11 by channeling watches through the Virgin Islands but with tariff-  
12 free status, but we will not prohibit this action, just limit it.  
13 Let them cheat just a little.

14 Our establishing a quota would have increases in a quota  
15 at a later date, for the quota does not guarantee a fair price  
16 on these Russian watches.

17 Westclock has two plants in Georgia, one in Athens that  
18 employes approximately 1,200 people. Their ability to compete  
19 is being damaged by the Russian watches which have increased from  
20 80,000 to 800,000 units in the past four years, and they support  
21 the House approach which is to add new language as outlined in  
22 their information jacket.

23 What was the House approach?

24 Mr. Cassidy. The House Ways and Means Committee has ordered  
25 reported a bill that would prohibit the duty-free entry of

1 any watch movement from the possessions which contains any parts  
2 from a non-MFN country. As a practical matter, the only two  
3 countries who supply parts to the possessions is the Soviet Union  
4 and East Germany. East Germany has a very small part of that.  
5 Essentially it is the Soviet Union.

6 In effect, this would prohibit duty-free entry of watch  
7 movements containing Russian parts. Those watch movements pre-  
8 sumably could enter the United States directly from the Soviet  
9 Union at the non-MFN rate of duty. Nobody knows if the Russians  
10 would divert their shipments to direct shipments to the United  
11 States. There is disagreement on that point.

12 The U.S. companies in the Virgin Islands using Russian  
13 parts say there would just be another trade, other people pouring  
14 in. There is a miniscule amount of Soviet watch movements made  
15 from Soviet watch parts now coming into the United States.

16 Senator Talmadge. These folks claim 800,000 units.

17 Senator Ribicoff. That is correct.

18 Senator Talmadge. Why would not the House approach be a  
19 better approach?

20 Senator Ribicoff. Because you are not changing the  
21 number of watches that are now coming into the Virgin Islands,  
22 the 800,000. I think that the overall quota is 6 million watches.

23 Mr. Cassidy. 7.4 million are permitted into the United  
24 states.

25 Senator Ribicoff. This 800,000 was in the 7.4 -- no, 7.4

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1 plus 8, so you are not going to get any less watches from the  
2 Virgin Islands, you are just going to say no Russian watches  
3 from the Virgin Islands. Everything coming into the Virgin Islands  
4 from a foreign country is more cheaply made than the United  
5 States.

6 You will not stop watches coming in. I do not like the  
7 whole thing. I think that the problem we have got is this.  
8 What do we do? The Virgin Islands and Guam, from all over the  
9 world, stuff is coming in. Somebody turns a screw and then it  
10 is not marked. Generally, if something comes in from a foreign  
11 country, it is supposed to stamp the country of origin.

12 This stuff keeps going into the Virgin Islands and Guam  
13 because somebody turns a screw. There is no country of origin  
14 stamped on that material.

15 I think we have a bigger problem, Herman, not just the  
16 800,000 Russian watches. That does not mean that you are going  
17 to have 800,000 less foreign watches coming into the United  
18 States. That 800,000 is put in the overall quota allowed for  
19 the Virgin Islands.

20 What we are saying in this proposal is let's freeze, within  
21 the quota, the number of Russian watches. We are not changing  
22 the quota at all. There is nothing to be gained.

23 As I say, 3,000 of these employees working in Connecti-  
24 cut. You are interested in Westclock, I am interested in Timex.  
25 There is a big problem. It is a question of being responsible

1 in what we are doing.

2 Secretary Bance is going over to the Soviet Union about  
3 October 20th to try to lessen tensions and come to some agree-  
4 ments. I am sure in a group of thirteen Senators going to the  
5 Soviet Union on November 9th to discuss overall tension problems  
6 between the United States and the Soviet Union.

7 The first thing you do -- and this does not do anything.  
8 It does not help American companies, but I do think, Herman,  
9 we have a problem. For American manufacturers with all of these  
10 countries going into the Virgin Islands and Guam, and bringing  
11 this stuff into here or going into Mexico --

12 Senator Talmadge. There are at least a half a dozen loop-  
13 holes, and Texas is doing the same thing. They will bring in  
14 a --

15 Senator Ribicoff. What they will do, they will bring  
16 a shirt in with a button missing, they will put a  
17 button on it. I think this problem is so much bigger than this.  
18 This is so miniscule it means nothing. But we have a very big  
19 problem.

20 One of the big problems with the textiles is textiles  
21 coming in from all over the world and coming into the United  
22 States with just a button added, or a buttonhole, or a stitch  
23 in the hem, and that comes in as American goods without its ever  
24 being labeled. That is what bothers me. Not that I am not  
25 sympathetic -- I was the one who raised it. I put this on the

1 agenda for the watch manufacturers in this country. This was  
2 not on the agenda. I think it just came on yesterday. I said  
3 I am going to put it on the agenda because I think it ought to be  
4 discussed.

5 But you have the Interior Department involved, the  
6 Commerce Department involved, the Treasury Department involved,  
7 the State Department. I think we should order the Executive  
8 Branch to come into us early next year and make a study of this  
9 and tell us what this is all about. This is what bothers me.

10 The Chairman. Could I suggest this? We need to make a  
11 few more decisions, otherwise the Senate will not be able to act  
12 on these at all. May I suggest we take the Ribicoff amendment and  
13 then in conference, it would be between the bills. You could work  
14 it out in the best way you can.

15 Senator Matsunaga. If I may raise a point of information  
16 in conference with H.R. 8222 --

17 Mr. Cassidy. That, to our knowledge, has not passed the  
18 House. It is on the House calendar.

19 The Chairman. But you can submit it with this.

20 Senator Dole. That applies to everything, not just watches.

21 Mr. Cassidy. General treatment of the territories'  
22 tariffs.

23 Senator Ribicoff. I do not know anything about H.R. 8222.

24 Senator Matsunaga. This is the one that lowers the 50  
25 percent requirement of American imports to 30 percent.

1 Mr. Cassidy. We have other bills in Committee.

2 The Chairman. Which ones?

3 Senator Ribicoff. Have we had hearings on H.R. 8222?

4 Mr. Cassidy. We have not received it.

5 The Chairman. What bill?

6 Mr. Cassidy. H.R. 9628. It has been passed.

7 The Chairman. Put it on there, then.

8 Mr. Cassidy. Excuse me, one point. Senator Ribicoff has  
9 mentioned freezing the quantity of watch movements coming in.  
10 The proposal which is described in the document before you would  
11 permit up to 20 percent of the existing quota to be non-MFN  
12 Russian, that is watch movements.

13 According to the statistics from the Department of Commerce,  
14 the current statistics of Russian and East Germany watch movements  
15 is 15 percent.

16 Senator Ribicoff. Freeze it at 15. Just freeze it.

17 The Chairman. All right. All in favor of reporting the  
18 bill, say aye.

19 (A chorus of ayes.)

20 The Chairman. Opposed, no?

21 (No response)

22 The Chairman. The ayes have it.

23 All right.

24 What else do we have here? Let's take up Senator Roth's  
25 proposal.

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1 Senator Roth. Mr. Chairman, I would ask that the Senate  
2 Finance Committee act favorably on the Trade Adjustment Assistance  
3 bill, H.R. 11711. This legislation was adopted by the House by  
4 a vote of 261 to 24 on September 8th, which indicates that it  
5 does have broad, bipartisan appeal.

6 The Chairman of the Finance Committee was requested by a  
7 group of Senators, 24 of both parties signing it, asking that we  
8 take action this year. Yesterday- I held hearings here on this  
9 legislation. What this bill does, Mr. Chairman, is try to take  
10 care of some of the deficiencies that now exist in the trade  
11 adjustment legislation.

12 We found, through experience, that many workers who should  
13 be qualified to receive assistance have not received the help  
14 they are entitled to. We have found that a number of firms who  
15 should be entitled to Title II firm assistance likewise have not  
16 benefited from the legislation we adopted in '74.

17 The House bill attempts to take care of these problems. It  
18 would broaden the adjustment assistance program for workers by  
19 extending eligibility to workers in firms which provide services  
20 or articles which are essential to the production of import-  
21 impacted products and to workers manufacturing component parts  
22 and the subdivision of an impacted company.

23 It would also provide additional benefits to older workers.  
24 The job search and relocation benefits are increased, and the  
25 threshold of eligibility is lowered somewhat for senior

1 workers.

2 With respect to firms, Mr. Chairman, the bill broadens  
3 eligible requirements to conform with changes in the worker  
4 program, making it easier for them to receive technical assistance  
5 and would, in addition, make loans to affected businesses  
6 decrease, and I would urge that we report this legislation out  
7 favorably.

8 I do propose, Mr. Chairman, that we make the effective date  
9 July 1st, 1979.

10 The Chairman. The Administration is apparently for most  
11 of it, but against one part of it here. Is that correct?

12 Mr. Cassidy. We have representatives of the Administration  
13 here. They will speak separately. Commerce speaks to the firm  
14 adjustment assistance program, and Labor speaks to the Labor  
15 adjustment assistance program.

16 The Chairman. The part you are for, there is no point in  
17 talking about that. Let's talk about the part you have issue  
18 with.

19 Mr. Knichbacher. We will take the labor provisions. We  
20 oppose Section 101, which would provide, on a retroactive basis,  
21 liberalization of the current one-year limitation in the Trade  
22 Act. The Administration does not believe that any adjustment  
23 purpose would be served by this provision. It is an extremely  
24 costly one -- the estimate is \$50 million.

25 The Administration also opposes proposed modification of

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1 Section 103 which currently would provide coverage for workers  
2 and firms supplying other firms which had been adversely affected  
3 by the imports on the basis of the 25 percent criterion. The  
4 Administration could support the criterion of 50 percent if it  
5 were limited just to components, rather than components and  
6 services.

7 The way it is presently worded, the cost is excessive.  
8 The Congressional Budget Office estimates it is \$73 million.

9 Section 106, the Administration opposes the liberalizing  
10 of the alternative qualifying requirements for workers. That would  
11 provide that the workers qualify for benefits within a 104-week  
12 period. We think this lessens the standard and think that the  
13 present provision of 26 to 52 weeks should prevail. The cost of  
14 the proposed amendment would be \$16 million on an annual basis.

15 The Administration also opposes the extra weeks, possibly  
16 26 extra weeks, for workers between 60 and 62, because we think  
17 it is an unwise precedent to encourage older workers to stay on  
18 an income maintenance program until they can qualify for reduced  
19 Social Security benefits.

20 The Chairman. Do you modify your proposal to meet some  
21 of the objections, Mr. Roth?

22 Senator Roth. Yes. We could meet, I think, some of those  
23 objections, Mr. Chairman, but not all of them. I do feel very  
24 strongly -- and I know the House made a special study with respect  
25 to the workers, that there are many cases where the broadened

1 eligibility only brings equity into the picture because companies  
2 when they begin to have trouble, do alternate work weeks and so  
3 forth to spread the work, and all of a sudden they find these  
4 employees are not available for their work benefits. I do not  
5 agree with that.

6 In the case of firms -- I see nothing wrong with dropping  
7 the 25 percent and moving to the 50 percent cut-off for firms  
8 as suggested by the Administration. What I would suggest, Mr.  
9 Chairman, in lieu -- there are a number of retroactive cases  
10 that are regly inequitable and unfair because people and workers  
11 did not know about the benefits. That has been part of the  
12 problem.

13 It is also a fact that, in some cases, they did not apply,  
14 or the unions did not apply, because they were concerned because  
15 they would lose other rights.

16 In an effort to meet some of those objections, I would  
17 think that we could limit the retroactive activity to October  
18 '76 rather than '74.

19 The Chairman. Without objection, it will be so modified.

20 Mr. Cassidy. You are saying you will accept all the  
21 Administration's suggestions for modifying?

22 Senator Roth. October 3, 1974 -- I read that wrong -- to  
23 October '76, that is right. That is the period where a number  
24 of these inequities developed.

25 Senator Bentsen. Let me understand, because I am concerned



1 with the retroactive feature. I do not know where you finally  
2 came down with these dates -- retroactive to what date?

3 Senator Roth. October 3rd. We would make it retroactive  
4 October 3, 1974 to November 1, 1976. There are a number of  
5 cases, Senator Bentsen, in that period where either there was no  
6 knowledge about the program and workers, as a consequence, did  
7 not get the benefits, and secondly, there are a number of other  
8 cases where the unions were concerned about taking action here  
9 because of the effect it might have on other rights.

10 So that the House did adopt this legislation, making it  
11 retroactive over these periods, to correct these inequities.

12 Mr. Cassidy. The Administration position is that  
13 where you set revenue goals for the retroactive provision by  
14 approximately 40 to 50 percent, what is here a one-time cost  
15 of \$50 million. So roughly \$25 million, one-time across the  
16 fiscal year.

17 Senator Bentsen. Are the Senators agreed to the other  
18 recommendations of the Administration?

19 Mr. Cassidy. There is one I want to go through to see  
20 exactly -- that would be Section 101, with an effective date,  
21 you said, of July 1, 1979?

22 Senator Roth. For the date of enactment, a benefit to  
23 workers and component parts, we would make it July 1, 1979.

24 Mr. Cassidy. The Administration also had some difficulties  
25 with the change in the eligibility requirements for adjustment

1 assistance for workers. The House bill would change the criteria  
2 so that if workers working for a firm whose sales or production  
3 threatened to decline they could be certified to file for  
4 benefits, although no payments would be made until an actual  
5 decline had occurred.

6 Senator Roth. I would be agreeable to dropping that section,  
7 when firms are threatened.

8 Mr. Cassidy. The Administration has no objection to that  
9 in this provision, but this provision they did object, to extending  
10 eligibility to workers to a firm which supplies not less than  
11 25 percent of its articles or services to an import-impacted  
12 firm.

13 Senator Roth. I would ask, Rick, if you would explain why  
14 we would like to continue that provision.

15 Mr. Johnston. The explanation, essentially, is that if  
16 you require 50 percent of the input from the supplying industry,  
17 the supplying firm, to go into the import-impacted industry, in  
18 effect, you already have an integrated firm whereas if you drop  
19 down to 25 percent and you allow these firms to supply the impact  
20 to the impacting firms, you are really providing for those  
21 independent producers who are not a part of an integrated firm  
22 covered by current law.

23 Current law does not allow for independent firms who  
24 supply only 25 percent of the parts to import impacted firms.

25 Mr. Cassidy. That would apply to services as well as

1 parts. The law only applies to products.

2 Senator Roth. The House bill does extend it to service  
3 industries as well.

4 Mr. Cassidy. I understand it, the next Administration  
5 objection is in the change of the eligibility requirements.  
6 Under the present law, an adversely affected worker must file  
7 52 weeks immediately preceding little or part separation, at  
8 least 26 weeks of working affecting employment, and that employ-  
9 ment must be with a single firm.

10 The House bill would provide an alternative test with 40  
11 weeks of employment during the preceding 104 weeks immediately  
12 preceding total or partial separation and eliminates the single  
13 firm requirement.

14 The Administration has no problem with the single firm  
15 change, although it does oppose the alternative clause test.

16 Senator Roth. I commented on that earlier. The House held  
17 hearings on that and they found that it was inequitable. There  
18 are a number of companies which, when they are faced with  
19 imports, make a genuine effort to spread the work to speak,  
20 and as a result, will alternate work weeks and take other steps  
21 to spread the work.

22 As a result of these efforts to minimize the impact,  
23 certain workers have found that they are ineligible.

24 In the House report, it says, "Many cases have come to the  
25 attention of the Committee of workers unable to meet the 26

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1 weeks of work requirement in the year immediately preceding  
2 lay-off due to short, intermittent work weeks as the plant  
3 begins to experience import impact and institutes shorter work  
4 schedules rather than immediate, permanent lay-off of some of  
5 the labor force.

6 "These workers usually have had a long attachment to the  
7 labor force. The more junior employees with less seniority would  
8 be the workers subject to immediate lay-offs and shorter work  
9 schedules.

10 "The Committee believes the amendment would provide greater  
11 equity in the coverage of workers by serving the intent of  
12 existing law that workers have a substantial attachment to the  
13 labor force over a two-year period."

14 I agree with that conclusion. I think, as a matter of  
15 fact, that not to include this provision would be self-defeating  
16 because you would be discouraging firms from taking steps to  
17 share their work when they meet these difficult problems.

18 Mr. Humphreys. The next item on which the Administration  
19 has an objection has to do with the length of benefit entitlement.  
20 Under present law, you get 52 weeks of regular trade adjustment  
21 benefits, and then in two circumstances, you get extra weeks.  
22 In each case, it would be six months.

23 The other case would be if you need the time for a training  
24 program or if you were over 60 at the time you became unemployed.  
25 The bill would extend that extra six months of benefits so that

1 there would not be an extra one-year of benefits, but not  
2 extending beyond the point where you reached age 62.

3 Senator Roth. It is my understanding that the Administra-  
4 tion -- they have withdrawn their objections to this area. I  
5 would, however, point out that one of the principal purposes  
6 of this legislation is to retrain workers, and that is one of  
7 the reasons for the extent.

8 They found that the program was not having the beneficial  
9 effect with respect to training and help the older workers make  
10 the adjustment.

11 The Chairman. Let me make this suggestion. We are going  
12 to have time running out on us. Let me suggest that we go ahead  
13 and report the bill as you modified it. You can further  
14 modify it on the Floor. Would that be satisfactory?

15 Senator Roth. Yes.

16 The Chairman. All in favor say aye?

17 (A chorus of ayes.)

18 The Chairman. Those opposed?

19 (No response)

20 The Chairman. The ayes have it.

21 Senator Bentsen has a matter.

22 Senator Bentsen. This is for Senator Hathaway. I under-  
23 stand the staff does -- he had another meeting and he asked that  
24 if H.R. 8533, which has passed the House, be brought up, and  
25 staff was knowledgeable on it.

1 The Chairman. Is that the bill on the calendar at the  
2 desk?

3 Senator Bentsen. A bingo bill.

4 I would exempt from the unrelated business income tax  
5 certain bingo income.

6 Mr. Shapiro. That is correct. H.R. 3533, which passed the  
7 House last week and is presently at the desk.

8 Senator Bentsen. This is on behalf of Senator Hathaway.

9 Mr. Shapiro. Senator Hathaway was interested in bringing  
10 this bill up and getting the Committee's approval. Under present  
11 law the tax-exempt organizations are not taxed on income, however,  
12 certain of their income is unrelated income, and therefore that is  
13 taxed on the unrelated income tax. There are some court cases  
14 that tax certain exempt organizations on income, or proceeds  
15 from bingo games when they are regularly carried on by the  
16 organization with paid labor, even though that organization is  
17 not in competition with other businesses.

18 The House bill deals directly with bingo and says that  
19 these tax-exempt organizations, including the political organiza-  
20 tions, would be exempt from the unrelated business income tax  
21 on proceeds of bingo games, regardless of what these games are  
22 regularly paid on with paid workers. Because this has been an  
23 issue, back to the date of the enactment of the House bill that  
24 provided the income tax, the effective date is December 31, 1969  
25 on tax-exempt organizations and December 31, 1974, with regard

1 to political organizations.

2 The Chairman. If there is anybody on the Committee who  
3 objects to the bill, they can indicate this. It has been stopped  
4 at the desk.

5 When reported back, it will be under the three-day Labor  
6 bill, as I understand it.. So I assume, calling the bill from  
7 the calendar, if there is any objection, it should be expressed.  
8 This proposal that Senator Hathaway has would do what?

9 Mr. Shapiro. It would agree to the House-passed provision  
10 which would exempt a central organization and political organiza-  
11 tions from taxes they receive on bingo games, even though they  
12 may be carried on with paid labor. There is a special provision  
13 in the law that deals with volunteer labor and paid labor.

14 The Chairman. Is he proposing an amendment to it, or that  
15 the bill be considered.

16 Mr. Shapiro. I think he would like the Committee to approve  
17 the House-passed provision so it can be taken from the desk and  
18 passed or, alternatively, that when it is put on the big tax  
19 bill or another tax bill, it has the approval of the Committee.

20 The Chairman. If there is no objection to it, we will  
21 approve it. We have no objection to the bill, and approve it.  
22 Obviously, it is not a Committee-reported bill. Just a motion  
23 made to call it up.

24 Mr. Shapiro. That is correct.

25 The Chairman. Is there any further bill?

1 Senator Moynihan?

2 Senator Moynihan. Mr. Chairman, this is a measure that  
3 Senator Hathaway, Senator Packwood and myself would like to have  
4 considered. It is a measure that is first in my experience.  
5 The officials of the Bellco Petroleum Company have come to me.  
6 Evidently, it is a general provision.

7 In 1976, the IRS ruled in a case involving Indonesia that  
8 companies working under production share arrangements, that  
9 production sharing, that that part which is received is given  
10 up, would be regarded as a royalty and not a tax. And one  
11 company in Indonesia was involved at the time and other companies,  
12 other firms, were given until 1976 to work out new arrangements  
13 which would bring them into conformity. The Revenue Act of 1976  
14 made this provision. It turned out to take much longer than  
15 expected and this bill would simply have the effect of extending  
16 the independent producers, giving them two more years for working  
17 out production sharing contracts.

18 I believe it is a matter of equity. Senator Bentsen so  
19 regards this.

20 Senator Bentsen. Mr. Chairman, recalling the debate on  
21 this in '76, it was an attempt to correct inequity on production  
22 sharing contracts and to give them time to renegotiate them, and  
23 the inequity, wherever it was found -- not only limited to Indo-  
24 nesia -- and there were a number of companies involved.

25 It also was not applicable to the major oil companies



1 because of their foreign tax credits and great surpluses. It  
2 really did not apply to them.

3 It applied, in effect, to the independent companies and  
4 the question of inequity, wherever it was around the world, it  
5 was applicable, and that really was the intent.

6 Mr. Shapiro. The issue here is whether or not the produc-  
7 tion payments are taxes which would mean that they are creditable.  
8 If the production share payments are created as a tax to another  
9 country, then the country paying those payments would get a  
10 foreign tax credit. If the production share payments were  
11 treated as royalty, or something other than taxes, then the  
12 company could not get a foreign tax credit.

13 The Internal Revenue Service came out and issued Revenue  
14 Ruling 76-215 which stated that production sharing contracts  
15 with the Indonesian government would no longer be treated as  
16 creditable for foreign tax credits. The companies who had these  
17 arrangements with Indonesia could not get a foreign tax  
18 credit.

19 The 1976 Tax Reform Act dealt with this specific case by  
20 saying that they deferred the effective date of that ruling until  
21 the end of 1977 to allow these companies to renegotiate their  
22 arrangements with Indonesia, to put the form of their payments  
23 so that they could be treated as taxes.

24 The problem that has come to the attention since then, that  
25 Senator Moynihan has reference to, that Bellco and other companies

1 have situations that do not involve Indonesia, not covered under  
2 the revenue ruling or statute. Bellco has a problem with Peru,  
3 and they would like to be able to renegotiate with Peru.

4 They need two things. First, they need, since the revenue  
5 bill does not cover them, they need to come under the revenue  
6 ruling and, at the same time, they need an extension of the  
7 statute; the '76 Act only covers the years through '77, and they  
8 are asking for it to be liberalized to have two additional years  
9 until the end of '78 to renegotiate with these countries, to have  
10 their payments creditable.

11 The Chairman. Now, I do not suppose I have any objection  
12 to the amendment itself. How could we bring this matter to the  
13 attention of the Senate, Mr. Shapiro? What bill could it be put  
14 on?

15 Mr. Shapiro. I am not sure how they would like it. I  
16 think many of the sponsors are hoping that the Committee will give  
17 their approval and then it could be put on a tax bill or some  
18 other bill. There is no suggestion as to what bill this should  
19 be put on as of now.

20 The Chairman. Why do we not simply say that this was  
21 discussed in the Committee and no one expressed any objection to  
22 it.

23 Mr. Halperin. The Treasury Department would like to  
24 express its objection to this amendment.

25 Mr. Hannas. There are some problems with the bill that

1 we should point out. First of all, it may be premature. The  
2 taxpayer has an opportunity to obtain administrative relief from  
3 the Internal Revenue Service. If that relief could be gotten  
4 based on doctrinal lines, as in the case of Indonesia, then the  
5 taxable years, including '77, would be taxed.

6 It is not clear here whether or not the same case of  
7 doctrinal action exists as was the case in Indonesia, although  
8 I think that a case could be made. If we take the legislative  
9 route, we would cover perhaps as many as 21 different countries  
10 that use various forms of production sharing agreement, some  
11 of them which are not even called income taxes.

12 In the case of Indonesia, there was a general income tax.  
13 That was creditable. We do not know whether, in all of these  
14 other countries, there are such general income taxes.

15 There has been information available since the middle of  
16 '76 as to what particular countries and a U.S. company must do  
17 to conform to credit standards, particularly in the case of  
18 production sharing, so that there has been two and two and a  
19 half years for countries and companies negotiating. This has  
20 been done in the case of Indonesia, and a favorable ruling was  
21 published earlier in this year involving Indonesia.

22 I might say that perhaps we have put ourselves in the  
23 difficult position of extending the period for conformity until  
24 the country most reluctant to negotiate steps forward and strikes  
25 up a deal with the U.S. company.

1 The Chairman. What country is that?

2 Mr. Hannas. There are 20 different countries that use  
3 production sharing. Only one of these countries, Indonesia, has  
4 stepped forward to date and it has negotiated a new contract.  
5 Other countries may be working on that, but we have no knowledge  
6 of that.

7 Senator Moynihan. Would it help -- I know it would be  
8 agreeable to my cosponsors if we limited this to countries  
9 operating in the Western Hemisphere. That narrows it, probably.

10 Mr. Hannas. Well I suspect, sir, that we will have  
11 additional requests like this involving countries like Saudi  
12 Arabia and Libya and I think there is a possibility for adminis-  
13 trative relief and I think there is such a possibility in this  
14 case, that that would be a preferable route.

15 Mr. Halperin. Mr. Chairman, our point is if they relied  
16 on prior Revenue Service rulings and they can make their case,  
17 the Service will give them prospective-only treatment. If they  
18 had not relied on those rulings and did not have a case for  
19 legislative or administrative relief, it seems to me the first  
20 thing they should come in as to their losses to see if they  
21 can work things out that way.

22 Legislation has an open-ended thing in front of it. We  
23 do not know how many cases are affected. Indonesia has worked  
24 hard to reach an agreement with the affected companies. I would  
25 say, let's postpone the date for two more years.

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1 Senator Moynihan. Obviously there is equity on both sides.  
2 The people here do not feel that they are getting administrative  
3 settlement.

4 Mr. Chairman, I would say that this should be accepted by  
5 the Committee for the Western Hemisphere for these two years.  
6 I will make it my business to see that it is not thereafter  
7 established, because there is an administrative relief procedure  
8 which is normally applicable and normally works.

9 Mr. Hannas. We have suggested to the taxpayers that they  
10 approach the Internal Revenue Service, but they have not done  
11 so.

12 The Chairman. I would hope that this will be offered on  
13 some bill or another, not that big tax bill out there, because  
14 there is enough controversy on that bill as it is now.

15 Senator Moynihan. May I make this suggestion? Does  
16 Treasury or the IRS really feel that they can deal with this tax  
17 payer and they would expect to see him?

18 Mr. Hannas. I think, if the taxpayer would approach the  
19 Internal Revenue Service we would have, in a very short period  
20 of time, a response, and if there appears a problem, we can deal  
21 with it at that point.

22 Senator Moynihan. If there is a problem that needs  
23 legislation, we can deal with it now.

24 Mr. Hannas. That would be more appropriate.

25 Senator Moynihan. One last question. What do you mean by

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a very short time?

Mr. Hannas. There is a procedure at the IRS where an informal response can be given to the taxpayer in approximately 15 days.

Senator Moynihan. I will withdraw the matter.

I thank the Chair.

Senator Bentsen. Let me ask one point. If there not a historical reluctance on the part of IRS to follow Treasury's advice? Are you speaking for the IRS or Treasury?

Mr. Hannas. Treasury. There are published rulings involving Peru, and normally with the published rulings, that is modified, prospective relief is given.

The Chairman. The Committee stands in adjournment.

(Thereupon, at 1:10 p.m., the Committee adjourned.)

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