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**Congress of the United States**  
**House of Representatives**  
Committee on Interstate and Foreign Commerce  
Room 2125, Rayburn House Office Building  
Washington, D.C. 20515

MEMORANDUM

DATE: January 29, 1974

TO: Honorable Harley O. Staggers

FROM: Charles B. Curtis

SUBJECT: Energy Emergency Legislation

This memorandum suggests possible changes in the Conference Agreement which, in my opinion, may form the basis for a new compromise which could gain passage in the House and the Senate without sacrificing the basic principles of the earlier agreement. These are set out in brief outline form. If you so desire, I will prepare a more detailed memorandum stating a justification for the proposed changes.

1. Amendments to Section 105 Relating to the Administrator's Authority to Issue Energy Conservation Regulations

- A. Eliminate the authority to issue immediately effective regulations prior to March 1, 1974.
- B. Continue the authority to issue regulations proposed to be effective prior to July 1 subject to Congressional veto, but add a requirement that no such regulation may remain in effect for longer than 90 days. At the end of such 90-day period the regulation must be resubmitted to the Congress where it would again be subject to veto by either House. (Under the existing Conference Agreement regulations made effective prior to July 1 were permitted to remain in effect until May 15, 1975.)

2. Windfall Profits

- A. Freeze the prices which have been established for crude

oil, residual fuel oil, and refined petroleum products as of January 15, 1974.

- B. Permit an increase of such prices only upon a Presidential finding based upon a hearing in which interested persons would have an adequate opportunity to present their views that a price increase is cost-justified and will not result in windfall profits.
- C. Retain the provision from the House windfall profits section which provides for an opportunity to force a rollback in such prices should it be shown that they currently are producing windfall profits.
- D. Place this proceeding before the Department of Justice or the Federal Trade Commission instead of the Renegotiation Board as presently provided for in the Conference Agreement.
- E. Change the definition of windfall profits to mean a profit which is excessive or unreasonable taking into consideration the average profit obtained by sellers of such products during the calendar years 1967 through 1971 and the attainment of the stated objectives of the Act. (This will give some flexibility not present in the existing windfall profits section to permit profit levels to rise above those attained in the base period 1967 through 1971.)
- F. Make the aforementioned provisions of this section immediately effective upon enactment rather than delaying it. Continue the provisions of the existing section which provide for proceedings to force a refund by individual firms who have been found to have received windfall profits, but delay these provisions until January 1, 1975.

### 3. Clean Air Act Provisions

- A. Maintain the substance of the Conference Agreement on Title II without change but rewrite some of the provisions to give environmentalists an opportunity to change their positions and come out in support of the Conference Agreement. (In my opinion, the Conference Agreement on the Clean Air Act is as good as the environmentalists can hope for. The hope is that on reflection they will realize this and support the agreement for fear that further consideration in conference or in subsequent legislation of this matter will result in a further erosion of the Clean Air Act.)



(a) that sudden and unanticipated reductions in the supply of fuels and energy together with increases in demand, unless controlled, result in price increases and in profits to producers and sellers in excess of those which would have the function and effect of balancing long-run supply and demand and fostering economic efficiency;

(b) that such excess price increases and windfall profits create unreasonable and unnecessary hardships for consumers, and constitute unreasonable and unnecessary transfers of income from consumers to producers and sellers of fuels and energy and related goods; and

(c) that such excess price increases and windfall profits should be controlled during the current energy emergency without, however, impeding the long-run function of prices and profits in eliciting new production, encouraging energy conservation and allocating fuels and energy to their most efficient uses.

SEC. 2. Section 4 of the Emergency Petroleum Allocation Act of 1973 (P. L. 93-159) is amended by adding at the end thereof the following new subsection:

"(h) (1) Notwithstanding the provisions of paragraph (2) (A) of subsection (c) hereof, and section 406 of Public Law 93-153, the President shall exercise his authority under this Act and under the Economic Stabilization Act of 1970 so as to specify ceiling prices for sales of crude oil, refined petroleum products, residual fuel oil, and for goods and services directly related to their production, refining and transportation, produced in or imported into the United States, which avoid price increases resulting from the current energy emergency in excess of those that would have the function and effect of increasing long-run supply, diminishing long-run demand and allocating said products to their most valuable uses.

(2) Pending the effective date of any ceiling price established pursuant to paragraphs (3) and (4) of this subsection, no person may sell crude oil produced in the United States at a price exceeding \$6.00 per barrel, or exchange it for goods or services whose value exceeds \$6.00 per barrel.

(3) Every price ceiling for crude oil, or any classification thereof, produced in the United States, established pursuant to this subsection *which exceeds \$6.00 per barrel* shall be supported by a detailed analysis, setting forth

- (a) the additional quantities of crude oil that can reasonably be expected to be produced as a result of the proposed ceiling price;
- (b) the effect, if any, of the proposed ceiling price upon the demand for crude oil; and
- (c) the impact of the proposed ceiling price upon consumers, including its impact upon the profitability of and employment in consuming businesses.

(4) No ceiling price for crude oil established pursuant to this subsection, which exceeds \$6.00 per barrel, shall become effective until 14 legislative days after the proposed price ceiling has been submitted to Congress accompanied by the analyses required pursuant to paragraph (2) hereof, during which time Congress may disapprove said ceiling by a majority vote of both Houses.