

1 have any questions.

2 The Chairman: Is there any objection to reporting out
3 these nominations?

4 Senator Chafee: Mr. Chairman, I take it that this is a
5 very part-time thing. What do they get paid?

6 Mr. Stern: I believe they are paid the maximum per diem,
7 the daily share of Grade 18 salaries, or something like that. I
8 am told it is \$138 a day.

9 Senator Chafee: Could Mr. Gwirtzman rise so I could see
10 him?

11 I think that we confirmed Mr. Gwirtzman earlier this year,
12 did we not?

13 The Chairman: He was before us.

14 Senator Chafee: I have no objection. Thank you very much.

15 The Chairman: We are talking about the nomination of Mr.
16 Gwirtzman, Mr. Dillman, Ms. Duskin, Mr. MacNaughton and Mr.
17 Rodgers.

18 Those in favor, say aye?

19 (A chorus of ayes)

20 The Chairman: Opposed, no?

21 (No response)

22 The Chairman: The ayes have it. We will report those
23 nominations.

24 Without objection, at this point we will insert into the
25 record the biographical sketches of the five nominees to the

1 The Chairman: What else do you have here?

2 Mr. Stern: Maybe we could go to item number three, Mr.
3 Chairman, the National Commission on Unemployment Compensation
4 extension.

5 The Chairman: I have a letter from David Boren saying that
6 he will not be able to be here today, but he would hope that we
7 would report his legislation favorably and he hopes that they
8 can be reported out with amendments.

9 He conducted the hearings on it, and he feels if amendments
10 were to be offered, we would defer it, to wait until he could be
11 back, but he would hope that we would report it out with
12 amendments. That is basically what he said in his letter.

13 Is there any objection?

14 Senator Chafee: All it does is just extends it, Mr.
15 Chairman.

16 Mr. Stern: The National Commission on Unemployment will
17 expire at he end of this month unless this provision is
18 extended.

19 The Chairman: Let me read his letter. The key points, he
20 says, "As you know, the Commission was established on October
21 20, 1976. Due to delays in appointment of members, the
22 Commission was not able to conduct its first meeting until
23 March, 1973.

24 "It is my hope that the Committee will act favorably on
25 H.R. 3920. Under the current law, the Commission will expire at

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1 the end of this month. Any delay created by the amendment would
2 make it most untimely, that we can meet the time restraint.

3 "In the event that the Committee wishes to amend the bill,
4 I would appreciate your carrying it over until the Tuesday,
5 September 25 meeting.

6 That is Senator Boren's letter.

7 Senator Chafee: Mr. Chairman, may I ask a couple of
8 questions? This does more than just extends it, though. As I
9 understand it, it makes some substantive changes in the law.

10 For instance, the exempting of collecting unemployment
11 compensation for alien farmworkers.

12 Mr. Humphreys: It continues the existing situation. These
13 alien farmworkers are now exempt, for unemployment taxes, on a
14 temporary basis.

15 Senator Chafee: The tax is paid by the employer?

16 Mr. Humphreys: The tax is paid by the employer, that is
17 right.

18 Senator Chafee: The employer is exempt?

19 Mr. Humphreys: That is right. This is one of the items,
20 agricultural coverage, et al., that came into being with the '76
21 amendments. This was one of the items that the Commission was
22 supposed to study and support on.

23 In the meantime, this exemption was put in, and was to have
24 expired at the start of next year, so that this bill would
25 continue that exemption for an additional year.

1 Senator Chafee: I do not understand, Mr. Chairman, while
2 alien farmworkers, admittedly cannot collect, but if the
3 employer does not pay the tax, then is there not an incentive on
4 the employer to hire alien farmworkers, because his net costs
5 are going to be lower?

6 Mr. Humphreys: In theory, that should not happen because
7 these alien farmworkers cannot be brought into the country
8 unless there is a finding by the Labor Department that there are
9 no domestic workers available.

10 The purpose for putting it in on a temporary basis was so
11 that there would be time to develop a study and find out whether
12 that kind of incentive existed.

13 I said it was a one-year extension. It does extend it
14 until 1980, extends the exemption until 1982, which would be
15 after the point of the Commission's report.

16 Senator Chafee: Is there not something about camp
17 counselors, too?

18 Mr. Humphreys: Not in this bill.

19 Senator Chafee: Well, will we have another crack at it in
20 two years?

21 Mr. Humphreys: Yes. That provision would, again, expire
22 as of January, 1982.

23 Senator Chafee: Thank you.

24 The Chairman: Is there any objection to reporting the bill
25 out? Without objection, the bill will be reported.

1 All right.

2 Mr. Stern: The next item.

3 The Deep Sea-Bed Mineral Resources Act. This is the bill
4 that was handled by the Commerce Committee, but it does have
5 some tax features and was referred to the Finance Committee
6 basically until the end of this month.

7 Senator Matsunaga: Mr. Chairman, this was a bill that was
8 reported out to the Senate. The Senate acted upon it, and the
9 House acted upon it, but there was not time to get it out of
10 conference on the Senate Floor. It has been reported out
11 unanimously out of the Commerce Committee, the Science, Commerce
12 and Transportation and out of the Foreign Relations Committee
13 without any objection.

14 This Committee has, from August 9 last year, this Committee
15 reported out the measure unanimously. It is the identical
16 section of the bill which has been referred to this committee.
17 I see no difficulty, if there are no objections.

18 I, as the principal author of the bill, move that the bill
19 be reported out.

20 The Chairman: Could I just ask, what is the taxing
21 feature?

22 What is the aspect of it over which we have jurisdiction.
23 What does it do that gives us some jurisdiction here?

24 Mr. Shapiro: One of the provisions of the bill provides
25 for an excise tax. That excise tax has a rate of 3.75 percent

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1 of the imputed value of the nodules that are removed ---that is,
 2 the manganese, nickel, cobalt, copper in this nodule, taken from
 3 the ocean. However, that imputed value is defined as 20 percent
 4 of the fair market value of the commercial, recoverable metal or
 5 mineral contained in the nodule.

6 That means that the effect of this is that we have a .75
 7 percent rate of the fair market value of the recoverable metals.

8 I just happen to have a nodule here to show you. This is
 9 the nodule that is taken from the deep seabed of the ocean.
 10 This nodule here includes manganese, nickel, cobalt and copper.
 11 You take the commercially recoverable value of what is in here,
 12 and the effect of it is a .75 percent tax on the value of the
 13 commercially recoverable value of what is in here.

14 The proceeds are put into a fund -- not a trust fund or
 15 revenue sharing fund, but a deep seabed fund. That money is
 16 available for whatever purposes Congress provides by further
 17 legislation. It can be used for purposes that are a part of the
 18 deep seabed. That is agreed to in any negotiations, but
 19 Congress has to deal with it in further legislation.

20 The tax takes effect in January, 1980 and it terminates
 21 after ten years, so the tax is in effect for a ten-year period.
 22 As far as the revenues are concerned, the general feeling that
 23 we have now from the information that we have is that there will
 24 be no tax for the first five years because there is not any
 25 commercial value at this point. There is not much exploration

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1 that would be done.

2 When you have full production of the money, it is expected
3 that the tax will raise approximately \$5 million a year. That
4 is based on the information we have now, so we are talking about
5 a ten-year program where the tax is in effect for ten years.

6 The first five years there will be no revenue raised.
7 After that approximately \$5 million, which will go into a deep
8 seabed fund which requires further Congressional action to spend
9 from that fund.

10 The Chairman: Well, we voted on it before. We have passed
11 it out before. The prime jurisdiction is in the other
12 Committee. If there is no objection, I suggest we report the
13 bill out.

14 Is there any objection to it?

15 Without objection, the bill is reported.

16 Do we have any other business, other than the crude oil
17 tax?

18 Mr. Stern: No, sir. That is it.

19 The Chairman: Now, with regard to the crude oil matter, I
20 want to ask, when can we see a plan for the low-income people to
21 help ease the burden of the energy on low-income people?

22 Mr. Stern: Mr. Chairman, we are trying to gather together
23 all the different types of plans in one document, which we would
24 hope to have ready to give to the committee on Tuesday morning.

25 The administration has a plan. I know of plans that

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1 relate to this in one way or the other by Senators Ribicoff,
2 Moynihan, Heinz, Dole -- and perhaps there are others that I
3 have just forgotten to mention.

4 What we are trying to gather is put them together in one
5 place so that you can see them rather than take them up one at a
6 time.

7 The Chairman: Senator Dole informed me that he would not
8 be able to be with us on Monday, and he hoped we would not meet
9 on Monday in his absence. In view of the very active part he
10 has taken in constructing this bill, I think we should honor
11 that request, so we can be looking at this matter on Tuesday.

12 And I would hope that you could get as much information as
13 possible to us available even on Monday, so the Senators can be
14 looking at it. Perhaps we might want to be thinking about it
15 and discussing it with other Senators before we have the meeting
16 on Tuesday.

17 I think most people here agree that we should do something
18 to ease the burden on low-income people. The sooner we have
19 information, the better off we are all going to be, and we can
20 start putting our thoughts together.

21 I had the impression that Senator Nelson wanted to offer an
22 amendment this morning. I do not see him.

23 Mr. Shapiro: Mr. Chairman, let me also say we will have
24 all the material that the Committee has been requesting on the
25 windfall profit taxes available by Tuesday, so that I would

1 think that we would begin to discuss the tax on Tuesday morning
2 as well.

3 The Chairman: All right.

4 So the materials on the tax will also be available on
5 Tuesday?

6 Mr. Shapiro: Yes.

7 The Chairman: Fine.

8 Senator Packwood: I thought, Mr. Chairman, we were going
9 to come to the tax last after we had gone through the low-income
10 deduction and all the other plans and then see what it cost and
11 see where we had to scale it down to fit the tax, rather than
12 going through the tax first.

13 The Chairman: Well, that is one reason that supported
14 looking at these other cost items first. As a practical matter,
15 we held off the tax because members wanted to try to get some
16 better estimates on the supply response. Is that not right, Mr.
17 Shapiro?

18 Mr. Shapiro: That is correct.

19 The Chairman: They have been trying to get from the
20 staff, and the staff has difficulty in complying with it,
21 because of the limitation of funds and lack of expertise in the
22 energy production area, the information that they wanted to try
23 to estimate the production response to the various tax aspects
24 of this measure, or the various suggestions for exemptions, or
25 credits, deductions or whatever.

1 They hope to have something available on Tuesday for that.

2 Mr. Stern: Mr. Chairman, I have just been told that
3 Senator Nelson is on his way over. He is on his way over here.

4 The Chairman: All right.

5 Senator Bentsen: Perhaps I could bring up one, Mr.
6 Chairman?

7 The Chairman: Senator Bentsen.

8 Senator Bentsen: Mr. Chairman, I would like to speak to
9 one that involves the hospital for crippled children. I propose
10 an exemption from the windfall profits tax for tax-exempt
11 hospitals that furnish free medical care on a non-discriminatory
12 basis. We are not talking about a lot of money; we are talking
13 about a lot of money, we are talking about \$5 million, but what
14 we are trying to stop in a windfall to private interests or
15 industry.

16 If there is any windfall here, it would be to try to help
17 in taking care of crippled children.

18 So the exemption just provides that there be no windfall
19 tax for tax-exempt hospitals who furnish free medical care. I
20 propose that amendment.

21 The Chairman: Mr. Lubick?

22 Mr. Lubick: Mr. Chairman, this raises the question as to
23 whether you want to extend exemptions generally to 501(c)(3)
24 organizations, charitable organizations. Clearly, the
25 organizations to which Senator Bentsen is referring are good

1 organizations and doubtless most of the organizations that
2 qualify under Section 501(c)(3) are doing things very important
3 to the public, otherwise the Congress would not have exempted
4 them from taxation under 501(c)(3).

5 We think that there is a fundamental problem here in
6 extending exemption to any exempt organization, and that is that
7 these are organizations which are the owners of usually royalty
8 interest in production and they will benefit very greatly from
9 the windfall involved in the rising prices, which results in a
10 transfer of wealth from the consumers to the owners, and it is
11 appropriate to tax part of that windfall.

12 You are not going to encourage production by exempting the
13 501(c)(3) organizations. They are not operators. They are not
14 producing more energy. They are basically owners of existing
15 royalty interests, and we think if we start going down that
16 road, we are going to cut back importantly on the revenues.

17 There is no particular equity reasons. These organizations
18 are already waxing prosperous as a result of the increase in
19 prices and we would be strongly opposed to any further
20 exemptions of this sort that just do not have any production
21 connection.

22 Senator Bentsen: Mr. Chairman, what you are really trying
23 to stop here for windfall for private interests. So if you do
24 not put the tax on -- he says they are prospering greatly. They
25 are prospering greatly to help gripped children, and they are

1 doing it on a nondiscriminatory basis.

2 And the costs -- hospital costs, we had a hospital cost
3 containment bill here which we debated a long time. I think we
4 have some knowledge of what has happened to hospital costs in
5 this country and I would hope that the increase in the price of
6 oil helps cover those hospital costs. Frankly, I seriously
7 doubt it.

8 If it happens to be a little surplus, it may be they may be
9 able to handle a few more crippled children and try to help them
10 lead a productive life. So I think there is a pay-off, and a
11 very major pay-off, in trying to salvage some of these young
12 people that are disabled, and will go through life that way.

13 Some of them can be saved from that kind of crippling
14 problem, and this is the contribution to it.

15 As you say, Mr. Chairman, when we take the stump, I sure
16 will take the stump on the side of crippled children.

17 The Chairman: Just look where you go when you do this. So
18 we exempt crippled children. I can picture us out there with a
19 series of amendments. Here comes a fellow who says, all right,
20 how about these things for old people? How about these things
21 for the people who have other disabilities? How about the
22 Knights of Columbus? How about the Masons? What do you have
23 against them?

24 So I can just see us taking a list of a thousand of these
25 tax-exempt organizations and any one of them that you vote to

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1 exempt ---yes, that is nice, that is what you should have done,
2 but then all of these other people will say, what do you have
3 against us? That means he is against the Masons or that means
4 he is against the Knights of Columbus. He voted to leave them
5 out.

6 Senator Bentsen: No. What we are trying to stop is
7 private interests having a windfall. I would be quite willing
8 to go with the 501(c)(3) and the exemption of it. I know there
9 are other members of this committee who feel the same way.
10 I know Senator Dole is very interested in trying to bring that
11 about.

12 The Chairman: If you start this, you might as well say,
13 all right. We are proposing to exempt all 501(c)(3)'s. All
14 right. That is a lot of people, is it not?

15 Mr. Lubick: Yes, sir. We are trying to get a revenue
16 estimate on the 501(c)(3)'s.

17 Senator Bentsen, I want you to know, the Treasury
18 Department is in favor of helping crippled children.

19 Senator Bensen: I would just like a little evidence of
20 that, and I think this is an opportunity.

21 The Chairman: When you start off with that, the first
22 thing you know you get some smart guy in business who says,
23 "Look, I can go out here and really make some music. I can go
24 out on behalf of all of these 501(c)(3)'s. Just give me a
25 commission and I will go out and buy up all these oil

1 properties" and the 501(c)(3) does not have to pay the windfall
2 tax. He will make a fortune on the commission of buying all
3 these properties. You can borrow the money to finance that, so
4 that you would make a fortune just on the commissions of buying
5 up all of these properties so that the 501(c)(3)'s would have
6 it, and they would get twice as much income because they would
7 not pay the windfall.

8 The heck of it is, once you head down that road, you are in
9 one heck of a fix. A, you have to vote against all of these
10 poor unfortunate people on the one hand, all of these charitable
11 groups, do-gooders on the one hand -- real do-gooders, people
12 who are doing good for people. It is an impossible situation.

13 Senator Danforth?

14 Senator Danforth: Could you not prevent that by providing
15 that the oil properties had to be owned by the hospital on or
16 before some specific date?

17 Senator Bentsen: I would be happy to accept that kind of
18 amendment to it, and I think that stops that possible loophole
19 that the Chairman is referring to, and I think that would be
20 agreeable.

21 I do not really see why they should be penalized when they
22 are serving a charitable cause, a good cause. What we are
23 really trying to stop is the private sector being unjustly
24 enriched.

25 Mr. Lubick: Mr. Chairman, I would like to get for you the

1 revenue estimate on the whole 501(c). I would hate to try to
2 distiguish crippled children from a number of other good causes.
3 It does seem to us if we want to help these good causes, there
4 are plenty of direct ways to do it, charitable beneficial
5 provisions of the Code.

6 Here you have a situation and I am not talking
7 particularly to the crippled children; I think that is fine. It
8 is the whole problem of the 501(c)(3) exemption and it seems to
9 us that the purpose of the windfall tax is to get at that big
10 windfall rise in transfer of wealth from the consumers to the
11 owners of the producing interests.

12 We have tried to design -- we recommended an exemption for
13 heavy oil because we thought that would have a production
14 incentive and would help produce more energy. Aside from that,
15 we think it is important that the windfall profits tax get at
16 all of those revenue and, to the extent they are appropriate,
17 places to return it, be that crippled children, low income
18 assistance. Then we ought to deal with that as a separate
19 question.

20 Let's return these revenues to those places that the
21 Committee thinks it is appropriate to return them to.

22 The Chairman: I think it is a far better approach. When
23 you start talking about this, let's exempt those who now have
24 some properties and preclude those who do not have anything, so
25 now you say that Lloyd Bentsen's Crippled Children's Home gets

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1 benefits but Russell Long's Crippled Children's Home does not
2 and the people of Louisiana say, "Why don't we get on this?"

3 It reminds me of that old farmer out in the Midwest who
4 used to say --

5 Senator Bentsen: Mr. Chairman, why do you not make some
6 calls over the week-end and I will bet you will find that
7 Russell Long's Crippled Children's Hospital down in Louisiana
8 has some oil property and I just do not believe that we ought to
9 penalize them.

10 I am not talking about any windfall to them; I am talking
11 about not putting a penalty on them, not putting a tax on them.
12 I know how important this is to Bob Dole.

13 Frankly, I am really surprised at the opposition. I would
14 like to, thereby -- because I know how important it is to Bob,
15 and you are talking about some other things -- that we defer
16 this until he is here, so he can also express his views.

17 The Chairman: Fine. We will defer it for the time being.

18 Senator Packwood: Mr. Chairman?

19 The Chairman: Yes, sir, Mr. Packwood.

20 Senator Packwood: I would like to clarify a couple of
21 things. Yesterday, on some of my amendments that were adopted,
22 we were working on 1760 and one of the provisions in that ---and
23 I want to be sure it is in the drafting of the bill -- was when
24 people were taking these credits that they could take them
25 -- this was your idea, take them in the year that they spend the

1 money by filing their amended tax return if they wanted.

2 That was in the bill when I introduced it, and I assumed it
3 had been adopted yesterday. I wanted to make sure it was in
4 there.

5 The Chairman: I assume it is.

6 Mr. Lubick?

7 Mr. Lubick: If it were adopted, Mr. Chairman, I would hope
8 you could reconsider it, because I think it is a disastrous
9 provision for our administration.

10 Senator Packwood: No different than your disaster
11 provisions -- literally disaster provisions -- now. That is
12 where we copy them from.

13 Mr. Lubick: I remember when that first came up, about 1962
14 when Senator Williams proposed it, and it presents some very
15 serious problems for the Revenue Service. If you have to audit
16 a couple of different years, then you are never quite sure what
17 year the deduction is going to be taken in, or the credit.

18 Senator Packwood: Well, you know one. Talking about the
19 disaster provisions -- not the normal disasters in the Code, but
20 the physical disasters, that you can amend your return in the
21 year of the disaster.

22 It is no net revenue loss for the Treasury Department. If
23 the person takes it one year, they cannot take it the next year.
24 We have delayed the effective date of the act until July 1st
25 next year anyway and copied it from the provisions that are in

1 the act now. I do not understand Treasury's objection.

2 Mr. Lubick: Senator Packwood, on the disaster provision,
3 we had a very special situation. You had a real disaster beyond
4 the control of the taxpayer and there was a need to get him some
5 immediate relief. I believe this originated when there was a
6 hurricane along the coast of Maryland and Delaware. It was very
7 important to get some immediate money to those persons whose
8 property was destroyed.

9 Now, you are talking about energy expenditures. You are
10 saying what took place in the year that the tax return covers is
11 not the only thing that you have to audit on that particular tax
12 return. Expenditures made in the year following the return, but
13 before it was filed, and these are expenditures that are within
14 the voluntary control of the taxpayer, also subject to audit.

15 When the Internal Revenue Service comes to audit the second
16 year, some persons presumably may claim the credit in the second
17 year.

18 Senator Packwood: They can do that. They will do that if
19 they are going to do it, whether or not they can claim it in the
20 year they spend it, or the next year. I cannot account for
21 people who are going to try to take it twice. People are going
22 to try it. They are going to try it whether you allow them to
23 take it in the year that it happens or the next year. We cannot
24 stop them from cheating.

25 Mr. Lubick: You can say the tax return ought to deal with

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1 transactions which took place within the particular year that
2 the tax report covers. That has traditionally been the way that
3 we have operated.

4 What you are saying, in a sense, is that we ought to, in
5 effect, be giving the credit whenever the taxpayer makes the
6 expenditure. In that case, it seems to me there is no much
7 point in running it through the tax system.

8 You might as well just let an application be made to the
9 Department of Energy, and they will okay it, and the Treasury
10 Department will write out a check. The notion of dealing with
11 the taxpayer's tax liability and the problems of the Service in
12 auditing that tax liability and the problems of the taxpayer in
13 preparing the returns with respect to that year, requires some
14 notion of an annual accounting concept, dealing with the
15 transaction in those years.

16 There are, as you point out, some provisions with respect
17 to disaster relief, and we did not endorse those provisions.
18 We, in fact, opposed those but they, in fact, have a specific
19 and limited rationale.

20 But if we let all transactions take place out of the
21 taxable year be reported on return of a different taxable year,
22 you are getting away from the very fundamental concept of
23 determining taxable income and liability with respect to a
24 particular year.

25 It seems to us that that is not appropriate. It is going

1 to lead to more complexity in calculations. Instead of making
2 your energy expenditure in December of 1980, you are better off
3 waiting until January or February; then you can compute your tax
4 liability for two different years and figure out which one you
5 want to put it in.

6 I think you are just getting away from the whole basic
7 notion of a taxable year which is going to lead to
8 administrative problems for the Service and complexity for
9 taxpayers.

10 I would hope the Committee would not move in that
11 direction, because we are getting very much away from tax
12 liability adjustments and into administration of a spot grant
13 program.

14 The Chairman: I would feel that we ought to look at this.
15 When we start with our reconciliation, we are going to have to
16 squeeze these revenue items inside the budgetary constraints and
17 when we come to shaping our bill up, to see how much we can
18 afford, if we are going to do this, it just means that the
19 person takes it sooner, but also it means it falls in a previous
20 fiscal year, and we have a budget limitation here, and we are
21 going to find ourselves right up against it, by the time we get
22 down to it.

23 If we have the money where we can do it, that has a lot
24 more appeal to me than when we do not have the money to do it.

25 Senator Packwood: The point you make is very valid on all

1 of the other amendments that I offered, and have offered. On
2 this one, there is no net revenue gain or loss on it, shifting
3 it from one year to another. By making the effective date of
4 these provisions July 1st, it is not going to have any big
5 effect in the next fiscal year. But of all of the provisions,
6 this one really is not a revenue provision, and many returns are
7 not due to the Treasury. People file them all the time under
8 the law today and it is not something beyond the comprehension
9 of Treasury to manage.

10 I will not pursue it any further.

11 The Chairman: You say July 1 of next year?

12 Senator Packwood: Yes.

13 That cuts the revenue lost substantially. I regard that as
14 less important. I am willing to change those effective dates
15 from a revenue standpoint and we are going to cut out a lot of
16 things. I am trying to eliminate a lot of tax devices to
17 discourage the conservation of energy.

18 This provision has nothing has to do with revenue in terms
19 of loss. Whether we adopt it or do not adopt it, it is not
20 going to change the Treasury's net receipts over a ten-year
21 period. It does make it a little easier for middle- or
22 lower-income people to make an expenditure now, if they know
23 they can file an amended return.

24 Most of them, frankly, are not even going to file an
25 amended return. Those who are induced by it, they might spend

1 it sooner and file their amended return.

2 The Chairman: Frankly, as the Senator knows, it has a lot
3 of appeal to me. If you want somebody to do something, if you
4 really think this is what you want to do -- let's talk about
5 something you really want this guy to do -- let's talk about
6 it, then the ideal thing is to have him right in the store with
7 the contractor who puts the stuff in. He has a little form, and
8 you fill it out right then and there.

9 Here is what you pay; here is the credit to which you are
10 entitled. Then you mail it in, and you are entitled to a check
11 right then and there on the spot.

12 Mr. Lubick: Mr. Chairman?

13 The Chairman: I know Mr. Lubick does not want to have an
14 agent down there receiving that thing and doing the book work.
15 As far as the guy who has something coming to him, the average
16 old Joe goes down anytime he has his tax credit. When he buys
17 it, he forgets about it by the time, a year from now, nine
18 months later, he has forgotten about the fact he bought this
19 thing and has the tax credit coming to him, and never winds up
20 getting it.

21 It has a lot of appeal. Just give it to him right there
22 when they buy the facility, when they install the woodburning
23 stove, or whatever.

24 Mr. Lubick: You should do the same thing for the
25 investment tax credit then. If a taxpayer makes an investment

1 in the first part of the next year, let him take it.

2 The Chairman: That is not a valid argument. These guys we
3 are talking about here are residential credits. We are trying
4 to induce homeowners to do this. This does not apply to the
5 business investment credits, on all the series of things that I
6 have, and I would like to think that rational people in
7 business, if they know they have a credit, will remember to take
8 it when they file their return.

9 Here we are talking about residential decisions and
10 homeowners, not people first in business.

11 If you want a guy to put in a solar unit, if you really
12 want to do that, you think this thing will really help solve the
13 problem, if that is what you want the guy to do, then obviously
14 it has more advantage if the fellow can get his check
15 immediately, just get his check right here and now.

16 Mr. Lubick: You can buy a Chrysler and you can get a \$400
17 rebate check.

18 The Chairman: There you go, right there. That is selling.
19 It is a selling item.

20 Mr. Lubick: I do not think the Internal Revenue Service
21 can undertake the administration of sending out all of these
22 rebate checks on the spot, but if you really want to get that
23 encouragement, then you ought to set up a system that whoever
24 buys the insulation will get a little certificate as to what he
25 paid, and he can mail that certificate to some office and get

1 his check.

2 I think when you start moving down that direction you are
3 compromising the administration of the revenue laws by the
4 service.

5 Senator Packwood: Ironically, business almost has this
6 kind of clout now when they pay their taxes quarterly. They can
7 choose to take their credits quarterly if they want.

8 Mr. Lubick: Individuals, too.

9 Senator Packwood: Again how many individuals are paying
10 their taxes quarterly? Look at the masses of people who work in
11 this country? They get a W-2 form at the end of the year and
12 they pay their taxes once.

13 Mr. Chairman, I get frustrated by the gobbledy-gook and the
14 bureaucratic suggestion that Treasury is used to doing anyway.
15 I would move the adoption that this provision that I thought we
16 had adopted yesterday when we adopted these residential credits.

17 The Chairman: Is there any further discussion?

18 All in favor say aye.

19 (A chorus of ayes.)

20 The Chairman: Opposed, no.

21 (A chorus of nays.)

22 The Chairman: Well, the Chair is in doubt. Those in
23 favor, raise your hands.

24 (A show of hands.)

25 The Chairman: Those opposed, a show of hands.

1 (A show of hands.)

2 The Chairman: It is agreed to.

3 Senator Matsunaga?

4 Senator Matsunaga: Mr. Chairman, I was not quite sure
5 yesterday what we did with heat pumps.

6 Senator Packwood: We are waiting, hoping for Senator
7 Bentsen to be here. We have not adopted heat pumps yet. Abe
8 Ribicoff was interested, Abe and Lloyd, especially on the deep
9 well water heat pumps. We held up action on it.

10 Senator Matsunaga: Action was held up.

11 Senator Packwood: I did not move it, because I was hoping
12 Lloyd would be here because he is very well-versed in the deep
13 well water heat pumps which are more efficient. I am prepared
14 to move it, but we have not acted on it yet.

15 Senator Matsunaga: I would strongly suggest that we
16 include water heating pumps as well.

17 Senator Packwood: Take a look at the chart once so you can
18 see again over on the right, per barrel savings. I want to
19 make sure if we do adopt it that it is in the bill, that the
20 deep water heat pumps are included.

21 Senator Bentsen: Mr. Chairman?

22 The Chairman: Yes, sir.

23 Senator Bentsen: I agree with my colleague. I was out of
24 the city yesterday unavoidably, but the water well heat pump is
25 a particularly efficient unit and would save approximately

1 two-thirds of the kilowatts that would be used by an electrical
2 resistance heating system. One of the studies of the Tennessee
3 Valley Authority shows that energy efficiency is such that you
4 would save 11,610 kilowatt hours each year, if you replace an
5 essential electric furnace system with that kind of
6 installation.

7 I would urge that we have it as a part of the legislation.
8 I appreciate very much Senator Packwood's referring to it.

9 Senator Matsunaga: I am referring to another type of heat
10 pump, the type used in Hawaii, where it draws the hot air from
11 the outside, directs it to coils of water and actually heats the
12 water to as much as 120 degrees, and this would save a
13 considerable amount.

14 Senator Packwood: This covers both kinds. In the past,
15 the deep well ones had not been included, so when people think
16 of heat pumps, they normally are thinking of the kind you are
17 describing. Lloyd and I just want to make sure that it includes
18 the deep well one. The kind you are describing is included.

19 Senator Matsunaga: As long as it is understood it uses
20 this type, actually used with hot air to heat water.

21 Senator Packwood: That is, today, the more common kind of
22 heat pump in existence.

23 The Chairman: Does Treasury wish to comment on this?

24 Mr. Lubick: Well, Mr. Chairman, let me first point out
25 that the revenue ---you are talking about a 50 percent credit

1 for heat pumps. I have not added up this list of figures, but
2 it goes from \$153 million in calendar '80 to \$754 million in
3 1990 at a reasonably constant progression.

4 Senator Packwood: You are only a million off from the
5 Joint Committee figures, that is, saving 166,000 barrels of oil
6 by the date, 1990.

7 Mr. Lubick: I think that these estimates of savings, I
8 think as you indicated yesterday, are spongy at best, you are
9 spending a lot of money to get people to do that which is
10 economical to do.

11 Senator Packwood: I have gone through this every day. I
12 grant you these figures are spongy. If the administration -- in
13 that case, we should not even look at your wood stoves credit,
14 or anything else you have got. Nobody can give you, with
15 definite assuredness, how many people are going to put in wood
16 stoves, solar units, or heat pumps.

17 The figures we have are the best we can do, and what it
18 attempts to say when you look at the middle column on the rate
19 of oil saved is that of the amount of oil saved because of the
20 credit. I cannot guarantee that that is right, and you cannot
21 say it is wrong. I hope it works.

22 Mr. Lubick: I think I have a better chance with my
23 statement.

24 Senator Packwood: If you were to to say, I will make you a
25 bet in ten years that that 344,000 barrel figure, or the 166,000

1 heat pumps is not exactly it, you are probably right. I will
2 also make you a bet that your revenue estimate is not right.

3 Mr. Lubick: I think Mr. Smith has come up with an
4 indication that this amounts to about 12,000 barrels a day by
5 1990.

6 Is that correct?

7 Mr. Smith: That is correct. Our conservation office
8 estimated approximately 12,00 barrels a day equivalent by 1990.
9 We would have somewhat lower revenue losses.

10 The Chairman: Do you have any figure over there in the
11 Energy Department, Mr. Smith, to show how much per barrel you
12 think that is gained by this provision?

13 If we vote to enact this, your estimate how much per barrel
14 additional -- how much additional Treasury revenue, per barrel,
15 are you paying to get the savings?

16 Mr. Smith: With the 50 percent tax credit, the heat pump
17 would save approximately ten barrels. Each heat pump would save
18 approximately twelve barrels per year.

19 The cost of a heat pump is roughly \$2,000.

20 Senator Packwood: I cannot hear you.

21 Mr. Smith: We are paying \$1,000 on it. That, of course,
22 has a fifteen or a twenty-year life.

23 The Chairman: Here is the thing, it seems to me, you
24 people ought to come up with.

25 Senator Packwood: Mr. Chairman, I am getting angrier by

1 the moment. We have gone through all of these figures with the
2 Department of Energy. We have asked them, we have showed them
3 our sources and our methodology and, as of yesterday, they said
4 our methodology was as good as anybody could come up with and
5 now they are coming in with a figure out of the sky that they
6 would not tell us yesterday. Frankly, I am offended by it.

7 We have tried to work decently with them. We have tried to
8 be open with them and showed them the way we have arrived at
9 these figures, and show them our sources, and this particularly
10 source of 166,000 are General Electric whose projections,
11 frankly, I have usually found better than yours.

12 The Chairman: It seems to me that you ought to have
13 studies over there at DOE and say, all right. With the law as
14 it exists now, here is how many heat pumps we think are going to
15 be installed, and if you changed the law, here is how many we
16 think would be installed if you changed the law.

17 All right, then so then, you say, all right, then we would
18 have to think that the additional tax credit would result in
19 this much energy saving so there we are. Here is what you get
20 for the X amount of revenue lost and then you come down the line
21 that the Senator has over here in the righthand column and he
22 said, all right, his thought is that the equivalent of \$14 a
23 barrel oil -- that is his argument.

24 I would think that you would have some studies that would
25 say that that is either in line with your studies, or not.

1 Mr. Lubick: It is very hard to demonstrate how many heat
2 pumps will be induced by the credit, as opposed to those that
3 will be induced to be installed simply by the rise in the price
4 of oil.

5 The Chairman: Just one thing. It has not been brought up
6 yet, but the General Electric people showed me a lightbulb, a
7 longlasting bulb Have you seen it? It is a very expensive
8 bulb, a longlasting bulb, and they say it will turn out the same
9 amount of light using only two-third the amount of energy that
10 is presently involved.

11 If you put those bulbs in there, you are going to save a
12 world of energy. I do not see anything to give the taxpayer for
13 that, but it seems to me if it is that good, we ought to be
14 pushing everybody to turn to it.

15 What is your thought about that?

16 Mr. Lubick: I have read about those bulbs. They are very
17 attractive. The problem is getting people to lay out that money
18 immediately for the bulbs. I am not sure if we want to go
19 around subsidizing everybody's electric lightbulbs.

20 There are no end of good things that could be done. I
21 think ultimately the market, and the cost of energy, is the best
22 determinant of what people ought to do.

23 I read the book as well, and the arithmetic computations
24 that Professor Stoebel used indicated that, for one who really
25 put down pencil and paper and took all factors into account,

1 rationally he would get a payback from doing this just on price.

2
3 Senator Packwood: If a person did it rationally, you are
4 right. I talked to Professor Stoebel on the phone and if you
5 were a good, rational, intelligent homeownership business person
6 and you know you put this thing in and it will pay for itself in
7 eleven-and-a-half years. For the average person, he is not
8 going to be in the house for eleven years, or for the average
9 person who does not have enough money to make a capital outlay
10 and their gas furnace has blown up and the thing about putting
11 in something new if that does not pay itself out, in their eyes,
12 in three to five years, they psychologically are not going to do
13 it.

14 If we are trying to induce people to change from natural
15 gas, change from oil -- which is what I thought was the policy
16 of this administration -- you are going to have to give some
17 people, a good many people in this country, a financial
18 inducement to do it.

19 Mr. Lubick: Indeed, we agreed that we had to do that, and
20 we are suggesting programs through the utility to finance this
21 sort of thing with education, presumably a less expensive way to
22 do it.

23 Senator Nelson: Mr. Chairman, if I could comment on that,
24 I think that on the heat pump, for example, there is probably
25 not one person in a thousand in the country who could explain
it, but it is a very valuable device.

1 I think that once you make it attractive for people to
2 utilize something that has been around for awhile, and then
3 across the country, it becomes understood, and a good many tens
4 of thousands are using it, then a demand develops. Then that
5 time is the time to take off, or reduce gradually, the
6 inducement to buy it.

7 How do you get it in place in the first place, since it
8 does save energy? I think that part of the educational process
9 is to induce people to start using them.

10 Most house builders would not think of putting them in.
11 They do not even know what they are. I think it is worthwhile
12 doing it, and once that demand develops and they understand and
13 support it, that is the time that we should start reducing by 10
14 percent a year or at some period just eliminate it, because it
15 will then fly on its own.

16 The Chairman: Senator Danforth?

17 Senator Danforth: As I recall, there was some limit,
18 \$2,000?

19 Senator Packwood: The limit on conservation was \$2,000.
20 The limit on solar, wind, geothermal is \$10,000 per house for
21 the life of the house, not annual. 50 percent credit, \$5,000
22 lid.

23 Senator Danforth: \$10,000 for solar?

24 Senator Packwood: Total, solar, wind, geothermal and the
25 heat pumps, \$2,000 on the conservation because that is

1 principally storm windows and insulation. That you can do in
2 most houses for that price.

3 Senator Danforth: How about the heat pumps?

4 Senator Packwood: What you have on these credits is a
5 \$10,000 limit.

6 Senator Danforth: On all of them. Totally, collectively.
7 You cannot put in a \$5,000 solar unit, an \$8,000 heat pump and a
8 \$5,000 something off and take a 50 percent credit. The whole
9 credit is \$10,000 per house, whether you choose to put in a heat
10 pump or a solar energy unit or a windmill. The most you can
11 total it up to is \$10,000 and take a 50 percent credit.

12 Senator Chafee: Over how long?

13 Senator Packwood: Per house. If you move to another house
14 you can start on another house. You can have the credits again.
15 You cannot take them annually. You cannot invest \$6,000 every
16 year on your house on devices that fit into these definitions
17 and take a perpetual series of credits year after year.

18 \$10,000 is not an annual limit; it is a house limit.

19 Mr. Shapiro: Do I understand your heat pump proposal is a
20 part of the insulation, the \$2,000 limit?

21 Senator Packwood: No. Is it? I am sorry. My mistake. I
22 thought it was a \$10,000 limit. It is \$2,000.

23 Mr. Shapiro: We thought it to be \$2,000.

24 Senator Packwood: I apologize.

25 Senator Danforth: I am sorry. I still do not understand.

1 I must be dense.

2 Mr. Shapiro: What he is saying, in the provision in
3 present law now that Congress passed last year you get a 50
4 percent credit up to a maximum of \$2,000 for the expenditure for
5 insulation. There is a whole series of categories that include
6 that -- it may be storm windows, storm doors, caulking your
7 doors. Whatever you may do, all of this added together, you
8 cannot take 50 percent against more than \$2,000 in that whole
9 category, whatever you may do.

10 Senator Packwood's proposal now is to add heat pumps to
11 that list of categories, included in residential insulation.
12 Once you have reached \$2,000, anything else you do you would not
13 get a credit for.

14 The Chairman: \$2,000 a year, is it not?

15 Mr. Shapiro: \$2,000 for the life of that home. You do not
16 get it more than once in a lifetime for that particular house.

17 In Senator Packwood's bill, the way he described it, heat
18 pumps that replace electric residence heating systems, that is
19 added to that list.

20 Senator Danforth: Did it work?

21 Mr. Shapiro: This is not in present law. He wants to add
22 that to the list.

23 Senator Danforth: What is in the present law?

24 Mr. Shapiro: The present law is a list of items that
25 includes insulation, storm windows, storm doors, caulking, items

1 like that.

2 Senator Danforth: Did that have an effect?

3 Mr. Shapiro: Let me put it this way. We made a revenue
4 estimate as to how much the revenue loss would be with respect
5 to the provisions. It is probably \$580 million. The revenue
6 effect on the tax return is approximately \$550 million which
7 meant that our assumptions with revenue showed that people were
8 making these types of insulation, to the extent that it was
9 induced by the tax credit, or they would have done it anyway, is
10 something we really cannot tell from the information we have,
11 but \$550 million worth of insulation was done last year.
12 Presumably it had some energy savings.

13 How much was induced by the credit and how much would have
14 been done anyway is something we do not have the best
15 information on.

16 Mr. Wetzler: It is hard to tell. Last year's credit was
17 not really enacted until October, and people could not have been
18 sure they were going to get the credit until then, so you really
19 only had a few months after the end of the year after the credit
20 was enacted. It is really too early to say whether the credit
21 has had much effect, or not.

22 Mr. Shapiro: I will say when the credit was proposed by
23 the administration on April 20, 1977, the Chairman and Ranking
24 Members of both Ways and Means and the Finance Committee put out
25 a press release stating that if the credits were to be enacted

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1 they would be effective from that date, so I presume that the
2 salesmen who went around trying to get people to insulate their
3 homes were telling them that this was a credit that was being
4 discussed and you will get it if it is enacted.

5 I am sure the salesmen made people aware of it. As to what
6 effect that had based on the commitments is not clear either.

7 Senator Matsunaga: Mr. Chairman, one other point now. Mr.
8 Shapiro, you just said that the provision of Mr. Packwood
9 provides for credit only where the heat pump replaces electric
10 resistance space heating, and the amendment that I was proposing
11 was to provide for the heating of water which is used for
12 bathing purposes as well.

13 Does the language include that kind of heat pump?

14 Mr. Shapiro: Senator Packwood's language does not.

15 Senator Packwood: Wait a minute. I am confused now, Bob.
16 Our limiting language is what kind of a unit it replaced, is it
17 not?

18 Mr. Shapiro: That is correct.

19 Senator Packwood: He is talking about what kind of unit
20 you put in, are you not?

21 Senator Matsunaga: No. I am talking about heating water,
22 not only for heating space that is warming the house, but also
23 for heating water, and we do have that type of pump which would
24 replace actual electric water heaters and we save as much as 50
25 percent on the use of electricity.

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1 Senator Packwood: I was confused. I misspoke myself.

2 Senator Matsunaga: All right.

3 I would offer an amendment to include that type of heat
4 pump.

5 Mr. Shapiro: Under Senator Packwood's amendment, if you
6 were to have yours to replace an electric water heater, it would
7 be covered, but I think that the type of situations that you
8 have are more than replacing electric water heaters. You want
9 to say any time that you heat your home by way of solar,
10 geothermal, or any type of heating system, that you would be
11 eligible for the insulation credit.

12 Senator Matsunaga: Right, because in Hawaii we do not need
13 any heat pumps to heat the home, we have enough sunshine. But
14 we do need heat pumps to heat the water, to bathe, to take a
15 shower.

16 Senator Packwood: That would fit in the definition as long
17 as it was replacing the defined replacement.

18 Senator Matsunaga: Definitely, we do save electricity.
19 That is, the burning of oil to generate electricity.

20 Mr. Shapiro: If you are replacing an electric water
21 heater, we assume that the Packwood amendment would cover you,
22 but I am not sure whether your proposal is broader than just
23 what Senator Packwood has proposed. This is a replacement. If
24 you are replacing an electric water heater, you would get it.

25 Are you talking about a situation which are new homes, or

1 replacing something that is not an electric water heater?

2 Senator Matsunaga: I am talking about installation of this
3 type of water heater using solar energy.

4 Mr. Shapiro: New homes, too?

5 Senator Matsunaga: New homes as well.

6 Mr. Shapiro: That is a little broader than Senator
7 Packwood has.

8 Senator Matsunaga: Our primary purpose is to save energy
9 produced by the burning of oil. It is practically 100 percent
10 from the burning of oil that we produce electricity on the
11 Island of Oahu and this is where I think the big savings will
12 be.

13 The Chairman: Let me ask you, in Hawaii, why do you not
14 use solar heating, heating by solar?

15 Senator Matsunaga: That is it, we have that. We have
16 different types of solar heating.

17 The direct sun, and then we have the heat pump system, so
18 you bring in the hot water from the outside and blow it against
19 coils of water and heat it that way and bring it up to 120
20 degrees.

21 The Chairman: What I am trying to get straight in my mind,
22 if you have a solar unit, do you need a heat pump to go along
23 with the solar unit? A solar unit would do the job for you.

24 Mr. Shapiro: There are times that you have a heat pump to
25 back up the solar system. For example, if you have a cloudy day

1 or other situations, there will be a back-up system.

2 As far as we understand it, most of your solar systems have
3 a type of a back-up heating system and the back-up systems are
4 not generally eligible for either the solar credit, or for
5 insulation credit.

6 Senator Matsunaga would like to have the back-up heat pump
7 system that is used for heating water to be eligible for the
8 credit.

9 Senator Packwood: The reason this applied on the
10 conservation credits, for which the heat pump is a part only to
11 existing homes is the thought that people are building new
12 homes. They are going to build these in.

13 Senator Matsunaga: If you wish, we could limit your
14 proposal here to replacement of homes in old homes.*

15 Senator Packwood: That is the existing law now and that is
16 the way we drew the bill.

17 Senator Matsunaga: So long as we include that type of heat
18 pump.

19 Senator Nelson: Mr. Chairman?

20 The Chairman: Yes, sir.

21 Senator Nelson: I would like to propose an amendment
22 addressed to small-scale hydro.

23 Senator Packwood: Can we adopt this amendment? Excuse me.
24 I would move its adoption.

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

1 (A chorus of ayes.)

2 The Chairman: Opposed, no.

3 (No response.)

4 The Chairman: The ayes have it.

5 Senator Nelson: Mr. Chairman, in July of this year, the
6 Corps of Engineers made an estimate that by utilizing the energy
7 that can be produced by dams in place of 25 megawatts or less,
8 dams in place that are not now producing electricity, using
9 those that are in place, that could produce 25 megawatts or less,
10 then it could produce 9,125 megawatts per day, or save 125,000
11 barrels of oil per day, which is pretty significant.

12 The Chairman: How much oil?

13 Senator Nelson: 125,000 barrels. We are only talking
14 about dams that are in place. We have them all over the state
15 of Wisconsin that used to produce electricity. They do not
16 anymore. It became too inefficient and was outbid by natural
17 gas and oil and central systems and so forth. Lots of states
18 have them.

19 That is the estimate of the Corps. If you took those with
20 a capacity of 25 megawatts or less, they could reduce 125,000
21 barrels a day.

22 Now, the suggestions that I make here came from the Energy
23 Law Institute. There are a number of problems involving tax
24 credits and various things that would have to be clarified or
25 changed in the statutes in order to induce people to put back

1 into operation smallscale lowhead dams.

2 The Energy Law Institute of the Franklin Pierce Law Center
3 in New Hampshire has a two-year contract with the U.S.
4 Department of Energy that calls for research into the legal and
5 institutional obstacles and incentives to smallscale
6 hydroelectric power in the 19 northeastern states.

7 My staff went to them and they advised us of what the
8 institutional and legal obstacles to putting into production
9 power from these smallscale dams.

10 So the proposal I make here on investment credits, and so
11 forth, are proposals that were developed through the Energy Law
12 Institute.

13 I offer it to Senator Packwood's bill. At some stage it
14 would have to be reconciled.

15 What I am offering has many differences from Senator
16 Packwood's, and his tax credit would apply to all production and
17 the amendment offered by Senator Durenberger would apply this to
18 that bill the other day. I think we are going to need some
19 reconciliation.

20 What I am proposing here addresses itself solely to the 25
21 megawatt smallscale dam, 25 megawatts are less.

22 I do not know if the Committee drafted a little two-page
23 thing called smallscale hydropower, present law, and an
24 explanation of the amendment which is before you.

25 The one proposal, the investment tax credit, smallscale

1 hydro facilities will be eligible for the additional 20 percent
2 busines energy tax credit for a total credit of 30 percent.

3 Now, there is a question on the fish passageways, the tax
4 credit here for fish passageways, because, of course, 20 percent
5 of the dams are located in states, if you produce power from
6 them you have to put in a fish passageway. There would be
7 rivers in my state where that would not be necessary or make any
8 sense because there is no necessity for the fish going further
9 up the river to spawn.

10 That is the reason for a tax credit, investment tax credit
11 coverage for fish passageways as an item in here.

12 Depreciation, the amendment would reduce the ADR guideline
13 ife for smallscale hydrofacility buildings to ten years and
14 reduce the ADR guideline life for smallscale hydropower
15 equipment for five years.

16 In addition, it would increase the ADR repair allowance
17 percentage from 1.5 to 4 percent.

18 Now, the amendment also would allow tax-exempt state and
19 local obligations to be issued to finance smallscale hydro
20 facilities. The present law does not allow it.

21 The effective date of the amendment would apply to taxable
22 years ending after date of enactment.

23 The estimates that the Joint Committee furnished us on
24 cost-revenue effect, calendar year -- there estimate is a
25 calendar year revenue loss of \$27 million in 1980, \$70 million

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1 in 1981, going on up to \$209 million in 1990.

2 In the year 1982, it will be \$123 million; '85, \$187; and
3 their estimate is \$209 million in 1990, assuming what the Corps
4 assumes here, this number of dams get involved or reduced to
5 25,000 barrels equivalent of oil a day.

6 I would move its adoption.

7 Senator Durenberger may want to comment. He is a
8 cosponsor.

9 Senator Durenberger: To add another important dimension to
10 this, both of our states probably went from essentially
11 decentralized energy to more centralized energy in the early
12 part of the century when we abandoned all the woodburning
13 stoves, that we are now going back to the kerosene lamps and all
14 of that sort of thing.

15 Prior to the event of large quantities of oil and coal and
16 gas and so forth, we went to our rivers, and once all of the
17 timber barons had come through and cut down all of our trees and
18 sent them down the river, it became economically feasible to
19 build dams to generate hydropower.

20 Senator Packwood: They then moved to Oregon, by the way.

21 Senator Durenberger: Right.

22 as a result of it, we build up quite a system in both of
23 these states and the rivers and dams to generate power. As the
24 land developed, those dams also became an essential part of
25 flood control. To keep down the flooding in Louisiana, we got

1 ahold of water back in Minnesota.

2 Then, as hydro became too expensive and did not meet the
3 quantity demands, they started to go to oil and coal. What has
4 happened in both of our states -- I know what has happened in
5 ours -- is that particularly in the last 15 years, the power
6 companies are abandoning hydrogeneration and they are abandoning
7 the dams, and this has a terrific impact on flood control.

8 We have been dealing in our state with how to handle that
9 problem and I would say one of the real advantages to this
10 besides the obvious conservation, decentralization energy
11 advantages is that it will be an incentive to the municipalities
12 where they are municipally generated to the private utilities to
13 combine both the features of energy and the features of flood
14 control that are terribly important.

15 Senator Nelson: Let me say, Mr. Chairman, on that point,
16 the first centrally generated hydro-electric plant in the world
17 was opened in 1882 in Appleton, Wisconsin. The Kimberly-Clark
18 corporation controls it. It is less than 25 megawatts; it is 17
19 megawatts.

20 They advised me that they would go ahead and start
21 production of electricity and that it would be feasible to do it
22 under the provisions of this proposal. There are a number of
23 others who have responded as interested. We have municipalities
24 from the state of Wisconsin who said they are interested if this
25 kind of legislation was passed.

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1 In fact, we got a repsonse from -- was it 120, Phil? I
2 think from 120 owners of dams, municipalities or individuals in
3 my own state when we wrote them who would be interested in
4 electric power from their dams.

5 The Chairman: Senator Packwood?

6 Senator Packwood: I think I like Gaylord's proposal. You
7 and I have gone to the same sources that, of all the energy to
8 be generated, this is the cheapest new energy to be generated.
9 I will support you, Gaylord. I would like to see if I could
10 integrate it into mine, where the dams that we have in the west
11 are simply bigger dams -- bigger rivers -- and I think I might
12 want to see if I could persuade you to remove your kilowatt
13 limitation on it, which is, in no way, to say that your proposal
14 is no good. I like it, but I want to see if I could convince
15 you to raise the limit on it.

16 Senator Nelson: As I understand it -- I said I think we
17 will have to reconcile this at the end. As I undersatnd it,
18 Senator Durenberger did offer an amendment.

19 Senator Durenberger: On the production credit.

20 Senator Nelson: On the production credit.

21 Let me leave it open. I think we have got a couple
22 of questions. One of them, of course, is cost of production and
23 when we look at your cost of production versus the cost of this
24 one and production, that may be a trade-off at the end you will
25 have to make.

1 I am open-minded about it.

2 Senator Packwood: I think we can harmonize it.

3 Senator Danforth: Mr. Chairman?

4 The Chairman: Yes.

5 Senator Danforth: How does this fit in with the production
6 credit?

7 Mr. Shapiro: As of right now, the Committee has agreed to
8 a \$3 production credit with a barrel equivalent oil that is
9 saved. As I understand it, there is no limitation as to taking
10 alternatives, so there would be both the production credit plus
11 these various tax provisions that have been proposed now. These
12 provisions are much better for the industry than the production
13 credit. If you gave them a choice, as of now, they have both.

14 Senator Packwood: On all of the other production credits,
15 it is a trade-off, either/or. Was this cumulative?

16 Mr. Shapiro: The Committee left it open because this had
17 not been proposed yet. In other cases, you had other
18 incentives, either in a law that was being considered.

19 The Chairman: Mr. Lubick?

20 Mr. Lubick: Mr. Chairman, I guess we could sum up by
21 saying this is a "dam site too expensive."

22 Generally speaking, we are dealing in an area where the DOE
23 already has programs. It is my understanding they are spending
24 \$28 million a year to subsidize this particular type of effort.
25 We have Senator Danforth's production credit of \$3. The 10

1 percent energy tax credit is available for alternative energy
2 property, for this sort of thing in the case of public
3 utilities. You are talking about the useful life for
4 depreciation and Senator Nelson has pointed out that the dam
5 that was built in 1882 is still going, to bring that useful.

6 Senator Nelson: No, I am saying in that city, that was the
7 first generating one in the world, central generating, 1882.

8 The dam that is owned by Kimberly-Clark is not now
9 producing electricity anymore. I do not know how many years ago
10 it quit producing. All they said was a 17 megawatt one. They
11 said they would go into production.

12 Senator Lubick: The dam is still there.

13 Senator Nelson: The same dam. There is a dam there, yes.
14 As a matter of fact, this bill would not apply in anyplace. It
15 would only apply to existing ---this bill only applies
16 to existing dams which have a capacity for producing 25
17 megawatts or less.

18 Most of ours in the state of Wisconsin -- there are a few
19 still operating that produce less than 25 megawatts.

20 Senator Packwood: Gaylord, I might say you and I are very
21 close on the estimates. On this particular one, my source for
22 the savings, my specific source for the savings, is the
23 Department of Energy and the study that the Corps of Engineers
24 did for them that the Department of Energy accepted and they
25 just finished last July, so if they have a different estimate or

1 a different conclusion now, then on their own study, I am
2 confused.

3 Mr. Lubick: From time to time, we have made the arguments
4 that this Committee is familiar with with respect to
5 depreciation and development bonds on the inefficiency of these
6 as subsidies. They operate very differently among different
7 taxpayers. The tax-exempt bonds are giving a significant
8 subsidy to persons who are not even involved and directly
9 putting the money to the use you want in the case of tax
10 credits.

11 All in all, it seems to us pretty clear that we are just
12 throwing more money at this problem than is needed, with a
13 combination of what is already in the law, what Senator Danforth
14 has proposed and the price incentives and the DOE programs.
15 That is four bites of the apple. That ought to do the job.

16 Senator Nelson: Let me say to that, number one, the
17 recommendations that I have made here come from the Energy Law
18 Institute which is being funded by the Department of Energy to
19 tell them what ought to be done in order to provide smallscale
20 dams, so that the Institute doing the study for the Department
21 of Energy paid for by them, in order to tell them how are you
22 going to get them back into production and what obstacles need
23 to be removed and what inducements need to be made are what I
24 took from studies being paid for by DOE as a proposal.

25 It is a little bit ridiculous to argue against a tax-free

1 bond by Treasury while we are giving tax-free bonds to build
2 football stadiums and all kinds of important things that will
3 save the country, that we could not do it to get some energy.

4 The Chairman: Let me get this straight in my mind. Does
5 this apply only to existing dams, or does this apply to dams yet
6 to be built?

7 Senator Nelson: Only existing dams, and only dams that
8 produce 25 megawatts or less. They are the dams all across this
9 country which quit producing because, at some stage in history
10 it became more efficient to have a central generating, big coal
11 generating plant, and so forth and so on.

12 The companies that own them -- the same companies, Northern
13 States Power that covers a good deal of northern Wisconsin and
14 Minnesota have all kinds of dams producing and the Wisconsin
15 Hydroelectric Company in my county. As time went by, they quit
16 producing their dams, because at that period, and the cost of
17 oil, the cost of coal, central generating is cheaper.

18 The Corps of Engineers says that we can get 120,000 barrels
19 a day, which is a considerable amount, from reactivating dams
20 that are already in existence and that are small and that are
21 not going to go back into production without these inducements,
22 according to the Energy Law Institute who is doing the study for
23 DOE.

24 Mr. Shapiro: One thing. The Nelson amendment applies to
25 new equipment on existing dams.

1 The Chairman: It only applies to existing dams?

2 Mr. Shapiro: That is correct.

3 Senator Matsunaga: Why limit it to only existing dams?
4 With this new technology of lowhead hydro, I do not know whether
5 there is inclusion of lowhead hydro under present law. Is
6 there?

7 New dams? It is a technology wherein you do not need to go
8 up 200, 300, 400 feet. You can build dams 25 to 40 feet now by
9 the use of this so-called two-turbines where you can generate as
10 much as 3.5 to 5 megawatts with one of those turbines and this,
11 I think, is a really promising thing for those who have little
12 streams here and there.

13 The Chairman: I want to give Mr. Lubick over there a
14 break. He is a dedicated man. He is doing the best he can with
15 what he has got to work with.

16 He has made a defense of the Treasury here, I know to
17 include new dams, and it would probably do something for
18 Louisiana. We could make a little business out of this.

19 But for Mr. Lubick, he has had a tough day to day and if he
20 has got to be voted down, I would hate to see, after his valiant
21 defense of the Treasury, to be voting for twice as big an
22 amendment as he started to defend against.

23 If it works out to be a good idea, Senator, you can come
24 back and get your Hawaiian dam later on.

25 Senator Matsunaga: I do not wish to jeopardize the

1 Senator's amendment.

2 Senator Nelson: Let me say at that point, in my state, my
3 guess is we have all the dams. You would have a whale of a
4 fight from all the people on the recreation end, on the
5 environmental end, about putting in more dams, but secondly, I
6 understand the technology you are talking about.

7 The Corps says there are about 50,000 in-place dams in the
8 United States now.

9 Senator Matsunaga: 50,000.

10 Senator Nelson: It occurs to us at least, let's try it out
11 on existing dams. If, subsequent to that, there is a good,
12 compelling reason for expanding it to building new dams, it
13 ought to be brought up.

14 We have the dams in place. I would be opposed to extending
15 it to new dams right now.

16 Senator Matsunga: Well, I will be "dammed".

17 The Chairman: The though occurred to me, sitting here, we
18 could throw a dam across the Mississippi River. There is a lot
19 of water flowing down that Mississippi.

20 Senator Danforth: Where would that be, Mr. Chairman?

21 The Chairman: I was thinking of putting it between --
22 well, someplace where Missouri and Louisiana could get a benefit
23 out of it. A lot of water flows down the Mississippi.

24 Senator Danforth: Alton, Illinois would be a good place.

25 The Chairman: Two or three dams across the Mississippi.

1 For the time being, I think Treasury has made a valiant
2 defense. it seems to double up on them after Mr. Lubick has
3 made such a courageous defense for the Treasury would be going
4 too far for the time being. It would be a cruel and unusual
5 punishment on a Treasury agent.

6 I would think, if you are going to agree with Mr. Nelson's
7 amendment, rather than to add insult to injury by doubling up on
8 him, maybe we should just stand with what was offered to begin
9 with.

10 Those in favor, say aye.

11 (A chorus of ayes).

12 The Chairman: Opposed?

13 (No response)

14 The Chairman: The ayes have it.

15 Well, gentlemen, I think that we should meet again at 10:00
16 on Tuesday.

17 (Whereupon, at 12:15 p.m., the Committee recessed, to
18 reconvene at 10:00 a.m. on Tuesday, September 24, 1979.)

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