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EXECUTIVE SESSION

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THURSDAY, AUGUST 10, 1978

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

The Subcommittee met, pursuant to notice, at 9:30 a.m. in room 2221, Dirksen Senate Office Building, Hon. Russell B. Long, (Chairman of the Committee) presiding.

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

The Chairman. The Committee will come to order. I would think that we should first take care of the matter that was pending when the Committee broke up yesterday if we can, and we can dispose of that rather quickly and then go on to the other matter.

Senator Curtis. Thank you, Mr. Chairman.

The first one I will call up I think everybody is in accord, Treasury and so on. It is S. 2418.

Yesterday we mentioned that the home of General Lafayette in Paris has been locked up all these years. It is very rich with boxes and boxes of correspondents and so on, all so vital to the history of the United States. Under our gift estate law, if a citizen gives part or all of his property to a charitable

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1 corporation he would be entitle to a charitable deduction. It
2 makes no difference if the corporation is a U.S. corporation or
3 a foreign corporation, just so long as it is a legitimate charity
4 under our standards.

5 However, we have a slightly different rule in our law for
6 nonresident aliens who give their U.S. assets to charity. These
7 people get a charitable deduction only if their property is given
8 to a U.S. corporation. No one seems to be quite sure why there
9 is this difference in the law. It is probably an oversight.

10 The descendants of Lafayette own assets in the United States.
11 They want to give it to the foundation that is located in Paris,
12 not a U.S. corporation, in order to perpetuate this very, very
13 valuable and irreplaceable bit of history. It is Senator Mathias's
14 bill, and I understand that the Treasury approved the bill as
15 written, is that correct?

16 Mr. Lubick. We approve the substance, yes, Senator.

17 Senator Curtis. Basically, we had negotiated a treaty with
18 France which has not yet been submitted to the Senate that
19 accomplishes exactly the result of the bill. For that reason,
20 since we have already approved the result, we saw no particular
21 reason if you wish to go ahead and advance other ratification
22 to do it by this particular legislation.

23 The Chairman. Treasury approves it? Do you approve the
24 bill?

25 Mr. Lubick. Yes, Senator Long.

1 The Chairman. If there is no objection, we will approve
2 it.

3 Senator Curtis. The other matter we have pending is Senator
4 Bartlett's matter. I think I can save time by going over a
5 brief statement.

6 S. 2825 would exempt long-term care facilities such as
7 orphanages and homes for the aged from private foundation rules.
8 Universities, hospitals and certain other types of organizations
9 are presently exempt from these rules.

10 This is true of a private, closely-controlled university as
11 well as public ones. It is true of private hospitals as well as
12 state, county and municipal ones.

13 As I understand it, such organizations were made exempt
14 because it was thought that it was unlikely that wealthy families
15 could use universities and hospitals to perpetuate those types
16 of abuses that the 1969 Act was intended to correct. The same
17 can be said of longterm care facilities, such as the Sand Springs
18 Home. It is located in Oklahoma.

19 I doubt that the Treasury is aware of any such home which is
20 used as a tax-exempt pocketbook for any wealthy family. I certainly
21 know of one, and the Sand Springs Home is not one, since its
22 founder died 50 years ago and none of the founders' family are
23 in any way involved with the management of the home.

24 These organizations carry on with the activities and are
25 not susceptible, like charities, of abuses of foundation charities

1 that the '69 Act was concerned with.

2 In answer to Mr. Lubick's question of yesterday, the Sand
3 Springs Home is not primarily concerned with the foundation excise
4 tax, although that tax was required of them last year to divert
5 nearly \$40,000 from the care of widows and orphans. The Home
6 is more concerned about the foundation distribution requirements
7 of Code Section 4942. This requirement forces the home to dis-
8 tribute amounts from its principal each year in order to avoid
9 confiscatory penalty taxes.

10 Since long-term care facilities, like universities and
11 hospitals, must build up an endowment in order to provide for
12 future operations, the distribution requirements are extremely
13 detrimental to the financial solvency of the Home.

14 The Congress solved this problem for endowed universities
15 and hospitals by exempting them from private foundation bills.
16 We should do the same thing for longterm care facilities by the
17 enactment of S. 2825.

18 May I inquire of the Treasury what your position is?

19 Mr. Lubick. Basically, Senator Curtis, I think that is
20 correct. We checked; it is a minimum distribution rule which was
21 put in in 1969 with respect to private foundations to assure that
22 a certain percentage of the principal of the foundation was
23 distributed each year for charitable purposes.

24 Then, in as much as some organizations that might otherwise
25 be treated as private foundations were controlled by publicly

1 supported charitable organizations as to which the requirements
2 did not apply, Congress defined out from the private foundation
3 definition with this requirement -- those organizations which were
4 controlled by public charities. Presumably, if those organizations
5 had made a distribution to the organization that controlled them,
6 you would end up with the same result. The money would be within
7 the same charitable family.

8 Then Congress went further and extended the ability to
9 avoid this minimum distribution requirement to otherwise private
10 foundations that were controlled by labor unions or Chambers of
11 Congress or other organizations.

12 Now, this would extend the same thing to certain types of
13 organizations controlled by fraternal organizations.

14 It seems to us if the appropriate decision originally made
15 was correct, that these organizations ought to distribute a
16 minimum amount to charity and that still ought to be the rule.

17 You pressed me yesterday to say what is the difference with
18 an organization controlled by a labor union and I must confess to
19 you that it is very difficult for me to draw that distinction.
20 I think what the Committee ought to do is to go back the other
21 way and remove Sections 4, 5 and 6, but I am very hard-pressed
22 to see any differentiation between a C-8 organization or a C-6.

23 Senator Curtis. No matter of revenue?

24 Mr. Lubick. Not a question of revenue. It is a question
25 whether Congress wants to insure that these types of organizations

1 do devote actively to charitable purposes each year a certain
2 minimum amount, or whether you want to permit them to accumulate
3 for the charitable purposes.

4 Senator Curtis. This home happens to be run by the Masonic
5 Lodge. It seems to me that a fraternal organization ought to have
6 the same privileges with this type of charitable work as, say,
7 the Teamsters Union or the Chamber of Commerce, or something
8 else.

9 Bob, do you have any comments to make on this?

10 Mr. Shapiro. I think, as Don indicated, the issue is not a
11 revenue issue. It is whether or not to what extent you look at
12 the purposes of the '69 Act in this regard. The '69 Act was
13 intended to deal with foundations on a general basis. You now
14 have before you a case where you have a privately-endowed home
15 for orphan children and elderly widows and so forth. And the
16 application of the private foundation provisions to them does
17 affect them from the distribution rule. It is whether the Committee
18 believes the foundation rules should apply to this case or should
19 we look at certain type situations as being different from the
20 general treatment that you apply to foundations.

21 Senator Curtis. Mr. Chairman, Senator Bartlett is very much
22 interested in this. It has been before us a long time. I move
23 the adoption of the bill.

24 The Chairman. Does Treasury oppose it? Do you have any
25 objection to it?

1 Mr. Lubick. We do object to the bill. We say we cannot
2 differentiate this case from the three you have already adopted.
3 We think this is an example of what happens when you start down the
4 wrong road.

5 Senator Curtis. In other words, he does not think we went
6 far enough in '69?

7 Mr. Lubick. I am not quite sure whether the other three --
8 the social organizations and the civic leagues added. I think
9 that if we hold the line to those controlled by charities, you
10 have a justifiable result.

11 But having gone beyond that in the other three situations,
12 I do not see any differentiation between this. I do not think we
13 should have gone that far in the other three, and this is the
14 fourth step.

15 Senator Curtis. In other words, you have a philosophical
16 and theoretical opposition to what we are doing here, but you do
17 not think it is as serious as some matters. Is that right?

18 Mr. Lubick. I think that is fair to say.

19 Senator Curtis. Would it ease your mild opposition, a very
20 thin, mild opposition, if we made this prospective only?

21 Mr. Lubick. I think the way the bill is drafted, I think
22 that would help, if it applies only to future years. I think
23 they have always lived with the minimum distribution. I do not
24 think that makes any particular difference.

25 Senator Curtis. I know. You do not know what other cases

1 might pop up.

2 Mr. Lubick. You are applying it, as I remember the bill,
3 to organizations that were formed --

4 Senator Curtis. From the standpoint --

5 Mr. Lubick. I would just as soon confine it to those who
6 had been operating under the laws as it was before 1969.

7 Senator Curtis. We will leave the bill as it is.

8 Mr. Chairman, I think many of the members have been approached
9 with this. I ask for a vote.

10 Mr. Lubick. Senator Curtis, there are two bills on this
11 subject. I assume the bill you are voting on is the one --

12 Senator Curtis. 2825.

13 Mr. Lubick. -- the one that exempts organizations controlled
14 by fraternal organizations.

15 Senator Curtis. 2825; Mr. Pritts, is that not correct?

16 Mr. Pritts. Yes.

17 Mr. Lubick. I think you would be better off with the other
18 one that accomplishes this same result by bringing the private
19 foundations controlled by fraternal organizations within the same
20 category. That was the one we discussed yesterday.

21 Senator Curtis. Will that take care of everything?

22 Mr. Pritts. Yes.

23 Senator Curtis. All right. We will take that.

24 The Chairman. All in favor, say aye.

25 (A chorus of ayes.)

1 The Chairman. Opposed, no?

2 (A chorus of nays.)

3 The Chairman. The ayes appear to have it.

4 Senator Curtis. Thank you, Mr. Chairman.

5 The Chairman. We are voting over in the Senate. I would
6 suggest that we all go vote, and then we will come back.

7 (A brief recess was taken.)

8 The Chairman. Gentlemen, I want to get us to this supple-
9 mental fiscal assistance bill as soon as I can, and since Senator
10 Dole had his amendment pending, I do not want to deny him the
11 opportunity.

12 Senator Laxalt had asked that we consider an amendment; I
13 would like to accommodate Senator Laxalt.

14 I would like to ask at that point if we dispose of those
15 two amendments that we turn to the countercyclical revenue sharing
16 bill, because if we are going to vote on that, we should try to
17 vote on that this morning.

18 And these others can be considered at the next meeting of
19 the Committee.

20 I called this meeting this morning just because I hoped
21 that we could dispose of this countercyclical revenue sharing
22 issue and then move on to the various other bills that the
23 Senators have.

24 Senator Dole, why do you not explain your amendment?

25 Mr. Shapiro. Before Senator Dole begins, the action the

1 Committee just made on Senator Curtis's bill, we agreed to a bill
2 where there is a question whether it covers just exactly what
3 the Committee had agreed to in principle. What we would like to
4 ask is have the staffs work to draft what the Committee agreed
5 to in principle rather than just agree to a bill and have that
6 put on another bill.

7 If the Committee agreed to the principle there is a question
8 as to whether that bill actually does it. I would like to change
9 the record to agree to that principle.

10 The Chairman. Without objection, we will do that, and take
11 another look at it.

12 Senator Dole. Mr. Chairman, actually yesterday, because of
13 the lack of a quorum, there were two bills, but I will only bring
14 up 3007 this morning, and then I can defer 3288 until the next
15 meeting, next week or sometime soon.

16 3007 relates to independent contractors and it is to clarify
17 the tax status of independent contractors and employees. I think
18 maybe the IRS does not share the view that despite what was done
19 in the 1976 Tax Reform Act there have been efforts made -- zealous
20 efforts by the IRS -- in attacking taxpayers on this issue.

21 There is no doubt about a retroactive determination trans-
22 forming an independent contractor to an employee can be devasta-
23 ting. Right now there are claims being made in the millions and
24 millions of dollars by IRS -- Mutual of Omaha among one, and many
25 others. It affects a lot of people who thought for years in good

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1 faith they were independent contractors and now are being class-
2 ified as employees by the IRS.

3 The bill that I have introduced, the bill we have had hearings
4 on, tries to address the problem in two specific ways. First,
5 it does not allow the IRS to have a position on a ruling that
6 was in effect on January 1, 1976. It will note that the Treasury
7 has already agreed to revoke the two particular rulings -- 76-136
8 and 76-137 -- which affect realtors. That much has been accom-
9 plished.

10 Second, the bill recognizes the independent contractor status
11 of individuals who have been treated consistently and in good
12 faith as independent contractors and relies on rulings, cases,
13 past IRS audit practice, industry practice and the taxpayers'
14 own longstanding practices.

15 The bill defines good faith to make the relief grant speci-
16 fic. I think it is certain; I think it can be administered. In
17 no instance will good faith be found if the taxpayer's treatment
18 of individuals as independent contractors either constitutes a
19 negligence or a fraud.

20 This provision -- not who supports it -- is controlling, but
21 it is supported by the Direct Selling Association, the National
22 Association of Realtors, National Association of Independent
23 Insurers, Executive Advertising Association, the American Petroleum
24 Institute, the National Home Improvement Council, the America-
25 Retail Federation, National Small Business Association, National

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1 Oil Jobbers Council, National Home Furnishing Association,
2 National Floor Covering Institute, Society of Independent Gas
3 Owners of America.

4 I know that this is opposed by the IRS. What I say in effect,
5 let us make the Congress make this decision.

6 There is no cut-off date in my proposal. I think Congress
7 can come to grips with it and we can make the decision.

8 I do not say critically of IRS. We think it is a matter that
9 we should deal with on a legislative level.

10 I have a number of co-sponsors and I have just added one
11 other, Senator Hansen, so we are making progress. I think that
12 summarizes it.

13 Senator Curtis. If the Senator would yield, I think that
14 this is very important. This matter has been up for years. We
15 have tried to get something in the report that would just hold
16 it in abeyance until a solution could be arrived at.

17 A short while ago when we were having hearings here I asked
18 the interested parties if they could get together on lenders.
19 What they have done is they have ended the confusion for the
20 time being and also reserved to the Congress the right to further
21 which we have anyway, but made it clear -- that the Congress could
22 change this rule at a future time, work it out anyway they wish.

23 This will leave it so that, rather than have all of this
24 confusion, the Treasury can proceed with all of the studies
25 they want to, come to Congress and, if they sell the Committees

1 at that time on a better, more equitable way to handle these
2 things, it can be done.

3 There are many people, not only door-to-door salesmen, but
4 individuals who run a filling station who thought they were in
5 business for themselves and all of a sudden they are faced --
6 today the supplier and them are faced with a decision.

7 The Chairman. Mr. Shapiro?

8 Mr. Shapiro. Senator Dole and Senator Curtis indicated that
9 this is a very controversial issue that involves a great deal of
10 money and is of concern to members of a number of industries.
11 We have met with them, separately and in groups, to discuss the
12 matter.

13 Let me just say in general it deals with the classification
14 of workers as to whether or not they are employees or independent
15 contractors. The result of that classification is important
16 because if they are treated as an employee, the employer must
17 withhold taxes from them, pay Social Security taxes and FUTA
18 taxes.

19 If they are treated as an independent contractor then there
20 is no withholding and there is no FICA taxes paid with respect
21 to that particular employee. Of course, the employee will pay the
22 self-employment tax.

23 The basis for making a determination as to whether a worker
24 is an employee or independent contractor is based on common law
25 and the Internal Revenue Service has published twenty factors to

1 making that determination.

2 Over the years, many industries, such as the door-to-door
3 salesmen, the real estate insurance, oil jobbers and so forth,
4 have had a consistent means of treating their employees, although
5 it will vary from industry to industry.

6 In recent years, the reason why there has been so much more
7 controversy is that the Internal Revenue Service has been enforcing
8 these rules to a much greater extent, causing some questions as
9 to the proper application of the various cases, and they have
10 published a series of rulings.

11 In 1969, the Tax Reform Act, the matter came before the
12 Congress after the Finance Committee had considered the matter
13 and on the Floor and in conference you had a statement inserted
14 into the record which asked the Internal Revenue Service not to
15 apply any changed position or newly-stated position in this whole
16 general area until a study was produced by the Joint Committee
17 staff.

18 We initially asked the GAO to come out with their report
19 which they did, indicating some general guidelines. I think the
20 general feeling is, although the GAO Report was helpful, it by
21 no means solved the issue and required Congress to make a
22 detailed analysis of it.

23 The Ways and Means Committee has had the same problem with
24 this issue and set up a tax force -- they set up two task
25 forces, one on fringe benefits, the other on independent

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1 contractors. There are two basic approaches, which have been
 2 discussed, to deal with this matter. The one is the one sponsored
 3 by Senator Dole which is also sponsored in the House which, in a
 4 sense, says to the extent that these industries or companies have
 5 relied in good faith on a consistent basis in the past on treating
 6 their workers as independent contractors, and if it meets several
 7 other criterias that Senator Dole indicated, such as the prior
 8 Internal Revenue Service practice, published rulings or recognized
 9 practice in industry, as well as longstanding treatment by the
 10 taxpayer, if they meet these criteria under this bill, they would
 11 be allowed to continue treating their workers as independent
 12 contractors.

13 This would cover the retroactive period and would continue
 14 to apply in the future until the Congress changes the situation.

15 There are two problems in this area. One, the retroactive
 16 problem -- what do you do about the past where there are some
 17 very large cases pending in audit or before the courts where the
 18 Internal Revenue Service has dealt with this matter and treated
 19 employees, workers where the employer treated them as independent
 20 contractor, the Internal Revenue Service is treating them as
 21 employees.

22 Then in regards to the future, what sort of rules should
 23 you have for the future? The other approach that had been given
 24 a significant amount of interest is to say that you are to put
 25 a freeze on and say, until the end of next year, the Internal

1 Revenue Service cannot make any assessment on these cases, but
2 to allow the Congress study what should be the case for the
3 future and having had hearings and explored that matter, then
4 look to the past and see what these employers should have
5 determined for the past and then maybe apply different treatment.

6 I should point out the industry people are very concerned
7 about a freeze, because they feel there are large assessments
8 that are pending and they would like to be covered for the past,
9 and many of them have indicated that they are willing to accept
10 the Congress to make some rules in the future, but these pending
11 cases have presented a problem.

12 I do want to indicate, although the freeze is a viable
13 alternative, that many members of the industry do not support
14 that, but they would support a freeze over doing nothing.

15 Senator Curtis. This has been a problem in the situation of
16 franchise businesses, has it not?

17 Mr. Shapiro. In many types of franchises.

18 Senator Curtis. Someone runs a restaurant and they do have
19 this franchise arrangement, they are in business for themselves.
20 That situation is in question.

21 I know of one particular case -- also, is it not true that
22 these businessmen who thought that they were in business, if there
23 is an assessment made it must be shown in their financial reports
24 and it ties up their assets and interferes with their businesses
25 in some cases?

1 Mr. Shapiro. That is correct.

2 As I said, there is a great deal of concern about that, and
3 the type of freeze that is being discussed, if the Committee
4 would consider that option, would say that you do not have
5 assessments.

6 The way it works is, once the issue is raised in audit, the
7 taxpayer can elect to suspend further consideration of that
8 so there would not be an assessment.

9 All I am pointing out is that there is a problem. I think
10 Congress should deal with it. I think these are the two viable
11 approaches, that if you were to agree to a freeze, appropriate
12 safeguards could be put in to prevent that case.

13 But I think that everyone agrees that you should do something
14 for the past, either have a legislative freeze or the Dole bill
15 approach. The matter should be dealt with.

16 The Chairman. Let us hear from Treasury on this.

17 Mr. Lubick. Mr. Chairman, I have with me the Commissioner
18 of Internal Revenue because I think this is a very serious matter
19 as far as the Revenue Service is concerned. There are a large
20 number of cases in litigation that would be affected by this.

21 Basically, the problem arises because the classification of
22 an individual performing services for purposes of income tax
23 withholding and for purposes of Social Security and unemployment
24 insurance taxes turns, with some exceptions, on the common law
25 definition that is based upon ancient doctrines of the law of

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1 master and servant, who is responsible for tort when somebody is
2 working for him.

3 That classification is a very elastic one and one that is
4 very difficult to apply. That is the standard that is in the law
5 now and as a result of that, there is bound to be uncertainty in
6 a lot of factual situations.

7 Many employers in an attempt to relieve themselves of the
8 obligation of withholding and in order to reduce the total liabil-
9 ity for the payroll funds, I think as Bob Shapiro pointed out, if
10 you have an employer-employee relationship, the amount going into
11 the Trust Fund for Social Security is substantially more than it
12 is if the individuals pay on a self-employed basis.

13 So I think you have here two issues that are important: the
14 integrity of the income tax and compliance through withholding;
15 but more important perhaps, or equally important, is the integrity
16 of the Social Security Trust Funds and unemployment tax, and those
17 matters all turn on the difficult factual determination of who is
18 an employee and who is not. And the natural tendency -- and it
19 is one -- that all practitioners would tend to push, help their
20 clients to go to the right side of the line, is to enter into
21 an agreement that tries to take persons out of the category of
22 being employees.

23 Let me give you one illustration. Here is an article recently
24 published -- how you can cut your payroll by 20 percent. It may
25 sound unorthodox, but it is becoming more common -- fire all of

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1 your workers and contract for their services as independent
2 operators. The move will save you the cost of government-stipu-
3 lated benefits, such as the Social Security, unemployment, et
4 cetera, and it will also eliminate reams of paperwork.

5 Basically, there is a tendency to move in that direction.

6 Now, this also involves other problems which we think should
7 not be tied up with tax definitions -- labor problems, when you
8 have to pay overtime, who has rights under pension plans and so
9 on as employees. It seems to us that we are prepared to make to
10 the next Congress recommendations that will try to take this out
11 of the context of the common law definition of employer-employee
12 and we think -- I think -- there has been some sentiment expressed
13 that that would be desirable, that the incidence of taxation should
14 turn on the substance of the services performed and not upon
15 common law classification.

16 In the meantime, there has been a lot of talk about the IRS
17 changing its position and it may be that in some situations there
18 has been a change of position here or there but, by and large,
19 the controversy has arisen because the IRS has, over the past few
20 years for the first time begun to look into these questions in
21 many areas and to test situations that individual employees had
22 set up. So I think that your problem has arisen to the fever
23 pitch that it has because of this increased audit activity, not
24 really because it has been a change in position.

25 When the Committee, in conference in 1976, said to the IRS,

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1 do not rock the boat, do not change any position until we can
2 have a permanent solution, the IRS indeed adopted that position.
3 Any question that is now referred to them for technical
4 advice where there is any doubt whatsoever is put into a freeze,
5 put into suspense, until we can have a resolution of the situation.

6 We think that it would be a mistake to completely wash out
7 liability for all persons who have set up a particular arrange-
8 ment. A good faith test, I think, is not sufficient because I
9 can tell you that I have advised very many people in good faith
10 that if they structured their situation in a certain way they
11 would have perhaps, at least, a 50 percent chance of it working.
12 I think in the law of taxation that is good faith.

13 On the other hand, you will have other people in exactly the
14 same situation who have been paying tax with respect to persons
15 that they call employees and you are going to let some off and
16 others not.

17 The original bill as proposed by Senator Dole is essentially
18 a freeze on the situation with respect to these back years. That,
19 I think, is nowhere near as serious as just washing out all of
20 this liability for the past until you have had a chance to examine
21 what the rule should be and then make as a result of using the
22 entire situation, determinations to wash out the back liability
23 in appropriate cases, but not in those cases where it is not
24 appropriate.

25 In the meantime, if we simply say that we will not have

1 liability wherever there has been longstanding treatment by such
2 persons of an employer with his workers as to longstanding
3 practices in the industry, I think those are esoteric concepts,
4 difficult to enforce.

5 I think since the IRS audit recovery capability is very
6 limited, I think you are going to have, in effect, undercut the
7 integrity of the trust fund by washing out an awful lot of
8 liability on a continuing basis and you are going to seriously
9 affect the ability of that compliance with the law.

10 I would think I would like the Commissioner to state some
11 of the problems which he sees in this area and tell you about some
12 of the enforcement problems.

13 Mr. Kurtz. I certainly would agree with what Don said. I
14 think that we all agree that the present state of the law is
15 unsatisfactory -- the common law employment test is one that is
16 difficult to apply. It involves a number of factors, many of
17 which are really in a sense irrelevant as to what one ought to
18 withhold, but that is the law we had, and we have tried to
19 administer it as well as we can.

20 On the other hand, faced with a law which is generally vague
21 and difficult to administer, we have the great importance of
22 withholding. I do not think that there is any serious dispute
23 that the tax law is much more difficult to enforce absent with-
24 holding. Compliance is lower, and with the audit coverage that
25 is now less than 2.4 percent of the tax returns filed, it would

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1 be virtually impossible to administer the tax system without
2 very wide withholding unless we were to quintuple the number of
3 agents out there examining returns, something that nobody has
4 any desire to do.

5 So we are in a sense in a dilemma. We would like to see
6 the law changed and we have been working very closely with
7 Treasury to develop rules that we would hope would provide more
8 certainty for the future. The difficulty we have with Senator
9 Dole's bill as amended is that it does not hold the status quo
10 as was suggested in the 1976 Committee Report, but rather changes
11 the substantive law for the past as well as the future by saying,
12 in effect, that any payor of funds to another who has treated
13 the other as an independent contractor, that has failed to with-
14 hold in good faith -- and I must say that I have no idea what
15 that means. I am not sure how we would litigate that issue, how
16 we would show a lack of good faith, when an employer says that
17 that was his understanding of the rule.

18 It would permit him, not only for the past, but forever in
19 the future, until the rules were changed to continue in that
20 regard so that even if we were to do an audit and say to the
21 taxpayer it is clear under the law, or it is our view under the
22 law, that these people who work for you are, in fact, employees
23 and you should be withholding.

24 This would absolve him of the situation to change even for
25 the future and I might say, in existing industries, inconsistency

1 which now exists would continue and there are competitive disad-
2 vantages to withholding or not withholding.

3 You have competing businesses who would be frozen into this
4 situation where they are today, and the administration in my area
5 would come to a standstill. As new businesses were formed, they
6 certainly would opt to treat their people as independent contrac-
7 tors, since they would be protected if they did so in good faith
8 and as time would go on, I think we would see a substantial erosion
9 of the withholding tax which is of a great concern to me trying to
10 administer the taxes.

11 Senator Byrd. I can see that there are two sides to this
12 question, but it seems to me that Senator Dole's proposal is a
13 reasonable one.

14 Is there further discussion, or is the Committee ready to
15 vote?

16 Senator Dole. I am ready to vote.

17 Senator Byrd. Mr. Stern will call the roll.

18 Mr. Stern. Mr. Talmadge?

19 Senator Dole. Aye.

20 Mr. Stern. Mr. Ribicoff?

21 (No response)

22 Mr. Stern. Mr. Byrd?

23 Senator Byrd. Aye.

24 Mr. Stern. Mr. Nelson?

25 Senator Nelson. Let me say I will vote aye, but given some

1 of the argument I had not heard before, I reserve the right to
2 support a modification on the Floor of the Senate.

3 Mr. Stern. Mr. Gravel?

4 (No response)

5 Mr. Stern. Mr. Bentsen?

6 Senator Bentsen. I think Senator Nelson has well-stated my
7 position. I am going to vote aye, but these arguments concern
8 me. I am ready for some modification on the Floor.

9 Mr. Stern. Mr. Hathaway?

10 Senator Hathaway. I have the same concern, but I will vote
11 no.

12 Senator Dole. It is much like we did for the fishermen
13 earlier this year.

14 Senator Hathaway. I realize that.

15 Mr. Stern. Mr. Haskell?

16 Senator Haskell. Aye by proxy.

17 Mr. Stern. Mr. Matsunaga?

18 (No response)

19 Mr. Stern. Mr. Moynihan?

20 Senator Moynihan. I will vote aye with the understanding
21 that Senator Nelson and Senator Bentsen stated.

22 Mr. Stern. Mr. Curtis?

23 Senator Curtis. Aye. Plain aye.

24 Mr. Stern. Mr. Hansen?

25 Senator Hansen. Aye.

1 Mr. Stern. Mr. Dole?

2 Senator Dole. Aye.

3 Mr. Stern. Mr. Packwood?

4 (No response)

5 Mr. Stern. Mr. Roth?

6 (No response)

7 Mr. Stern. Mr. Laxalt?

8 Senator Laxalt. Aye.

9 Mr. Stern. Mr. Danforth?

10 Senator Danforth. A Nelson-Bentsen-Moynihan aye.

11 Mr. Stern. Mr. Chairman?

12 (No response)

13 Senator Byrd. The vote is 11 ayes, one no. The bill is
14 reported.

15 Senator Laxalt, do you have an amendment to bring up?

16 Senator Laxalt. Mr. Chairman, Section 4461 of the Internal
17 Revenue Code imposes a \$250 annual tax --

18 Senator Byrd. The Committee will come to order.

19 Senator Laxalt. -- on coin-operated game devices in 1971, an
20 amendment was added to allow an 80 percent credit for state
21 taxes paid on these devices.

22 Senator Byrd. The Committee cannot hear. The guests of
23 the Committee will either leave the room or maintain silence.

24 Senator Laxalt. Thank you, Mr. Chairman.

25 I would, today, like the Committee to consider raising the

1 credit level to 95 percent. Monies obtained from this credit have
2 been very helpful to education and it is for this reason I urge
3 the Committee to spend under state law an amount equal to the
4 credit that is made available for education. The first \$5 million
5 is allocated to a fund ear-marked for capital improvements in
6 the University of Nevada system, including community colleges.

7 Funds in excess of \$5 million go to the state-distributed
8 schools fund which, under Nevada law, is the principal mechanism
9 for distributing state assistance to local school districts.

10 By this Committee's standards, the revenue loss associated
11 with expanding the credit is rather small, but they are extremely
12 important for education in my state. In 1977, the slot tax grossed
13 \$14 million, 8 percent, or \$11.8 million of which was offset
14 by state credit.

15 Our estimates indicate that the 95 percent figure of \$13.7
16 million would be available to the state, thus yielding an addi-
17 tional \$2 million to Nevada education.

18 In 1977, the state legislature established a special higher
19 education capital construction fund in anticipation of an increase
20 in the amount of the credit. Under this new Nevada law, this
21 incremental gain from the increase of the credit will be speci-
22 fically earmarked for the payment of interest and amortization
23 of the principle to defray construction costs for sorely needed
24 continuing education, athletic facilities at the University of
25 Nevada, Reno and Las Vegas campus.

1 Mr. Chairman, it is my understanding that some 15,000
2 students enrolled in about 475 continuing education programs
3 at the University's fast-growing Las Vegas campus are now making
4 do in borrowed classrooms or rented facilities off-campus with
5 no permanent housing. It is my hope that this Committee will
6 today help rectify this situation. It is my understanding that
7 the Treasury receives no benefit to income-tax enforcement for
8 the slot tax, and would have no objection to increasing the
9 credit from 80 to 95 percent.

10 I have alleged that fact, addressed by my distinguished
11 senior colleague in Senate bill 98. The Cannon bill is precisely
12 what we are proposing by way of this amendment.

13 Mr. Chairman, I urge favorable consideration of this matter.
14 Senator Byrd. Does the Treasury Department have a view on
15 this?

16 Mr. Lubick. Yes, Mr. Chairman.

17 Basically, the tax is \$250 per slot machine, and if the
18 credit is increased to 95 percent, that will leave Treasury with
19 \$12.50 per slot machine. We think that really there is not much
20 point in keeping the tax.

21 We would like to go Senator Laxalt one better and suggest
22 that you just repeal the tax altogether and let the states have
23 100 percent of the tax and enforce it themselves. I do not think
24 it is really worth our enforcement effort to collect it. There
25 is no real revenue from our point of view, so we would like to

1 turn this over 100 percent to the states.

2 Senator Byrd. Does the Senator from Nevada accept that
3 modification?

4 Senator Laxalt. I would except for one problem I may have.
5 Presently, the state law generally is keyed to the refund situation
6 short of the 100 percent. I hope that I would not find myself
7 in a Catch-22 situation of accepting the generosity of Treasury
8 and blowing myself out of the box as qualifying under state law.

9 Mr. Lubick. Perhaps could we have a two-year period of
10 transition to allow the state legislatures to take over?

11 Senator Laxalt. That would be perfectly satisfactory to
12 me. We have developed a mechanism here geared to the state law.
13 We may create an unnecessary problem.

14 Mr. Lubick. Why do we not say for 1978-80 the credit will
15 go to 95 percent, then the tax will be repealed thereafter.

16 Senator Byrd. Is that acceptable? Is there any opposition
17 from the Committee?

18 If not, we will consider it approved.

19 Senator Laxalt. Thank you, Mr. Chairman.

20 Senator Byrd. On behalf of Senator Bayh and Senator Chaffee
21 and Senator Pell, Senator Brooke and Speaker O'Neill, I would
22 like to invite the Committee's attention to S. 3301. If the
23 staff would explain that?

24 Mr. Shapiro. In the Tax Reform Act of 1976, one of the
25 provisions that was in that bill was the requirement that on

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1 acquisitions of sports franchises that the buyer of the franchise
2 must allocate the purchase price among all of the player contracts.
3 Also, he must allocate it among other assets and take into
4 account the seller's allocation basis among the assets.

5 What you are doing is allocating the seller's basis between
6 player contracts and other assets to the buyer who must make
7 the same allocation.

8 This was correcting an abuse of the existing and prior law
9 where the seller had one basis in the contracts, the buyer would
10 take another basis, and because of the very large depreciation
11 write-offs, the player contracts used that to offset most of the
12 purchase of the sports franchise.

13 This provision of the Tax Reform Act became effective on
14 December 31, 1975 on sales or exchanges after that date. The
15 bill that Senator Byrd has reference to that is before the
16 Committee would provide an exception or a transitional rule to
17 that effective date.

18 What it would say, if there is a sale or exchange of a
19 franchise before March 1, 1977, but if, prior to December 31, 1975,
20 the effective date of the Tax Reform Act provision, the person who
21 is the principal shareholder of the transferee at the time of the
22 exchange was committed and actually did purchase more than 50
23 percent of the voting stock of the sport franchise, the 1975
24 Act would not apply.

25 What the bill does is provide a transitional rule for situations

1 where there is a commitment and at the effective date of the
2 1976 Act, but the transaction did not occur before March 1, 1977.

3 In that case, the '76 Act would not apply.

4 This particular case is consistent with the Committee's
5 disclosure rules and would apply to the New England Patriots
6 and specifically to Mr. William A. Sullivan, Jr. who would benefit
7 by this provision.

8 Senator Byrd. I understand Treasury is opposed. Do you
9 want to state Treasury's position?

10 Mr. Lubick. Basically, Mr. Chairman, as you are familiar,
11 we prefer not to see retroactive legislation in this situation.
12 There was a movement by the particular taxpayer involved to take
13 advantage of the earlier rules which we thought were not really
14 the best rules. We think the changes in the '76 Act were sound.

15 He sort of got caught midstream, and generally we do not like
16 to see you going back and changing your mind.

17 Senator Curtis. Did he not borrow \$5 million?

18 Mr. Lubick. That is correct.

19 Senator Curtis. Relying on what he thought was the law.

20 Senator Byrd. When he signed the contract, he was relying
21 on what he thought was then the existing law, is that correct?

22 Mr. Lubick. I am not sure that the contract was signed.
23 The deal was certainly in the process of negotiation.

24 Mr. Shapiro. The House considered this bill before its
25 effective date and made it effective at the end of the year, so

1 they may have had some preliminary negotiations during the period
2 that the House was considering the bill. There is always the
3 question when a Committee is considering a bill, to what extent
4 that is knowledge throughout the country as to what are the
5 contents in that bill and as to whether or not that will eventu-
6 ally be passed. But on December 31, 1975, the House had passed
7 the bill. The Senate had not had consideration of the Tax Reform
8 Act that had passed the House.

9 The effective date of this bill was the date that the House
10 made on its action.

11 Senator Bentsen. Don is talking about retroactivity, and in
12 fact this person got caught because of the retroactive date.

13 Mr. Shapiro. The Tax Reform Act was actually signed October,
14 '76. The effective date of this provision was December 31, 1975.

15 Senator Bentsen. But it was finally passed by the Congress
16 and signed then?

17 Mr. Shapiro. On October 4, 1976.

18 The effective date of this provision says the sale must have
19 taken place before March 1977, so it appears that the sale
20 occurred after the passage of the Act. The sale was not just
21 after December 31, 1975, it was actually after the Tax Reform Act
22 was signed.

23 Senator Byrd. The contract that brought about that sale,
24 was that signed prior to October 4?

25 Mr. Shapiro. As we understand it, there were commitments for

1 that date to purchase commitments, but there was no -- the sale
2 did not occur until after the Tax Reform Act was passed, but the
3 bill says that prior to the effective date of the provision,
4 December 31, 1975, that there was a commitment to purchase more
5 than 50 percent of the stock.

6 Negotiations had gone far enough that the buyer had a commit-
7 ment to purchase, although there was not -- I do not know whether
8 it was a binding commitment, but it was a commitment, and the
9 sale, exchange offered, did not take place until after the Tax
10 Reform Act was signed in '76.

11 Senator Byrd. I would assume the Treasury would have the
12 opportunity to require justification of that assertion.

13 Mr. Lubick. I also wanted to point out, Senator Byrd, it is
14 my understanding that under this bill this does not automatically
15 guarantee the benefit to the taxpayer. The issue is still
16 subject to litigation as to what the allocation should be.

17 Senator Byrd. Between Treasury and the taxpayer?

18 Mr. Lubick. Yes.

19 Under the statute, as it was enacted, there is a mechanical
20 rule that prohibits the taxpayer from even contesting the issue.
21 Under the bill, the Treasury would, as I understand it, have an
22 opportunity to require the taxpayer to justify his allocation.

23 Senator Byrd. Senator Moynihan?

24 Senator Moynihan. Has the Committee on Ways and Means of
25 the House considered this measure?

1 Mr. Shapiro. This matter has been considered in the Ways
2 and Means Committee several times and it has not been passed by
3 the Ways and Means Committee.

4 Senator Moynihan. Thank you.

5 Senator Curtis. May I ask a question? Did the Congress
6 change the rule retroactively?

7 Mr. Shapiro. Let me answer that this way. The Ways and
8 Means Committee made the provision prospective and this provision
9 in this effect. They agreed to the changes after December 31,
10 1975, after the House passed the bill, and there are many people
11 in the sports industry that were very much aware of the provision
12 because there was a great deal of discussion with all of the
13 sports -- all of them: baseball, football, basketball, so that
14 on this provision and other provisions of the Tax Reform Act --

15 Senator Curtis. When did Ways and Means make that decision?

16 Mr. Shapiro. Probably -- I cannot remember exactly --
17 probably in the summer or fall of '75.

18 Mr. Lubick. December 17th.

19 Mr. Shapiro. The Ways and Means made its decision December
20 17, '75 but made it effective for sales or exchanges after the
21 end of that year, December 31, '75. The House passed the bill
22 before then, but it was made prospective after the House action.

23 The Senate did not get the bill until '76. The Senate
24 enacted on it, and the bill was signed by the President on
25 October 4, 1976 and this particular taxpayer --

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Senator Curtis. October 4?

Mr. Shapiro. 1976. But this sale or exchange did not occur until after that date. It was before March 1, 1977.

Senator Curtis. The negotiations?

Mr. Shapiro. The negotiations were underway during the consideration of the House bill and during 1976, and the provision here is before December 31, 1975 there was a commitment to

purchase -- I am not sure that means a binding commitment, what type of commitment that is, but they feel that negotiations were far enough along that it was a commitment.

However, the deal was not consummated until well after the Tax Reform Act was passed.

Senator Curtis. The taxpayer contends that the negotiations had moved along to a substantial degree between October 4, '76 --

Mr. Shapiro. The taxpayer contends that it went far enough along before the December 31, '75 date.

Senator Laxalt. There was a \$5.3 million borrowing on December 3, 1975 to effectuate the purpose.

Senator Byrd. Is this correct, if the bill is passed then the taxpayer and the Treasury can negotiate.

Mr. Shapiro. The taxpayer feels this would cover the case. The Treasury may contest whether or not there was a commitment.

Mr. Lubick. I think under prior law the Internal Revenue Service could audit the allocation made between the player contracts and the franchise. I take it what this bill does is simply throw

1 it back to the prior law where there can again be litigation of
2 the proper allocation.

3 Mr. Shapiro. That is correct. All I was saying was that
4 this bill covers the case from the standpoint that they are not
5 required to come under the '76 Act which requires the buyer to
6 tax the same basis as the seller, but the prior law does allow
7 the Treasury to work to contest it as well.

8 To that extent, that is correct.

9 Senator Byrd. If this legislation is passed, the Treasury
10 could require the taxpayer to justify any assertions that he
11 makes as to the status of the negotiations prior to the enactment
12 of the law.

13 Mr. Lubick. That is correct.

14 Mr. Shapiro. The extent of the allocation of the purchase
15 price, the allocation between player contracts and the other
16 assets.

17 Senator Byrd. What is the will of the Committee?

18 Senator Hansen. If I could ask one further question, maybe
19 I missed some relevant points here. Would the result of the
20 enactment of this bill be to look at any contract that had been
21 entered into after the '76 date, whenever it is?

22 Mr. Shapiro. It would say, if before December 31, 1975,
23 which is the effective date of that provision, if there were
24 commitments to purchase more than 50 percent of the stock and if
25 the actual purchase was consummated before March 1, 1977, then

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1 that taxpayer could use prior law. Prior law means there is no
2 rule that requires the buyer to take the exact basis in the
3 player contracts that the seller had. Then they must allocate
4 the basis under what they believe is appropriate, and Treasury
5 can contest that.

6 Senator Hansen. Thank you.

7 Senator Bentsen. One more time. If there is a binding
8 commitment before December 31, '75 --

9 Mr. Shaprio. A commitment before December 31, 1975 to
10 purchase the sports franchise.

11 Senator Bentsen. This taxpayer would have to be in a binding
12 commitment before December 31, 1975 for this to be applicable.
13 Is that correct?

14 Mr. Shapiro. I am hesitating on the word "binding." I have
15 always used the word "commitment."

16 Mr. Lubick. Senator Bentsen, the bill requires that he would
17 have purchased the majority control of the transfer or stock before
18 December 31, '75 and the question arises as to the situation where
19 he has started to get control and got actual working control and
20 then tries to pick up the rest of the stock and complete the liqui-
21 dation to get the assets of the corporation.

22 So I think there is probably little question that before
23 December 31, 1975 he was embarked on this course. I do not think
24 we could dispute that, because he did, in fact, acquire more than
25 half the stock and had gotten his loan commitment, and then it

1 simply was a question of picking up the minority stock. You have
2 to get the 80 percent or so to effectuate the liquidation. That
3 is basically what the problem is.

4 Senator Byrd. Those in favor, raise their hand.

5 (A show of hands.)

6 Senator Byrd. Those opposed?

7 (A show of hands.)

8 Senator Byrd. The bill is approved. The bill will be
9 reported.

10 The next item is the supplementary fiscal assistance part of
11 the revenue sharing act.

12 Mr. Stern. For a point of clarification, the various measures
13 that the Committee has approved this morning are approved as
14 Committee amendments and will be offered on an appropriate bill,
15 the way you have been doing.

16 Senator Byrd. I would think that is the appropriate proce-
17 dure.

18 There are five of that sort: the Curtis amendment on chari-
19 table deductions. The Curtis amendment on exempting long-term
20 health care facilities. The Dole amendment on freezing retro-
21 actively. The Laxalt amendment on the slot machines. And
22 finally, the one that you just approved on the basis allocation.
23 Those would be Committee-approved amendments to be offered on the
24 appropriate bill.

25 Senator Curtis. Mr. Chairman, what is about to be called

1 up?

2 Senator Byrd. Revenue sharing.

3 Senator Curtis. Senator Roth wanted to be here.

4 Senator Byrd. Is it necessary to hold up? Do you want to
5 hold up until Senator Roth gets here?

6 Senator Curtis. I presume -- it is all right to proceed
7 with the explanation. He is on his way here.

8 Senator Byrd. Mike, why do you not go ahead and explain the
9 proposal.

10 Mr. Morris. Under existing law, the countercyclical assis-
11 tance program provides funds -- funds are distributed to state and
12 local governments that have excess unemployment, unemployment
13 above 4.5 percent under a formula that utilizes the rate of
14 unemployment and the revenue sharing entitlement.

15 Payments are allocated quarterly and made only when the
16 national rate of employment is above 6 percent. Over the ten
17 calendar quarters that counter-cyclical has been in effect,
18 over 19,000 state and local governments have received in excess
19 of \$3 billion.

20 The Administration put forward a proposal as a part of its
21 urban program which would extend counter-cyclical assistance for
22 two years, at \$1.04 billion for fiscal year 1979 and \$1 billion
23 in fiscal year 1980.

24 Under the Administration's proposal, payments would only
25 go to local and not state governments, and funding would be based

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1 formula which would take into account certain growth lags in
2 population, employment or income and a jurisdiction in either
3 excess unemployment or a growth lag in population or employment
4 or income would be eligible for fiscal assistance.

5 In the Administration proposal, it was estimated that the
6 number of eligible so-called distressed municipalities would
7 increase from 18,000 to 26,000 units of government. State
8 governments would not receive any funds.

9 We have before the Committee, by Senators Hathaway and
10 Moynihan, which would in general extend counter-cyclical assis-
11 tance for an additional two-year period. The proposal would
12 split the program into two titles. The first title would
13 continue counter-cyclical assistance as it is at present, distri-
14 buting \$120 million per quarter plus the \$30 million for each
15 one-tenth of a percentage point that the rate of national unemploy-
16 ment exceeds 6 percent.

17 Under this Title I, funding would be suspended if the national
18 rate of unemployment exceeds 6 percent for two consecutive calendar
19 quarters. The new title would be created, Title II, and under
20 that separate Title, \$125 million would be redistributed to state
21 and local governments with unemployment over 6percent based on the
22 current fiscal assistance program.

23 Senator Danforth. Do that again?

24 Mr. Morris. \$125 million per quarter that would be distri-
25 buted under this Title II.

1 Senator Danforth. If what?

2 Mr. Morris. If the national unemployment drops below 6
3 percent, but not below 5 percent, the second title would kick
4 in and that would distribute \$125 million per quarter to state
5 and local governments with unemployment in excess of 6 percent.

6 Under the existing program, funds are distributed to state
7 and local governments with unemployment in excess of 4.5 percent.

8 Senator Danforth. You have \$125 million per quarter for
9 unemployment over 4.5 percent and an additional --

10 Mr. Morris. The way the two titles would work, under the
11 first title, the funds would be distributed only if the rate of
12 national unemployment exceeded 6 percent. If the national rate
13 of unemployment dropped below 6 percent, there would be no fund-
14 ing under Title I and then Title II would kick in.

15 In effect, the second title guarantees a minimum distribution
16 of \$125 million per quarter, as long as national unemployment does
17 not drop below 5 percent.

18 Senator Moynihan. Would you like to hear from this side
19 about what the proposition is?

20 Senator Danforth. Yes.

21 Senator Hathaway. Bill has explained it. It is a two-
22 tiered system. The first tier, in effect, is what we have right
23 now except for the one change, that we go two quarters to deter-
24 mine whether or not the 6 percent trigger has been reached.

25 If that trigger has been reached, under present law, that

1 cuts out all of the money going national. That is what we do
2 in tier one; instead of waiting for one quarter to determine that,
3 we wait two quarters.

4 Senator Danforth. 4.5 percent local?

5 Senator Hathaway. Right.

6 Then the second tier would kick in if that happens, so the
7 \$125 million per quarter would not want to be exceeded, so it is
8 roughly \$500 million per year, depending whether you are using
9 tier one or tier two. You are never using both.

10 And the 5 percent national is really geared to the Committee
11 on economics which is a satisfactory unemployment rate of 4.9.

12 Senator Moynihan. The Council of Economic Advisors said
13 4.9 percent is full employment, so we say 5 percent or anything
14 above it.

15 The point about Title II is that while unemployment nationally
16 might go down below 6, we are still living in a period of great
17 individual local disparities and this countercyclical program
18 would continue for those jurisdictions which might be described
19 as still in a recession.

20 Senator Danforth. 6 percent for the local jurisdictions
21 under Title II; 4.5 percent under Title I, right?

22 Senator Hathaway. Right.

23 Mr. Morris. You will find the sheet entitled document L
24 and I believe attached to it is another document which is called
25 Treasury analysis of a Finance Committee proposal for substitute

1 programs in place of anti-inflationary fiscal assistance.

2 On page 2 of that document is a chart indicating just
3 exactly when Title I or Title II would kick in, based on the
4 administrative estimates of unemployment for fiscal year 1979 and
5 fiscal year 1980.

6 The Chairman. The thought occurs to me that it might have
7 more appeal in a larger number of states if we offer states an
8 opportunity to take their choice of either formula in the bill or
9 the formula under the general revenue sharing bill. If you did
10 that, some of the states who complain that they are not being
11 treated very well under this bill get their fair share, and if they
12 had an option they would have better treatment.

13 It would broaden the support for the bill.

14 Senator Packwood. If each state takes their highest option
15 and there is not enough money in the fund to fund all the highest
16 options --

17 The Chairman. You just reduce the amount of money accord-
18 ingly.

19 Senator Hansen. Pro-rate it?

20 The Chairman. That is the way you do it under the revenue
21 sharing bill now. Each state -- suppose you assume you have
22 \$1 billion to work with and each state says, they say we take
23 Option A or Option B of -- let us say \$1 billion. Then you look
24 at what each state would get if they take their portion of it
25 according to the option that favors them the most. Then you

1 simply reduce the amount that all states would get to make it
2 fit inside.

3 Senator Packwood. As long as the states understand -- they
4 look at the billion dollars and figure that we are going to get
5 \$50 million under this, and you add up all of the options and it
6 adds up to \$1.5 billion, so we reduce them all by a third.

7 The Chairman. Well, you can do it the other way around,
8 start with \$500 million and then up it.

9 Senator Bentsen. Let me say I have generally been a suppor-
10 ter of the countercyclical funds. I must say my enthusiasm has
11 waned and dampened substantially as I have looked at what has
12 happened to the unemployed in my state as compared to others.

13 I see, for example, in my state for an unemployed person we
14 get \$171. One of the other states gets \$613 and I understand
15 the theory of countercyclical, but I do not want to go overboard
16 on this thing when we reach this kind of a disparity.

17 The suggestion that you have offered as a compromise to the
18 formula, I think, would pick up some more support and, under those
19 conditions, I think I could vote for the bill.

20 This is not something that we have not done before. We did
21 it, as I recall it, under the Community Development Act. Under
22 the Community Development bill we gave them that kind of an alter-
23 native, that they could go the revenue-sharing route or go the
24 current formula.

25 Senator Hansen. If Senator Bentsen would yield, what did you

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1 say the amount was that your state would get?

2 Senator Bentsen. Per unemployed person, under the current
3 formula we get \$171.

4 Senator Hansen. Are you reading from a chart?

5 Senator Bentsen. These are figures that have been developed
6 for me by staff. I do not know which chart they are. One of the
7 other states gets \$613.

8 The Chairman. Louisiana does not do badly under this
9 formula, but look at Table 1 that was submitted here. This is
10 a chart that was prepared for me by my staff assistant. I would
11 be glad to have it made available to all of the other members.

12 Senator Hansen. I do not have the figures, apparently, or
13 could not find them, that Senator Bentsen refers to. That is all.

14 The Chairman. We will have xeroxed what we have here. That
15 does not include Wyoming on it. That was prepared by one of my
16 assistants, and it does show how some of those funds are distri-
17 buted.

18 As I said, because Louisiana has more unemployment now than
19 our neighboring states, Louisiana makes out pretty well under
20 this.

21 New Orleans in particular, because New Orleans has more
22 unemployment than the rest of the state. But on the other hand,
23 if you look at the neighboring states of Mississippi and various
24 others where Mississippi on a per capita basis would get more
25 help under revenue sharing than Louisiana would.

1 They do not in this -- I guess that is because they have
2 a lesser degree of unemployment. But if you offer a choice of
3 taking what their share would be under the revenue sharing bill
4 and taking it under revenue sharing, they make out quite well.

5 Obviously, if you do that, that is going to cut down on the
6 states that do their best under the formula that is in the bill,
7 just as in revenue sharing there were some states, and particularly
8 some communities with very high income where they did not really
9 need revenue sharing.

10 But if you are going to have a program, it is difficult
11 to have broad, general support for it unless everyone participates.
12 Most people feel that the revenue sharing formula, the general
13 revenue sharing formula, is a fair formula, but then for those
14 of you including Louisiana where we have a high degree of unemploy-
15 ment, if it serves your purpose, better take your money by the
16 formula and this bill before us wants to take that.

17 You see, I was looking at the chart there. General revenue
18 sharing formula, Mississippi would do better than Louisiana
19 ordinarily, but under this formula, Louisiana does better than
20 Mississippi. They could take their choice.

21 North Carolina comes in at far less than the average under
22 the general revenue sharing formula, they would do pretty well.
23 Oklahoma comes in at a low figure. They would be a lot better
24 off. Texas would, also.

25 Senator Nelson. Mr. Chairman, the situation, looking per

1 capita, my state would be about the same as Texas. However, this
2 is countercyclical revenue sharing. Let's suppose you had a
3 state in which in every single community there was no unemploy-
4 ment in excess of 3 percent. They would not get anything under
5 this and they should not. They do not have any problem.

6 You can argue that an unemployed person in a city that has
7 some unemployment is entitled to something, fine. If you are going
8 to have a general revenue sharing program combined with counter-
9 cyclical with each one taking the option you have not done any-
10 thing.

11 Maybe you can argue you should not have a countercyclical
12 program at all, but if you are going to have a countercyclical
13 program, you have to recognize the fact that, as unemployment
14 goes down and a state or community reaches a situation of being
15 down to 3 percent or 3.5 percent, they do not get anything, while
16 somebody at 7 percent is going to get quite a bit.

17 If that concept is adopted, you have to stick with it, but
18 if you are going to add to the general revenue sharing, then all
19 you are going to say is each one takes the option and you take
20 the pie and those that have very small problems gets the money
21 and those that have very large problems have to split with them.

22 You cannot run the two concepts together, if you are going
23 to have the same pot of money. This pot has been cut in half from
24 what the Administration was asking for.

25 Senator Curtis. May I ask a question about the chart?

1 This chart here has the states represented on the committee.

2 Senator Nelson. Which chart?

3 Mr. Stern. In the document, Treasury announces the Senate
4 Finance Committee proposal.

5 Senator Curtis. Page 2. It starts out with Louisiana and
6 Georgia and so on.

7 Does this relate only to the countercyclical money?

8 Mr. Morris. Yes.

9 Senator Curtis. These are stated in thousands and not
10 millions?

11 Mr. Morris. That is correct. This is an estimate that was
12 prepared by the Treasury on what would be distributed to the
13 state and to certain selected jurisdictions within the state.

14 Senator Curtis. Turn to page 2. The bottom one is Nebraska.
15 What does that mean? That we get \$106,000?

16 Senator Hansen. For 1978, you would get \$106,000. In
17 '79, you would get \$205,000.

18 Senator Curtis. What proposal is it that wants to raise
19 this?

20 Mr. Morris. That is the Hathaway-Moynihan proposal.

21 Senator Moynihan. Which would double the amount that
22 Nebraska gets.

23 Senator Hansen. Is it fair to assume you would have lost
24 Senator Bentsen's support? I see you drop from \$33,000 to
25 \$13,000.

1 Senator Moynihan. We assume Senator Bentsen's support
2 because of the large purposes of this legislation are equal to
3 the expansive concerns of the state of Texas.

4 Senator Curtis. The more people you lay off, the more money
5 you get.

6 Senator Bentsen. Let me say in answer to my friend, Senator
7 Nelson, the problem we run into in some of our larger cities in
8 the South -- Houston is an example of it -- is that they have
9 next to suburban areas, they have expanded themselves population-
10 wise and geographically where many of the other cities in the
11 northeast have not been able to do that because of the loss that
12 they are facing.

13 So you can get a situation where Houston, for example, will
14 have an overall reasonably low unemployment figure, but then you
15 get into pockets of poverty in Houston. You get in the 5th Ward,
16 for example, where there is very high unemployment, and the 5th
17 ward is an area that is the equivalent of many cities in the
18 North that would classify as a city or an unemployment percentage.

19 Senator Hansen. How many people are you talking about?

20 Senator Bentsen. You are talking about several hundred
21 thousand in that pocket. That is the problem we run into.

22 So if this does not take care of that -- I understand that
23 there has to be some disparity in a countercyclical effect. I
24 just do not want to see that much disparity. I think we ought to
25 have a little more of it and I think the formula, as suggested by

1 the Chairman is one that we can use and one that we used in the
2 Community Development bill and it worked out all right.

3 The Chairman. Here is a memo that was given to me by one of
4 my assistants. Please understand, as far as just Louisiana is
5 concerned, I do not complain about the formula because Louisiana
6 does nicely because we have more unemployment than the average
7 southern state.

8 But he says the formula of the existing program results in
9 northern states receiving about four times a dollar per person
10 in poverty (South, \$47; North, \$172) and about one and one-half
11 times the dollars for unemployed (South, \$259; North, \$401).

12 The Moynihan-Hathaway compromise extends the present program.
13 There is no change in the formula for allocation of funds. Let
14 me say this. I will vote for the bill even without my sugges-
15 tion. I know we have a problem. As Chairman of this Committee,
16 I think we should try to do something about it, but I am well
17 aware of the fact that the bill ran aground in that House Subcom-
18 mittee and it is going to be difficult passing this bill because
19 somebody looks at it and says, we do not think our state is
20 treated fairly. No one would quarrel about the fairness of the
21 general revenue sharing formula. That one is based on per capita
22 income. It has to do with the tax effort that people make and it
23 has to do with the population.

24 But one could look at a situation and if the revenue sharing
25 formula fits them better, let them have the benefit.

1 I would think that all those that are complaining about the
2 formula the way it stands now could have the option to take their
3 share under a formula that they have all agreed is a fair formula
4 and seems pretty reasonably to consider everybody's situation.
5 It would stop their complaint about being treated unfairly.

6 If you want to pass a bill, you are better off to settle
7 for less money and the states would do better under this bill
8 than to have a bill with no money than to have no bill, which
9 eventually you do not get anything.

10 Senator Dole. Do you have the same sized pie or a little
11 bigger?

12 The Chairman. You take the same size pie, frankly. New
13 York would get less under what I am suggesting.

14 On the other hand, this bill is going to have some difficulty
15 passing. If it does not pass, New York is not going to get any
16 benefit at all because there will not be any bill to benefit
17 from.

18 Senator Packwood. Mr. Chairman, I am hard-pressed to continue
19 an anti-recessionary countercyclical program when we are at a
20 point in a growth pattern that is the second greatest since the
21 end of World War II. Can we justify continuing along with an
22 anti-recessionary program?

23 I know what the counties are thinking; they are hoping this
24 will be a permanent program of money and continue on -- we will
25 extend it for two years and two years and finally make it a

1 permanent part of the revenue sharing program and use that formula
2 and they will get it forever, and that may not be bad. But to
3 continue it as an anti-recessionary program is no longer justi-
4 fied.

5 Senator Nelson. Let me say to that, I agree 100 percent.
6 You cannot have an anti-recession program pouring money in
7 an area where there ain't no recession. If you have low unemploy-
8 ment, you do not have a recession.

9 The revenue sharing formula adopted here seven, eight years
10 ago was not based upon a recession. It was based upon one-third
11 population, one-third tax effort, one-third poverty.

12 Senator Packwood. It is not a bad program.

13 The Chairman. That, plus reality, because if you cannot get
14 51 votes you cannot pass the bill. That has something to do with
15 it, too.

16 Senator Nelson. What we ought to be looking at, if we have
17 an anti-recessionary program, make it anti-recession. If not,
18 do not pass it at all.

19 To make it another general revenue sharing program on top
20 of the other general sharing does not make any sense at all.

21 Senator Packwood. I think we should get out of the anti-
22 recession program business.

23 The Chairman. Does every state get something out of this
24 bill? Under the existing bill, does every state get something?

25 Senator Hansen. Is the situation under the existing bill --

1 this August 10th is an analysis of the Senate Finance Committee
2 proposal.

3 Mr. Morris. Not every state government receives money.

4 The Chairman. I do not mean state government. Money going
5 to every state in the union.

6 Mr. Morris. Yes. There are some recipients in every state.

7 The Chairman. So there is some money for every state.
8 Some states are in a lot better situation concerning unemployment
9 than others, but basically it just seems to me that we could
10 either have the bill where all the states feel that they have
11 a chance to participate in the program or only some are partici-
12 pating. You can find areas where they have people unemployed,
13 some blacks, some women and disadvantaged people who, for one
14 reason or another, got the worst of it.

15 If we are trying to put more people to work, move us out of
16 a recession, even in the relatively prosperous areas they can still
17 put more people into the work force.

18 Senator Nelson. You do fundamentally change the whole
19 proposal. You raise the question of whether we dump them. If
20 we are going to do that, I think we should just dump the program
21 or target.

22 Senator Bentsen. I do not think you do it. It is just a
23 question of how much of a disparity you allow for a higher
24 percentage of unemployment. Let me give an example.

25 In the July, '78 figures, Texas has an unemployment rate

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1 of 5 percent. New York has an unemployment rate of 7.6, approxi-
2 mately 50 percent higher on unemployed than we are, but per
3 unemployed person the allocation is over 300 percent. I think
4 that is too much of a disparity.

5 What I am talking about is dampening some of that disparity,
6 not to push it all the way back to even, not saying I would
7 like that, but I would recognize the countercyclical provision,
8 but not to make it that extreme?

9 Senator Dole. How do you do that, with his proposal?

10 Senator Bentsen. His does that when he gives you the
11 alternative of going to revenue sharing or going to this present
12 formula. If you are dealing with the same-sized bias that you
13 referred to, that gets us a little bit closer to each other
14 than the disparity we presently have.

15 Senator Hansen. I thought, when the first revenue sharing
16 bill was passed, there may have been a number of different ideas
17 that encouraged various members of the Congress to vote for
18 it. One of the concepts I had, instead of having these various
19 grant and aid programs and cost-sharing programs by the Federal
20 government extending to the states, it made better sense to turn
21 over dough to -- I think we started out with \$5 billion -- turn
22 it over to the states with few strings attached and let them
23 decide how best to spend it, and I supported that.

24 I am not certain I have as much enthusiasm for the idea
25 now as I did then. It seemed to me as though it made some sense.

1 When I was in state government as Governor, I watched different
2 communities in my state come in to inquire about the different
3 programs that were available and they would have a specific
4 purpose in mind -- this is what they wanted to accomplish. So
5 would call out this massive Federal information and say, here
6 is a kind of program that seems to be tailor-made for what you
7 want to do.

8 Then they would start looking at the amount of money that
9 was available from the Federal government, and they would find
10 out that another program would share maybe 75 percent Federal
11 dollars instead of the 40 percent or the 50 percent and it is
12 surprising how quickly they could say that that looks like a
13 little better deal..

14 So with that in mind, I thought that made sense.

15 What disturbs me is I hear about these unemployment figures.
16 Am I correct in understanding that phone calls are made, inquiries
17 are made, trying to find out how many people are out of work and
18 who are actively looking for work? Is this how a determination
19 is made as to what unemployment is? Is that the way it is now?

20 Because if that is the way it is, I would call the Committee's
21 attention to page 3 of this August 10th analysis by Treasury.
22 Here is the state of Wyoming. Under the present fiscal '78
23 countercyclical allocation, there would be available for local
24 governments in the total state area, \$53,000. Under the 1979,
25 it dropped down to \$44,000. Cheyenne is not eligible for any.

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1 Cheyenne and Caspar are our two biggest cities. My home-
2 town of Jackson is eligible for \$8,000. Teton County is
3 eligible for \$9,000. Teton County and Jackson, Wyoming happen
4 to be the most prosperous area in the state. It is a resort area.

5 I am not one of those millionaires, but there are quite a
6 few millionaires that have come from Louisiana and Texas and
7 New York and built homes out there. I wish I were one of them.

8 You know, when they took these unemployment figures, a lot of
9 people were out of work. They are out of work primarily because
10 they are young people. They like to ski all winter.

11 So they work in the summertime and they are out of work in the
12 winter and they regularly say, we are looking for a job. You can
13 talk to them any day on the ski slopes, and they are looking for
14 work. They do not find many jobs up there.

15 The reverse thing is true in the summer. There are those
16 who like to hike and mountain climb in the summertime and in the
17 wintertime they work on ski slopes and resort places and so on.
18 That is a pretty phony deal.

19 Last year, because of the high unemployment in Teton County
20 we became eligible for this Federal help to stimulate the building
21 of projects. They came up -- not many people had submitted much
22 application for this kind of project in Wyoming. We came up.
23 Somebody said it was a great place to build a swimming pool in the
24 wintertime, and we are going to get over \$1 million.

25 Some of the people thought they might have to keep it warm in

1 the wintertime. It would cost a little bit of money, and a lot
2 of interest was developed, and they finally persuaded the county
3 commissioners to have a boat on it and the county rejected it.

4 We turned down \$1 million of money. It went to the next most
5 needy county based upon unemployment -- Freemont County. It
6 went to Duboise, a little town. They have over \$1 million in
7 City Hall there. They do not know what they are going to do with
8 it.

9 The last I heard was they were offering rental space availa-
10 ble -- they do not have many takers yet, but they sure have a
11 fine city hall.

12 I am disturbed about this kind of a program, frankly.

13 Senator Curtis. A few years ago, the Department of Agricul-
14 ture published a list of the 50 counties, agricultural counties,
15 in the United States that are most depressed, and then another
16 branch of the Department of Agriculture published a list of the
17 twelve most prosperous agricultural counties in the United States
18 and we had one county that made both lists.

19 Senator Moynihan. That is true. If you have a resort area,
20 you are going to have high unemployment levels. It is an arti-
21 fact of the data. And the fact is that these two proposals, one
22 gives \$9,000 to Teton County and the other gives \$8,000 and I
23 know that there are people ski-ing on those slopes and they are
24 drawing unemployment. So \$8,000 is not an extraordinary fall-out
25 in a program that is trying to be sensitive about reality.

1 But there is another reality in this country, a reality that
2 in the South Bronx, where one month ago 15 jobs opened up and
3 4,000 kids were in line at midnight to get them. We have got
4 an urban civilization collapsing in this country. In the
5 history of urban settlement, nothing has ever happened to equal
6 the South Bronx. We have lost 400,000 jobs in seven years south
7 of 59th Street in Manhattan. In history, you have not seen a
8 society crumble in front of your eyes.

9 I am glad there are people skiing in Teton and if I had to
10 give \$8,000 to Teton County to try to get somebody in the collaps-
11 ing urban civilization in New York City, I am willing to do it.

12 The fact is that there are places very well off in this
13 country and there are also places that are exhibiting a social
14 and economic pathology that has no name. It has never appeared
15 before in the history of human settlement. To see 600,000 units
16 of housing per person disappear before your eyes.

17 The President stood in the middle of that ruin as though it
18 were Hiroshima. Let me tell you, when he goes back for re-elec-
19 tion in 1980, he will go to that same place and it will still be
20 a ruin. At least he is trying to focus our attention on it.

21 This is the central part of his urban program. Have a
22 heart. For God's sake, I know there are Teton Counties. There
23 are also the South Bronxes. This is a President trying to draw
24 our attention.

25 The Chairman. Gentlemen, could I suggest this? We have a

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1 vote going on right now, and we are going to have difficulty
2 getting a quorum when we come back. I wonder if the Committee
3 would be willing to vote on that proposal?

4 I would like to offer my amendment.

5 Senator Nelson. What is the amendment?

6 The Chairman. That every state have its choice, that it
7 can take by the general revenue sharing formula or the other
8 formula in the bill.

9 Senator Danforth. I really think that it would be premature
10 to vote on it. It seems to me that what you would do with your
11 proposal is to extend the number of communities. It is already
12 going up from 18,000 under the present law to the Administration's
13 proposal. The Administration added 18,000 and Senator Moynihan
14 has it going up to 26,000.

15 Mr. Morris. It would stay roughly at 18,000.

16 Senator Danforth. It seems to me that the problem with your
17 approach is if you have the same pot of money which is available
18 under this kind of program or under general revenue sharing then
19 you have an unlimited quantity of communities that can reach into
20 it and I think that is really a problem and I wonder if we could
21 not come after the vote and address it further.

22 The Chairman. The first order of business I am talking
23 about is not more communities. It is just as far as the states
24 are concerned, what share the states would get, so we could talk
25 about adding how many communities you want in it as a supplemental.

1 Senator Danforth. Could that be a separate matter? It is
2 either general revenue sharing or it is countercyclical.

3 The Chairman. It is very simple. You say you want to go
4 by this formula or that formula. That is how you do it in
5 revenue sharing, the way it is now.

6 Senator Hansen. Let's vote and come back.

7 The Chairman. Let's vote and come back.

8 (A brief recess was taken.)

9 The Chairman. Let me ask that this Committee come to order.
10 Let me first explain a point or two that Senator Nelson was asking
11 me about.

12 I think that the point that we need to keep in mind is
13 that none of these formulas -- I do not care which one you are
14 looking at -- none of them does perfect justice, just as was
15 brought out by Cliff Hansen, does this apply to his state. And
16 here is a memo just handed to me that says, for example, if you
17 wanted to look at this thing based on the number of people that
18 are in poverty in the state, the North would make out four times
19 as well by the formula that we have than the South would make
20 out.

21 How many people do you have in poverty? Then the South
22 really gets the worst of it, on a four to one ratio.

23 On the other hand, if you want to think in terms of how
24 many people do you have unemployed, if you put it on that basis,
25 the South comes up on the short end with \$259 compared to \$401

1 up north. They get about 50 cents more on a per capita basis
2 if you take into account how many people are out of work.

3 If you look at the facts and figures that are available to
4 you and the way they keep their statistics sometimes they set
5 the program up where they are counting only inside incorporated
6 areas and the unemployment outside of the metropolitan area.

7 It brings up all kinds of discrepancies highlighted by one
8 situation of Wyoming.

9 It just seems to me that if we say that we will pass a
10 revenue sharing bill that places an emphasis on unemployment and
11 we say all right, let every state decide which formula you would
12 rather be under, you can take whatever your share would be.

13 If you were taking the regular revenue sharing, the general
14 revenue sharing formula, or you could take whatever your share
15 would be if you take under the countercyclical formula in this
16 bill. If they made that difference, it would make a great deal
17 of difference in some states.

18 Look at Texas, for example. Texas would get 4.8 percent of
19 the money if you take it by one formula. If you take it by the
20 other, they get 2.7.

21 Let's look at Nebraska. Why should the Senator from Nebraska
22 support the bill the way it stands? That is, why should you vote
23 against an amendment like this? If the state took it by the
24 general revenue formula, they would get .7. If they took it by
25 the formula in this bill, they get .04, which means that they

1 would get less than one-tenth, they would get about one-twentieth
2 under the formula as they would by the general revenue sharing
3 formula.

4 Senator Curtis. If you let the states select what it would
5 come under, would it increase the total expenditure by the
6 Federal government for the total program?

7 The Chairman. I am not proposing that at this point. If
8 somebody wants to propose that, they could. All I am saying is
9 that the formula helps to give the state a choice. It is all
10 right with me to add money if you want to, but I think the
11 states ought to have a choice.

12 Mr. Morris. You can do it. The Committee can do it either
13 way. They can apply that formula to a \$500 million pot as
14 proposed in Title I or use that formula against whatever sum.

15 You would have to scale everybody back to come within \$500
16 million. There have been some estimates if you want to let
17 everybody take what they would be entitled to by taking the
18 maximum, you would have to increase the pot around \$650 or \$700
19 million.

20 Senator Curtis. I think that is a very important matter.
21 I am leaning a little bit to the right of the states to choose,
22 but I will not vote to increase the overall amount.

23 Mr. Morris. Under the general revenue sharing program, you
24 do employ a formula that allows everybody to take under whichever
25 formula, whatever formula gives them the best deal, but you have

1 a set amount of money so everyone is scaled back.

2 Senator Danforth. Mr. Chairman, if you would indulge me
3 just a few minutes, I think that your solution is not any solution.
4 I think that under your proposal it is still a matter of throwing
5 money out of the airplane. The only question is how much money
6 is thrown out, over which state.

7 I was in Cape Jarato, Missouri about three weeks ago and I
8 was talking to the County Collector, a man named Neils Keely.
9 He said to me out of the blue, he said, well we have received
10 our \$3,000 to fight the recession. And I looked at him, and he
11 said, we did not know what to do with the \$3,000 so we sent away
12 for a booklet to tell us what to do with it; but he said it has
13 not arrived yet, so we are not sure yet what we are going to do
14 with that \$3,000.

15 This intrigued me, so yesterday I called up Mr. Keely and
16 he said, well, his wife Peggy Keely works in the county auditor's
17 office and the county -- she is the one who knows about the
18 situation. This county has a population of about 50,000 people,
19 so she got on the phone and I put my secretary on the other phone
20 and here is what she transcribed of what Peggy Keely said.

21 "The check came to the Treasurer's office of the county.
22 They had no idea what the money was for, so they brought it to the
23 auditor's office and asked what it was for and what they should
24 do with it. We were not sure. It was anti-recession money.
25 We had never received it before.

1 "So Mr. Mackey who is the auditor called the officer who
2 was on the check. He did not know about it either, and said he
3 would check on it and get back to him.

4 "We were not sure that we were supposed to have it.

5 "A call came from Washington saying we were supposed to have
6 it, because according to their figures, it was determined that
7 Cape County's unemployment rate had gone up and we were entitled
8 to it. We had never received any before.

9 "Washington said that they would send the regulations that
10 went along with the spending of this money because it was
11 different from revenue sharing.

12 "Cape County has not spent the money yet because they do not
13 know how to spend it. They have not made a decision of what
14 to do with it because there are so many regulations. We got a
15 kick out of it.

16 "The regulations said something like it could not be put into
17 construction or capital improvements, anything consumable, or
18 that could change its shape. It would be new accounting, and
19 so forth.

20 "It said something like it could be used for bonuses and
21 salary increases. We were all for that, but the county court
22 would not allow that.

23 "The regulations all said that it had to be spent in six
24 months. You know, with a thing like this, if you do not do it
25 just right, you have all kinds of complications."

1 Now, Mr. Chairman, here is my point. If we are trying to
2 assist communities with particularly high rates of unemployment,
3 let's do it. But when you set 4.5 percent as a figure on which
4 the community gets it and when you send out a check for \$3,000
5 to Cape Jarato County, I am for helping. Cape Jarato County has two
6 bills now that I have introduced having to do with helping
7 smaller communities get cash without so many strings attached
8 and be able to compete better for it.

9 When Madison County, Missouri receives in the mail a check
10 for \$164 in the name of fighting the recession, what are they
11 supposed to do with a check for \$164?

12 So what I say is that the whole program is phooey and that
13 it is laughable and the people out there in Cape Jarato County,
14 for example, are laughing. They are bemused by the whole darn
15 thing.

16 The way to solve this problem, in my opinion, is at the
17 very least to do the following. First of all, the national test,
18 the 6 percent or the 5 percent under the Hathaway-Moynihan
19 proposal, that does not make any sense at all. Why have any
20 national test? Why just not appropriate the fund of money instead
21 of wondering what a national average is to decide whether or not
22 we are going to help an area that has 15 percent unemployment?

23 The 4 percent local test makes no sense at all. That is
24 not countercyclical, that is not anti-recessionary. What we
25 should do is say, look, we are going to create a pot and a pot

1 of money and it is going to be smaller than any half-billion
2 because we are not going to make it available to anybody. It
3 is going to be a quarter of a billion.

4 What we will do is if we have a community with an unemploy-
5 ment rate of, say, 7 percent or 7.5 percent or whatever reasonable
6 figure you want, we will then make money available to that
7 community. We are not going to do it on a diminimis basis.

8 We are going to help those areas which are particularly hit
9 and we are going to have a minimum check of, say \$10,000 or so
10 and communities that cannot compete with that, well maybe they
11 can compete with some other program. But this is the one that
12 is aimed to really help the areas that are distressed in the
13 areas of high unemployment.

14 That is the way I think we should settle this thing.
15 I do not think allowing the states to decide it wants to come in
16 under general revenue sharing as opposed to this one really does
17 the job.

18 Senator Bentsen. Mr. Chairman, I think the Senator has
19 made a point, but let me cite you some figures. Senator Moynihan
20 has made a very valid point about the South Bronx. That is a
21 part of a great city and it is a pocket of poverty. I have the
22 same kind of a problem in a great city in Houston with some
23 400,000 people in an area where 52.7 percent of them are under-
24 employed, earning less than \$2.75 an hour.

25 27 percent of them are below the poverty line. The

1 unemployment rate has increased from 4.6 to .83 percent in
2 1976 and yet this bill does not really properly address itself
3 to that.

4 When we talk about being countercyclical, we want to achieve
5 that objective, but I do not think we want to go to the extreme
6 levels. If we want to do that, I think you would say, let's put
7 it all, as Senator Danforth has said, at 7.5. Let them have it.

8 But I think you have these varying degrees of unemployment
9 that have to be a consideration.

10 All I am trying to do is to avoid that great disparity in the
11 amount of money that is spent for unemployed persons and I think
12 that the Chairman's proposal is an alternative, is a reasonable
13 one.

14 That was done -- a dual formula was done in the community
15 development bill, and the fellows from the Northeast put that in.
16 They put it in on their aged housing, so that you had an alterna-
17 tive and that is what the Chairman has proposed here, talking
18 about increasing the size of the whole pie. I am trying to say
19 we slice it up a little more equitably than a situation where
20 New York has 50 percent more unemployment than we have; they have
21 7.6, we have 5. But you do not say that you get 300 percent more
22 for an unemployed person, that you get something closer in that
23 equation.

24 That is all we are trying to achieve in this objective.

25 Senator Moynihan. Mr. Chairman, I wonder if I could respond

1 by saying to Senator Danforth whom I think Senator Bentsen was
2 speaking to as well as to Senator Hansen who we talked earlier
3 about this, there is a point here that might be worth our atten-
4 tion, which is that the general revenue sharing legislation
5 expires shortly now and it was the thought of the President and
6 Senator Hathaway and myself that if we extend this particular
7 program for two years we would be in a position to take up this
8 entire question as a part of a newly-cast and authorized general
9 revenue sharing program.

10 That would very clearly confine this measures of necessita-
11 tiveness to the very accurate point that you make, Senator
12 Danforth, that you have to have 7.5 percent unemployment until
13 you can be said to be in a special economic situation.

14 The difficulty is that does not deal quite with the problem
15 that Senator Bentsen raises which is what do you do with a city
16 of 400,000 people in the middle of a city of 1.8 million people
17 which by itself would seem to be in great difficulty, but aver-
18 aged out it is not.

19 Senator Danforth. May I answer that question?

20 Senator Moynihan. I was just going to say, Senator Long is
21 suggesting a middle course that we could adopt while -- and then
22 turn our attention seriously to recasting this program in a
23 permanent way.

24 Senator Danforth. The problem is what we are talking about
25 is revenue sharing. Revenue sharing is help for units of

1 government. That is what revenue sharing is. And it seems to
2 me if you have an area of unemployment within a political subdi-
3 vision which is relatively affluent that the fact is that the
4 unit of government is relatively affluent, that it does have a
5 reasonable tax basis, that it does have suburbs annexed to it,
6 that it is better able to take care of itself, that it does have
7 a tax base that has not been needlessly eroded by the high rate
8 of unemployment.

9 That is the concept, as I understand it, of counter-cyclical
10 revenue sharing. If you have a community where unemployment is
11 up, it has eroded the tax base and the community is less able to
12 take care of itself, therefore Uncle Sam should step in and help
13 that community. And, frankly, there are communities in Missouri
14 that are in the same situation. There are communities in Missouri
15 which would lose out under the kind of proposal that I have made.

16 But I do not think the issue is how much per unemployed
17 person, but the issue is, is the community in question able to
18 provide for itself without having extra help. And I think that
19 is the one that we should address ourselves to, and at the
20 appropriate time, I would be happy to offer a substitute for your
21 proposal.

22 Senator Roth. Mr. Chairman, one of the things that concerns
23 me, it seems to me whatever we do in this committee that by the
24 time it gets through this Congress, you are going to have really
25 essentially an increased revenue sharing program, not targetted to

1 help those communities and areas actually in need. I think that
2 is a political fact of life.

3 What bothers me about that, listening to everybody here, you
4 would almost think we had a surplus of funds in the Federal
5 budget. I thought one of the primary concerns was inflation,
6 the size of the deficit and how we could cut down or keep the
7 budget from growing too rapidly at this present period.

8 I agree that if anything should be done at this stage, it
9 should be, as my distinguished colleague from Missouri has said,
10 be targeted to those in actual need. One of the things that
11 bothers me, the Federal government is running a very heavy
12 deficit, whereas a lot of our states are running surpluses.

13 I would even direct that to the distinguished Senator from
14 New York. The state of New York has had a substantial surplus
15 this year and perhaps the states ought to be doing more to help
16 the cities than come to a Federal government that is already
17 running a huge deficit that is having an inflationary impact on
18 the economy.

19 I would just like to point out, Mr. Chairman, for the purposes
20 of the record, that last week the House Intergovernmental Relations
21 Subcommittee voted not to consider the Administration's fiscal
22 assistance program or to extend the countercyclical program and
23 according to the Chairman, Mr. Fountain, he does believe that there
24 is a need for a special program that is targeted at distressed
25 areas.

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1 As he has pointed out, nobody really has a very adequate
2 measuring point for that purpose. And in the statement he made
3 yesterday, I think he is one of the most able members of the
4 House, and he points out that the use of local unemployment rates
5 as a mechanism for targetting money for needy governments is the
6 fatal flaw of the existing countercyclical assistance programs.
7 These rates are so unreliable that the Commissioner of Labor
8 Statistics has described them as no better than random numbers
9 for communities under 3,000.

10 Worse, still, actual rates have been developed for fewer than
11 5,000 governments, with the vast majority of units receiving no
12 allocations on the basis of its assigned balance of county rates
13 that bear little or no resemblance to the local situation.

14 As a result, many of the wealthiest communities in the U.S.
15 located in counties like Nassau, Suffolk, Westchester in New
16 York State have been receiving assistance and would continue to
17 receive money under the extension of the existing program and the
18 Administration's proposal.

19 I would just like to point out that what HUD said about the
20 countercyclical program --

21 The Chairman. Senator, if I may make a point, the Senate is
22 voting. We may have difficulty getting a quorum after this. I
23 would just like to submit this question to the Committee. We
24 have done this many times before, and I think that gives an
25 indication that we are wasting our time here.

1 I would just like to simply ask that we just call the roll
2 on the question of do we want to do anything about this or would
3 we prefer not to have a countercyclical revenue sharing program of
4 any sort? Because it may be that a majority of the Committee do
5 not want to report a bill of any sort. Why do we not just call
6 the roll?

7 Senator Packwood. What is the question?

8 Senator Curtis. If we do not want any countercyclical pro-
9 gram, how do we vote?

10 The Chairman. If you do not want any countercyclical pro-
11 gram, then vote aye. If you want a countercyclical program, then
12 vote nay. It is all right with me to vote either way.

13 Senator Curtis. I will move to table the proposal for
14 countercyclical revenue-sharing.

15 Senator Nelson. You are tabling the Hathaway-Moynihan
16 proposal?

17 Senator Curtis. The whole program?

18 The Chairman. The whole thing.

19 Senator Nelson. Once you settle that, we are back to the
20 question.

21 The Chairman. The motion might carry.

22 Senator Curtis. I cannot remember what I want, but I might.

23 The Chairman. Call the roll.

24 Mr. Stern. Mr. Talmadge?

25 The Chairman. Aye.

1 Mr. Stern. Mr. Ribicoff?

2 Senator Hathaway. No, by proxy.

3 Mr. Stern. Mr. Byrd?

4 Senator Byrd. Aye.

5 Mr. Stern. Mr. Nelson?

6 Senator Nelson. No.

7 Mr. Stern. Mr. Gravel?

8 Senator Hathaway. No, by proxy.

9 Mr. Stern. Mr. Bentsen?

10 Senator Bentsen. No, but I obviously will vote against it
11 unless we get some changes.

12 The Chairman. The question is if you want to do anything
13 about it.

14 Mr. Stern. Mr. Hathaway?

15 Senator Hathaway. No.

16 Mr. Stern. Mr. Haskell?

17 Senator Hathaway. No, by proxy.

18 Mr. Stern. Mr. Matsunaga?

19 Senator Matsunaga. No.

20 Mr. Stern. Mr. Moynihan?

21 Senator Moynihan. No.

22 Mr. Stern. Mr. Curtis?

23 Senator Curtis. Aye.

24 Mr. Stern. Mr. Hansen?

25 Senator Hansen. Aye.

1 May I do what was done earlier here? I am totally sympathe-
2 tic with the problem that New York City has. I do not think that
3 this present program accomplishes it. I vote aye.

4 Mr. Stern. Mr. Dole?

5 Senator Dole. Aye.

6 Mr. Stern. Mr. Packwood?

7 Senator Packwood. Aye.

8 Mr. Stern. Mr. Roth?

9 Senator Roth. Aye.

10 Mr. Stern. Mr. Laxalt?

11 Senator Laxalt. Aye.

12 Mr. Stern. Mr. Danforth?

13 Senator Danforth. No.

14 Mr. Stern. Mr. Chairman?

15 The Chairman. No.

16 Seven yeas, eleven nays. It is the sentiment of the
17 Committee that we ought to do something about it. By the time we
18 get back in here, it will be 12:30.

19 Do we have the consent of the Senate to meet during the
20 session today?

21 Mr. Stern. We have not asked for it, Mr. Chairman.

22 The Chairman. Well, I think I will ask that we can meet.
23 If we can get consent, we will try to meet at 2:00 o'clock. If
24 we cannot get consent --

25 Senator Curtis. On the Bartlett bill for the Sand Springs

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Home, I would like unanimous consent that it be held here. I may want to change it.

The Chairman. Yes.

Senator Nelson. Mr. Chairman, I would like, when we do get to voting, Senator Danforth had a proposal and there may be other modifications. I think they should be before us.

(Thereupon, at 12:15 p.m., the Committee recessed, to reconvene at 2:00 p.m. this same day.)

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The Chairman. Will the Committee come together? Let me just suggest one or two things. One, it seems to me and I know on this Committee it will be true and it would be true, I am pretty confident that it would be true in the Senate as a whole, that more states would like the regular revenue sharing formula than would like, or would prefer the regular revenue sharing formula for the simple reason that they would ge more money.

If you take just the regular revenue sharing formula, they would prefer that. That being the case, it you are going to have that choice, and take the system that they want, that the southern and western states would do better and I think that they would favor that.

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1 It is all right with me if you want to add some additional
 2 money on so that those people who were counting on getting
 3 a certain amount under the bill that we had, could get what they
 4 were counting on. And I have no objection to Senator Danforth's
 5 suggestion to say that unless you have at least \$10,000 coming to
 6 you that you just don't participate in the program.

7 Senator Danforth. I have some variations on my idea, Mr.
 8 Chairman. I would like to ask you about your idea first because
 9 I don't understand and I talked to about four people during the
 10 lunch hour about it, and they weren't quite sure what it did
 11 either.

12 Now, in your alternative computation between the general
 13 revenue and the countercyclical revenue formulas, do you use
 14 that alternative computation to determine what communities are
 15 eligible or do you use it to determine the amount that is
 16 distributed to a community once it is found eligible.

17 The Chairman. That would be determining the amount that would
 18 be spent in each state once these communities in that state are
 19 found eligible. The eligibility would remain the same as in the
 20 Moynihan Amendment.

21 Senator Danforth. The eligibility would be four and a half
 22 percent under his proposal.

23 The Chairman. Yes.

24 Senator Danforth. So then if that is going to be the trigger
 25 for a community, then in effect what you do under your proposal is

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1 you make a list of all the communities there are which have
2 unemployment of over four and a half percent.

3 The Chairman. That's right.

4 Senator Danforth. And then after you make that list, you have
5 to determine how much each community gets. So to make that
6 determination, it is my understanding that what you would do is
7 you would go to the state governments and you would say to the
8 state, for yourself and for all the communities within your state,
9 how do you want to make the computation. Do you want it made by
10 general revenue or do you want to make it by countercyclical
11 revenue? And each of them would make the computation and then
12 determine the one that is the most for them.

13 And you would have an adjustment so that the total amount
14 distributed would be no more than 100 percent of the total amount
15 available. Then you would take that amount which would be given
16 to each state under that formula, and you would, in turn, distri-
17 bute that down to each community. But the communitites that got
18 it would have four and a half percent or more unemployment. Is
19 that right?

20 The Chairman. That's right.

21 Mr. Morris. That's right with one proviso. It would be up
22 to the Committee to decide whether you do it from a pot that
23 could not exceed 100 percent of the money you initially want to
24 distribute or whether you want to add some additional money to
25 the pot so everybody gets 100 percent of their maximum.

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1 Senator Danforth. I would be happy to tell you what I would
2 be willing to buy. First of all, I think that whatever we come
3 out with has to be less than one-half a billion dollars. Now
4 that is my starting point.

5 I think we just have to adjust the total amount downward and
6 have a sum certain as the total amount to be distributed, and I
7 think it has to be less than a half a billion. I would suggest
8 about \$300 million.

9 Senator Curtis. Are you talking about countercyclical only?

10 Senator Danforth. Yes, countercyclical only. I would start
11 with that. Secondly, I would say that that amount could only be
12 distributed in communities with seven percent unemployment or more.
13 And that communities with under seven percent unemployment, between
14 four and a half and seven, would just not get a distribution under
15 this formula.

16 That would knock 20 percent off right there. So you would be
17 down from \$500 to \$400 million, and I say, let's take it down
18 another million.

19 Then I would say for the smaller communities because there
20 is very little money involved for them, the percentage is about
21 three or four percent of the total program, I am told, and correct
22 me if I am wrong, and what I would do for them if they meet the
23 seven percent requirement, instead of sending them a separate
24 check with a separate set of regulations, I would simply put that
25 in general revenue money.

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Senator Hansen. Did you say that you would require that a community must have not less than seven percent unemployment?

Senator Danforth. Yes.

The Chairman. Let me tell you the point that Senator Bentsen made this morning and this is a point that all throughout the south and the west creates a problem. Where you have a city that has incorporated the subdivisions, and you can have more than seven percent unemployment in the core of the city, and because you have a high degree of employment in those subdivisions, if they are included within the city limits, then because of the high employment in these subdivisions, the community does not average out to the seven percent. It gets down to five or less.

But the unemployment in that city, in the core area, could well be a lot more than the seven percent. The situation could be illustrated right there in my own home town. It is growing area. We have a lot of unemployment in Louisiana, and this seven percent thing, it wouldn't hurt Louisiana particularly because we have a lot of unemployment and we have a lot of cities with seven percent unemployment.

But I know if you take the situation where you have more than seven percent in the old city, but if they have incorporated these subdivisions that lie outside the city, then those people would not be eligible because the high employment of these blue-collar and white-collar workers who are out there living in the subdivisions brings down the average.

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1 Now if you use a four and a half percent trigger, you overcome
 2 that. Now of course, Senator, it is possible if you wanted to take
 3 your approach, we could probably draft a bill -- it would take a
 4 lot more drafting, a lot more figuring out how to do it -- but we
 5 could probably draft a bill or draft around it somehow where you
 6 could just look at it and say that you could think about the old
 7 city limits rather than the new city limits, or something of that
 8 sort.

9 But I think it is easier to solve it by just using a four and
 10 a half percent figure rather than using a seven percent figure.

11 Senator Danforth. Mr. Chairman, here is the problem with that.
 12 What we are talking about is revenue sharing. We are not talking
 13 about a welfare program. We are talking about a program which
 14 helps local governments meet their needs. As I understand, the
 15 reason for wanting to help them is that because of unemployment,
 16 their tax base has been eroded. They just don't have a tax base
 17 any more to do what they want to do.

18 Now if you take a city which starts out as having a high
 19 rate of unemployment and it annexes its suburbs with low unemploy-
 20 ment, relatively affluent suburbs, if it could do that, then
 21 what it has done is added to its tax base. It has just increased
 22 its tax base so that it is in relatively good shape.

23 Therefore, there is no reason for helping it in my opinion.
 24 It can take care of itself. Every community, I take it, every
 25 city has the areas within it which have relatively impoverished

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1 blocks, people with high unemployment, but if they can dilute that
2 effect with a lot of relatively affluent areas with a higher
3 tax base, then they could take care of their problems and they
4 just don't need that much revenue sharing.

5 Senator Bentsen. Mr. Chairman, when you annex large suburban
6 areas along with that comes certain responsibilities for the
7 major city that has done that. Usually that means a very major
8 increase in expenses, in putting in sewer systems, flood control
9 systems, bringing it up to the standard normally of the central
10 city and coordinating the effort.

11 It means a lot more city services than usually most of those
12 annexed areas previously had, a very substantial increase in the
13 burden of the city which they ultimately recover, but for a while,
14 that is part of their burden.

15 Now part of the problem that I have in a city like Houston
16 which is considered an affluent city, but that really does not
17 follow through. In the one area I told you of, of some 400,000
18 people and that is a pretty good size town in a lot of places, we
19 have 52.7 percent of those people underemployed. They really
20 don't pay much in the way of taxes. They earn less than \$2.75
21 per hour.

22 We have 8.3 percent totally unemployed. In San Antonio the
23 other day, they had a strike by the garbage collectors. Senator
24 Moynihan was talking about the number of people lining up for jobs,
25 but in San Antonio they fired 140 of the garbage collectors because

1 they went on strike. The next morning, they had over 600 applying
2 for their jobs. Now that is not really a status job. But they
3 were lining up because they were out of work looking for employ-
4 ment.

5 I don't know of any city -- any of them -- that have a tax
6 base to really do a job on a high unemployment pocket of the size
7 of this one along with their other obligations, what they are
8 trying to do.

9 Senator Danforth. Well, I have never been to Houston but
10 I think it would be hard for me to try to convince the people of,
11 say, Joplin, that they should be subsidizing Houston. I would
12 guess that I would have a very hard argument on that. Because
13 from what I understand about Houston, it just has a very, very
14 sound tax base and I think that is what countercyclical revenue
15 sharing is not intended to do.

16 I do not think that it is intended to help every city just
17 because there are some areas within the city of unemployment. I
18 think the purpose of it is to take the political subdivision, what-
19 ever it might be, and to assist those political subdivisions that
20 have been hurt by unemployment in that they have been called upon
21 to render services which they can't sustain because of the
22 deterioration of their tax base.

23 The Chairman. Again, let me just take one point and I would
24 like to just settle this much of it. It seems to me that if we
25 are going to pass this bill, we are going to need the support of

1 senators from at least the majority of the states, in order that
2 it be more attractive to more states.

3 And in looking at this schedule, I am being, quote,
4 "statesman like," in suggesting this because Louisiana wins more
5 under the formula in the bill. But we aren't going to get anything
6 to anybody if you bring something out there where too many states
7 feel that it is a case of their putting up too much and getting
8 back too little for their people.

9 That being the case, I would like to propose on behalf of
10 myself and Senator Bentsen that the people have their choice, that
11 the states would have their choice whether the states would elect
12 to take their share under the regular revenue sharing program
13 or under the terms of the bill.

14 Senator Roth. Mr. Chairman, if that were adopted, I would
15 assume that either in committee on the floor, that the next move
16 would be to increase the size of the fund so that no one would
17 lose money as a result of that option. I wonder what the price
18 tag of that package would be?

19 The Chairman. It is up to the Senate and the Committee to
20 decide if you want to do that or not. That would cost about
21 \$150 million more, wouldn't it?

22 Mr. Morris. That could range anywhere from about \$90 million
23 to \$200 million over the \$500 million basic estimate.

24 The Chairman. That would still be a lot less than was
25 budgeted for this purpose.

1 Mr. Morris. Right. Initially, for purposes of the budget,
2 you estimated that this program would use about one billion
3 dollars and what you are talking about, if you were to hold
4 everybody harmless and nobody lost under that selection, the
5 total pot could range from \$590 million to about \$700 million,
6 we guess at this point, and we have to get a computer run.

7 Senator Dole. What is the budget figure, half a billion?

8 Senator Hathaway. Mr. Chairman, as one of the sponsors
9 of the bill with the hold harmless in it, I would be happy to take
10 your amendment, and get a bill out.

11 Senator Moynihan. Mr. Chairman, I join Senator Hathaway.

12 The Chairman. Well, let's vote on it.

13 Senator Danforth. Do you mean with the possibility of
14 expanding the total amount, for Chairman, to accommodate all of
15 this?

16 Senator Moynihan. And we are dropping Title I, is that right?

17 The Chairman. I am not talking about that. I am just
18 talking about --

19 Senator Moynihan. But if Title I goes into effect, we would
20 still be under the expenditure of one billion dollars, way under.

21 Senator Hathaway. What you are saying is that if Title II
22 was triggered in because of the Long alternative putting in a hold
23 harmless for our bill as it was originally, so we are getting the
24 same amount of money that we would have gotten.

25 Senator Moynihan. If it turns out only Title II is in

1 effect, the maximum benefit would be about \$650, is that right,
2 as against a budget of one billion? Am I correct, Mr. Chairman,
3 that in our request to the Budget Committee, we asked for one
4 billion dollars in this matter?

5 Senator Dole. You didn't get a billion, did you?

6 The Chairman. That's correct.

7 Senator Moynihan. Yes, we did. Two of us asked for \$1.5.

8 Senator Danforth. Mr. Chairman, I think that it is possible
9 as I indicated to you at the break, I think it is possible to
10 weave your notion into a total picture of where we know how we
11 are going to come out.

12 But I also think that it is possible for your approach to be
13 used as sort of the exact reversal of the concept of counter-
14 cyclical revenue sharing, so I am going to vote against it for
15 the time being. But I think it is possible to work it out.

16 The Chairman. Let's just call the roll on this.

17 Mr. Stern. Did you mean this to be an alternative both
18 under Title I and under Title II, or just title II?

19 Mr. Chairman. Right. I am just talking about Title II.

20 Senator Hathaway. What are we voting on; the whole bill
21 as amended?

22 Mr. Chairman. No, we are talking about in Title II giving
23 the states the choice between receiving their share under the
24 old general revenue sharing formula or under this countercyclical
25 formula.

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Senator Curtis. Will there be another vote on whether or not we raise the overall amount?

The Chairman. Yes, and the hold harmless in there.

Senator Roth. There will be opportunity for substitutes as well.

The Chairman. Sure, of course.

Senator Hathaway. You aren't going to include the hold harmless.

The Chairman. This, right now, just says that you get the choice between which formula you want to use. Now as to whether we increase the amount or hold harmless or not, we will have to settle that on a separate vote.

Senator Hathaway. All right.

Senator Hansen. Mr. Chairman, if I could just make one observation. Basically, I think that you are dead right, that they way to garner support for this bill is to insure if you can the support of 51 senators, but as far as my state of Wyoming goes, and it just has two votes, my feeling is that the people in my state are more concerned about the overall crush of inflation than they are with the small amount attributed to city and state government.

And the other side of the coin would be that I think there would be some appeal to having an overall limit on it. I want to help New York State and I want to help states such as Texas, Louisiana, wherever there is a real problem. But I think that

1 there is inherent in this program the expenditure of money that
2 really isn't doing all that much good.

3 So if I vote against it, it is not with the idea that I am
4 opposed to your concept of trying to get something passed, but
5 rather to suggest that there is still some appeal, I think, for
6 the idea that we ought to try to improve upon a program to see
7 that the help goes where it needs to go.

8 In Wyoming, I really don't think that there is much enthusiasm
9 for it.

10 The Chairman. Let's call the roll.

11 Senator Hathaway. Can't we have the hold harmless in with
12 your amendment? It is much easier for us to vote for it with the
13 hold harmless in it.

14 Senator Dole. It is much easier for us to vote against it.

15 The Chairman. Let's just vote on the choice of formulas,
16 and the amount we are going to have, will have to depend upon
17 how much money the Senate bill provides for it. Let's just vote
18 on that formula.

19 Mr. Stern. Mr. Talmadge.

20 Senator Talmadge. Aye.

21 Mr. Stern. Mr. Ribicoff.

22 Senator Byrd. What is the issue?

23 The Chairman. The issue is whether to give the states a
24 choice between whether they want to use the regular revenue
25 sharing formula -- the general revenue sharing formula -- to take

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1 what their share would be or whether they want to use the counter-
2 cyclical formula in this bill.

3 Senator Byrd. If one is opposed to the whole issue though,
4 the question of continuing the recessionary money --

5 Senator Bentsen. Then you would vote against the bill. This
6 is the question, whether you have the alternative formula available
7 to you.

8 The Chairman. And Virginia would do better under this
9 formula, by the way, Harry.

10 Senator Hansen. Are those tax payers or tax receivers?

11 Mr. Stern. Mr. Nelson.

12 (No response.)

13 Mr. Stern. Mr. Gravel.

14 (No response.)

15 Mr. Stern. Mr. Bentsen.

16 Senator Bentsen. Aye.

17 Mr. Stern. Mr. Hathaway.

18 Senator Hathaway. Aye.

19 Mr. Stern. Mr. Haskell.

20 (No response.)

21 Mr. Stern. Mr. Matsunaga.

22 (No response.)

23 Mr. Stern. Mr. Moynihan.

24 Senator Moynihan. Aye.

25 Mr. Stern. Mr. Curtis.

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1 Senator Curtis. Aye.

2 Mr. Stern. Mr. Hansen.

3 Senator Hansen. Present.

4 Mr. Stern. Mr. Dole.

5 Senator Dole. Aye.

6 Mr. Stern. Mr. Packwood.

7 (No response.)

8 Mr. Stern. Mr. Roth.

9 Senator Roth. No.

10 Mr. Stern. Mr. Laxalt.

11 (No response.)

12 Mr. Stern. Mr. Danforth.

13 Senator Danforth. No.

14 Mr. Stern. Mr. Chairman.

15 The Chairman. Aye.

16 Senator Hathaway. Mr. Ribicoff votes aye by proxy.

17 The Chairman. There are eight ayes and two nays, with two

18 voting present.

19 Senator Byrd. Senator Danforth, did you mention this morn-

20 ing that you felt that the money should be held to \$250 million

21 per year instead of the \$500 million?

22 Senator Danforth. Yes, something like that. I just said

23 this afternoon \$300 million, I think.

24 Senator Byrd. Would it be appropriate to put a ceiling of

25 \$300 million dollars on the amount to be used for this program?

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1 Senator Roth. Would the Senator yield?

2 Senator Byrd. Yes.

3 Senator Roth. I think all of us have interest in trying
4 to help those areas that are actually distressed and the question
5 is, I think, how do you design a program that is really directed
6 at those cities and areas that have a serious problem.

7 As I started to point out this morning, Congressman
8 Fountain made a careful study of this area, your unemployment,
9 many of the other tests are not adequate, and I wonder if it
10 wouldn't be a better approach rather than to put a ceiling,
11 but have a substitute to extend, for example, for six months
12 the current program in the hopes that early next year, we could
13 actually develop such a program that would be directed at aiding
14 those areas that have real need.

15 I know that the Chairman of the Subcommittee on Government
16 Operation on the other side, which has jurisdiction, as I under-
17 stand it, is very much interested in doing that, in trying to
18 develop a program directed at aiding those areas of real need.

19 And I can say that I have an area that falls within that
20 category. But we move this other direction and I fear that we
21 are not going to accomplish the good that we want, and I would
22 just like to read if I might at this point an editorial from the
23 Washington Post, hardly the most conservative of newspapers, but
24 in discussing the President's proposals it says, "It is probably
25 safe to say that turning the inflation around if the Administration

1 could conceivably do that, would have more to do with saving
2 distressed cities than any other special aid project envisioned
3 in Mr. Carter's policy statement."

4 So what I am suggesting that perhaps the wise move at the
5 moment might be to continue the current program, say for an
6 additional two quarters, so that that aid would continue to be
7 available, to move ahead then with trying to develop -- I know
8 that Chairman Fountain has offered to work with the Finance
9 Committee in developing a program that would actually be designated
10 in helping these areas that I think all of us are interested in
11 helping.

12 I just offer that as a possible substitute.

13 The Chairman. The Budge committee, in its second budget
14 resolution, as I understand it, has approved one billion dollars
15 for this purpose. Now even if we have this so-called hold harmless
16 type arrangement in here, we would only be using \$650 million
17 dollars and we would only be using two-thirds of the funds
18 available for this.

19 So we aren't going wild on spending in talking about this.
20 We are not even using the full authority that is allocated for this
21 purpose.

22 Senator Danforth. Mr. Chairman.

23 The Chairman. Yes.

24 Senator Danforth. Could we have a vote on Senator Byrd's
25 motion?

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The Chairman. Okay. Let's vote on it then.

Senator Roth. Would the Senator from Virginia be interested in the substitute amendment -- let me ask first -- it is my understanding that this approach would cost considerably less, probably around \$170 or \$200 million dollars.

Senator Byrd. That is all right with me. I was just picking up Senator Danforth's figure.

Senator Danforth. Well, I would hope that you would pursue your point.

Senator Hansen. Mr. Chairman, at the risk of hurting Senator Byrd's -- or weakening his support-- I would like to speak in favor of it.

Senator Curtis. Do you have his permission?

Senator Hansen. No, I don't, and it is with some trepidation that I speak. But I really think that there is no one in the country that I know of who wants to deny people truly in need help. I think there is a widening conviction, a consensus in this country, that a lot of money is being wasted, and if there was some way to tighten up on the test so as to insure that the money goes to needful areas, I would strongly support that, and I would have no hesitancy in telling the people of Wyoming, "You are not going to get a dime out of this program for one good reason. We don't need it."

But the areas that do need it, I think deserve it. And I would hope, if I understand what Senator Byrd's concept is, it

1 would be to follow along with what Senator Danforth has said
2 and try to reduce the overall amount, but perhaps in some way or
3 another, maybe in several different ways, apply other restraints
4 or restrictions as to make certain that the areas that need help
5 get the help and on that basis, if I could be so bold, Mr.
6 Chairman, I would predict that we might muster 51 votes.

7 Senator Byrd. What you said is exactly what the Senator from
8 Virginia has in mind. It seems to me that what we ought to do
9 is target this to the areas that need help, rather than spreading
10 it all over the country in areas that don't need the help.

11 Senator Danforth. Mr. Chairman, if I could just make this
12 comment. I was told recently that, was it called the impact
13 program or the impacted area program or something, where there
14 is a government installation, money is given to that area, and
15 that this was begun a few years ago as a program for just a few
16 areas of the country and that right now, there are only three
17 Congressional districts that don't have these impacted areas.

18 I think what we are seeing now is exactly what goes wrong
19 with government. The idea that everybody has to get something
20 out of everything, and it is just a matter of taking care of every
21 conceivable interest.

22 I think right now we have a bad program, and I think we are
23 on the brink of turning a bad program into a much worse program,
24 and that we have the opportunity to turn it into a good program
25 which does what it was supposed to be designed to do, helping

1 communities that have been hurt by high rates of unemployment.

2 There is only one way to do this, and that is to start off
3 with Senator Byrd's amendment; have a \$300 million dollar figure
4 put on this and then go from there and see if we can't follow
5 that up with a second amendment which puts a seven percent
6 unemployment local target on it.

7 Senator Byrd. Target it to the areas that need it, need
8 the help.

9 Senator Danforth. Exactly.

10 The Chairman. Anybody, I don't care who it is, anybody who
11 is out of work and needs a job, and who has been out of work for
12 a while, as far as that person is concerned, the area where he
13 lives, even if it isn't any bigger than his own bedroom, is a
14 distressed area, and he would like to see something done about it.

15 A lot of us have talked about doing something about this,
16 and if you are going to do something, \$250 million dollars is only
17 about one dollar per citizen in this entire country, that is a
18 very small amount of money.

19 But I understand Senator Byrd's view. He wants to cut it
20 down further, of course, and that may be the view of the Committee.
21 Let's vote on it.

22 Mr. Stern. Mr. Talmadge.

23 Senator Talmadge. No.

24 Mr. Stern. Mr. Ribicoff.

25 Mr. Hathaway. No.

1 Mr. Stern. Mr. Byrd.

2 Senator Byrd. Aye.

3 Mr. Stern. Mr. Nelson.

4 Senator Hathaway. No.

5 Mr. Stern. Mr. Gravel.

6 Senator Danforth. Wait a second. Are you sure about that?

7 Senator Hathaway. Yes.

8 Senator Moynihan. Well, I guess Senator Nelson doesn't know
9 that we are voting on Senator Byrd's amendment. We will take it
10 back.

11 Senator Hathaway. Mr. Chairman, I don't want to interrupt
12 the roll call, but Senator Gravel and Senator Ribicoff and Senator
13 Matsunaga have cast their proxies for that first vote, so there
14 are now ten votes in favor aye.

15 Mr. Stern. Mr. Gravel.

16 Senator Hathaway. No.

17 Mr. Stern. Mr. Bentsen.

18 Senator Bentsen. No.

19 Mr. Stern. Mr. Hathaway.

20 Senator Hathaway. No.

21 Mr. Stern. Mr. Haskell.

22 (No response.)

23 Mr. Stern. Mr. Matsunaga.

24 Senator Hathaway. No.

25 Mr. Stern. Mr. Moynihan.

1 Senator Moynihan. No.
2 Mr. Stern. Mr. Curtis.
3 Senator Curtis. Aye.
4 Mr. Stern. Mr. Hansen.
5 Senator Hansen. Aye.
6 Mr. Stern. Mr. Dole.
7 Senator Dole. No.
8 Mr. Stern. Mr. Packwood.
9 (No response.)
10 Mr. Stern. Mr. Roth.
11 Senator Roth. Aye.
12 Mr. Stern. Mr. Laxalt.
13 (No response.)
14 Mr. Stern. Mr. Danforth.
15 Senator Danforth. Aye.
16 Mr. Stern. Mr. Chairman.
17 The Chairman. No.
18 Senator Hansen. Harry, I did to you what I was afraid of.
19 Senator Hathaway. Senator Haskell will vote no on this also.
20 The Chairman. There are five ayes and ten nays. The nays
21 have it. Let's vote on the Roth six month proposal then. Call
22 the role on that. He wants to limit it to six months. It is
23 to continue the existing program for six months.
24 Senator Roth. Continue the existing program for six months,
25 yes.

1 The Chairman. And leave the present formula in effect.
2 Senator Roth. The present law.
3 Mr. Hathaway. The present law for six months.
4 Senator Roth. Yes.
5 Mr. Stern. Mr. Talmadge.
6 Senator Talmadge. No.
7 Mr. Stern. Mr. Ribicoff.
8 (No response.)
9 Mr. Stern. Mr. Byrd.
10 Senator Byrd. Aye.
11 Mr. Stern. Mr. Nelson.
12 (No response.)
13 Mr. Stern. Mr. Gravel.
14 (No response.)
15 Mr. Stern. Mr. Bentsen.
16 Senator Bentsen. No.
17 Mr. Stern. Mr. Hathaway.
18 Senator Hathaway. No.
19 Mr. Stern. Mr. Haskell.
20 Senator Hathaway. No.
21 Mr. Stern. Mr. Matsunaga.
22 Senator Hathaway. No.
23 Mr. Stern. Mr. Moynihan.
24 Senator Moynihan. No.
25 Mr. Stern. Mr. Curtis.

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1 Senator Curtis. Aye.

2 Mr. Stern. Mr. Hansen.

3 Senator Hansen. Aye.

4 Mr. Stern. Mr. Dole.

5 Senator Dole. No.

6 Mr. Stern. Mr. Packwood.

7 (No response.)

8 Mr. Stern. Mr. Roth.

9 Senator Roth. Aye.

10 Mr. Stern. Mr. Laxalt.

11 (No response.)

12 Mr. Stern. Mr. Danforth.

13 Senator Danforth. Aye.

14 Mr. Stern. Mr. Chairman.

15 The Chairman. Aye.

16 Senator Hathaway. Mr. Ribicoff and Mr. Gravel, no.

17 Mr. Stern. Mr. Nelson.

18 Senator Nelson. No.

19 Mr. Stern. Mr. Chairman.

20 The Chairman. No.

21 So that is five ayes and eleven nays.

22 Senator Danforth. Mr. Chairman, I move that no distribution
23 of the program be made to communities with unemployment rates of
24 less than seven percent.

25 Senator Dole. How do you define communities, is that the

1 S.M.S.A?

2 Senator Danforth. The same as we have now. The same program
3 that we have now but change the four and a half to seven percent.

4 Mr. Morris. Under the existing program, you do it on each
5 particular jurisdiction.

6 Senator Dole. Right, but under the S.M.S.A. it might benefit
7 cities like Houston.

8 Mr. Morris. If you were to use an S.M.S.A. concept, there
9 could be some shift that would lower the rates, the rates of
10 unemployment for some of the central cities with very high
11 unemployment, sort of flatten the distribution. And I assume that
12 you would want to use a four and a half percent floor if you
13 were to go to S.M.S.A. because you would be lowering everybody's
14 rates of unemployment.

15 The Chairman. Let me just ask about this part of it. We are
16 talking about excess unemployment in this bill, and the excess
17 unemployment would be under the proposal, an excess over four and
18 a half percent. The amount that you get would depend upon how
19 much unemployment you have over four and a half percent. That
20 is what we are talking about now.

21 Mr. Morris. That's correct.

22 The Chairman. The Senator is talking about the excess
23 employment that you get for over seven percent, is that right?

24 Mr. Morris. That is Senator Danforth's proposal, yes.

25 The Chairman. Now, I would like you to help get our thinking

1 straight to the extent that we can, that you would only, in his
2 proposal, a community would get no -- they wouldn't be eligible
3 and they wouldn't participate if the employment was under seven
4 percent.

5 Mr. Morris. That's correct.

6 The Chairman. And if they did participate, it would only be
7 a factor of how much employment they had over the seven percent?

8 Mr. Morris. If you were to use the same formula that we use
9 under the existing program, that is correct. Those areas with
10 higher excess unemployment would obtain proportionately greater
11 amount of assistance than those at the seven percent level.

12 But without actually running the formula, it is difficult
13 to tell exactly what each jurisdiction would receive, but on a
14 comparative basis, those with around seven percent or 7.1 percent
15 would receive less -- might receive less on a pro rata basis
16 than they might receive now because they have a high degree of
17 excess unemployment, over 4.5, but on the other hand, you would be
18 narrowing the number of recipients substantially.

19 And if you kept the same pot of money, there might be a --

20 The Chairman. Wouldn't this also be possible that in a city,
21 in the old core of the city, you might have as many as 30 percent
22 of the Blacks unemployed, especially young Blacks, 30 percent of
23 the young Blacks out of jobs, and yet the overall area might not
24 have seven percent unemployed, and therefore, not be eligible.

25 Mr. Morris. That is a possibility.

1 Senator Danforth. Mr. Chairman, I didn't prepare a table
2 of how this goes. All I am saying is that right now about 20
3 percent of the money that is distributed, is distributed to com-
4 munities with unemployment rates of less than seven percent.

5 And it is my view that that 20 percent which is distributed
6 to communities with population unemployment rates of less than
7 seven percent, could instead be distributed to communities
8 with unemployment above seven percent.

9 The Chairman. And what tends to happen when you do that
10 is that you drastically reduce the amount of money available to
11 the south and the west in this bill, too. I think that is the
12 effect of it, yes.

13 Senator Hansen. Mr. Chairman, I don't have anything worked
14 out, but just conceptually it occurs to me that we might address a
15 distressed area in a city such as Houston. If we could provide,
16 and I am just talking off the top of my head, but if there is a
17 contiguous area, say with a population of 75 or 100,000 people,
18 which is also a pocket of unemployment, which would exceed seven
19 and a half percent, make allowances for that so as to let this
20 program apply to that area.

21 Then, we could more precisely target the help to where we
22 all recognize it should go than might otherwise occur. I just
23 wonder if the Senator from Missouri would find any merit in that
24 concept? I don't have it figured out. I am just tossing out the
25 idea.

1 I can see a big city --

2 Senator Danforth. The only reason I would do it would be
3 to garner the support of Senator Bentsen which I have not been
4 very successful in garnering today. I don't know how you would
5 come up with those figures. I think it is a worthwhile thought.
6 I just haven't figured it out exactly how it would work.

7 Senator Hansen. Well, I am becoming persuaded that there is
8 some merit in the Chairman's logic that you need 51 votes to win.

9 The Chairman. Let's call the roll on it.

10 Senator Nelson. What are we voting on?

11 Mr. Stern. No distribution to communities with an unemploy-
12 ment rate of less than seven percent.

13 Senator Nelson. What is that again?

14 Mr. Stern. That none of the supplementary fiscal assistance
15 funds would be distributed to any community where the unemployment
16 rate was less than seven percent.

17 Senator Talmadge. Question, that is the standard metropolitan
18 area?

19 Senator Danforth. It is exactly the same as we have now,
20 whatever it is.

21 Senator Hansen. Could I ask one further question just for
22 clarification?

23 Mr. Stern. What we mean is any political division of a
24 state -- it could be a town.

25 The Chairman. He is talking about what is currently in the

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1 law.

2 Mr. Stern. Under existing law, distributions are made to
3 localities or any political subdivision that is eligible for
4 general --

5 Senator Moynihan. I think I can clarify this. This law
6 applies to jurisdictions which receive funds under general revenue
7 sharing. There are 40,000 all told.

8 Senator Talmadge. That is counties and municipalities, you
9 are talking about.

10 Senator Moynihan. Any general purpose governments.

11 Senator Hansen. Could I ask the Senator from New York a
12 further question? You have five buroughs in the City of New
13 York?

14 Senator Moynihan. That is not a general purpose government.

15 Senator Hansen. That is what I was wondering. So you only
16 have one.

17 Senator Moynihan. Only New York.

18 Senator Hansen. I see, only one.

19 Senator Moynihan. That is right.

20 Mr. Stern. Mr. Talmadge.

21 Senator Talmadge. No.

22 Mr. Stern. Mr. Ribicoff.

23 (No response.)

24 Mr. Stern. Mr. Byrd.

25 Senator Byrd. Aye.

1 Mr. Stern. Mr. Nelson.

2 Senator Nelson. I don't know what it does, so I will pass for
3 a moment.

4 Mr. Stern. Mr. Gravel.

5 Senator Hathaway. No.

6 Mr. Stern. Mr. Bentsen.

7 Senator Bentsen. No.

8 Mr. Stern. Mr. Hathaway.

9 Senator Hathaway. No.

10 Mr. Stern. Mr. Haskell.

11 (No response.)

12 Mr. Stern. Mr. Matsunaga.

13 Senator Hathaway. No.

14 Mr. Stern. Mr. Moynihan.

15 Senator Moynihan. No.

16 Mr. Stern. Mr. Curtis.

17 Senator Curtis. Aye.

18 Mr. Stern. Mr. Hansen.

19 Senator Hansen. Aye.

20 Mr. Stern. Mr. Dole.

21 Senator Dole. Aye.

22 Mr. Stern. Mr. Packwood.

23 (No response.)

24 Mr. Stern. Mr. Roth.

25 Senator Roth. Aye.

1 Mr. Stern. Mr. Laxalt.

2 (No response.)

3 Mr. Stern. Mr. Danforth.

4 Senator Danforth. Aye.

5 Mr. Stern. Mr. Chairman.

6 The Chairman. No.

7 Senator Hathaway. Mr. Ribicoff votes no.

8 Mr. Nelson. I will vote no, but I want to hedge it to the
9 extent that I don't know what that impact is, but I will vote no
10 for the time being.

11 The Curtis. There is no requirement here that you have to
12 understand it.

13 Senator Hathaway. Can we have a vote now on the hold harmless
14 provision? --We have discussed it already, but we can discuss it
15 again if you want to.

16 The Chairman. Six ayes and nine nays. The nays have it.
17 I would suggest that we increase the amount of money into the bill
18 so that the way that this tends to work out would be that those,
19 based on what the \$500 million dollar program would have been,
20 those states that were counting on that formula would receive as
21 much as they would have received under the \$500 million.

22 In order to do that, that means really that you are putting
23 \$150 million dollars more into the other states who take the old
24 existing revenue sharing formula and that being the case, no one
25 suffers any reduction from it. It is just that the states who

1 choose to use the old revenue sharing formula would be better off.

2 Senator Byrd. The motion is to increase from \$500 million
3 to \$650 million.

4 The Chairman. That's right.

5 Senator Talmadge. Mr. Chairman, will the local political
6 subdivisions make the choice or will the states?

7 Mr. Stern. It is a state level choice. It is an indefinite
8 amount. We estimate that it would be \$650. It might be less,
9 it might be a little bit more.

10 The Chairman. As a matter of fact, I think it would be
11 better because the state is going to decide on whichever is
12 going to be the higher because that is what their choice is
13 going to be any way.

14 Senator Nelson. I didn't realize that your foolish amendment
15 had been adopted while I wasn't here!

16 The Chairman. Now, Senator, it might be a foolish amendment,
17 but I think it is pretty generous of me. Wisconsin gets two and
18 a half times as much this way as they would without it. Louisiana
19 doesn't get any more.

20 Senator Bentsen. Since I am a co-sponsor of it, I totally
21 share the Chairman's viewpoint.

22 Senator Nelson. I just wanted it targeted better.

23 The Chairman. I might be able to get a Wisconsin senator to
24 vote against Wisconsin, but it is hard to get a Texas senator to
25 vote against Texas!

1
2 Senator Dole. I still don't understand something. We put
3 a billion dollars in the second resolution on the House side?

4 Mr. Stern. No, I think they are marking up the second
5 resolution now. I don't know how much --

6 Senator Dole. I understand that it is only \$500 million.

7 Mr. Stern. I am not fully up to date on what the Finance
8 Committee is doing.

9 Senator Dole. At two o'clock it was.

10 Mr. Morris. It is my understanding that it was \$500 million
11 this morning.

12 Senator Dole. I wonder if we have a problem with the Budget
13 Committee to adopt the hold harmless provision?

14 The Chairman. The Budge people are just like we are. They
15 are people. They can discuss the problem and decide what they
16 think about it just like we can. It will be the same logic that
17 might appeal to us.

18 Senator Dole. I think it would because Muskee is very inter-
19 ested in this.

20 The Chairman. I think his colleague might be able to commun-
21 icate with the Chairman of that committee and tell him that it
22 is an important item.

23 Mr. Morris. It is possible that if the Committee agrees to
24 a higher figure, that the Budget Committee would reconsider its
25 action on the \$500 million.

Senator Dole. It doesn't make any difference. It is a very

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1 good Committee, the Budget Committee.

2 Senator Byrd. This one program still has a problem.

3 The Chairman. Well, if they will say as many nice things
4 about us as we say about them, I think we will just get along great

5 Senator Curtis. As long as they don't know what we think.

6 The Chairman. Let's call the roll then for the hold harmless.

7 Mr. Stern. Mr. Talmadge.

8 Senator Talmadge. Aye.

9 Mr. Stern. Mr. Ribicoff.

10 Senator Hathaway. Aye.

11 Mr. Stern. Mr. Byrd.

12 Senator Byrd. No.

13 Mr. Stern. Mr. Nelson.

14 Senator Nelson. Aye.

15 Mr. Stern. Mr. Gravel.

16 Senator Hathaway. Aye.

17 Mr. Stern. Mr. Bentsen.

18 Senator Bentsen. Aye.

19 Mr. Stern. Mr. Hathaway.

20 Senator Hathaway. Aye.

21 Mr. Stern. Mr. Haskell.

22 Senator Hathaway. No.

23 Mr. Stern. Mr. Matsunada.

24 Senator Hathaway. Aye.

25 Mr. Stern. Mr. Moynihan.

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1 Senator Moynihan. Aye.

2 Mr. Stern. Mr. Curtis.

3 Senator Curtis. No.

4 Mr. Stern. Mr. Hansen.

5 Senator Hansen. No.

6 Mr. Stern. Mr. Dole.

7 Senator Dole. Aye.

8 Mr. Stern. Mr. Packwood.

9 (No response.)

10 Mr. Stern. Mr. Roth.

11 (No response.)

12 Mr. Stern. Mr. Laxalt.

13 (No response.)

14 Mr. Stern. Mr. Danforth.

15 Senator Danforth. No.

16 Mr. Stern. Mr. Chairman.

17 The Chairman. Aye.

18 Senator Curtis. Mr. Chairman, I ask that the list of those
19 senators absent, be recorded.

20 The Chairman. By all means. The ayes are 10 and the nays are
21 five.

22 Senator Danforth. Mr. Chairman.

23 The Chairman. Yes, sir.

24 Senator Danforth. I move that notwithstanding the states'
25 general decision on general revenue, countercyclical revenue, that

1 distributions in whatever amount they turn out to be, in amounts
2 less than ten thousand dollars per annum to a political subdivision,
3 be made in the form of general revenue rather than countercyclical
4 revenue sharing.

5 Senator Hansen. That is a good point.

6 Senator Hathaway. You are cutting out all the payments under
7 \$10,000?

8 Senator Danforth. No. All I am doing is to say, send them
9 one check rather than two.

10 Senator Hansen. So they don't have to decide how to spend
11 \$164.

12 Senator Danforth. Fold it in with their other check.

13 The Chairman. Any objection to that amendment?

14 (No response.)

15 The Chairman. Without objection, the amendment is agreed
16 to.

17 Let's vote on reporting the bill.

18 Mr. Stern. Mr. Chairman, what do you actually have in mind?
19 The Committee amendment to be offered on an appropriate bill?

20 The Chairman. Why don't we take one of the bills we have
21 here in the Committee.

22 Senator Dole. Give it to an independent contractor.

23 The Chairman. See if you can find a revenue bill that we
24 can report it on.

25 Mr. Stern. You have taken a number of tariff and tax bills

1 and combined them in such a way as to lose some bills in Committee.
2 For example, there is a bill on agricultural aircraft.

3 Senator Danforth. That's a good one. I opt for that!

4 (Laughter.)

5 The Chairman. That is a pretty big burden to put on a small
6 craft, but it would serve the purpose, so that we would just
7 strike all after the enacting clause and substitute the bill.

8 Mr. Stern. Right. That is H.R. 2852.

9 The Chairman. All right. Let's call the roll on reporting
10 the bill.

11 Mr. Stern. Mr. Talmadge.

12 Senator Talmadge. Aye.

13 Mr. Stern. Mr. Ribicoff.

14 Senator Hathaway. Aye.

15 Mr. Stern. Mr. Byrd.

16 Senator Byrd. No.

17 Mr. Stern. Mr. Nelson.

18 Senator Nelson. Aye.

19 Mr. Stern. Mr. Gravel.

20 Senator Hathaway. Aye.

21 Mr. Stern. Mr. Bentsen.

22 Senator Bentsen. Aye.

23 Mr. Stern. Mr. Hathaway.

24 Senator Hathaway. Aye.

25 Mr. Stern. Mr. Haskell.

1 Senator Hathaway. No.
2 Mr. Stern. Mr. Matsunaga.
3 Senator Hathaway. Aye
4 Mr. Stern. Mr. Moynihan.
5 Senator Moynihan. Aye.
6 Mr. Stern. Mr. Curtis.
7 Senator Curtis. No.
8 Mr. Stern. Mr. Hansen.
9 Senator Hansen. No.
10 Mr. Stern. Mr. Dole.
11 Senator Dole. Aye.
12 Mr. Stern. Mr. Packwood.
13 (No response.)
14 Mr. Stern. Mr. Roth.
15 (No response.)
16 Mr. Stern. Mr. Laxalt.
17 (No response.)
18 Mr. Stern. Mr. Danforth.
19 Senator Danforth. No.
20 Mr. Stern. Mr. Chairman.
21 The Chairman. Aye.
22 I will ask that the absentees record themselves as soon as
23 they can be contacted.
24 All right. Well, the ayes are 10, and the nays are 5, and
25 it will be reported.

1 Thank you very much gentlemen.

2 (Whereupon, at 4:10 o'clock p.m., the Committee was recessed.)
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