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HEARINGS

Before The

COMMITTEE ON FINANCE

UNITED STATES SENATE

EXECUTIVE SESSION

LEGISLATION REQUIRED BY RECONCILIATION
INSTRUCTIONS IN THE FIRST BUDGET RESOLUTION

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THURSDAY, JUNE 19, 1980

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

The Committee met, pursuant to notice, at 10:20 a.m.,
in Room 2221, Dirksen Senate Office Building, the Honorable
Russell B. Long (Chairman of the Committee) presiding.

Present: Senators Long (presiding), Talmadge,
Ribicoff, Nelson, Bentsen, Moynihan, Matsunaga, Boren,
Baucus, Bradley, Dole, Roth, Danforth, Chafee.

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The Chairman. Let me call the Committee together.

Now, let us see if we can find enough spending cuts to
meet our objective on spending.

You have thought about it over night, and had a chance
to communicate with people on the House side, too, Mr.
Stern. Where do you think we might have the best chance of
squeezing this thing through passage?

Mr. Stern. When the Committee broke up yesterday, you
had achieved \$1.888 billion of the \$2.2 billion, which is a

1 little more than \$300 million shy of the total, and you had
2 passed over one item in the health area that the staff was
3 to come back with an alternative.

4 We will talk about that in the minute. The alternative
5 would save \$70 million. You asked about Social Security for
6 prisoners. We have some information on that, and that
7 proposal would save \$15 million. Then we would suggest that
8 you go to trade adjustment assistance and find the balance
9 there.

10 The first item is the item that Senator Dole raised
11 yesterday, and Mr. Constantine can explain the modification
12 which would save \$70 million.

13 Senator Chafee. What number are we on now?

14 Mr. Stern. This would be an alternative for the item
15 on Page 8, the third new paragraph, apportionment of
16 provider costs, Section 10 of 934, which, as reported
17 earlier, would have saved \$191 million.

18 That particular item, even though it had been approved
19 before, was passed over for purposes of the reconciliation
20 bill, and the staff was asked to go back and come up with an
21 alternative version.

22 Mr. Constantine. Mr. Chairman, what we would suggest
23 is that, as we discussed yesterday, the Comptroller General
24 would undertake studies to determine which hospitals would
25 get a differential and to what extent, by class, type, size,

1 location, patient mix, and so on.

2 Rather than having the present plus factor terminate
3 October 1, we would suggest that it terminate March 1 of
4 1981, and that the new differentials would ordinarily go
5 into effect October 1 of 1981, as determined by the
6 Comptroller General; however, with respect to any hospitals
7 which are found under the Comptroller General's methodology
8 and procedures to be entitled to a differential, they could
9 claim that difference, that plus factor, retroactive to
10 March 1 of 1981, but it would be payable after October 1,
11 1981.

12 Obviously, that avoids any outlays in fiscal 1981, and
13 at worst, a hospital goes without a plus factor if it is
14 entitled to it, and in accordance with the studies of the
15 Comptroller General, for not more than six months as opposed
16 to a year, and it would get it retroactively.

17 That saves \$70 million.

18 Senator Dole. Could I just ask, Sheila, you have
19 reviewed this with Mr. Constantine?

20 Ms. Burke. That is fine, Senator. That is a reasonable
21 compromise.

22 The Chairman. What line is that under now?

23 Mr. Stern. Item 3, savings included in bills approved
24 by the Finance Committee, Medicare and Medicaid, one item
25 that made up the original \$496 million was an item which

1 would have saved \$191 million, so the Committee had approved
2 \$305 million of that total and passed over the \$190 million.

3 If you approve this, you will make that \$496 million
4 into \$375 million.

5 The Chairman. \$375 million. Is that all right with
6 you, Senator Dole?

7 Senator Dole. Right.

8 The Chairman. Well, any objections?

9 (No response.)

10 The Chairman. Without objection, then, we will settle
11 for \$375 million.

12 Senator Boren. Mr. Chairman, let me ask a question.
13 In 934, we had put on an amendment on nursing home
14 reimbursement allowing negotiated rates, and it is my
15 understanding that CBO has now come back with an estimate of
16 some savings in a letter to you, and I wonder, are we
17 including that in this \$375 million?

18 Mr. Stern. We had omitted it simply because the CBO up
19 until now had not estimated savings. They now estimate
20 savings of \$2 million, so that would be in the same category
21 as the other items, and we would suggest that the Committee
22 include that provision.

23 Senator Boren. All right.

24 Mr. Constantine. Yes, sir. Actually, we think CBO is
25 grossly underestimating the savings, because the \$2 million

1 is based on Oklahoma alone.

2 Senator Boren. That is right. They are contending we
3 are the only state that is going to negotiate out the rates
4 instead of going to cost plus rates, but I am sure the other
5 states will.

6 Mr. Constantine. But this is a provision which the
7 Committee had approved as part of 934, and would save some
8 money.

9 Senator Boren. I would move we include that, and it
10 would add another couple of million onto the savings.

11 The Chairman. How much would that save us?

12 Mr. Stern. Two million dollars estimated. That is
13 only based on one state, as Mr. Constantine points out.

14 Senator Dole. It is \$100 million, isn't it?

15 Senator Boren. It should be \$100 million or \$200
16 million.

17 Mr. Constantine. We have to live with CBO's number,
18 and it is, at the very least, a savings number of \$2 million
19 which would go onto the total.

20 The Chairman. All in favor, say aye.

21 (A chorus of ayes.)

22 The Chairman. Opposed, no.

23 (No response.)

24 The Chairman. The ayes have it.

25 All right. What else can you tell us?

1 Mr. Stern. The next item that the Committee asked the
2 staff to look into is Social Security benefits for
3 prisoners, and Mr. Wilke will pass out a sheet on this.
4 There are two approaches to this that have been suggested
5 legislatively, one by Senator Wallop and one in the House by
6 Representative Conable.

7 The staff, I guess, would suggest that you look at
8 Representative Conable's approach. What this does, it says,
9 in the case of convicted felons -- there are three parts to
10 it. First, it says, an incarcerated beneficiary would be
11 deemed to have refused vocational rehabilitation, which is
12 cause for making him ineligible for benefits, unless a court
13 of law approves a program of rehabilitation for such a
14 prisoner.

15 Second, it says that a person between ages 18 and 21
16 cannot get benefits as a prisoner just because he is called
17 a student.

18 And third, if a person incurs the disability as a
19 result of committing a crime, or while he is in a penal
20 institution, that resultant disability would not be
21 considered in determining whether he is eligible for
22 benefits.

23 The Chairman. Now, read that first one. I think the
24 first one I have got some doubt about. Read that one again.

25 Mr. Stern. All right. The first part of it says that

1 if a person is a prisoner, and is a convicted felon, he
2 would be deemed to have refused vocational rehabilitation.

3 The Chairman. It seems to me as though that one can
4 get you in trouble. Legally, I think anybody could take you
5 into court. A good lawyer could take the view that that is
6 an arbitrary assumption contrary to fact, and I think the
7 courts might strike it down.

8 It seems to me if you want it to stand up, there are
9 other ways you can do it. I think you can just say that
10 during the time he is in the penitentiary, he is not
11 eligible. He is not eligible to draw benefits during the
12 time he is paying off his debt to society.

13 Mr. Humphreys. I think this was drawn this way with a
14 view towards making it a part of the existing mechanism of
15 the program in such a way that people who are now in prison
16 would be effected by this.

17 I think the concern was that if you simply said people
18 are not eligible while they are in prison, this might be
19 subject to attack as an ex post facto law insofar as people
20 who have already been convicted in the past are concerned.

21 So, I believe the reason that that particular bill was
22 drawn that way was to try and get at people who are
23 presently in prison.

24 The Chairman. Well, you ought to be able to find a
25 better way than to have an assumption that is completely

1 contrary to fact.

2 Mr. Humphreys. Well, the assumption is that while the
3 person is in prison, that it is not appropriate for a
4 prisoner to be in a rehabilitation program, while in prison,
5 unless that is approved by the court.

6 The Chairman. I think you could say that he is not
7 eligible for rehabilitation by virtue of his own misconduct,
8 something like that, but to say that he is deemed to have
9 refused rehabilitation is an arbitrary assumption, and I
10 think that a good lawyer would knock it right on down in
11 Court, or might.

12 I think there has got to be some way that you can do
13 something that is clearly more constitutional than that.
14 You are talking about making this thing stand up by an
15 arbitrary assumption completely contrary to fact.

16 Senator Chafee. Furthermore, Mr. Chairman, many of
17 these prisons are deemed to be rehabilitation centers. The
18 very name of our state prison is the Adult Correctional
19 Institution. That is the theory of the place.

20 The Chairman. Well, why don't we agree to it in
21 principle, and let the staff try to fit in the fine points.

22 Mr. Stern. Well, we will try to come up with the best
23 possible way, then, of getting at the situation of persons
24 who are in prison now, because otherwise, you really would
25 have no significant savings as affects current prisoners.

1 Senator Dole. You don't deny they are beneficiaries,
2 they are dependents, though? I mean, they may have a
3 family --

4 Mr. Stern. Well, if the disability is incurred in the
5 process of committing a crime, for example, if a person
6 falls off a roof or something like that while committing a
7 crime, then the dependents would also not be eligible for
8 benefits.

9 Senator Nelson. I thought you mentioned the disability
10 incurred in prison.

11 Mr. Stern. Or in prison, the same is indicated.

12 Senator Nelson. What about disability incurred in
13 prison while working in a prison workshop?

14 Mr. Humphreys. Under that bill, the individual would
15 not be eligible for disability benefits on the basis of that
16 kind of disability.

17 Senator Nelson. Can you have a situation then where
18 somebody is working under the direction and compulsion of
19 the state in a workshop, producing goods that are sold in
20 the marketplace, and is injured, and gets permanent
21 disability, and six months later he is released from prison
22 and is permanently disabled, and he doesn't get any
23 disability insurance under this proposal?

24 Mr. Stern. That is right.

25 Senator Nelson. I think you had better take a good,

1 hard look at that.

2 The Chairman. Well, now, look. It is not what you do,
3 it is the way that you do it. I just think that you could
4 put a tax -- if you want to, you can put a 100 percent tax
5 on income received by fellows in the penitentiary on Social
6 Security income received by fellows in prison. You give it
7 and tax it right back away from them, and that being the
8 case, they wouldn't get it.

9 Senator Nelson. May I say a word on this? I
10 understand that Congressman Pickle is conducting hearings on
11 this starting tomorrow. I as Chairman of the Subcommittee
12 haven't scheduled any, and I don't have any objection to
13 going ahead, so long as we don't make a big mistake, but I
14 do think that to say to somebody who gets a permanent injury
15 in prison doing work assigned to him and then is released
16 six months later and is permanently injured and ineligible
17 for disability insurance would be an injustice.

18 Mr. Stern. Well, you could remove that case. That is
19 a separate case from the case of being injured while
20 committing a crime.

21 Senator Nelson. Well, or drawing it as Senator Bentsen
22 says, I don't see much point in him drawing his disability
23 while he is in prison, because the purpose of disability is
24 to take care of the individual, and as long as he is in
25 prison, he is being taken care of. That is a different kind

1 of an animal, anyway, from one where he has been discharged.

2 The Chairman. Let me suggest that we just agree to
3 this tentatively, and then if you could perfect it and make
4 a better proposal of it, why, then bring it back.

5 Mr. Stern. All right.

6 The Chairman. I think maybe you can show us a better
7 proposal.

8 Senator Bentsen. That is all right, Mr. Chairman, but
9 I want to urge the viewpoint that Senator Nelson is making.
10 Once the man is out of prison, then he should not be denied
11 benefits.

12 Mr. Stern. We could certainly modify the legislation in
13 that respect right now, that is, to say that the benefits
14 could be paid after he is no longer a prisoner.

15 This is only in the case where the person incurs a
16 disability while in prison, right?

17 The Chairman. Without objection, we will agree to
18 that. Okay?

19 Senator Nelson. Could I bring something up now?

20 The Chairman. Could we just dispose of one other item
21 here? Well, I will wait until Senator Bradley gets here.
22 Go ahead.

23 Senator Nelson. This has been called to the attention
24 of the staff, the point I have raised. That is the Medicaid
25 letter of credit provision. And it has been called to my

1 attention by my staff from my state that Wisconsin and a
2 number of other states would have some serious problems with
3 that Medicaid letter of credit provision that was adopted
4 yesterday, I guess, and I am suggesting that it either be
5 deleted or that the House language be used.

6 I would like to raise two points. What is the
7 viewpoint of the staff on that? And secondly, do you have
8 any suggestions for recouping a like amount of savings if in
9 fact we deleted the Medicaid letter of credit or adopted the
10 House language?

11 Mr. Constantine. The House language is better,
12 Senator. Unfortunately, we understand that the House
13 language would not save any money, because the
14 Administration proposes to do what the Committee initially
15 decided administratively, so we wind up with a cost -- if
16 the Committee can come up with the money in another way, and
17 as long as the Administration is doing it administratively,
18 there would be no objection to it.

19 We see nothing wrong with dropping the provision that
20 the Committee had previously approved except for the \$75
21 million part of it.

22 There are obviously other ways of coming up with \$75
23 million.

24 Mr. Stern. In other words, you would be dropping a
25 section that you had tentatively agreed to that would have

1 otherwise saved \$75 million, so if you want to see whether
2 you will pick that up in some other area --

3 Mr. Constantine. We can suggest, Senator, as we have
4 discussed with your staff, the Administration has proposed
5 limits on home health services, that is, the amounts which
6 GAO and we all agree are way out of line.

7 They are based on unaudited data and unweighted. If,
8 for example, the Committee approved, tentatively approved a
9 provision, and we have obviously discussed this with some
10 people, provided that the limits on home health
11 reimbursement under Medicare would not exceed the 75th
12 percentile of weighted costs, weighted to that the agencies
13 would provide more service, have more weight, on a regional
14 basis, to take account of the HEW or Health and Human
15 Resource regions, and that notwithstanding that there be an
16 internal limit on visits by nurses' aides or nurses not to
17 exceed the average skilled nursing facility rate in that
18 area.

19 Simply, it seems very awkward to pay for a one-hour
20 visit by an aide more than you would pay for a skilled
21 nursing facility day in that area, with RN service, aide
22 service, and room and board.

23 That would save somewhere between \$50 million and \$100
24 million.

25 Senator Dole. Let's do it.

1 Senator Nelson. I did not have the opportunity to
2 discuss it directly with my state. I don't know what other
3 states are involved for whom this creates a problem of some
4 kind or another, so I am speaking from ignorance, but I
5 raised it because it was called to the attention of my staff
6 by the State of Wisconsin.

7 I would like to have a chance at least to see in a
8 little more detail what the implications are, and if in fact
9 there is another way to raise the --

10 Senator Dole. He just suggested another way. Is there
11 any objection to that?

12 Mr. Constantine. That would raise the money that you
13 want, and I believe the Administration believes that they
14 could live with that.

15 Senator Dole. Let's do it.

16 Senator Nelson. I would move approval of that method.

17 The Chairman. Tell me that again, Jim.

18 Mr. Constantine. Yes, sir. What it says is that the
19 limitation on reimbursement for visits, which Medicare pays,
20 by home health agencies would be established for fiscal 1981
21 at the 75th percentile of costs, weighted costs. That is,
22 you take all the costs, and 75 percent of the costs are at
23 or below a particular level, so, it wouldn't exceed the 75th
24 percentile.

25 Then, notwithstanding that, you say that we would not

1 pay more for a visit by an aide, a nurse's aide or an RN
2 than we pay for a skilled nursing facility day in that
3 area. In other words, an hour or two-hour visit by a
4 nurse's aide should not cost more than the cost of providing
5 room, board, and skilled nursing care in a nursing home in
6 that area.

7 The Chairman. Okay. Without objection, agreed.

8 Senator Dole. And we take care of Gaylord.

9 Mr. Stern. That also takes the other one.

10 Senator Nelson. You would delete that provision?

11 Mr. Stern. That is right.

12 Senator Nelson. I had one more point that I just
13 wished your comment on. This is again raised by my state.
14 I don't know whether they are correct or not.

15 At the present, when a state's claim for Medicaid
16 matching funds is disallowed by the Federal Government, the
17 state may appeal the decision, and retain the funds that are
18 in dispute until a final determination is made. A decision
19 on an appeal disallowance can take as long as two years, and
20 during this period the states earns interest on the disputed
21 funds whether or not the appeal is settled in favor of the
22 state.

23 The Committee approved a provision estimated to save
24 approximately \$75 million in fiscal 1998 which authorizes
25 the Secretary to offset amounts in dispute from other

1 Medicaid funds due the state until the appeals process is
2 exhausted. If the final decision is in the state's favor,
3 the Federal Government would repay the money to the state
4 with interest.

5 Wisconsin officials indicate that these claims have
6 already been paid out, thus there is no interest-generating
7 account.

8 Does anybody want to comment on that?

9 Mr. Constantine. The funds have been paid out. We are
10 trying to track what -- Could we possibly look at that,
11 Senator?

12 Senator Nelson. Yes.

13 Mr. Constantine. I think we would feel a little more
14 comfortable.

15 Senator Nelson. Thank you. I just wanted to raise the
16 point.

17 Senator Dole. We think the other idea is a good one.
18 We adopted it.

19 Mr. Constantine. The Committee approved it.

20 Senator Nelson. Yes.

21 Mr. Constantine. Because I believe Senator Dole
22 pointed out yesterday that something like 98 percent --

23 Senator Dole. Ninety-eight to 99 percent of the
24 appeals are won by the Federal Government, and you have the
25 state picking up the interest instead of the government.

1 Senator Nelson. Yes. Well, take a look at that,
2 anyway. I don't have any judgment on it.

3 Mr. Stern. Mr. Chairman, that brings us to Item Number
4 6, trade adjustment assistance. The trade adjustment
5 assistance program pays a higher --

6 The Chairman. Let me just say this about this matter,
7 now, in this trade adjustment area. I wish somebody would
8 send word to Senator Bradley. He is over there on the
9 floor, and he ought to be here now, if he wants to know
10 about trade adjustment assistance.

11 I would like to ask the staff to send word to Senator
12 Bradley on the floor that we are discussing trade adjustment
13 assistance, and today is the last day we have to discuss it,
14 so we don't have any choice about acting if he can't be here.

15 Senator Dole. Mr. Chairman?

16 The Chairman. Yes, sir?

17 Senator Dole. Senator Hines cannot be here until after
18 11:00, but it seems to me that if we agree as we have in the
19 other matters that if we made a judgment, it would still be
20 open to anyone coming in, as Senator Nelson has, that would
21 protect both Senator Bradley and Senator Hines.

22 The Chairman. Well, we will try to do that, but keep
23 in mind, now, if we find ourselves grinding along in the
24 absence of a quorum and somebody makes a point of order,
25 they can't change it, because the burden is on them to get

1 here and help us get a quorum, and if we can't get a quorem,
2 we stand tight on what we have done.

3 Now, we are going to have to do something in one of
4 these two areas. We are either going to have to do
5 something about the welfare end of it, or we are going to
6 have to do something about the trade adjustment system. We
7 have got to find some more reductions, and we can't regard
8 the trade adjustment or welfare as being sacred. Everything
9 has got to be considered in the area before you could make
10 some reductions.

11 Senator Danforth. Mr. Chairman?

12 The Chairman. Yes, sir?

13 Senator Danforth. Where are we now?

14 Mr. Stern. Right now you are at a little bit shy of \$2
15 billion. We still have to get an estimate of the savings of
16 the alternative that you just approved, but you are probably
17 something like \$1.970 billion, something like that, so you
18 are about \$220 million, \$230 million short.

19 Senator Danforth. Mr. Chairman, the idea was raised
20 yesterday as to increasing the deductible amount for Part B
21 of Medicare. That would be, what, \$90 million?

22 Senator Dole. Five dollars would be \$90 million.

23 Mr. Stern. That was your estimate for a \$5 increase.

24 Senator Dole. The House rejected that, I understand,
25 yesterday.

1 Senator Danforth. The House rejected it?

2 Senator Dole. Or they considered it and never brought
3 it up.

4 Senator Danforth. That would be, for people who
5 participated in this voluntary program, a maximum increase
6 of \$5 a year.

7 Senator Bentsen. That is \$5 a year?

8 Senator Danforth. Yes.

9 Senator Bentsen. For one year, or every year?

10 The Chairman. Every year.

11 Senator Danforth. Each year. So, as far as an
12 individual is concerned, this amount, which is now \$60
13 deductible, was established in 1972, and it is my
14 understanding that Part a has been indexed. Is that right?

15 However, Part B has never been touched, and that would
16 be \$90 million. Now, I guess it is not very popular, but it
17 seems to me that \$5 a year for an individual is hardly going
18 to break the bank, and if there has been no adjustment since
19 1972, \$60 in 1972 was worth a lot more than \$60 today.
20 Sixty dollars in 1972 would be a much greater amount of
21 total medical expenses than \$60 a day would be.

22 So it seems to me that that would be a relatively good
23 way of raising that money.

24 The Chairman. What do you advise about that?

25 Mr. Constantine. It is a very awkward thing, starting

1 off with the politics in an election year, to increase the
2 Part B deductible. The Senator is absolutely right that it
3 is not adjusted for changes in benefit levels or price
4 levels and so on. It has not kept up to date at all.

5 The dilemma is at the same time, you've got older
6 people who are paying coinsurance on much higher amounts,
7 you know, that 20 percent and more that they have to pay
8 that has occurred, and the Committee earlier, during its
9 consideration of health insurance, tentatively approved
10 limiting the amount of deductibles and coinsurance, so to
11 some extent, Senator, it seems inconsistent to increase the
12 deductibles at the same time you would want to limit them.

13 However, it would raise a lot of money. It would raise
14 a lot of money.

15 Senator Danforth. It would cost an individual \$5 a
16 year.

17 Mr. Constantine. That's right. Almost half of the
18 elderly never reach the deductible amount, the \$60 today. A
19 relatively small proportion account for the bulk of our
20 costs. So, a lot of people would really not be affected by
21 it, but others would.

22 I suspect it is more a psychological kind of thing, and
23 a political judgment. As far as the equity of keeping it up
24 to date is concerned, you are absolutely right. It has not
25 been kept up to date. As a matter of fact, when Medicare

1 started, I believe -- where were we, \$50? Fifty dollars in
2 1965, when Medicare was enacted, and it has increased by \$10
3 since that time.

4 We have no recommendation. It is the Committee's
5 judgment on that.

6 Senator Chafee. Mr. Chairman?

7 The Chairman. Yes, Senator Chafee.

8 Senator Chafee. Jay, could you comment on this,
9 please? In my state, and I don't know about other states, I
10 am informed it would affect virtually every beneficiary,
11 because almost all beneficiaries buy private Blue Cross
12 Medigap designed to pay the deductibles, coinsurance, and
13 other services not included in Medicare, and the premium
14 keeps going up because the amount of the copayment, 20
15 percent, that you mentioned, goes up as prices increase.

16 The Part A hospital part deductible goes up each year
17 based on average cost of one day in a hospital.

18 Could you comment on that? In other words, they are
19 undergoing increases each year for their 20 percent, and
20 this Medigap coverage, regardless of the \$5 part.

21 Mr. Constantine. Yes, sir. That is right. For those
22 who have it. And I guess it is about ten million people
23 over 65 do have supplemental, complementary coverage. The \$5
24 increase in the deductible, we would make just pennies on
25 that. It would be very little, as far as affecting the

1 Medigap premiums are concerned, Senator.

2 Senator Chafee. Mr. Chairman, could I make a
3 suggestion? This is a possibility, but before we accept
4 this, we are just looking at the trade adjustment
5 assistance, and maybe it won't be necessary if we do
6 something in that to affect this particular area.

7 The Chairman. Let's just talk about the trade
8 adjustment assistance, if that is all right. We will come
9 back to that.

10 Senator Chafee. All right.

11 The Chairman. All right. Now, let's talk about the
12 trade adjustment assistance.

13 Mr. Stern. Under the trade adjustment assistance,
14 workers whose unemployment is related to trade, to the
15 impact of imports, differs in two respects from regular
16 benefits. First, the benefits go for a longer period of
17 time, generally up to 52 weeks instead of 26 weeks, and
18 second, the payment level is a higher amount. It can be
19 equal to 70 percent of a worker's average weekly wage while
20 he was working.

21 When the law was changed, the General Accounting Office
22 was directed to make a study of the program, and their
23 recommendations were that generally you should only pay the
24 same amount as the unemployment benefit. In other words, a
25 worker should get the same benefits if his unemployment is

1 due to the impact of trade as if it is due to any other
2 cause, and that the benefits in effect only start after the
3 regular benefits run out.

4 That recommendation, which the staff is proposing here,
5 would save \$323 million.

6 Senator Dole. Mr. Chairman?

7 The Chairman. Senator Dole?

8 Senator Dole. Maybe Senator Bradley wants to be heard
9 first.

10 Senator Bradley. I would defer to you to make the case
11 for it. I would resist the cut of trade adjustment
12 assistance. We basically need \$200 million to get to our
13 \$2.2 billion figure, and I think that you can make an
14 argument that trade adjustment assistance should remain on
15 the grounds of our international competitive position, and
16 the need to be able to shift people from industries that are
17 adversely affected by our absence of competitiveness to
18 industries that are competitive and will be competitive in
19 the coming decades, and that you have a real problem when
20 you deny to that worker who has worked 20 to 30 years in the
21 automotive industry or the clothing industry, and you have
22 him put out of work, and you say, he is going to get the
23 same amount as someone who has been in the construction
24 industry.

25 The problem is that under this proposal, a person could

1 be laid off in the automotive industry, and say he is making
2 \$20,000 a year, and he will go down the block because he has
3 to feed his family and take a job for \$10,000 a year, and
4 will not be eligible to receive this trade adjustment
5 assistance if we knock this out, and my own judgment is,
6 they should be eligible to receive the trade adjustment
7 assistance. I think it is absolutely essential.

8 The Chairman. Let me observe that we do have a quorum
9 present, Senators Long, Ribicoff, Moynihan, Nelson, Bentsen,
10 Dole, Matsunaga, Boren, Bradley, Roth, Danforth, Chafee. We
11 have a quorum present.

12 So, go ahead. Who had his hand up? Senator Dole?

13 Senator Dole. I don't know that I would quarrel with
14 anything that Senator Bradley said, but we have got a
15 problem. We could make a case for everything we have cut
16 not to cut it, but I am not certain that would accomplish
17 what I am suggesting.

18 It would save \$200 million. It is sort of a halfway
19 step between the \$350 million, I guess, not recommended by
20 the staff, at least suggested.

21 That would be that during the first 13 weeks of
22 unemployment, import affected workers would be eligible for
23 regular unemployment benefits rather than trade adjustment
24 assistance program, but thereafter, if there are going to be
25 long-term unemployed, they would be eligible up to the 52

1 weeks of the special trade adjustment benefit, which is much
2 higher, as everyone knows, than regular unemployment
3 benefits.

4 It would save the \$200 million that -- maybe we can
5 find it in some other place, but it would save \$200
6 million. It is my understanding the House is looking into
7 savings in this program of, what, \$800 million, or at least
8 they are suggesting a saving. Maybe you can't put your
9 finger on it. But it is a step back from the existing
10 proposal, and without getting into the whole trade
11 adjustment assistance program, I know in some respects it
12 was a trade off, but there are others who lose their jobs
13 who are just as unemployed as somebody who has lost it
14 because of some trade problem, and they are denied higher
15 benefits.

16 So, I offer this as a compromise that would satisfy at
17 least part of the budget requirements, total requirements,
18 and still not do violence to the program.

19 The Chairman. Senator Moynihan?

20 Senator Moynihan. Mr. Chairman, I appreciate the
21 spirit in which Senator Dole has spoken, but I have to
22 associate myself completely with what Senator Bradley has
23 said, and without wishing to introduce any strain into the
24 conversation where we are trying to solve a problem, there
25 is an issue of good faith here.

1 We adopted the MTN last year unanimously on the floor,
2 under the leadership of Senator Ribicoff, after a proposal
3 which was not thought to have much likelihood of passage,
4 much less unanimous adoption. And it came about because the
5 American trade union movement said, if we could be assured
6 of protection against the kinds of losses of jobs that are
7 going to come about, and by protection, we mean that the
8 workers themselves will have this transition, we will stay
9 in the world of free trade,

10 And they did, they kept their part of the bargain, and
11 their expectations have come about. The recession we are in
12 right now is not just the seventh recession since the
13 post-war period. It is the first recession of a declining
14 American economy. It is a structural recession. We are in
15 a recession that is as much attributable to imports as to
16 the normal cycle of business, and in the middle of this
17 recession, and in the aftermath of the good faith support we
18 had from those folks, I can't see how we could or should do
19 this, as much as I see the reasonableness, and you are
20 trying to solve a problem, which I grant we have, but I
21 don't think this is the way to do it.

22 Senator Ribicoff. Mr. Chairman, you know, around this
23 table, why we succeed or fail in the profession we are in is
24 because we have got a word, and I think that we all live in
25 this body because when you tell a man something, you follow

1 through and you do it.

2 Now, I think that applies to this Committee, too. I
3 mean, this Committee has a word, and under your leadership,
4 when you have made a commitment to any group to get a bill
5 passed, or what the interpretation of a bill is, the reason
6 the Finance Committee has the stature it has is because when
7 it says it is going to do something, it does it. It lives
8 upto it.

9 Now, there is no question that when the MTN came up,
10 the prospects of passing that legislation were very dim, and
11 yet it went through practically unanimously, and a
12 commitment was made to labor, who are deeply concerned with
13 the trends in industrial society, that if there was damage
14 due to imports, that there was going to be compensation
15 under the trade adjustment proceedings.

16 Now, the whole world today is faced with many
17 dislocations in the field of trade, not only the United
18 States, but in other countries of the world, and everybody
19 is taking second thoughts, I think, if they follow through
20 with the second thoughts, to the detriment of the entire
21 industrial west.

22 I don't know how -- there are going to be many quarrels
23 with the automobiles. I was one of four that voted against
24 the Regal proposal, because I saw the dangers to it
25 eventually. Then you've got problems with steel, and you

1 are going to have great pressures on this Committee,
2 especially, next year, because we are in a recession, in a
3 deep one, and everybody is going to be looking for
4 scapegoats, and the Number One scapegoats will be American
5 trade and imports.

6 I think this Committee is going to find itself in one
7 hell of a position to try to have some equity or equilibrium
8 in the trade field, when the first opportunity you get, you
9 break your word.

10 When I say "you," I mean, not you, Mr. Chairman, but
11 collectively. I think the point that is being made by
12 Senator Bradley and Senator Moynihan, who are going to have
13 to struggle with this issue, and so are you, Mr. Chairman,
14 and Senator Dole, if we cut this out.

15 The Chairman. Let's just see where we stand on this.
16 Now, we have voted. We are confronted with trying to cut
17 spending and stay inside the budget. Now, Senator Ribicoff
18 made the point yesterday that he would hope that we wouldn't
19 vote the same tightening up on welfare that we voted for
20 before, which passed the Senate, and the House conferees
21 refused to accept at the conference. That is \$229 million.

22 Well, if we shut off up there -- and mind you, you
23 know, the areas where we have spending jurisdiction, those
24 are the areas that have to do with social welfare programs,
25 so we have got to cut social welfare programs if we are

1 going to get the genie inside the bottle.

2 Now, we have another item down here which I am
3 reluctant to vote to cut, \$200 million in social services
4 under Title XX. Well, we could hold that down, hold them at
5 \$2.7 million instead of going to \$2.9 million. All your
6 welfare workers are not going to like that if we recommend
7 that.

8 Then you can look up here, here is another \$200
9 million, and under health -- have we agreed to that item
10 where it said, extend the provisions of H. R. 934 to
11 ancillary services?

12 Mr. Stern. No, sir. That was not agreed to.

13 The Chairman. All right. Perhaps we might do it
14 there. But it seems to me as though we are going to have to
15 take one of these substantial items if we are going to make
16 it.

17 Senator Bradley. Mr. Chairman, in the spirit of
18 offering something that will harm no one excessively, and
19 all of us a little bit, let me suggest that one way we could
20 go is to look at the cost of living increase that is
21 embodied in 5-A, and take only 25 percent of that delayed a
22 month. That would come up with \$300 million, and 25 percent
23 of it ranges on an average payment basis from like \$7 to \$10
24 to \$20.

25 So, what you are saying is that many people will

1 receive \$20 a month later than they normally would, as
2 opposed to taking Senator Danforth's position and saying we
3 are going to increase the payments for a certain population
4 by \$5, or taking trade adjustment and saying we are really
5 going to hurt an unemployed population that is presently
6 employed in a sector that is becoming non-competitive. I
7 suggest that that would be a way that we could come up with
8 the appropriate dollars to meet our budgetary problem and
9 spread the pain.

10 The Chairman. Well, if we do that, you are going to
11 have all the old people upset about it, if we postpone their
12 cost of living increase, all of them. You know, when you
13 get involved in that, they are all going to be -- all the
14 old people on Social Security --

15 Senator Dole. But they are not organized.

16 The Chairman. Well, the whole bunch of them are going
17 to see Congress hedging on its commitment to keep them whole
18 against inflation, and I think we would be better off to
19 think in terms of some of these other items.

20 Senator Bentsen. Mr. Chairman?

21 The Chairman. Senator Bensten?

22 Senator Bentsen. If I might, I have been somewhat
23 symathetic to this particular approach amongst the very
24 difficult options we have, but as I listen to these
25 arguments made, I get concerned, too, about what we are

1 going to try to do next year, or maybe even this year,
2 hopefully, in the way of trying to in the long term increase
3 productivity in this country, and that means some tax cuts
4 to retool America.

5 Immediately labor gets concerned: does that mean my
6 job? Somebody replaces my job with a new piece of
7 equipment? In some instances, that will be what happens, and
8 they will have to be able to take some comfort in the Trade
9 Adjustment Act, and I think it will be terribly important
10 that we have labor's support as we have tried to modernize
11 the equipment of this country, and do the long-term things
12 that are necessary to make the United States competitive in
13 the world again.

14 So, with that in mind, I find I would be voting with
15 Senator Bradley on this point, although I don't come back
16 with the option as to where to cut it. I know we still have
17 to.

18 The Chairman. Senator Boren?

19 Senator Boren. Mr. Chairman, have we acted on Part 1
20 of the first point there, on 3434 and 3236? We put that on
21 the shelf at one point. But that totals --

22 Mr. Stern. That amount is included in the total.

23 Senator Boren. You have already included this?

24 Mr. Stern. Yes, sir.

25 Senator Dole. Is the \$229 million included in there?

1 Senator Boren. I thought that was set aside.

2 Mr. Stern. Item 2B, which are the welfare provision
3 not agreed to in 3434, was set aside. I thought you were
4 talking about the other thing.

5 Senator Boren. All right. That is \$229 million, which
6 is about what we have to come up with.

7 Mr. Stern. The items on this list that you have not
8 approved are that item, the \$200 million in health under
9 4-B, Senator Bradley's suggestion for taking a portion of
10 5-A, Item 6, trade adjustment assistance, or Item 10-A,
11 social services. Those are the five proposals on this sheet
12 that all are in the range of \$200 million or more, which is
13 about what you need.

14 Do you want to look at 4-B again?

15 Senator Boren. Well, I was just thinking, we have
16 already passed -- is it 2-B? Yes. We have already passed
17 2-B through the Committee before --

18 Mr. Stern. That is correct.

19 Senator Boren. -- and all these options are painful,
20 but it would look to me like we have passed that once, and
21 that would be better if we want to avoid doing anything to
22 trade adjustment, and I personally would think that 2-B
23 would be more -- we have tried to target things there rather
24 than just hurting everybody by delaying their cost of living
25 increase, and we ought to look at the alternatives, and I

1 would suggest we might just want to go ahead with that.

2 Senator Dole. We could offer a substitute, 2-B for six.

3 Mr. Stern. Item 2-B has two elements to it. One
4 reduces the earned income disregard for welfare recipients,
5 and the second part of it deals with the case where there is
6 a step-parent and welfare, and while it is true that both of
7 these have passed the Finance Committee and the Senate, they
8 have been rejected in conference because the House has
9 included them in their welfare reform bill, and has not
10 wanted to consider them outside of that context.

11 The Chairman. Senator Roth?

12 Senator Roth. Mr. Chairman, I would just like to echo
13 what has already been said with respect to trade and
14 productivity. Those of us that were particularly involved
15 in trying to get the multinational trade agreement through
16 realized that we had to have the support of labor, and at
17 that time we had not only discussed the continuation of the
18 current program, but even had proposed substantial
19 liberalization of the program particularly with respect to
20 second tier workers.

21 Now, that new trade adjustment was reported out of this
22 Committee two years ago, as well as again during the current
23 term, but it is obvious that at best it is on a back
24 burner. Now we are suggesting not only that we do not adopt
25 this new legislation, but we go back on what was already on

1 the books.

2 I share the concern referred to by Abe Ribicoff that if
3 we don't follow through on these commitments, that we are
4 going to have great difficulty in the future. I happen to
5 think that our economy is in great difficulty, not only
6 short-range, but long-range, that requires -- as you have
7 been saying, Lloyd -- very substantial structural changes.

8 In order to bring about these changes, we are going to
9 have to have the support of all components of our society,
10 including labor.

11 So, I would have to share the concern expressed about
12 doing away with these benefits.

13 I wonder, Mr. Chairman, if we could ask what the
14 position of the Administration is on the trade adjustment,
15 if they support any modification.

16 Mr. Fuchs. Mr. Chairman, I am Marvin Fuchs, director
17 of the Office of Trade Adjustment Assistance.

18 Senator Roth, the Administration does not support any
19 changes at this time. As you know, the program should be up
20 for review in its entirety next year, since it has a
21 statutory termination date of September 30th, 1982, and we
22 expect some time next year we would be coming up with a
23 package of proposals on adjustment assistance, but at this
24 time, we don't think any changes should be made.

25 Senator Roth. Thank you.

1 The Chairman. Let me ask you about this. What is your
2 reaction?

3 Senator Dole. That is cost containment. That is the
4 same.

5 The Chairman. As I understand it, that 4-B is a cost
6 containment item, but it is along the line that we have
7 voted. We have voted for the approach and the philosophy of
8 the Talmadge bill on cost containment. Now, would you mind
9 explaining that to us, Mr. Constantine?

10 Mr. Constantine. Yes, sir.

11 The Chairman. How does 4-B extend the provisions of
12 934 to ancillary services? How does that work?

13 Mr. Constantine. Mr. Chairman, by the way, that number
14 is in error. CBO has advised us that it is \$250 million,
15 not \$200 million.

16 The Chairman. \$250 million?

17 Mr. Consantine. Yes, sir.

18 The Chairman. All right. Tell us how that works.

19 Mr. Constantine. Under the provisions which reform
20 Medicare and Medicaid reimbursement that you have approved
21 as part of 934, the program intitially starts dealing with
22 hospital routine costs, suggested routine costs, that is,
23 the room, board, and routine nursing care, and then, a
24 hospital commission, which is established under the bill
25 over time, and as the state of the art and the expertise is

1 there, weaves in the other types of serv

2 services, radiology, laboratory, pharmacy, the ancillary

3 So, obviously, ultimately, you have all on.

4 being classified and compared. On an interim costs

5 however, this may be several years away before you

6 those other costs in.

7 On an interim basis, for Medicare and Medicaid
 8 reimbursement purposes, this approach, which we are not
 9 necessarily recommending -- we just developed it, but it is
 10 more equitable than the Administration's approach -- would
 11 limit the rate of increase on ancillary services, those
 12 non-routine services, to not more than a market basket
 13 increase in the goods and services that are used in
 14 producing those ancillary services, increase in prices,
 15 plus, for the hospitals who are at or below average or above
 16 average in their costs, a plus factor to permit them to
 17 increase the availability of the service and improve their
 18 service and so on, as well as a pass-through, what we would
 19 call a pass-through, where a facility has an approved
 20 certificate of need for new equipment or a new service,
 21 passing through those costs as well, without regard to a
 22 limit, because they will incur that.

23 Now, that is an interim limitation that is described
 24 which would apply only until the actual penalties and
 25 incentive system goes into effect, and that would go into

1 effect just as fast as the Commission can implement it.

2 That is probably as simple a description as I can give
3 you.

4 Senator Dole. This is not much different from the
5 Administration's cost containment proposal, is it? I mean,
6 you are going to have the same resistance on the House side.

7 Mr. Fuchs. We don't know, Senator. It is more
8 generous than the Administration's proposal.

9 Senator Dole. What does it cover? Medicare?

10 Mr. Fuchs. Medicare and Medicaid.

11 Senator Dole. It doesn't cover the private sector?

12 Mr. Fuchs. No, sir. It does not. It is Medicare and
13 Medicaid only. It is more generous and more equitable than
14 the Administration's approach, but it is a --

15 Senator Dole. You are going to shift the cost to the
16 people, then, in the private sector.

17 Mr. Fuchs. Senator, that is something Dr. Mongan --
18 regardless of whether you do this, that is a point Dr.
19 Mongan made yesterday with which we would disagree, because
20 many hospitals adapt to changes in utilization and others
21 have difficulty. In other words, it is very difficult to
22 generalize that you are necessarily shifting.

23 Senator Dole. But haven't we considered this before?

24 Mr. Fuchs. This one? Not quite in this form. You did
25 not accept it last year when we raised it at the budget.

1 Again, many of these things are on the list, Senator, not
2 because we are advocating them at this time, but simply to
3 give the Committee a variety of options.

4 Senator Dole. I mean, let's assume we agree with
5 Senator Bradley. I don't have any quarrel with that. I am
6 just trying to do what he is, and trying to find the \$200
7 million. Is there anything we haven't considered that would
8 be less controversial? I mean, there is surely something
9 that you have dreamed up overnight.

10 (General laughter.)

11 Mr. Fuchs. Yes, sir. We had a good night.

12 (General laughter,)

13 Mr. Fuch. There is a provision under Part B of
14 Medicare which the House people came up with, that we think
15 does have some merit, and which is the procedure followed by
16 Blue Shield in paying its doctors' charges, and that is,
17 today, under Medicare, the prevailing charge, the charge
18 that we utilize in calculating how much we pay the doctor,
19 is the charge in force for that doctor at the time the claim
20 is received, as opposed to the date of the service.

21 In other words, if he provides the service on February
22 1 and charges are increased on April 1, and that is when the
23 claim is processed, he gets the April 1 rate. We generally
24 change in Medicare our screens, the limits, on July 1 of
25 each year. Twenty percent of physician bills come in after

1 July 1. Obviously, people hold their bills to get the
2 higher rate.

3 Now, if we followed in Medicare the pattern which Blue
4 Shield utilizes, that is, paying as of the date of service
5 the charge in effect as of the date of the service as
6 opposed to the date months later that it might be submitted,
7 that would save, the House people tell us, Ways and Means
8 has an estimate of \$147 million in fiscal 1981.

9 Senator Dole. In other words, you are not taking
10 anything away from the physician, you just don't pay him
11 something that he shouldn't have had in the first place.

12 Mr. Fuchs. You pay him at the charge in effect at the
13 date the service was rendered.

14 Senator Dole. That sounds better.

15 Mr. Fuchs. Which is the Blue Shield pattern, and that
16 is \$147 million.

17 The Chairman. Well, that is a little pick-up I think
18 we could go with. Does that sound all right to everybody
19 here?

20 Senator Chafee. It sounds too simple to me. There
21 must be a hitch to it somewhere.

22 (General laughter.)

23 The Chairman. Let's vote on it before anybody can
24 think of a reason why not.

25 (General laughter.)

1 The Chairman. All in favor, say aye.

2 (A chorus of ayes.)

3 The Chairman. Opposed no.

4 (No response.)

5 Senator Danforth. How short are we, Mr. Chairman? How
6 short are we now?

7 The Chairman. How much do we need now?

8 Mr. Stern. That brings you up to \$2.122 billion. We
9 are just trying to get a cost estimate right now, but one
10 thing you might do, in the Social Security program when
11 benefits are raised, they are rounded to the nearest higher
12 dime. If you just rounded it to the nearest dime, that is
13 about \$3 million.

14 The Chairman. If you round it to the nearest dime, it
15 is how much?

16 Mr. Stern. If you round it to the nearest dime, you
17 would save several million dollars.

18 Senator Dole. Let's do it.

19 The Chairman. How much? I mean, if it is just
20 nothing --

21 (Pause.)

22 Senator Dole. Make it 50.

23 (General laughter.)

24 Mr. Stern. Three or four million dollars in fiscal
25 year 1981. I'm sorry. I thought it was more.

1 The Chairman. Three or four million?

2 Mr. Stern. Yes. On a full year basis, it is about \$11
3 million.

4 The Chairman. Well, if you do that, that is a small
5 item, and you are not picking up anything.

6 Mr. Stern. Right. All right. I thought it picked up
7 more.

8 The Chairman. We need something to get us, what, about
9 \$70 million, something like that?

10 Senator Dole. I've got it, on our gasohol. Of course,
11 that would be on the revenue side, but it picks up a little
12 money. We would take away the exemption for Brazil.

13 Senator Bradley. Whatever happened to your proposal
14 yesterday on eliminate state retention of overpayments by
15 the Federal Government?

16 Mr. Stern. That was approved, and that is \$75 million,
17 which is included in the total on the board.

18 Senator Bradley. All right.

19 The Chairman. Now, looking down this list, can't we do
20 a little something with one of these things that we've got
21 in here that we passed by? I don't have a master list to
22 see what we did do and what we didn't do here.

23 Senator Dole. Maybe Jay has got another one.

24 Mr. Constantine. Yes, sir.

25 The Chairman. Do you have another idea?

1 Mr. Contantine. Yes, sir.

2 Under Medicaid, the Committee added a provision in
3 1967, a freedom of choice provision under which the
4 recipient has freedom of choice of physicians and so on.
5 Now, it was originally intended to deal with sweetheart
6 arrangements with a particular doctor or a pharmacy, that
7 kind of thing. It has been extended so that it involves the
8 choice of hospital, nursing home, intermediate care
9 facility, across the board.

10 Now, a fair number of states have complained, and we
11 believe with some justice, that that restricts them. For
12 example, they will have Medicaid recipients who need routine
13 deliveries, or very nominal service, who will go to, say, a
14 university medical center where the costs are two and three
15 times the cost of the same service at another hospital in
16 that area, or from another provider who is full accredited,
17 fully qualified to provide that. California, New York to an
18 extent, Illinois, and other states would like some relief in
19 the freedom of choice area so that they can make more
20 economic usage of qualified facilities and services without
21 having to flow with where the recipient goes.

22 We would suggest that would save the states quite a bit
23 of money. For example, in California, they want to use the
24 county hospital system more extensively. That would, we
25 believe, easily bring you your \$70 million, a modified

1 version of that, of the freedom of choice.

2 Senator Bradley. Do you mean just in California?

3 Mr. Constantine. No, sir, nationally. Modifying the
4 freedom of choice provision under Medicaid to permit the
5 states to reasonably restrict access to high cost facilities
6 and at the same time safeguarding to assure appropriate
7 referral of people who do need referral to medical centers
8 and so on. But that would save your \$70 million and a lot
9 more.

10 The Chairman. Well, why don't we do that one?

11 Senator Dole. Somebody just said the department
12 recomputed the disallowance, the one we offered yesterday,
13 and it has now gone up to \$120 million rather than \$75
14 million to \$100 million.

15 Mr. Stern. Well, the \$75 million figure that we used
16 was the CBO estimate. It might be that you could add
17 another \$25 million or so.

18 The Chairman. This thing that Jay is talking about, in
19 other words, here we are paying for you -- Now, are you
20 talking about under Medicaid or Medicare or both?

21 Mr. Constantine. Medicaid, Senator.

22 The Chairman. It is under Medicaid?

23 Mr. Constantine. Yes, sir.

24 The Chairman. All right. So we are paying this to
25 needy people. It is not an insurance program. And you are

1 just saying that you would permit the state -- this is not
2 the Federal Government doing it, it is the state governments?

3 Mr. Constantine. The states. Yes, sir.

4 The Chairman. You would permit the states to limit the
5 applicant somewhat so he couldn't claim the highest cost
6 service.

7 Mr. Constantine. Yes, sir.

8 The Chairman. You've got the service available, and
9 rather than claim the highest cost, the state hold it to
10 what they have available, which generally speaking would be
11 expected to be good.

12 Mr. Constantine. Yes, sir.

13 The Chairman. It seems to me as though that is one we
14 could live with.

15 Senator Chafee. Well, Mr. Chairman, you know, they can
16 send them to some rundown state hospital that no one else is
17 going to, and drum up a little business for the state
18 hospital.

19 Mr. Constantine. We would agree. We were talking
20 about accredited and qualified facilities, Senator, in
21 compliance.

22 Senator Chafee. What about the proximity factor?

23 Mr. Constantine. And taking that into account,
24 obviously, as well, Senator. Proximity, qualified facility
25 -- it is the difference between in Baltimore going to Johns

1 Hopkins and Maryland General.

2 The Chairman. I could give you an example, speaking of
3 Louisiana. We have built what we think are good hospitals.
4 We have a New Orleans Charity Hospital. Incidentally, the
5 name Charity is there because the Sisters of Charity were
6 the nursing order that has been in there for many years, and
7 those are the women who supervised the nursing services, out
8 of respect to that nursing order, we just have never changed
9 the name from New Orleans Charity Hospital.

10 We provide a tremendous amount of medical care at New
11 Orleans Charity. Meanwhile, Dr. Oster went up here, and
12 they founded Oster Foundation Hospital over in Jefferson
13 Parish, and people come from all over South America and all
14 around the world to go to Oster, which is a very fine
15 organization. It has got a terrific reputation.

16 Incidentally, Dr. Oster was at one time the chief
17 surgeon at New Orleans Charity.

18 So, the point is, if you had your choice, you would
19 rather to to Oster Foundation Hospital, which has got a
20 fantastic reputation, rather than go to New Orleans Charity,
21 but Oster itself, they have put a limit on how much they
22 think it is fair to make them handle Medicare or Medicaid
23 business. They will take quite a few of the Medicaid
24 patients, but they feel that it is fair that they limit how
25 much of that sort of business you are going to push into

1 their hospital.

2 Basically, if you say, well, now, the state would have
3 some discretion as to to what extent it is going to call on
4 Oster to take those Medicaid cases, it would save a lot of
5 money. Now, they have good hospital care at New Orleans
6 Charity. They do a good job. It used to be, may I say, I
7 was doing people a terrific favor to get them in New Orleans
8 Charity up until the government started paying to put them
9 somewhere else.

10 Senator Ribicoff. Mr. Chairman, the thing that bothers
11 me as I am listening to this, I think you could save it, and
12 I think you are on the right track, but when Jay says, you
13 know, send to Johns Hopkins Medical School as against
14 Maryland General, whatever the name is, keep in mind that --
15 since you have eliminated so-called charity cases that are
16 teaching hospitals in connection with universities and need
17 these patients to train doctors who are going to supply
18 medical treatment all over the country, and I don't think
19 you want to drain down the flow of patients to university
20 hospitals. That is the lifeblood of medicine in the future.

21 The Chairman. In the example I gave, New Orleans
22 Charity is the university teaching hospital.

23 Senator Ribicoff. Then you've got it solved, but when
24 you tell me Johns Hopkins or New York Hospital or the
25 Presbyterian that is connected with Cornell, or Columbia,

1 and you are going to say, well, don't send any of these
2 patients there, how is Cornell or Columbia, or how is Yale
3 or Harvard Medical School going to train doctors or nursers,
4 or the whole medical establishment?

5 That is what is bothering me, Jay. Isn't there some
6 way you could exclude university training hospitals from
7 that ban?

8 Mr. Constantine. Well, Senator, it wouldn't be a
9 complete flow, and the university centers can certainly
10 negotiate with the states for particular payment levels. If
11 we are providing the teaching fodder, then the state,
12 Senator, can certainly negotiate rates as they have in
13 certain cases.

14 I know in Oklahoma, Lloyd Rader negotiates with the
15 medical centers.

16 The Chairman. If it would satisfy Senator Ribicoff,
17 why don't you just say that this provision would not be used
18 to limit the flow of case load into teaching hospitals?

19 Mr. Constantine. Can we say "reasonable?"

20 The Chairman. I beg your pardon?

21 Mr. Constantine. "A reasonable flow necessary to
22 appropriate teaching?"

23 Senator Ribicoff. I think you want to be very careful
24 how you handle this, because I can see undercutting
25 completely the training in medical schools, and the trouble

1 is, you know, you assume what the state
2 welfare commissioner and the governor is
3 that, and he is not going to look at the w

4 I think the job that we have here in the
5 to look over the entire picture of what the p
6 nation may be, and I don't think a welfare comm
7 has got budget problems is going to look at it t

8 Mr. Constantine. Senator, there is another a
9 The medical schools assure us now by way of justifying the
10 teaching physician payments that they are getting from
11 Medicare that they are involving all patients in the
12 teaching process, so if that is the case, if they are
13 telling the truth, then a certain number of this, this would
14 just be some diversion away. It sure would not be a total
15 flow.

16 We would be very glad to write in that this is not
17 intended.

18 Senator Ribicoff. I don't want that. I mean, I don't
19 want the medical schools to abuse it, either, but there must
20 be some language --

21 Mr. Constantine. Yes, sir, we will.

22 Senator Ribicoff. -- that you could put in there to
23 make sure that there is a sufficient flow, and you are not
24 cutting off completely the medical school. There could be a
25 way to do that, Mr. Chairman.

1 The Chairman. Can you work it out?

2 Mr. Constantine. Yes, sir. I believe we can. And we
3 will be very glad to show that to Senator Ribicoff.

4 Senator Matsunaga. Mr. Chairman?

5 The Chairman. Yes, sir?

6 Senator Matsunaga. If this is to be left strictly to
7 the discretion of the states, some states may not even pay
8 any heed to the request. Would this be allowable under your
9 proposal?

10 Mr. Constantine. No, sir, because if we draft it
11 appropriately, if the state did not comply, then there would
12 be no Federal matching funds. These are payments under
13 Medicaid.

14 Senator Matsunaga. So that it would in fact be
15 mandatory?

16 Mr. Constantine. It would be enforceable. Yes, sir.

17 If HEW or Health and Human Services did their job,
18 enforced the law, then obviously if the situation that
19 Senator Ribicoff is concerned with occurred, the Department
20 would have means of acting.

21 The Chairman. Well, let's vote on this.

22 All in favor, say aye.

23 (A chorus of ayes.)

24 The Chairman. Opposed, no.

25 (No response.)

1 The Chairman. The ayes have it.

2 Mr. Stern. Mr. Chairman, in that case, we estimate
3 that you would be at or about \$2.2 billion on the outlay
4 side. I should mention on the budget authority side, as I
5 pointed out yesterday, there is no relationship between
6 budget authority and outlays in the case of trust fund
7 programs, and you are probably about \$400 million shy of the
8 \$900 requirement and budget authority.

9 Our recommendation there would simply be that the
10 Secretary of the Treasury be directed to withhold making
11 payments to the trust fund for the last few days of the
12 fiscal year, to the extent that he would save the required
13 \$400 million or \$500 million, whatever that number is.

14 It would simply be an accounting matter that you not
15 transfer the money into the trust funds at that point.

16 Senator Moynihan. Did you say \$400 million or \$500
17 million?

18 Mr. Stern. Yes, sir. There is about \$100 a day
19 transferred into the trust funds by the Secretary of the
20 Treasury, and basically you would just say that during the
21 last week of the fiscal year you wouldn't do it.

22 The Chairman. That is just a bookkeeping entry.

23 Mr. Stern. Budget authority doesn't have too much
24 meaning in the Finance Committee as a way of controlling
25 spending, although it does in most other committees, and you

1 have in fact achieved program reductions and cuts totalling
2 your \$2.2 billion, and this would simply be to conform to
3 the requirement of \$900 million of savings.

4 Senator Moynihan. Mr. Chairman, we will have to
5 explain this up in the Budget Committee. Can you give me
6 the technical point. When the money is transferred to the
7 trust fund, does that create budget authority?

8 Mr. Stern. That is the point of budget authority,
9 because the tax is received into the Treasury and an amount
10 equal to the tax is transferred usually on a daily basis.

11 The Chairman. This is the easiest problem we have got
12 to contend with.

13 Mr. Stern. Right.

14 The Chairman. All in favor, say aye.

15 (A chorus of ayes.)

16 The Chairman. Opposed, no.

17 (No response.)

18 Mr. Stern. Now you are left with the revenue
19 requirement, Mr. Chairman.

20 The Chairman. I beg your pardon?

21 Mr. Stern. You have now completed your action on the
22 spending side.

23 The Chairman. Could I just make this point,
24 gentlemen? The Minister of Health from China is in our
25 conference room. Might I suggest that we call a brief

1 recess and visit with the gentleman?

2 Senator Danforth. Mr. Chairman, I wonder when we
3 reconvene, a couple of days ago, I at least raised the
4 possibility on the revenue side of sort of a simulated
5 decontrol windfall profits tax situation in order to pick up
6 all of the revenues, and I am not going to press it if there
7 is no interest in it at all, but if Mr. Shapiro could take
8 two or three minutes just to explain how it would work and
9 what it would do.

10 The Chairman. Let's have our brief recess. Then we
11 will come back and discuss it.

12 (Whereupon, a brief recess was taken.)

13 The Chairman. Let me ask all the members to return to
14 their seats, if they would, please, and ask the staff
15 members to do the same.

16 We were listening to Senator Danforth in regard to his
17 proposal, and I suggest that the Senator go ahead.

18 Senator Danforth. Mr. Chairman, Missouri is not an
19 oil-producing state, and I have absolutely no regional
20 interest in pushing this particular matter. However, since
21 decontrol is going to be accomplished by the end of 1981,
22 there is a way, as I understand it, to accomplish the
23 revenue increases that are required by the reconciliation
24 process by a sort of simulated form of decontrol plus
25 windfall tax, which would be solely within the jurisdiction

1 of this Committee.

2 I know that the Joint Committee staff has analyzed
3 exactly how it would work, and I think they could do a
4 better job of explaining it than I could.

5 Mr. Shapiro. We have spent some time trying to develop
6 the proposal that the Committee instructed the staff to do
7 at the last session, and that is to try to find what we have
8 headed a tax-based oil price decontrol by using a version of
9 the COET, the Crude Oil Equalization Tax.

10 I should point out that the outset that we have tried
11 to simplify it, and we have it in one page, but I don't want
12 to mislead. It is very complicated. It something that
13 would have a lot of administrative problems. It would only
14 be in effect for several months, because full decontrol
15 would occur on September 30th, 1981, and the way it is being
16 designed is to have it that it picks up \$4.2 billion, which
17 means that it would only start at a period of time that
18 would allow it just that \$4.2 billion.

19 Now, we haven't completely gotten all the revenue
20 figures yet, but that may mean that it would only be in
21 effect, if it would be adopted, for four or five months, so
22 it would be a significantly complicated machinery for that
23 period of time.

24 The only reason I am pointing that out and emphasizing
25 it is because in one page, it appears to be simple.

1 However, in practice it would be very complicated.

2 Senator Danforth. In that regard, it could be
3 designed, of course, to exist for a full year, couldn't it?

4 Mr. Shapiro. Then you would raise much more than \$4.2
5 billion.

6 Senator Danforth. And you would raise more revenue
7 than the \$4.2 billion.

8 Mr. Shapiro. That is correct.

9 Senator Danforth. How much would you raise in a year?

10 Mr. Shapiro. Well, we haven't completely gotten that
11 yet. The point is that the instruction to the staff was to
12 design something, and what we have in this write-up is, it
13 would have a starting month, and once it is determined how
14 much is needed to raise that \$4.2 billion, that is when it
15 would start.

16 Senator Danforth. That is right, but you could adjust
17 the starting month, and you would produce, instead of \$4.2
18 billion of revenue, maybe \$10 billion? And if we decided
19 that we wanted to get moving on, say, something for
20 depreciation or some sort of tax incentive to increase our
21 productivity in this country, we could provide at least a
22 little initial fund for a starter on that, if we wanted to.

23 Mr. Shapiro. Yes. These proposals are still in our
24 computer. It has required some modification, a new program
25 to do it, so we don't have the figures yet, but you are

1 correct. At whatever time we would otherwise have started
2 it to pick up the \$4.2 billion, the Committee very well
3 could start it January of 1981 and it would pick up a lot
4 more money.

5 Now, an explanation of the proposal, and there is an
6 example of it in the last paragraph, but let me try to
7 simply explain it. As you know, under the present
8 regulations, we have a phased decontrol. The price of upper
9 tier oil is currently being deregulated at the rate of 4.6
10 percent per month, and this began in January of 1980.

11 This means that each month you add 4.6 percent, so in
12 February it was 9.2 percent, and each month thereafter,
13 until the end of controls in September of 1980, when it
14 would go down to zero, at the end of that month.

15 Lower tier oil has a different method of being phased
16 down by the end of September, 1981, and that is by using a
17 decline curve, and it is a 3 percent monthly decline curve
18 to phase down lower tier oil. So, those are the present
19 rules.

20 The possible means to provide this tax-based oil price
21 decontrol is to provide a crude oil equalization tax
22 essentially between the difference of the world price and
23 the control price, and to have a 100 percent tax on that.

24 The way it would work is to say that first purchasers
25 of any of the oil that is under controls would pay the COET

1 on the entire amount of the difference between the cost of
2 the oil and the world price.

3 For example, if you have lower tier oil that is under
4 price controls, the COET would be the difference between the
5 national average of the price of lower tier oil and the
6 national average of uncontrolled oil. That difference would
7 have a 100 percent crude oil equalization tax imposed on
8 it. The same thing on the upper tier oil. The 100 percent
9 tax between the difference between the national averages of
10 the price and what it is selling for.

11 The purchasers would be required to deposit the COET
12 taxes 30 days after the purchase of the oil, and as
13 indicated, it is intended to start at the time sufficient to
14 raise \$4.2 billion. As Senator Danforth suggested, it could
15 start earlier and it would raise more money.

16 The oil producers and royalty owners would receive a
17 credit equal to their respective shares of the COET. In
18 other words, if there is decontrol, the windfall profit tax
19 would be 70 percent on old oil, independent producers would
20 have a 50 percent rate, and the producers get the
21 difference, that is, 30 percent on the 70 percent oil. The
22 Federal Government gets 70 percent, they get 30 percent.

23 So, the credit would be a percentage whereby the
24 producers would get the COET multiplied by 30 percent, or in
25 the case of independent producers, it is 50 percent, and

1 that is their share of what they would get if we had
2 decontrol rather than a tax.

3 An example of how it would work is in the last
4 paragraph, because that is an easier way to explain it, as
5 to using this mechanism.

6 If you had oil, for example, that is produced by a
7 major oil company, and it is controlled in the upper tier,
8 and that price is \$14, the control price is \$14 per barrel,
9 and if we take a month, for example, July of 1981, when the
10 world price is \$40, you have a difference of \$26 between the
11 world price and the control price.

12 The tax, the crude oil equalization tax, would be 100
13 percent of that difference. That means the purchaser would
14 pay \$26 of tax, and that is the difference between the \$40
15 and the \$14, so that you are having, in effect, decontrol,
16 having the price up to \$40.

17 The producers would have an income tax credit equal to
18 \$7.80, and that is the 30 percent of the \$26. If you had
19 decontrol, the producer would have to pay 70 percent
20 windfall profits tax and would be able to keep 30 percent.
21 So, this is allowing the producer to keep his 30 percent on
22 the tax, 30 percent of \$26. So, in effect he would keep
23 \$7.80.

24 The credit would be included in taxable income, and
25 that is the way the windfall profits tax works, so the

1 effect of that is that income tax receipts would be
2 increased by \$3.59, and that is the major oil companies
3 paying a 46 percent rate on \$7.80 of income.

4 So, the effect of this, then, is that the producer
5 would receive a net tax cut of \$4.21, and that is the \$7.80
6 that the producer would get on the top, reduced by the
7 income tax on that \$7.80, which was \$3.59, so the producer
8 would end up with a net \$4.21 in his pocket. That is \$4.21
9 of the \$26.

10 The Federal revenues would retain the difference, and
11 that is \$21.79. So, that is the effect of the way a COET
12 would work. I would like to emphasize again that it was
13 oversimplified. The administrative machinery to implement
14 that would be very complicated.

15 Senator Danforth. Mr. Chairman?

16 The Chairman. Senator Danforth?

17 Senator Danforth. The positive features in this plan
18 are as follows. One, we have been mandated to produce \$4.2
19 billion in additional revenue. This would do it.

20 Secondly, for those who believe that decontrol of oil
21 is an important part of a national energy policy, this would
22 accomplish decontrol at an earlier date. It would increase
23 the price of oil. There is no doubt about that, and from
24 that increase in part would come an increase in Federal
25 revenues and in part would come an increase in revenues for

1 the producers.

2 So, for people who believe that decontrol and increased
3 revenues for oil producers is a part of national energy
4 strategy, this would accomplish that at an earlier date.

5 Finally, if we were to adjust the states to provide not
6 only for the \$4.2 billion, but to move it up somewhat, it
7 would provide, it seems to me, a basis for moving ahead at
8 least on a modest basis with a supply side tax cut, which
9 has been advocated by, I guess, most of the people on the
10 Senate Finance Committee.

11 So, it seems to me that it has a lot to recommend it.
12 On the other hand, it has some minuses. One is its
13 complexity. But we have gone through that before. I mean,
14 there is nothing simple about the windfall tax. And that
15 didn't slow us down. Another thing that it has against it
16 is that at a time of high inflation rates, it does increase,
17 at least arguably increase, the cost of oil.

18 Now, Senator Heinz raised the question two days ago as
19 to whether that in fact was correct. That is a debatable
20 point, as to whether or not the consumer is going to in fact
21 feel any increase as a result of this or not. But at least
22 it is an arguable point that can be made.

23 Those are the pluses and the minuses.

24 The Chairman. One thing that bothers me about this,
25 and I am beginning to realize that this is possible, but

1 this is going to really shock people, just to find that this
2 budget reconciliation thing can be used to just impose huge
3 taxes on the American people, where the Congress can vote it
4 on through without giving anybody a chance to vote against
5 the tax as such, or to separate it out.

6 You know, if we recommend this kind of thing, it is not
7 subject to amendment, is it?

8 Mr. Stern. There is a germaneness requirement which
9 really means that except for changing numbers or maybe
10 deleting sections, you couldn't, for example, come up with
11 an alternative way of raising \$4.2 billion if this were the
12 recommendation that is actually reported.

13 The Chairman. You couldn't amend it in any way that
14 would reduce it below the \$4.2 billion, for example. Right?

15 Mr. Stern. Well, I believe the parliamentarian says
16 that you could amend it so as to change the number, because
17 this is a first budget resolution, and therefore the totals
18 are not binding. If it were a second budget resolution, you
19 couldn't because you would be subject to a point of order of
20 reducing the revenues by too much.

21 Even so, what you could do is strike sections or strike
22 the provision, in which case you would be undoing the
23 reconciliation process, but you couldn't really offer some
24 alternative way.

25 Senator Bradley. You mean you couldn't change the way

1 this might work? In other words, when you finally
2 understand how it works, if you find that a part of it isn't
3 workable, you couldn't change it?

4 Mr. Stern. As a practical matter, no. It is pretty
5 unamendable. You can change numbers. You can change a
6 dollar figure. You can change percentages, that sort of
7 thing, but in the case of any provision in this bill, you
8 couldn't say, well, I don't like the provision relating to
9 Social Security benefits for prisoners, and I want to
10 substitute some other Social Security provision which is not
11 in the bill as reported.

12 You couldn't come out with some new provision.

13 Senator Danforth. However, it is also true that you
14 are not creating something for an eternity. This is simply
15 a simulation of decontrol plus windfall tax several months
16 in advance. So it is not the kind of thing that you would
17 have to say, well, if some detail in it is wrong, we would
18 have to live with that forever.

19 The Chairman. How do you feel about that, Mr. Sunley?

20 Mr. Sunley. As I said last time I met, I thought
21 Senator Danforth had a very ingenuous scheme, and that is
22 before I understood it, and I do understand it, and now it
23 does obviously raise the revenue.

24 I think I can say to you that when the oil conservation
25 fee went down, one of the options that we considered in the

1 Administration was whether we should decontrol at that
2 point, and I think we had sort of two reactions. First, we
3 really get very little production effect from immediate
4 decontrol, because decontrol was scheduled in a way to sort
5 of maximize your production effects.

6 You do get the price effects that I think are probably
7 undesirable at this time, and I think a good case can be
8 made for just not tampering with the decontrol schedule.
9 We've got one set of rules out there, and we really probably
10 shouldn't change the rules one more time, particularly given
11 that we are going to be out of controls if we just wait
12 until September, 1981.

13 I think Bobby has been very accurate in describing this
14 as quite a complex tax, and it wouldn't surprise me if you
15 had a scenario that said that Congress enacted this tax and
16 made it conditional on the difference between controlled
17 price and the world price, et cetera, and we had to
18 implement it, that we would sure run over to the President
19 and say, let's decontrol cold turkey today, because we don't
20 want to try to figure out how to implement this thing for a
21 five-month period of time.

22 I don't think the industry would want a new tax for
23 just five months.

24 The Chairman. It seems to me we have been out here
25 explaining this thing, and we have had an awful lot of

1 conversation. We spent a year explaining to the American
2 people, and everybody has got to pay for it. Now to try and
3 change it and come out with a whole new approach, and then
4 to go back to something else later on -- and incidentally,
5 if we do this, to the extent that we speed up the decontrol
6 between now and the first of the year, or now and November,
7 the public is going to be out there asking us about that
8 price increase, because to the extent that you are picking
9 up money, they are paying more, aren't they? To the extent
10 that we are making more money, they are paying more for
11 energy. Isn't that right?

12 Mr. Shapiro. That is correct.

13 The Chairman. They are also going to be in a position
14 to say that compared to that ten cents the President wanted
15 to put on the energy, they are going to be able to say,
16 well, Congress wouldn't go along with the President when he
17 wanted to pick up some money by putting the tax on the
18 energy, but when you came up with a scheme to fix it up so
19 you would raise the same kind of money, but this time let
20 the oil companies share in the take, so that they pick up \$8
21 billion or \$10 billion, well, then Congress is willing to do
22 that.

23 I think there would be a lot of people who would give
24 us a bad time.

25 Senator Danforth. Mr. Chairman, could I just add this

1 at that point? There is no doubt about what you said. None
2 at all. The points have been very ably made over a long
3 period of time as to the popularity or unpopularity of
4 decontrol. Senator Metzenbaum makes the same point, and
5 Senator Abourezh used to. I am surprised you are --

6 (General laughter.)

7 Senator Danforth. -- but it is not a new point.

8 Much of what we have been talking about over the last
9 three days has to do with moving things a month or so. I
10 mean, that is much of the drill, really. Now we say, well,
11 to change things six months, let's not do anything for a
12 short period of time. And yet we have been debating
13 temporary moves.

14 The final thing I would point out is that I don't have
15 my sheet in front of me now, but the staff recommendations
16 that have been made to us to raise \$4.2 billion, any way you
17 cut it, about \$3.6 billion comes from business, and at a
18 time when we are in a recession, and economists are telling
19 us that we are going to have to increase our productivity,
20 increase our competitiveness, for the Finance Committee to
21 try to raise \$3.6 billion of the \$4.2 billion by increasing
22 the tax bite on business to me is contrary to what they are
23 recommending.

24 So, I think that nothing is popular, but the question
25 is, what is in the best interests of the country, and what

1 is in the best interests of not only an energy policy but
2 also long-range improved economic conditions.

3 Senator Bentsen. Mr. Chairman, if I might.

4 The Chairman. Senator Bentsen?

5 Senator Bensten. I assume we would probably have a
6 jurisdiction question in this, too, with the Energy
7 Committee, if we got into it in depth.

8 Mr. Chairman, my scars are just beginning to heal from
9 that last fight. I am not sure I am ready to get back into
10 this kind of a fray again so soon after the last one.

11 The Chairman. Well, we can vote on it later on. We
12 have got a little time to think about this. I think that
13 today we have done enough. We have got our spending part in
14 shape. We have another week to get together on the other
15 part, don't we?

16 Mr. Stern. That's correct.

17 Senator Moynihan. Mr. Chairman?

18 The Chairman. Yes, sir.

19 Senator Chafee. Before we leave the cuts part, I have
20 a couple of questions.

21 First, on the trade adjustment payment, the suggestion
22 was made by Senators Bradley and Moynihan that we have got a
23 commitment, and therefore we can't change. I personally
24 don't feel I was any part of a commitment, and the majority
25 do. How long does that commitment last? I mean, I think

1 this program has very grave flaws in it, and so how long are
2 we stuck?

3 Mr. Stern. Senator Chafee, the program does expire in
4 1982.

5 Senator Chafee. Yes, but I mean, the argument has been
6 made that we passed the MTN based upon this promise to
7 labor. Now, does this promise last forever?

8 Senator Moynihan. May I respond to Senator Chafee?

9 The Chairman. Yes.

10 Senator Moynihan. No, it doesn't last forever.
11 Nothing lasts forever, neither you nor I nor even the
12 Finance Committee, but what is in place and what we want to
13 keep in place is a working relationship with the American
14 labor movement, which has supported us in our trade policy,
15 and we hope they will support us in our tax policy, and that
16 what we change, we change as part of a good faith
17 bargaining, to use a term from the labor movement.

18 Senator Chafee. When we come to the reauthorization?
19 Is that what you are talking about?

20 Mr. Stern. In 1982, Senator.

21 Senator Chafee. That is all right with me. Now,
22 second, Mr. Chairman, we have got a couple of problems, as I
23 see it, and I would just like to hear an explanation, if we
24 might.

25 On our savings, a part of the savings comes from the

1 Wallop bill, which we have already approved with some very,
2 very modest spending items with them. You know, we split it
3 in three. Now, what happens to those? Is that going to
4 upset the reconciliation?

5 Mr. Stern. Of course, you haven't acted on revenues
6 yet. The reconciliation bill requires a certain amount of
7 revenues, in this case \$4.2 billion. That particular item
8 is also split among three bills which are pending on the
9 Senate calendar. If it is enacted as a part of the
10 reconciliation process, your situation will be that you are
11 under a revenue total in the first budget resolution which
12 is not binding. You will have met your reconciliation
13 requirement, and there won't be a point of order which lies
14 against considering the remaining items in the bills that
15 will be left on the calendar.

16 Senator Chafee. I am not sure I understand that, but in
17 any event, can we go ahead with those very modest
18 expenditures, which I think are \$27 million, \$30 million,
19 and \$100,000 revenue loss? They were revenue losses.

20 Mr. Stern. Yes. The answer is that they will not be
21 subject to a point of order if they can be brought up in the
22 Senate.

23 Senator Chafee. Okay. The final thing was, in our
24 increased revenue --

25 Mr. Stern. I should mention, it does depend partly on

1 the effective date. If they do affect fiscal year 1980, I
2 am not sure how much latitude is left in fiscal year 1980
3 for revenue measures.

4 Senator Chafee. Well, there was one for \$100,000 that
5 I was interested in.

6 Now, under the unemployment compensation you show a
7 savings of \$133 million, but in unemployment compensation
8 bill we passed, we go to conference, and we have some
9 reductions in that due to the offset provision.

10 Mr. Stern. This does not include the offset provision.

11 Senator Chafee. So that reduces your amount.

12 Mr. Stern. No, sir. Well, if you enact the offset
13 provision.

14 Senator Chafee. Well, we will, because both bodies
15 have passed them.

16 Mr. Stern. Well, the House has not been willing to
17 meet in conference on that bill, so this takes the savings
18 provisions and puts them on the reconciliation bill.

19 Senator Chafee. How can you have the savings if you
20 don't pass the measure?

21 Mr. Stern. Well, this is assuming that you pass the
22 reconciliation bill. What you do is, you take those
23 provisions and put them on a new bill, whatever that number
24 is, S. 2000 or something. That bill will have the identical
25 provisions to the provisions in H. R. 4612, which the Senate

1 has approved. So it will be in two different bills. Except
2 that in the reconciliation bill, you won't have the
3 provision that costs money.

4 Senator Chafee. But that is the very reason the House
5 hasn't gone to conference, is that they are opposed to those
6 provisions.

7 Mr. Stern. Well, I am sure they will be interested in
8 seeing the provisions coming back on another bill.

9 (General laughter.)

10 Senator Matsunaga. Mr. Chairman, have we adopted the
11 Wallop proposal?

12 Mr. Stern. You haven't done anything yet, tentatively,
13 in the revenue area.

14 Mr. Chairman, may I suggest one thing? The Committee
15 last week had agreed that when H. R. 7477, an aviation
16 excise tax interim extension bill, was passed by the House,
17 that it be held at the desk and then taken up because of its
18 June 30th deadline. For one reason or another, the bill was
19 not held at the desk, and it was referred to the Finance
20 Committee.

21 Since you won't be meeting again until next Wednesday,
22 we would like to recommend that you order the bill reported
23 without amendment. That would achieve the same result, and
24 at least it could be taken up next week in the Senate, so
25 that you could meet your deadline.

1 Senator Chafee. Just one further comment. If we do go
2 to conference on that unemployment comp, we enact the
3 offset, which both branches have agreed to, can we do that
4 under what we have done here? That will cost money.

5 Mr. Stern. We are not putting any items that cost
6 money in the reconciliation bill, so that would leave the
7 pension offset to be determined on its own merit, if the
8 House then wants to go to conference on that bill.

9 Senator Chafee. Well, I don't see how you can do it.
10 It would be subject to a point of order, wouldn't it?

11 Mr. Stern. Well, if it is not effective in fiscal year
12 1980, assuming that there is no money in fiscal year 1980,
13 if it is effective beginning in fiscal year 1981, then no
14 point of order lies on a first budget resolution.

15 Senator Chafee. I see. Thank you.

16 The Chairman. Let me just say with regard to reporting
17 out the bill, we can't report it out right now, because at
18 the moment we don't have a quorum, and we can achieve the
19 same purpose by calling up some other bills out there on the
20 calendar and offering that as an amendment to the other bill
21 and sending it on back to the House. We can do it that
22 way. Or else at the next meeting we could report the bill
23 out. If we can't meet the time, we could call another bill
24 up and add it to the other bill, one of the bills that is
25 out there on the calendar after that.

1 Mr. Stern. All right.

2 The Chairman. Now, the reason that that was referred
3 is that apparently, the way the bill got on the calendar was
4 irregular. Somehow or other it was not handled the proper
5 way. There was no one there to object to the bill being
6 referred to the Committee. I think the Minority Leader made
7 the point that it was not handled properly, and the fact
8 that it was not handled properly and was not done exactly
9 the way it was supposed to have been done was such that he
10 contended under the rules that it would go to the Committee
11 and would be so referred, and it is all right with me to do
12 that. Technically he is right about it, and if he wants to
13 insist on his rights, I am not going to object to that,
14 especially when I can find other ways to achieve the same
15 objective.

16 Mr. Stern. The next meeting, then, Mr. Chairman, would
17 be next Wednesday, when you would try to conclude the
18 reconciliation process on the revenue side, and the meeting
19 that had been scheduled for the 25th on minor tax bills then
20 would be put back one day to Thursday.

21 The Chairman. All right.

22 Thank you, gentlemen.

23 (Whereupon, at 12:05 p.m., the Committee was adjourned,
24 subject to the call of the Chair.).

25

