

**7/24/79**

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THE WHITE HOUSE

WASHINGTON

July 24, 1979

MEMORANDUM FOR THE PRESIDENT

FROM: BOB LIPSHUTZ *BL*

RE: Selection of U.S. District Court Judge in Alabama:  
Truman Hobbs or David Byrne

The Attorney General and I discussed this with you orally, and Morris Dees has expressed a particular interest in this appointment.

The two U.S. Senators from Alabama could not agree on this appointment; Senator Heflin supports Hobbs; and Senator Stewart along with Morris Dees support Byrne.

I have furnished you with brief biographical material regarding these two candidates.

The Attorney General has expressed his preference for the appointment of Hobbs; one of his principal reasons is the difference in age and experience.

Attached is the letter to you from Morris Dees dated May 30, 1979, along with a note to me from Morris to which he attaches a letter to you from the Executive Director of the Alabama State Bar.

Material You have Previously Reviewed

(on Tuesday, 7/24/79)

THE WHITE HOUSE  
WASHINGTON

7/24/79

Attached was in Study  
in-box.

Bob Lipshutz just did attached memo of information....

We still cannot locate any previous background memo regarding this. Frank says it's vaguely familiar, but may just be subject rather than memo.

How about ~~d~~rawer of desk?

THE WHITE HOUSE  
WASHINGTON

Frank

Know both

Johnson

Hobbs - experienced  
Both extremely well  
qual

Byrne pers friend

Hobbs prof friend

Hobbs - 3rd judge / firm

Byrne - good firm - no  
judge

In a weak district

Hobbs stronger admin for  
now

Byrne adequate

Re civil rights, fairness, both  
equally enlightened

**Morris S. Dees, Attorney at Law**

May 30, 1979

The President  
The White House  
Washington, D. C.

Dear President Carter:

I recommend that you appoint David Byrne of Montgomery as Federal District Judge for the Middle District of Alabama.

Senator Donald Stewart has recommended Mr. Byrne for the newly created judgeship. Senator Howell Heflin has recommended Truman Hobbs of Montgomery for the same position. Both Mr. Byrne and Mr. Hobbs were recommended by the citizen committee established by the two Alabama senators.

Both Mr. Hobbs and Mr. Byrne are qualified for the appointment. I would like to set forth the reasons why I feel that Mr. Byrne should be appointed.

1. Mr. Byrne is 38 years old. Mr. Hobbs is 58. Mr. Byrne is an aggressive energetic young man who has established a reputation of absolute impartiality and complete adherence to federal and constitutional law. Judge Frank M. Johnson was 36 when appointed federal judge. I know it is presumptuous to compare anyone with such a great judge, but I feel David Byrne has the makings of becoming another "Judge Johnson." Judge Johnson thinks very highly of Mr. Byrne. I understand that Judge Johnson had offered Mr. Byrne the position as his assistant when Judge Johnson was appointed F.B.I. Director.

2. Mr. Byrne graduated from the University of Alabama Law School with top academic honors. Upon graduation he joined the Army and served in the Judge Advocates. He was selected as a Military Judge, the youngest in the nation. From 1966 to 1970, he presided over more than 1,900 military cases.

3. Upon returning to Montgomery, Mr. Byrne served three years as an Assistant United States Attorney in Judge Frank Johnson's district. In 1974 he was selected by the Executive Office of the United States Attorney to receive the Outstanding Assistant United States Attorney's Award for Superior Performance. This award is given annually to only twelve federal prosecutors nationwide.

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President Carter  
Jan 30, 1979

4. After leaving the U.S. Attorney's office, Mr. Byrne joined one of Montgomery's largest and most prestigious law firms as a trial attorney. During his career, he has tried 91 federal cases and appealed 28 cases to federal appellate courts. This is a record equalled by few lawyers twice his age.

President Carter, I have spent nearly twenty years practicing law in the Middle District of Alabama. I know how much it has meant to have a courageous federal judge like Frank Johnson to set a tone of leadership. David Byrne, like Frank Johnson, will not be influenced to make "popular decisions."

It is very important to me that you appoint David Byrne. Please call if I can answer any questions.

Sincerely,



Morris S. Dees

MSD/lb

**Morris S. Dees, Attorney at Law**

4/1/79

Dear Bob

Please read this letter  
from the Executive Director of  
the Ala. Bar Assn. supporting  
David Byas.

I'd like to bring  
David up to meet you.

Paul



## ALABAMA STATE BAR

TELEPHONE 205-269-1515

415 DEXTER AVENUE

P. O. BOX 671

MONTGOMERY, ALABAMA 36101

May 28, 1979

Mr. Arthur, President  
of the Alabama State Bar  
1000  
J. C. 20500

President:

Two Senators have submitted to you the names of David B. Byrne, Jr. (Senator Heflin's nominee) and Truman M. Hobbs (Senator Heflin's nominee) for the newly created judgeship in the Middle District of Alabama.

I know both of these men personally and on a professional level. They are both candid people and excellent lawyers. I find it extremely difficult to recommend one name to you over the other. However, I believe that the best service to the Courts of the Middle District of Alabama would be better served by the nomination of David B. Byrne, Jr.

David is some twenty years junior to Mr. Hobbs in chronological age, but he has a maturity and a preception of and caring about people that I think is so valuable in a member of the judiciary. David's personal life is above reproach. His achievements as an attorney and his recognition for same are outstanding.

David is the only child of two retired educators (his father is now deceased). He has studied hard and worked hard for the success which is already his; but to his credit, his efforts have never infringed upon or in any way placed another human at a disadvantage.

David has served on the Character and Fitness Committee of this association and has rendered fair but firm decisions when the character and fitness of a lawyer was in question. I have served with him on the Board of Deacons of the First Baptist Church of Montgomery, where his wise counsel in matters legal and otherwise is of immense worth in the on-going work of our church. He has also taught Bible classes for numerous age groups.

David has had an outstanding career as a military lawyer, serving first in the Judge Advocate General's Corp and now in the Judge Advocate General's Staff, Air Force. His reserve assignment is on the faculty of the Judge Advocate General's School at Maxwell Air Force Base, Alabama.

Hon. Jimmy Carter, President

Page Two

May 28, 1979

David's private practice of law is, in all likelihood, one of the outstanding practices of a young lawyer in the entire state. His court experience is extremely varied, stretching from municipal courts through the appellate system of our U. S. Court system.

I served as chairman of the Search Committee established by two Senators, and I was privy to the deliberations of the Nominating Commission. Only one candidate received a higher number of votes for recommendation to the Senators than did Mr. Byrne. That candidate was not recommended by either of the Senators which in essence placed Mr. Byrne as the highest rated attorney among the 45 who applied from which the ultimate nominees were recommended to you.

I know the high regard which you have for Judge Frank M. Johnson, Jr. I know that he shares the same regard for David Byrne which I have. I urge you to contact Judge Johnson if you had not planned to do so and seek a confirmation of the opinion of David Byrne which I and many others share.

In my extensive work in the organized bar, I have been privileged to know many of the members of the federal judiciary, not only within our judicial circuit but nationwide. It has been my experience that youth is certainly not a detriment. Three of the nation's outstanding federal judges at the trial level, namely, Judge Johnson, U. S. District Judge Sam Pointer (Northern District of Alabama), and U. S. District Judge Patrick Higginbotham (Southern District of Texas) all assumed their judicial duties before the age of 40. I have taken great pride in the fact that all three are Alabamians.

I have met your choice for a seat on the Fifth Circuit, Lanier Anderson, III. I can assure that David Byrne's credentials are equal to those of Mr. Anderson, excepting possibly a Georgia background.

In conclusion, David Byrne's influence and the respect he enjoys in our city far transcends the legal community. Mr. Hobbs' splendid accomplishments and reputation and his tenure at the bar unquestionably has gained him the support of the majority of lawyers in Montgomery. The support for Mr. Hobbs within the legal profession should not, and in fact does not, reflect any lack of confidence in David Byrne, Jr.

Yours is a difficult choice, but the one fact in which I am sure you can take great comfort is that the cause of justice and the Bench of the Middle District of Alabama will not be ill served with either choice.

Sincerely,



Reginald T. Hamner CAE  
Executive Director

RTH/mb

THE WHITE HOUSE  
WASHINGTON

To: The President

From: Bob Lyndon

F.Y.I.

Tues 11:30 a.m

HOBBS, Truman M.

Personal Data: Private attorney with Hobbs, Copeland, Franco and Screws in Montgomery. Born in Selma, Alabama, and is 58 years old. Four children: Emilie Hobbs Reid, age 29, housewife, Montgomery; Frances Hobbs Rose, age 24, housewife, Cincinnati, Ohio; Dexter Cummings Hobbs, age 24, law student, University of Alabama; Truman M. Hobbs, Jr., age 21, student, University of North Carolina. Resides at 2301 Fernway Dr., Montgomery, Ala. Director and General Counsel for Central Bank of Montgomery and Thermal Components, Inc., Montgomery, Ala.

Education: University of North Carolina 1942, A.B.; Yale Law School 1948, LL.B.

Experience: Law Clerk to U. S. Supreme Court Justice Hugo Black, 1948-49. Private general practice in Birmingham, 1949-51. Private general practice in Montgomery 1951 to present with less emphasis on criminal law since 1964. Practice has involved substantial amount of trial and appellate practice.

Admitted to Supreme Court of Alabama; U. S. District Court, Northern and Middle Districts of Alabama; U. S. Court of Appeals, Fifth Circuit; U. S. Supreme Court.

Martindale-Hubbell rating "av".

Health: Excellent.

Honors: Phi Beta Kappa.

References: Francis Hare, Sr.  
Attorney at Law  
Birmingham, Ala.

Alto Lee  
Attorney at Law  
Dothan, Ala.

John Matthews, Jr.  
Attorney at Law  
Montgomery, Ala.

THE WHITE HOUSE  
WASHINGTON

C  
/

July 24, 1979  
2:35 p.m. - Tuesday

MR. PRESIDENT:

The busing amendment defeated  
209-215. Failed to achieve  
two-thirds by a wide margin.  
I have informed Jody and assume  
he will issue a statement.

FRANK

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CYPRUS-AMB JACOVIDES

PRES KYPRIANOU 10/78

INTERCOMMUNAL TALKS

-----  
U. K. - SIR JOHN HENDERSON

QUEEN ELIZABETH

PM THATCHER

TOKYO - ENERGY

SALT II

RHODESIA-REFUGEES

presentation of  
diplomatic credentials  
7/24/79

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7-24-79

DIPLOMATS

VENEZUELA. AMB PEREZ

PRES HERRERA

VISITS - MONSIEUR PRESS →

Nicaragua, etc

BRAZIL - AMB SILVEIRA

PRES FIGUEIREDO

VISITS -

Nicaragua - Global

SAUDI ARABIA. AMB ALHETLAN

KING KHALID

PEACE

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notes of conversation with  
(1) bill miller  
(2) bob strauss 7/24/79

THE WHITE HOUSE  
WASHINGTON

Bill Miller - 7-24-79

- Tom Clausen. No

- David Rockefeller. via  
Russell Long  
Very interested -  
Hamlet

- Paul Volcker

---

Bob Straus

Trade bill 90-4

News stories

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telephone call  
reverend martin luther king 7/24/79

THE WHITE HOUSE  
WASHINGTON

7/23/79  
4:00 p.m.

Mr. President --

Daddy King called and said  
he needed to talk with you, and  
only you. That you could call  
him early any morning. That  
it was about the campaign and  
one other matter (he usually has  
one matter he won't describe to  
me!!!!) -- but not his grandson-  
in-law!

--SSC

- =
- ① Pres All Cleveland <sup>(SP?)</sup> ~~Dorsey~~ DENARD  
Grant =
  - ② Maynard Jackson → HUD?
  - ③ Want to pay Eddie's money =  
Bad discharge = improve  
"under other than honorable  
conditions"

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Bob

St/Justice app today  
Panama this week  
Wall ~~now~~ <sup>today</sup> Pritchard town  
M.I. Court, (Hed), Fees, No next steps  
No WPT before recess  
Budget comm task force / Muslim  
Futile to cancel recess  
Sept: Energy bills  
SACT - 10/1

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Loof

Pres prospects now not good  
Foreign tax credits  
Watch amendments  
CTB - on Pres desk 10/1 ok

TIP

Rahoning - tomorrow  
EMB - MU next wk  
floor in Sept

ESC - Reput - no

Solar Bto - MU Sept

DoE Auth - no resp

CRBR

Fuel assist

WPT - pend 6/26 = Expedite  
before recess

Jim - Syn fuels - WPT - Rahoning  
DoE Auth + fast track (Mo & John)  
Waive 201 and ch slow projects

breakfast with democratic  
senate/house leadership 7/24/79

THE WHITE HOUSE  
WASHINGTON

Demo Cong leaders 7-24-79

Energy pks - crucial to nation  
key = WPT - Test - Coal - Demg 9/81

Prod Bd

Secur. Corp

Rationing

New oil & small producers - gut. <sup>5/81</sup>SKB

= - Cabinet changes

CRBR - speaker

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THE WHITE HOUSE  
WASHINGTON

7/24/79

Frank Moore/Jim Copeland

The attached letter was  
returned in the President's  
outbox today and is forwarded  
to you for appropriate handling  
delivery.

Rick Hutcheson

cc: Stu Eizenstat  
Ev Small

THE WHITE HOUSE

WASHINGTON

July 23, 1979

MEMORANDUM FOR: THE PRESIDENT

FROM: STU EIZENSTAT *SE*  
FRANK MOORE *FM*

SUBJECT: "Anti-Busing" Constitutional Amendment

Attached is a short note from you to Chairman Rodino in opposition to the so-called Mottl Amendment to the Constitution which would grant each American child the constitutional right to attend the school nearest his or her home.

We are confident that the amendment will be defeated when it comes up on the House floor on Tuesday. Judge Bell has transmitted a detailed letter setting out the reasons for the Administration's opposition. We, Judge Bell and key members of Congress think that a communication from you would be helpful to secure the largest possible number of votes to ensure that the issue dies for this Congress.

THE WHITE HOUSE

WASHINGTON

July 24, 1979

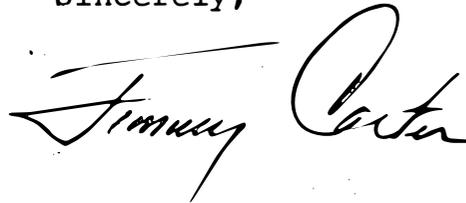
To Chairman Peter Rodino

I urge you to join me in opposing H.J. Res. 74, which would seek, for the first time in our history, to reduce the protections of the 14th Amendment to the Constitution of the United States.

H.J. Res. 74 would unacceptably and arbitrarily interfere for all time with the roles and judgments of State and local government, the Federal legislative process and our Federal court system.

The national effort to secure equal educational opportunities for all our children has been among the most important, complex and difficult tasks facing our society over the past 25 years. The process has not been easy. It has not been perfect. But we have achieved historic progress. The 25th anniversary of the Supreme Court's decision in Brown vs. Board of Education is a time to renew our commitment to this fundamental goal -- not a time to retreat.

Sincerely,

A handwritten signature in cursive script, reading "Jimmy Carter". The signature is written in dark ink and is positioned to the right of the word "Sincerely,".

The Honorable Peter Rodino  
United States House of Representatives  
Washington, D.C.

COUNCIL OF ECONOMIC ADVISERS  
WASHINGTON

July 23, 1979

CHARLES L. SCHULTZE, CHAIRMAN  
GEORGE C. EADS  
LYLE E. GRAMLEY

EYES ONLY

MEMORANDUM FOR THE PRESIDENT

From: Lyle E. Gramley *LSG*

Subject: New Orders for Durable Goods in June

Tomorrow (Tuesday, July 24) at 2:00 P.M., the Census Bureau will release the figures on new orders received by manufacturers for durable goods in June.

Total new orders for durables declined 1.1 percent in June, and for the second quarter as a whole were down 5.3 percent from the first quarter level. In June, there were large changes in three areas: a decline in defense orders, a drop in orders for motor vehicles and parts (that reflects reduced shipments of new autos to dealers), and a rise in orders for commercial aircraft and parts. When these three areas are excluded, the remainder shows a decline of 1.1 percent -- the same as the total.

Orders for nondefense capital goods rose by 10 percent in June, a large increase. But when the figures for commercial aircraft and parts are excluded, these orders declined by 2.8 percent.

Orders for durable goods are a reasonably good indicator of future activity in the industrial sector. These orders rose sharply late last year and in early 1979, and some of the reduction in recent months probably reflects cancellations of double orders. But the decline that has occurred is too steep to be explained on that basis alone. The order figures suggest that output of durable goods will be relatively weak in the third quarter.

Recent weakness in orders for nondefense capital goods is particularly discouraging. Excluding commercial aircraft and parts, these orders fell 6.5 percent between the first and second quarters -- almost a 30 percent annual rate of decline. Businesses are not holding to their capital spending plans as firmly as we had hoped and expected.

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THE WHITE HOUSE  
WASHINGTON

7/24/79

Frank Moore

The attached was returned in  
the President's outbox today  
and is forwarded to you for  
your information.

Rick Hutcheson

LEGISLATIVE AGENDA FOR  
LEADERSHIP BREAKFAST

7/24/79

To: Mr. O'Neill  
From: Ari

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Frank  
J

1. FY '80 Budget: All Appropriations bills except Foreign Aid, Transportation (scheduled this week), Interior (possible for next week), and Defense (September) have cleared the House.

Second Budget Resolution: Budget Committee has decided to defer markup until September. The Republicans will have a tax cut amendment.

2. Hospital Cost Containment: Ways and Means has reported. Waxman's subcommittee is ready for markup in which a Republican substitute will likely be adopted. Full Commerce Committee is closely divided with Dingell, Jack Murphy, Sharp, Russo, and Luken the key votes. Deadline for Committee action is September 10th.

3. Windfall Profits Tax: Passed House 6/26. Were Senate to act, conference should be quick. If the Senate were to act on the tax itself, and then return to consideration of how the money could be spent, we would be able to keep faith with the President's insistence that the spending is contingent on the tax, without slowing down consideration of the President's legislative package.

Standby Rationing and Conservation: Floor action tomorrow. Consideration will be of the Senate passed conservation bill so that we can go right to conference.

Energy Mobilization Board: Will be considered in connection with the fast-track bills pending in Interior and Commerce. Dingell's subcommittee starts markup today in hopes of completing full committee markup next week. Interior will probably move the markup to the full committee later this week. It is unlikely however that this bill can be ready for floor action before September. The controversy involves which requirements of law are procedural (only they may be overridden by the Board), how state laws should be treated, whether the Board's waivers should be subject to Congressional veto, and how these proposals square with regulatory reform suggestions.

Energy Security Corporation: May be constituted in connection with a synthetics component of the Dingell fast-track bill. Probably falls within the jurisdiction of Banking and Commerce. If the House Committees do not move legislation quickly we will be prepared to address the issue in conference. The Republicans will probably be against a corporation.

Solar Bank: Banking Committee will run hearings this month with markup likely early in September.

Department of Energy Authorizations: Scheduled for action tomorrow. Wind seems to have gone out of the anti-deregulation sails.

Clinch River: Committee bill provides full funding. Fuqua Amendment, with Administration support, terminates project while providing \$500 million for R & D. Bingham and Udall will have an amendment to provide less money for research.

4:00 PM

THE WHITE HOUSE

WASHINGTON

July 24, 1979

MEETING WITH THE SENATE FINANCE COMMITTEE

Tuesday, July 24, 1979

4:00 P.M. (1 hour)

The Cabinet Room

From: Frank Moore *F.M./BR*

I. PURPOSE

To discuss the windfall profits tax.

II. BACKGROUND, PARTICIPANTS & PRESS PLAN

A. Background: This morning, the staff of the Joint Committee on Taxation began briefing the Finance Committee on the windfall profits tax bill passed by the House. The Committee will return to the staff briefing and possibly begin mark-up on Thursday. From the questions asked this morning, and from our conversations with individual Committee members, it is evident that the Senators have not focused on the specific provisions of the tax or how the tax ties into your decontrol decision and the July 16th initiatives. Because of the Committee members' unfamiliarity with these basic issues and because of the traditionally strong influence which Chairman Long, Senator Bentsen and the Republicans have, we do not believe that the Committee is prepared to adopt a strong windfall profits tax at this time.

From the leadership breakfast this morning, you already know that Senator Long feels that the Committee should not deal with the tax, the uses of the tax, and the foreign tax credit as three separate bills. Rather, he believes that the Committee should consider waiting until the House has completed action on the other two measures (uses of the tax and the foreign tax credit) and then mark up a single Senate bill containing all three. This is disturbing in three respects:

First, it slows down momentum for the tax; second, will certainly raise jurisdictional disputes with other Committees; and third, will allow the Committee to focus a great deal of attention on tax reductions and tax credits. Reading between the lines of Senator Long's conversation this morning, we expect that since the House bill would have raised revenues by more than \$40 billion over our original proposal, the Senate bill will raise considerably less than what we suggested in order to "allow" Senator Long to "negotiate" in conference.

There is little if anything, we can, or at this stage, should do to reverse the consensus opinion among Committee Democrats to wait until after the recess and deal with a three-pronged bill. At this stage we should simply argue the need for a strong tax in order to guarantee that the oil industry does not receive tremendous unearned profits, and to guarantee that there are sufficient revenues to fund our long-range synfuels program. A great deal of attention should be given to the production incentives provided by your decontrol plan (an increase of 1 Million barrels per day when coupled with the tax), and the relatively small additional incentives which weakening amendments would provide (for example, exempting new oil would result in an increase of only from 150,000 to 300,000 barrels per day in additional production).

Committee members will probably express to you a wide range of views. Producing-state Senators (Long, Bentsen, Boren, Wallop and Gravel) will argue that the tax inhibits the kind of massive new exploration we need in the short term. Senator Gravel may be difficult this afternoon and may argue strenuously that there should be no tax at all. Senator Bentsen and his other oil-state colleagues will probably argue in favor of the so-called producers and will make a strong plea for a "small producer's exemption". Such a provision would involve exempting the first 1,000 to 3,000 barrels per producer per day.

Decon  
new oil  
1 mil  
150-300 T.

B. Participants: The President, Senators Baucus, Bentsen, Boren, Bradley, H. Byrd, Chafee, Danforth, Dole, Durenberger, Gravel, Heinz, Long, Matsunaga, Moynihan, Nelson, Packwood, Ribicoff, Roth, Talmadge and Wallop, Frank Moore, Stu Eizenstat, Kitty Schirmer and Eliot Cutler.

C. Press White House photo only

|||||

|||

CUMULATIVE RECEIPTS FROM THE WINDFALL  
PROFITS TAX - 1980 - 1990

OPEC PRICE GROWTH ASSUMPTION  
(In real terms)  
(\$ in billions)

0%                      1%                      2.4%

RECEIPTS FROM ADMINISTRATION PROPOSAL (House bill with Administration Amendments)	166.3	208.4	274.4
COST OF EXEMPTIONS TO ADMINISTRATION BILL			
● Newly discovered & incremental tertiary exemption	65.6	85.7	119.8
● 2,000 barrels per day exemption	41.6	52.1	68.6
COMBINED REVENUE LOSS*	<u>90.8</u>	<u>116.4</u>	<u>158.5</u>
RECEIPTS FROM TAX AFTER EXEMPTIONS	75.5	92.0	115.9
% REDUCTION	54.6%	55.9%	57.8%

CUMULATIVE OIL INDUSTRY PROFITS 1980 - 1990  
(AFTER FEDERAL INCOME TAXES)

UNDER ADMINISTRATION PROPOSAL

- Before Windfall Profits Tax
- After Windfall Profits Tax

168.1	203.2	252.6
83.9	93.6	107.1

UNDER ADMINISTRATION PROPOSAL WITH  
EXEMPTIONS

- Before Windfall Profits Tax
- After Windfall Profits Tax

176.5	213.8	267.1
128.5	150.6	186.5

\* Numbers do not add due to overlap  
between the exemptions

TABLE II

PRODUCTION IMPACTS OF  
WINDFALL PROFITS TAX PROPOSALS

	PRODUCTION IN 1985 (bbl/day)		
	0% real OPEC price growth	1% real OPEC price growth	2.4% real OPEC price growth
ADMINISTRATION- SUPPORTED BILL	940,000	1,000,000	1,075,000
HOUSE-PASSED BILL - ADDED PRODUCTION INCREMENT	145,000	150,000	150,000
ADDED INCREMENT FROM EXEMPTIONS FOR NEWLY-DISCOVERED OIL, ETC.	150,000	150,000	150,000

## ADDITIONAL TALKING POINTS

1. It is important to have a tax which will finance our energy program under any reasonable set of price assumptions. Amendments which significantly weaken the Administration's proposal will fail that test. Passage of a strong bill is important for that reason. A strong tax is equally important to preserve public confidence in the Federal Government and in the energy companies on whom we must rely to accomplish many of our energy objectives.
2. Under the Administration's proposal, oil company profits over the next decade will range from \$84 billion to over \$107 billion. Proposals before the Finance Committee will increase that by between \$45 and \$80 billion. Failure to extend the tax past 1990 will greatly magnify these increases in oil company profits beyond 1990.
3. I fully understand the need for domestic production. My decontrol program will add over 1 million barrels per day by 1985. I urge you to consider the impact on public confidence in both the government and the industry of a weakened tax which would be correctly seen as permitting companies to profit inequitably from arbitrary increases in oil prices dictated by a foreign cartel.

THE WHITE HOUSE

WASHINGTON

July 23, 1979

MEMORANDUM FOR THE PRESIDENT

FROM

STU EIZENSTAT *Stu*  
KITTY SCHIRMER

SUBJECT

TALKING POINTS FOR THE LEADERSHIP BREAKFAST

We met this morning with representatives of Frank Moore's staff, DoE, and Treasury to discuss strategies for dealing with the windfall profits tax in the Senate. We believe that it is very important for you to:

- o put a public spotlight on the Senate Finance Committee mark-up which begins on Thursday;
- o send a clear signal that the Administration is going to make a strong fight, both in Committee and on the floor, for a tax which is at least as strong as the one we originally recommended; and
- o reinforce the importance of enacting a strong tax to our ability to undertake the massive new program you announced last week; exemptions from the tax will seriously jeopardize that program.

We recommend that you use the following basic talking points at the leadership breakfast.

1. No action which the Congress will take this session will be more important than its action on the windfall profits tax. Without that tax, we cannot assure the American public either of equity as we move to decontrol oil prices, or of our fiscal ability to pay for the program which will provide energy security for the country.
2. The Administration has supported the House-passed bill, but with important strengthening amendments to make the tax permanent. The Senate must enact a tax which is at least

as strong as the House bill with these amendments over its entire life or we will have failed in our basic mission to provide both for equity and for energy security.

3. This Thursday, the Senate Finance Committee will begin marking up the windfall profits tax bill. Over the next two days, members of my staff, and the Departments of Energy and Treasury will be calling on each of the Members of the Committee to explain in greater detail the adverse consequences of weakening amendments to or exemptions from the tax. I stand ready to point out to the Congress and to the public the serious risks which these kinds of amendments pose for our energy security.

4. For example, if newly discovered oil, production from tertiary recovery techniques, and production under 2000 barrels per day were exempted from the tax as the House passed it, one third of the estimated receipts -- more than \$54 billion over the period 1980 to 1990 even assuming no further OPEC price increases -- would be lost. That in turn would seriously jeopardize our ability to pay for the investments which I have recommended for the Energy Security Corporation and the other programs I announced last week.

5. It is also important to note another point. Our ability to win our energy war will depend on whether we can restore confidence in all of our institutions, including the government and including the oil industry. The energy companies are

going to have to play a major role in our energy battle. To the extent that we in government, whether the Executive or the Congress, fail to assure the public that both they and the oil companies are being treated equally, we will not be able to regain that confidence so needed to succeed in the energy area. Said another way, the sooner we enact a tax which protects the public interest while providing the oil industry with reasonable incentives, the sooner we can get this debate behind us and the sooner we can get on with the job of moving ahead on all energy fronts with the support of the American people.

6. To sum up, both for equity reasons -- which are vital to our ability to restore public confidence -- and to enable us to pay for a massive new program to develop synthetic and other alternatives to foreign oil, a strong windfall profits tax, like the one I originally proposed, is an essential ingredient of our nation's energy policy.

4:00 PM

THE WHITE HOUSE

WASHINGTON

July 24, 1979

MEMORANDUM FOR THE PRESIDENT

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FROM

STU EIZENSTAT *Stu*  
KITTY SCHIRMER

SUBJECT

BRIEFING MATERIALS FOR WINDFALL PROFITS TAX  
MEETING WITH SENATE FINANCE COMMITTEE

Attached are a chart, which we suggest that you use at this afternoon's meeting with Finance Committee members, and suggested talking points. This memorandum briefly describes some of the key points in the chart and the interaction between the windfall profits tax, world oil prices, and the program you announced on July 16. The latter is somewhat complicated, but is essential if we are to keep from giving Senator Long an excuse to cut the tax.

- The interaction between the price of oil and the cost of your July 16 initiatives is somewhat difficult to explain because we rely heavily on price guarantees, federal buys, and tax credits in the synthetics program. As a result, the higher the world price of oil, the cheaper the synthetics program is to the federal government. At the same time, however, the higher the world price of oil, the greater the cumulative amount of revenues we receive from the tax. Because of this paradox, the windfall profits tax/July 16 program can run either a large deficit or substantial surplus depending on the world price of oil.

To deal with this problem, we have adopted an accounting strategy which we believe is responsible, both from a budgetary perspective and for the synthetics/import reduction program. In essence, we have costed out the synthetics program at the world oil price level which we believe is most likely -- a 2.4% real price increase annually. For example, the budget for the Energy Security Corporation was calculated on the basis of this price path. The \$88 billion we have proposed will be adequate to finance the needed 2.5 million barrels per day of production at this world price level. If, however, the world price were to be lower, the Corporation would either have to cut back on its production goals, or additional funds would have to be provided at a later date.

For purposes of determining how the windfall profits tax should be structured, however, we have had to adopt a different oil pricing assumption to assure that revenues will be available to meet our obligations under the July

16 program, even if the world price path is lower than the projected 2.4% annually. We believe that this is the only fiscally prudent way to cost out this program. In addition, equity demands that we have a windfall profits tax at least as strong as that which you originally proposed, even if all of the proceeds are not needed to finance the July 16 program.

Table I, attached, shows the impacts of various levels of OPEC price actions on the windfall profits tax and on producer revenues. It also shows the impact of the two major weakening amendments now being discussed by the Finance Committee. There are several important points which should be made about the chart:

- o If the exemptions currently under consideration by the Finance Committee were enacted, the windfall profits tax would not generate sufficient revenues to pay for the July 16 program under any price assumption.
- o The exemptions from the tax become more and more generous to the oil companies the higher the OPEC price goes. As a result, the exemptions significantly weaken the protection which the tax gives against very large OPEC price increases.
- o Under the Administration's tax proposal (the House-passed bill with certain amendments to make the tax permanent), revenues will be adequate to meet your program commitments even if the OPEC price does not increase in real terms after this year. This is fiscally prudent and necessary to prevent incurring huge future obligations without being assured of the revenues to meet them.

Talking points are attached, along with your talking points from this morning's leadership breakfast.

Also attached is a second chart, Table II, showing our estimates of the 1985 production impacts of the House passed bill and the proposed Senate exemptions. Compared to the overall savings, and the need for the windfall profits tax revenues to finance our program for 4.5 barrels per day import reduction, these additional increments of production are both expensive and very small.

THE WHITE HOUSE  
WASHINGTON

7/24/79

Mr. President:

Secretary Adams is completely moved out of DOT. Graham Claytor is at work there.

Request permission to date the Order you signed Saturday designating Claytor as Acting Secretary. Justice and Hamilton concur.

approve       disapprove

Rick

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*date  
as late as  
is proper*

THE WHITE HOUSE  
WASHINGTON

*Do not date  
for now*

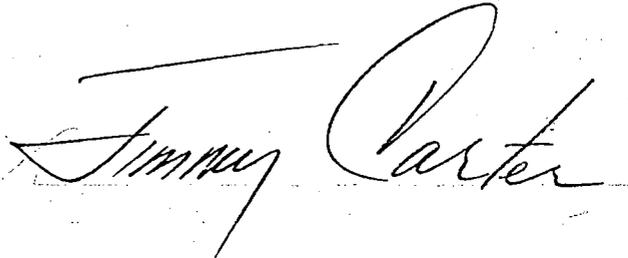
*J*

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR THE HONORABLE W. GRAHAM CLAYTOR  
Secretary of the Navy

In accordance with the provisions of section 3347 of title 5, U. S. Code, you are directed to perform the duties of the office of Secretary of Transportation.

A handwritten signature in cursive script, reading "Jimmy Carter". The signature is written in dark ink and is positioned in the lower right quadrant of the page. The name "Jimmy" is written in a smaller, more compact cursive, while "Carter" is written in a larger, more flowing cursive style.

THE WHITE HOUSE  
WASHINGTON  
7/24/79

The Vice President  
Hamilton Jordan  
Stu Eizenstat  
Tim Kraft  
Bob Lipshutz            Anne Wexler  
Frank Moore  
Jody Powell  
Jack Watson  
Jim McIntyre  
Hugh Carter  
Alfred Kahn  
Jerry Rafshoon

Re: Cabinet Summaries

The attached were returned in  
the President's outbox and are  
forwarded to you for your  
personal information.

Rick Hutcheson

EYES ONLY - ADMINISTRATIVELY  
CONFIDENTIAL

FOR STAFFING
FOR INFORMATION
FROM PRESIDENT'S OUTBOX
LOG IN/TO PRESIDENT TODAY
IMMEDIATE TURNAROUND
NO DEADLINE
LAST DAY FOR ACTION -

ACTION  
FYI

ADMIN CONFID
CONFIDENTIAL
SECRET
EYES ONLY

VICE PRESIDENT
EIZENSTAT
JORDAN
KRAFT
LIPSHUTZ
MOORE
POWELL
WATSON
WEXLER
BRZEZINSKI
MCINTYRE
SCHULTZE

ARAGON
BOURNE
BUTLER
H. CARTER
CLOUGH
COSTANZA
CRUIKSHANK
FALLOWS
FIRST LADY
GAMMILL
HARDEN
HUTCHESON
JAGODA
LINDER
MITCHELL
MOE
PETERSON
PETTIGREW
PRESS
RAFSHOON
SCHNEIDERS
VOORDE
WARREN
WISE

ADAMS
ANDRUS
BELL
BERGLAND
BLUMENTHAL
BROWN
CALIFANO
HARRIS
KREPS
MARSHALL
SCHLESINGER
STRAUSS
VANCE



DEPARTMENT OF AGRICULTURE  
OFFICE OF THE SECRETARY  
WASHINGTON, D. C. 20250

cc -  
McIntyre  
Moore  
J

July 20, 1979

MEMORANDUM TO THE PRESIDENT

THROUGH Rick Hutcheson  
Staff Secretary

SUBJECT: Weekly Report

STRIKE. The American Federation of Grain Millers have closed 10 to 12 berths at the port of Duluth by strike action. Grains passing through the port totalled 8.3 million tons last year.

COMMITTEES. In January of 1977 we were able to abolish all but 28 of USDA's 108 advisory committees. Since then we have had to start 36 new ones. Thirty-three of these are required by law.

BOB BERGLAND

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THE WHITE HOUSE  
WASHINGTON  
7/24/79

Secretary Kreps

The attached was returned  
in the President's outbox  
and is forwarded to you  
for appropriate handling.

Rick Hutcheson

THE SECRETARY OF COMMERCE

WASHINGTON, D.C. 20230

FYI

REPORT TO THE PRESIDENT

July 20, 1979

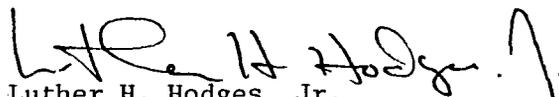
Your international trade reorganization plan has received wide support.

Members of the Executive Committee of the President's Export Council, which met yesterday, supported the reorganization plan as a decisive first step, although some thought the plan should have gone farther. Senator Javits and Congressman Alexander strongly endorsed your proposal. Working closely with OMB, STR and other concerned agencies, we will proceed immediately to prepare for our new responsibilities. We will also work with members of Congress and other appropriate groups to gain the support necessary for realization of the plan.

Senator Jackson has proposed a number of seriously troubling amendments to the export administration legislation now pending in the Senate. These amendments would transfer some export control responsibilities from Commerce to Defense, impose new constraints on exports to Communist countries, and impose new licensing requirements on technology sales to Western Europe. If adopted, these amendments would be inconsistent with your recent trade reorganization decision and your trade expansion goals. Moreover, in our judgment, there could be adverse implications for SALT since the amendments convey a strong anti-Soviet tone and are explicitly based on a desire to retard Soviet technological advance.

Intelligence reports that trucks produced at the Soviet Kama River factory have been spotted in Soviet military installations do not indicate a violation of U.S. export controls. At the time the Nixon Administration approved the export licenses for Kama River, it recognized that general purpose Kama trucks and engines could possibly be used by the Soviet military. Nonetheless, no restrictions on use were imposed. As a precautionary measure, we have directed that any future applications for Kama plant licenses be reviewed at the policy level for possible imposition of end-use restrictions.

As announced this morning, the Nation's Gross National Product (GNP) declined in the second quarter at an annual rate of 3.3 percent, after adjustment for inflation. The decline included most major components of final sales, especially consumer goods. Labor productivity slumped sharply because employment remained steady while output declined, as is typical at the beginning of any downturn. While incomes continued to be eroded by inflation, the second-quarter GNP decline was further aggravated by the impact of fuel supply shortages on auto and truck sales and related purchases. If fuel supply improves, these sectors may stage at least a partial recovery. The fact remains, however, that rising prices and rising effective personal tax rates have erased the benefits of last January's tax cut for disposable personal income and are likely to continue reducing real consumer purchasing power. If this process continues, particularly if international financial conditions inhibit the use of monetary policy to strengthen the economy, additional tax cuts would be necessary to shore up income, production and employment. Such tax cuts should focus on bolstering consumer incomes and on curbing inflation by reducing business costs.

  
Luther H. Hodges, Jr.  
Acting Secretary

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help

**Community** WASHINGTON, D.C. 20506  
**Services Administration**



C

20 JUL 1979

MEMORANDUM TO THE PRESIDENT

Attention: Rick Hutcheson  
Staff Secretary

FROM: Graciela (Grace) Olivarez *go*  
Director  
Community Services Administration

SUBJECT: Weekly Report of Significant Agency Activities  
(July 16 - 20, 1979)

Oversight Hearings

In hearings this week before the House Manpower and Housing Subcommittee, the Community Services Administration (CSA) had the opportunity to document its substantial progress in meeting the Subcommittee's recommendations made in a critical report on this Agency in 1977, shortly after this Administration took office. Both Chairwoman Cardiss Collins (D-Ill.) and Rep. M. Caldwell Butler (R-Va.) expressed particularly high praise for CSA's Office of Economic Development. CSA staff members who appeared before the Subcommittee included: Director Graciela Olivarez; General Counsel Frank N. Jones; John Gabusi, Assistant Director for Management; Robert Smith, Assistant Director for Community Action; Gerrold Mukai, Associate Director for Economic Development, and Robert Landmann, Assistant Director for Policy, Planning and Evaluation.

Inspector and Auditor General

On Wednesday, July 18, 1979, the Senate Committee on Labor and Human Resources conducted hearings on the nomination of Ms. Frankie M. Freeman for CSA's Inspector and Auditor General.

CSA Appropriations

The Labor-HEW Appropriations Subcommittee this week accepted Sen. Thomas Eagleton's amendment to increase CSA's Fiscal 1980 Crisis Intervention Program to \$250 million. Also accepted was Sen. Birch Bayh's amendment to add \$12 million for community development credit unions.

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# Office of the Attorney General

Washington, D. C. 20530

July 20, 1979

## Principal Activities of the Department of Justice for the Week of July 16 through July 20, 1979

### 1. Meetings and Events --

The Attorney General met on Friday with Senator Eastland on his first trip back to Washington since leaving the Senate. Following the announcement of the nomination of Benjamin R. Civiletti to become Attorney General, the Attorney General and Mr. Civiletti held a press conference Thursday afternoon, and the Attorney General appeared on CBS Morning News and the TODAY Show Friday morning. The Attorney General will depart Sunday for Sun Valley, Idaho to speak to the Ninth Circuit Judicial Conference. He will return to Washington on Wednesday.

### 2. Legislative Veto Testimony --

The Attorney General testified on Wednesday before Senator Culver's Subcommittee on Administrative Practice and Procedure of the Judiciary Committee concerning the constitutionality of the legislative veto device. One aspect of the public hearing included a furious speech by Senator Culver protesting President Carter's Sunday night speech that in Senator Culver's characterization blasted government workers and the nobility of public service. The Attorney General disassociated himself from Senator Culver's remarks.

### 3. Leach Indictment --

A Federal grand jury in Alexandria, Louisiana Friday indicted Congressman Claude "Buddy" Leach (D., La.) and eight others, including five other public officials, on charges of conspiracy in buying votes in the 1978 Primary and General elections.

### 4. Oil Company Acquisition --

Assistant Attorney General John Shenefield participated in a press conference Thursday detailing Administration-proposed legislation to prevent major oil companies from

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buying other existing large companies unless they can demonstrate real benefits to our economy.

5. Associate Attorney General --

The Associate Attorney General, Michael J. Egan, sent to President Carter his resignation to be effective August 18, 1979.

6. Judgeships --

There are currently 153 Federal judgeship vacancies (122 under the new law and 31 regular vacancies). The President has signed off on 112 candidates for these vacancies and they are in various stages of the selection and nomination process. This leaves 41 vacancies not yet presented to the President. The Attorney General expects to present 12 to 15 recommendations to the President next week. The Senate during this Congress has confirmed 35 judicial appointments (30 under the new law and five under regular vacancies).



THE SECRETARY OF THE TREASURY  
WASHINGTON

July 20, 1979

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MEMORANDUM FOR THE PRESIDENT

Subject: Highlights of Treasury Activities

1. EPG

The EPG Steering Group met to consider the major issues involved in formulation of the wage and price standards for the next program year. One of the difficult issues involves the rectification of an inequity that has developed under the standards between workers with cost of living adjustment provisions in their wage contracts and those without. It was agreed that the Council on Wage and Price Stability would issue around the first of August a discussion draft inviting public comment on major policy choices.

Members of the Steering Group, Secretary Kreps, and Anne Wexler met at the Treasury Department on Wednesday with representatives of the business community to consult on anti-inflation ideas and economic policy. The discussions were candid and productive.

2. Dollar

Selling pressure on the dollar accelerated during the week forcing us to spend well over a billion dollars in defensive measures. The market was extremely nervous Thursday morning, and the dollar strengthened somewhat amid rumors of major U.S. domestic monetary and dollar support moves. But the announcement of a modest tightening in monetary policy (a rise of  $\frac{1}{4}$  percent in the Fed Funds rate, accompanied by a  $\frac{1}{2}$  percent rise in the discount rate) was poorly received. After these measures were implemented, substantial intervention was required to keep the dollar in the same trading range as Thursday's.

  
W. Michael Blumenthal



THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, D.C. 20410  
July 20, 1979

C

MEMORANDUM FOR: The President  
Attention: Rick Hutcheson, Staff Secretary

SUBJECT: Weekly Report of Major Departmental Activities

Congregate Housing Services Program. HUD's \$10 million Congregate Housing Services Program has gone into operation. Under this program eligible elderly handicapped, non-elderly handicapped and temporarily disabled persons who live in public housing or Section 202 projects are able to receive at least two meals a day, seven days a week, as well as such support services as personal assistance and housekeeping. Each project which competes successfully for an award will receive a three year grant. HUD estimates that the Fiscal 1979 funding will support approximately 50 grants and 1,000 to 2,000 people.

Philadelphia Whitman Park Project. A Federal District Judge has issued a ruling favorable to the government which clears the way for construction of the Whitman Park Project in Philadelphia. The project, now consisting of 120 townhouses, was first approved by the City over 20 years ago. Recent City Administrations, however, have opposed the project, which will benefit low income and minority individuals. Every effort is being made by HUD, the developer and other interested parties to make sure that construction begins by early September.

Three Mile Island. Total funding being made available by various Federal agencies coupled with the commitment to lend Federal personnel to the State of Pennsylvania now fully meets the State's request for Federal assistance for the follow-up socio-economic studies to the Three Mile Island nuclear accident. The State has been advised that corrections must be made in its original application before funds can be released. In addition, an outline of the mechanical and procedural steps necessary for modifying the application has been provided to Pennsylvania so that the corrections may be made as quickly as possible.

Wage Increases Held Down in Public Housing. A recently completed survey of wage increases for public housing maintenance workers indicates that during the first six months of this year such increases have held to an estimated 7.5%. This shows that despite the fact that the President's wage guidelines do not apply to employees of local housing authorities, the authorities, under HUD guidance, have managed to keep wage increases within the guidelines.

Builder Guarantees Energy Saving Homes. A Phoenix builder has developed a maximum energy saving house which he refers to as MESH. The builder is so confident of the home's energy saving features that he guarantees to pay anything in excess of \$75 on a residential electric bill provided the thermostat settings recommended by the President are followed. One family which has occupied a MESH home for 11 months reports an average electric bill of \$50 per month.

Handwritten signature of Patricia Roberts Harris in cursive script.

Patricia Roberts Harris

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL 20 1979

OFFICE OF THE  
ADMINISTRATOR

MEMORANDUM FOR THE PRESIDENT

SUBJECT: WEEKLY STATUS REPORT

Your Cabinet changes reflect the commitment you made to the American people in your historic speech Sunday night. I know how difficult it is to rearrange people and you did it wisely.

. . .

The energy companies continue to press for use of Clean Air Act 120-day waivers of emissions limits to solve energy shortages. The companies claim that the waivers will save oil; we think the real reason is that they will make more money while providing little or no public benefit. We have resisted specific suggestion to use these waivers for:

o oil-to-coal conversion - Companies won't spend the money to convert for only four months. Furthermore, DOE has been unable to effect conversions for most of the 100 applications EPA has already approved.

o allowing the use of high rather than low sulfur residual oil - This was alleged to free up distillate now blended into the low sulfur resid in Caribbean refineries. However, independent laboratory analysis shows there is no extra distillate that can be removed without violating utility requirements.

We are continuing to analyze this problem with DOE. So far we have not been able to demonstrate any energy benefit from additional waivers.

. . .

The national environmental organizations have reacted very intensely and negatively to our energy proposals. Even the usually restrained conservation groups have taken very strong stands. We have tried to point out the portions of the plan they should like such as conservation, natural gas, and the preservation of existing substantive standards.

If you intend to have environmental representation on the EMB and/or the corporation, it would help calm these groups to let them know now.

In any case, we will continue to work on these relationships.

A handwritten signature in cursive script, appearing to read "Barbara".

Barbara D. Blum  
Acting Administrator

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EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

July 21, 1979

C  
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MEMORANDUM FOR THE PRESIDENT

FROM: JAMES T. McINTYRE, JR. *Jim*

SUBJECT: OMB Activities Report

Energy

Specifications on the Energy Mobilization Board and the Energy Security Corporation have been drafted and transmitted to the Congress. OMB has been working with Senator Jackson's Committee on Energy and Natural Resources and Representative Dingell's Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce, which are now marking up bills to create the Energy Mobilization Board. Mark-up of legislation on the Energy Security Corporation should begin next week.

Also, OMB has been working to assure that the details of the rest of the President's energy program are developed as soon as possible. In addition, we are working with Jim Schlesinger, Stu Eizenstat, Frank Moore, Les Francis, and Pat Bario to design an overall strategy for enacting the total package of energy initiatives.

You will receive regular progress reports.

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*George Johnson*  
THE WHITE HOUSE  
WASHINGTON

*was sent only to Souther*

rick --

you may want to send gsa  
cc re (b)

thanks--ssc

(or, better yet, if you'll  
give me name of whoever it  
is now at GSA, will include  
in a double "to" line and  
resign)

*PATTI - find out who ↑  
& send such to Susan  
Thanks.*

THE WHITE HOUSE

WASHINGTON

July 24, 1979

To Rex Scouten

To save energy --

(a) Have lights turned off at daybreak. Many of them burn for several hours more.

(b) Have temperatures checked throughout White House complex weekly and adjust thermostats to meet standards.

Jimmy Carter