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3/10/92

Please file for
Cam Findlay :

L S G

March 9, 1992

New file
LSG-Economic Growth

BACKGROUND:

The Senate will turn to H.R. 4210 as reported by the Finance Committee no later than 3:00 p.m. on Tuesday. Debate only on Tuesday; votes will begin Wednesday. Senator Mitchell (D-ME) has indicated he intends to finish by Friday. Late nights are expected.

All but seven Republicans have been contacted about opposing the Democrat bill (each of the seven are expected to be with us). So far, only Senator Bond (R-MO) is leaning toward voting for the Democratic package. Senator Specter (R-PA) may vote for it if his IRA proposal is accepted, otherwise he is undecided.

There are some GOP members who will vote against both H.R. 4210 and the Republican substitute (Cohen (R-ME), Durenberger (R-MN), and Jeffords (R-VT) so far).

It appears that there will be strong Republican opposition to HR 4210, so sustaining a veto should be little problem.

AMENDMENTS:

Republicans are considering a number of amendments. However, decisions have not been made as to whether these amendments will be offered or in what form if they are. Leading candidates to date are:

Dole (with the objective of getting 40 plus votes):
substitute--probably all of the President's 7 proposals plus full repeal of the luxury tax (yet-to-be determined how to pay for).

Kasten: substitute--delete all tax increases, retain all Bentsen tax incentives, except substitute in House GOP capital gains proposal. The \$57 billion in revenue loss to be made up by one of three options:

- O freeze domestic spending at FY '92 levels (saves \$79 billion)
- O use Bentsen peace dividend (\$70 billion)
- O use a combination of #1 and #2 (Defense savings at \$35 billion, domestic savings at \$36 billion).

Gramm: amendments--

- O second degree the Republican substitute by adding the President's middle class tax cut paid for by peace dividend;
- O if #1 is defeated on a point of order, he may decide to pay for it by declaring an emergency (we have strongly discouraged this approach).

McCain: amendments--

- O repeal of the Social Security Earnings Test, uncertain how to pay for (subject to 60 vote pt. of order);
- O change Senate rules to require 60 votes to pass any tax increases.

Symms: amendments--

- O allow for bonds to help pay for high speed rail in Texas
- O capital gains (unknown specifics);

Brown: substitute--

- O pay for tax breaks by prohibiting government payments to persons making over \$100,000, or companies making over \$5,000,000. This does not cover Social Security or Medicare. OMB is running the numbers.

Specter: amendment--

- O waive penalty for IRAs to purchase consumer goods.

Another Republican Conference is under consideration for Tuesday or Wednesday morning.

* * * * *

At the last LSG, we decided that we should not be actively involved in determining whether Republicans should offer amendments to the Democrats' growth package (except to indicate that they should make sure that any amendment offered could get 40 votes and was consistent with the President's package.)

We further concluded that, after the 20th, we needed to tailor our message to the public, not Congress; that we needed to stay consistent; that putting forward another specific legislative package did not necessarily serve our purposes; and that we should merge elements of our short and long-term package and push our entire agenda.

"Talking Points" relative to the following issues have been developed by the White House, Treasury and OMB and made available to Senators Dole (R-KS) and Packwood (R-OR):

- General political points
- "Budget Games with Real Consequences" (effect of pay-as-you go sequester)
- Overview of Senate Democrats So-Called Tax Plan (Now You See It...Now You Don't)
- Senate Finance Real Estate Tax
- Senate Finance Capital Gains Proposal
- Senate Finance First Time Homebuyers Tax Credit
- Senate Finance Small Business Burden*
- Rifle Shots and Other Forms of Constituent Relief Measures
- Progressive Capital Gains
- Senate Finance Child Care Credit
- PBGC Reforms
- Coal Tax

QUESTIONS:

- 1) What steps/activities should we undertake over the next few days as the Senate takes up debate to reinforce what our Senate allies say on the floor?
 - a) POTUS statement(s)
 - at opening of Congressional Leadership meeting?
 - Other Presidential activity?
 - b) Joint Dole/Michel statement at stakeout afterward?
 - c) Cabinet members?
 - Which ones?
 - What forum?
 - Who has responsibility for making it happen?
 - d) Private sector allies?
 - OLA
 - OPL
- 2) What steps/activities should we undertake following passage of bill by Senate to maximize pressure on Conference (and for vote against Conference Report)?
- 3) Can we conceivably beat Conference Report?
 - a) House targets?
 - b) Senate targets?
 - c) What **would** make leadership control break down?
 - Presidential activity?
 - RNC ads?
 - targeted grassroots?

4) Does our long term strategy work better if we defeat the Conference Report?

5) How can we use "firewall" legislation to: reinforce themes/work for us on tax issue?

6) Assuming we do not defeat the Conference Report, how do we best deliver the veto message?

a) What should the message say (define its elements - even if now...Beck implementation; line item veto; extend regulatory moratorium; Reg Flex Act Reviews of small business regulations; other major areas of focus...how to redefine? Put message together now or wait?)

b) Who will draft it?

c) Where will it be delivered?

- Oval Office;
- East Room with all Congressional Republicans and Cabinet members present;
- Steps of Capitol with similar group?

7) How do we implement/coordinate activity on all of the above? Coordinate with the campaign to effectively roll-out themes?

8) What steps/activities do we need to undertake to get our Republicans in line behind our strategy?

a) Meetings (with whom, what forum?)

b) Starting now?

Not a
version
speech

By
middle
of
week

- SKS

Combative

Veto w/in minutes

- even if
not
enrolled

System broken
initiated
decision

- force
to

CLP

no
more
status
quo

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3/11/92

Please file for Cam Findlay:

Welfare Reform



THE DIRECTOR

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

March 9, 1992

32 MAR 10 P4:42

MEMORANDUM FOR THE PRESIDENT

FROM: Richard Darman *Richard Darman*

SUBJECT: Proposed Executive Order Entitled "National Commission on America's Urban Families"

SUMMARY: This memorandum forwards for your consideration a proposed Executive order that was prepared by the White House Office of Policy Development. The proposed order would establish a commission that would study the current condition of urban families and report its findings to the President.

BACKGROUND: The proposed Executive order would implement your announcement in the State of the Union address that you would establish the "National Commission on America's Urban Families" ("Commission"). Among other things, the Commission would: (1) examine the current condition of urban families, (2) consider government policies and programs that support or weaken the urban family structure, and (3) make recommendations for government policies and programs to strengthen urban families.

The Commission would be composed of up to eight members to be appointed by the President. It would submit its report to the President on or before December 31, 1992, and it would terminate 30 days after submitting its report. Expenses for the Commission would be provided by the Department of Health and Human Services.

None of the affected agencies objects to the proposed Executive order.

RECOMMENDATION: I recommend that you sign the proposed Executive order.

Attachment



U.S. Department of Justice

Office of Legal Counsel

Office of the
Assistant Attorney General

Washington, D.C. 20530

March 10, 1992

The President,

The White House.

My dear Mr. President:

I am herewith transmitting a proposed Executive Order entitled "National Commission on America's Urban Families." This proposed Executive Order was prepared by the White House Office of Policy Development. The Office of Management and Budget, with the approval of the Director, forwarded it to this Department for review with respect to its form and legality.

The proposed Executive Order is approved with respect to its form and legality.

Respectfully,

A handwritten signature in dark ink, reading "Timothy E. Flanigan", is written over the typed name.

Timothy E. Flanigan
Acting Assistant Attorney General
Office of Legal Counsel



U.S. Department of Justice

Office of Legal Counsel

Office of the
Assistant Attorney General

Washington, D.C. 20530

March 10, 1992

MEMORANDUM

Re: Proposed Executive Order Entitled
"National Commission on America's Urban Families"

The attached proposed Executive Order was prepared by the White House Office of Policy Development. The Office of Management and Budget, with the approval of the Director, forwarded it to this Department for review with respect to its form and legality.

The proposed Order will establish a commission that would study the current condition of urban families and report its findings to the President.

The proposed Order is approved with respect to its form and legality.

Timothy E. Flanigan
Acting Assistant Attorney General
Office of Legal Counsel



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

March 9, 1992

Honorable William P. Barr
United States Attorney General
Washington, D.C. 20530

Dear Mr. Attorney General:

Enclosed, in accordance with the provisions of Executive Order No. 11030, as amended, is a proposed Executive order entitled "National Commission on America's Urban Families." The proposed Executive order was prepared by the White House Office of Policy Development. The proposed order would establish a commission that would study the current condition of urban families and report its findings to the President.

The proposed Executive order would implement the President's announcement in the State of the Union address that he would establish the "National Commission on America's Urban Families" ("Commission"). Among other things, the Commission would: (1) examine the current condition of urban families, (2) consider government policies and programs that support or weaken the urban family structure, and (3) make recommendations for government policies and programs to strengthen urban families.

The Commission would be composed of up to eight members to be appointed by the President. It would submit its report to the President on or before December 31, 1992, and it would terminate 30 days after submitting its report. Expenses for the Commission would be provided by the Department of Health and Human Services.

Your staff may direct any questions concerning this proposed Executive order to Mr. Mac Reed of this office (202-395-5600).

This proposed Executive order has the approval of the Director of the Office of Management and Budget.

Sincerely,

Robert G. Damus
Acting General Counsel

Enclosures

EXECUTIVE ORDER

- - - - -

NATIONAL COMMISSION ON AMERICA'S URBAN FAMILIES

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2), a commission on America's urban families, it is hereby ordered as follows:

Section 1. Establishment. (a) There is established the National Commission on America's Urban Families ("Commission"). The Commission shall be composed of up to eight members appointed by the President.

(b) The President shall designate a Chairman and Co-chairman from among the members of the Commission. The Chairman shall appoint an Executive Director.

Sec. 2. Functions. (a) The Commission shall:

- o examine the current condition of urban families;
- o consider how existing government policies and programs support or weaken the urban family structure;
- o evaluate the potential for integrating the delivery of government services in ways to strengthen urban families;
- o identify State, local, and Federal programs that have been successful in preserving and strengthening urban families;
- o analyze ways to improve private/non-profit efforts to preserve and strengthen urban families; and
- o provide appropriate recommendations for government policies and programs and for actions by other institutions to strengthen families living in urban areas.

(b) The Commission shall make its report to the President on or before December 31, 1992.

Sec. 3. Administration. (a) The heads of Executive agencies shall, to the extent permitted by law, provide the

Commission such information as it may require for the purpose of carrying out its functions.

(b) Members of the Commission shall serve without any compensation for their work on the Commission. However, they shall be entitled to travel expenses, including per diem in lieu of subsistence, as authorized for persons serving intermittently in the government service (5 U.S.C. 5701-5707 and 5 U.S.C. App. 2, 7(d)). The Executive Director shall be compensated at a rate of pay not to exceed the maximum allowable under section 7(d)(1)(A) of the Federal Advisory Committee Act, as amended.

(c) The Department of Health and Human Services shall provide the Commission with administrative services, facilities, staff, and other support services necessary for the performance of its functions. Funds for the operation of the Commission shall be provided by the Department of Health and Human Services.

(d) Notwithstanding any other Executive order, the functions of the President under the Federal Advisory Committee Act, as amended, which are applicable to the Commission, except that of reporting to the Congress, shall be performed by the Secretary of Health and Human Services in accordance with guidelines issued by the Administrator of General Services.

(e) The Commission shall terminate thirty days after submitting its report.

THE WHITE HOUSE,

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3/11/92
Please file for Cam Findlay :

PC 6

DCF HAS SEEN

THE WHITE HOUSE
WASHINGTON

March 10, 1992

*new
File*

MEMORANDUM FOR THE PCG EXECUTIVE COMMITTEE

FROM: J. FRENCH HILL *J.F.H.*
Executive Secretary

SUBJECT: PCG Executive Committee Meeting of March 11, 1992

The Executive Committee of the Policy Coordinating Group will meet on March 11, 1992 at 4:00 p.m. in the Roosevelt Room to discuss the development and management of domestic policy initiatives under the auspices of the PCG.

Enclosed please find a draft "matrix" paper, which outlines the key policy issues being developed in conjunction with the PCG, along with proposed working groups for new initiatives.

cc: Ede Holiday
Roger Porter

Health, Welfare
[Wilensky, Kuttner]

**POLICY COORDINATING GROUP
KEY ISSUES BEING DEVELOPED**

ISSUE/INITIATIVE	GOAL/HOW ADVANCES THE PRESIDENT'S AGENDA	CURRENT FORUM (PCG, Deputies, Working Group, OPD, Agency)	STATUS	TIME-FRAME FOR COMPLETION OR NEXT STEPS
Health Care Reform (Family)	The President's plan for comprehensive health care reform advances <u>family</u> by providing greater access to health insurance and <u>economic growth</u> by containing growth in health care costs.	PROPOSE: OPD - led working group. President's plan announced 2/6/92; additional work required to refine the proposal.	Ongoing efforts to increase awareness (1) of the fact the President has a proposal and (2) that the U.S. must choose between a government takeover or a continuing private sector role, which the President wants to strengthen. Additional work also required to pursue elements of the President's plan that require more development and those that can be accomplished administratively.	Ongoing. Should set time goals and propose POTUS events. Administration must also make decision on Oregon waiver proposal.

Welfare Reform
(Family/Jobs)

Reform the welfare
system through
action on state
waiver requests.

PROPOSE: White
House - led working
group. Informal
group currently
gathering
information on
possible state
waiver proposals.

States have not yet
submitted any
waiver proposals.

Waiver review is
ongoing. An
options paper will
be sent to the PCG
on what the
Administration
means by "welfare
reform" beyond
state waivers.

Establish
Interagency
Affordable Housing
Regulatory Review
Board
(Family/Jobs)

Develop initiatives
to make housing
more affordable for
families.

To be determined.
OPD to prepare
paper on options
for structure and
function of Board.

The President's FY
93 budget adopts
the recommendation
from Secretary
Kemp's Advisory
Commission on
Regulatory Barriers
to Affordable
Housing to create
such a board.

Ongoing.

March 11, 1992

**POLICY COORDINATING GROUP
KEY ISSUES BEING DEVELOPED**

ISSUE/INITIATIVE	GOAL/HOW ADVANCES THE PRESIDENT'S AGENDA	CURRENT FORUM (PCG, Deputies Working Group, OPD Agency)	STATUS	TIME-FRAME FOR COMPLETION OR NEXT STEP
Wetlands	Develop federal policies and programs to advance wetlands protection without restricting needed economic growth.	PCG-led interagency effort chaired by Counsellor to the President for Domestic Policy.	Task force oversees implementation of the President's wetlands initiative announced on August 1991. This includes non-regulatory measures to protect wetlands, and efforts to streamline the permitting program.	Hold PCG working group meeting on manual. Series of measures due over two-year period.
United Nations Conference on Environment and Development (UNCED)	Demonstrate U.S. Leadership in promoting a sound international agreement for addressing global environmental and Third World development issues.	PCG-led interagency effort chaired by Counsellor to the President for Domestic Policy. OSTP working group on climate change.	U.S. representatives are involved in negotiations on draft summit agreements (climate change, forestry, biodiversity etc.).	Must refine strategy. Conference in June 1992.

Federal Facilities
Cleanup

Pursue Federal-
state cooperative
technology
demonstration
projects to help
cleanup Federal
facilities and
other hazardous
waste sites.
Cooperative
projects will spur
job-creation in
environmental
restoration field.

Administration
effort involving
OMB, OPD, DOE, DOD,
DOI, EPA and the
Western Governors'
Association.

Working with
Western Governor's
Association to
define
implementation plan
for a 5 year
cooperative
Federal-WGA
Memorandum of
Understanding.

Hope to complete
implementation plan
in two months.
[POTUS
announcement?
Connect to National
Technology
Initiative?]

**POLICY COORDINATING GROUP
KEY ISSUES BEING DEVELOPED**

ISSUE/INITIATIVE	GOAL/HOW ADVANCES THE PRESIDENT'S AGENDA	CURRENT FORUM (PCG, Deputies Working Group, OPD Agency)	STATUS	TIME-FRAME FOR COMPLETION OR NEXT STEPS
Economic Growth Package (Jobs)	Promote investment and economic growth through sound fiscal policies.	PCG Working Group on Economic Policy.	Helped develop POTUS' growth package. Will work to refine it, as necessary, and build public support.	Need to announce members of new working group and issue charter.
Credit Crunch (Jobs)	To spur investment and economic growth by modifying unnecessary regulatory restraints to lending.	Treasury-led efforts under the Economic Policy Working Group.	Have implemented 30 regulatory changes and communicated these to regulators and bankers nationwide. Continuing review effort and seeking opportunities for the POTUS to reinforce this message.	Increase communication by POTUS. (1) roundtable meeting (2) speech to Calif. bankers in May (3) crisp talking points.

Telecommunications
(Jobs)

Promote U.S. competitiveness and technological advances through continued deregulation of telecommunications sector. Develop strategies to oppose reregulating efforts and develop "vision" of an advanced technological society.

DISCUSS: Commerce establish PCG working group that will work with Competitiveness Council staff and follow up on efforts of FCC taken during the regulatory moratorium.

Administration continues to support legislation to permit telcos in information services and manufacturing and to allow competitive bidding for spectrum. The Adm does not have a clear position on cable legislation.

Ongoing, though the Administration must refine its strategy on cable reregulation legislation in the short-run.

Science and
Technology
(Jobs)

Promote technology transfer from federal labs to private sector; develop new science and technology initiatives.

PROPOSE:
Commerce/OSTP co-chair
PCG working group to continue work of EPC working group.

Reviewing federal lab structure; assisting National Technology Initiative; seeking to identify opportunities to publicize the President's commitment to science.

Develop options for improving lab structure and enhancing competitiveness during Spring 1992.

Rural Development
(Jobs)

Economic diversification in rural areas will ease economic stress and create jobs.

A new PCG Working Group on Rural Development will be chaired by the Secretary of Agriculture and continue the work of the current EPC working group.

Eight pilot state councils have been established, and 34 more will be initiated in 1992.

The President's Council on Rural America will submit its report to the President in July 1992. [Possible POTUS event]

March 11, 1992

POLICY COORDINATING GROUP KEY ISSUES BEING DEVELOPED

ISSUE/INITIATIVE	GOAL/HOW ADVANCES THE PRESIDENT'S AGENDA	CURRENT FORUM (PCG, Deputies Working Group, OPD Agency)	STATUS	TIME-FRAME FOR COMPLETION OR NEXT STEP
AMERICA 2000 (Family/Jobs)	Educational excellence will enhance competitiveness and strengthen families.	EDUCATION chaired ad hoc working groups (e.g., ED/HHS/AG for school readiness; ED/HHS/Labor for literacy); FCCSET committee on math/science.	Legislation transmitted (5/91); strategy initiatives being implemented. Seeking to develop opportunities for POTUS to reinforce message.	Sec. Alexander chaired PCG Working group meeting to set forth schedule through July 1992.
Job Training 2000 (Jobs)	To provide skills and training/retraining opportunities for workers that lead to jobs.	PROPOSE: Labor-led working group to PCG, working with Council on Competitiveness; would include discussion of converting military skills in aerospace and education for civilian uses.	Initiative announced 1/17/92. Seeking to develop opportunities for POTUS to reinforce message.	Current schedule: JT 2000 legislation ready for transmittal 4/7. [POTUS event?]

Drug Strategy V
(Families, Jobs,
World Peace)

Decreasing the
demand for drugs
strengthens
families, decreases
drug-related costs
to employers, and
addresses national
security issues.

DISCUSS:
Establish ONDCP-led
Working Group to
PCG.

Agencies beginning
to develop
recommendations.
Focus on Drug-Free
schools to
complement America
2000.

Develop game-plan
setting out monthly
activities through
July.

Crime
(Family/Jobs)

Strengthen family
and raise quality of
life by improving
and toughening
criminal justice
system.

DISCUSS:
Justice - led
interagency group to
propose
opportunities for
POTUS participation
in communication
efforts.

President's crime
bill pending in
Senate.

[New ideas, POTUS
events?]

POLICY COORDINATING GROUP
KEY ISSUES BEING DEVELOPED

ISSUE/INITIATIVE	GOAL/HOW ADVANCES THE PRESIDENT'S AGENDA	CURRENT FORUM (PCG, Deputies Working Group, OPD Agency)	STATUS	TIME-FRAME FOR COMPLETION OR NEXT STEPS
Uruguay Round (Jobs/World Peace)	Administration has described UR as its most important trade policy objective.	TPRG Chaired by USTR (Jules Katz). Informal Rump Group coordination with key agencies. Coordination thus far has been effective.	Under negotiation. Dunkel has set April deadline, but delayed thus far by impasse over agriculture with EC.	Ongoing
NAFTA -- Free Trade Agreement negotiations with Mexico and Canada. (Jobs/World Peace)	Key Presidential Trade initiative. President invested time and political capital to secure fast-track extension.	TPRG Chaired by USTR (Jules Katz). Informal "Core Group" coordination with key agencies. Coordination thus far has been effective.	Negotiations underway. USTR stresses that substance, not artificial deadline, should determine timing. White House needs to discuss timing with USTR in next month.	Ongoing.
Japan Trade (Jobs/World Peace)	Need more effective coordination. Lack of inter-agency	Diffused. TPRG handles certain issues, <u>e.g.</u>	Extensive free- lancing by agencies. Lack of	Develop paper. Hold PCG Deputies Meeting.

process has encouraged agency free-lancing. Need to establish effective White House control over sensitive trade issues that affect key bilateral relationship.

section 301. SII Committee (Treasury, State, and USTR) handles SII talks. Commerce is leading auto parts in the MOSS talks.

coordination has created problems, e.g. confusion re. change in antitrust policy, mini-vans, etc.

Canada
(Jobs/World Peace)

Series of trade disputes -- e.g. lumber, beer, Honda, etc. -- have exacerbated bilateral tensions.

Katz plans to convene group to discuss disputes. Unclear whether TPRG or (more likely) informal rump group.

U.S.-Canada trade disputes likely to move to a high level shortly.

Hold PCG Deputies meeting.

Maritime Policy
(Jobs)

Promotes U.S. exports; reduces government interference; promotes long-term growth.

PROPOSE: PCG working group chaired by DOT.

Controversial, but opportunity for a "Compromise" leading to greater competitiveness.

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3/11/92

Please file for Cam Findlay:

Rail Strike



NATIONAL MEDIATION BOARD
WASHINGTON, D.C. 20572

OFFICE OF THE CHAIRMAN
(202) 523-3268

February 25, 1992

Mac A. Fleming
President
BMW
12050 Woodward Ave.
Detroit, MI 48203-3596

Dear Mac:

I was preparing a letter to you concerning the incident of February 18 when I received a copy of your letter to Chairman Dingell regarding the same topic, and the appended affidavit of Jed Dodd. Let me take this opportunity to correct some misstatements, note some omissions and provide some context to a few of the points made therein.

The basic fact is irrefutable, i.e., Jed asked me to meet with "about 15" of his people and he brought 120. It was clear when he and I caucused briefly in my office that it was my problem, not his. He only shrugged when I told him we had no room for the 120. When asked, he proposed no solution. I wanted his people -- who were already intimidating some of our employees by their sheer numbers -- out of our offices, and I didn't want to spread the threat beyond me.

I sat in the front of a room which could hold about 30 people. Nearly three times capacity was present and shouting, sometimes singly, sometimes in unison, but always shouting. The door was in the rear of the room. There was no clear path to it, and indeed I believed that I could not have exited peacefully at any time. Many people were no more than a few feet from me.

About an hour into the meeting, one man stood up with a bullhorn and read a prepared statement, announcing that they would not vacate the premises unless and until the Board released them from mediation. The announcement, of course, triggered a new wave of cheering and chanting.

The federal protective service asked me twice -- once as the crowd was dispersing -- whether I needed any assistance. Indeed I feared that the mix of police and this crowd was a recipe for disaster. In fact, you confirmed in our meeting of February 20 that one of the group's intentions was to have some of their people arrested during the protest.

Incidentally, although no police were visible to me throughout the ordeal (except for the two above encounters), I discovered later

Mac A. Fleming

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February 25, 1992

that the Federal Protective Service kept four cars out in front of our building during the occupation, on "stand by". These are people who make keeping the peace their business, and they were concerned enough to remain on stand-by even though I had sent them away.

Throughout the entire three-hour incident, I continually looked to Jed -- who stood no more than a few feet away -- for guidance or reassurance but received none. He never once spoke to quiet or control the crowd. One NMB employee confirmed that some of the men consumed alcohol in the hallway. Many of them were carrying 1"x 3" boards approximately 5 feet in length. One of these was left behind and remains in my office.

At one point in the meeting, a man in the hallway who I could not see shouted, "Let's turn the lights off and beat the shit out of this guy!" A cheer went up from the crowd as the lights went out for a few tense seconds.

Jed may tell you I had nothing to fear. Indeed one can shout "Fire!" in the wilderness, but in a crowded theater it is actionable for negligence. Maybe Jed knows these men, each one by name, and knew by some magic that no harm would come to me. Every dog owner will assure you that their canine does not bite, but no doubt you'll jump when it bares its teeth. I submit I had every reason to fear for my safety in the situation presented in Room 735.

Around 4 o'clock, there was a temporary lull. I turned to Jed and quietly asked him if we could "wrap this up." He calmly turned to me and said, "They're not leaving."

There is no one who could look at this situation and not believe that it was an attempt to coerce and intimidate a Government official in violation of federal law (18 U.S.C. 1501), which provides criminal penalties for, "Whoever corruptly, or by threats of force, or by any threatening letter or communication influences ... or endeavors to influence ... the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States..."

At any moment, I believe that Jed could have calmed or dispersed the crowd, but he chose not to do so. Instead, the crowd continually called for the carcasses of my fellow Board Members.

Mac A. Fleming

-3-

February 25, 1992

which I could not deliver because they were unavailable. Lucky for them.

Mac, I am a mediator. I have never experienced anything like I did on February 18. In my two-plus years at the Board, I have dealt with a number of unions, including the IAM, the other shop crafts, ALPA, the Teamsters, TCU and others. I have seen them on the eve of a countdown, minutes before a self-help date, mired in negotiations after a similar time which the BMWWE has experienced here, and all other imaginable scenarios. Yet not one of them have ever resorted to the tactics I saw last week.

It is my opinion that these tactics were a black eye for every working man and woman, who conducts their business honestly and fairly, who disagrees but does so openly through their union or their elected representative, and who when it's over, shakes hands and honors the efforts made by all parties. It has been my privilege to have this experience time and time again with everyone I have dealt with, until now.

The actions of a few will not tarnish the efforts of the many, but it is my opinion that you owe an apology to all your brothers and sisters in the labor movement who have showed restraint, lawfulness and responsibility in the conduct of their business.

I guess I was most disappointed by your revelation to us that you knew of this protest in advance, yet you never notified us. If Jed was not inclined to show us common courtesy, surely the International President could show some leadership. As you note in your letter, I have made every effort to open lines of communications with your representatives, including Jed. Regrettably, when it came right down to it, those efforts didn't amount to a damn.

I would be remiss if I failed to note that there was merit to the central point raised by the troops. In fact, I have privately and publicly lamented the toll which delay takes on the parties and the process. It was a point Jed could have made -- and made convincingly -- with the 15 people he originally promised. Instead, the merits of the argument were lost amidst the din.

Jed speaks of freedom of assembly and of speech. He should know that the former is fettered at least by the police power -- it's why permits are required, and the latter does not permit one to incite to riot. Furthermore, the right to assembly should not be confused with mob rule.

Ultimately Jed found it easier to incite and to follow than to lead. Therein lies the vacuum of leadership and the greatest tragedy of a very sad episode.

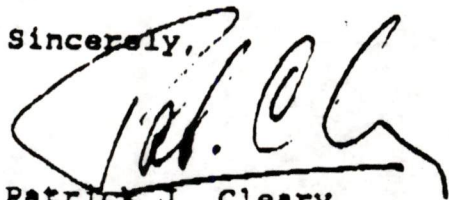
Mac A. Fleming

-4-

February 25, 1992

My fine colleagues and the good employees of this agency will continue to exert best efforts to reach a peaceful resolution to your cases.

Sincerely,

A handwritten signature in black ink, appearing to read "Pat. Cleary", written over a horizontal line.

Patrick J. Cleary



Mac A. Fleming
President

William E. LaRue
Secretary-Treasurer

February 21, 1992

Honorable John Dingell, Chairman
House Energy & Commerce Committee
U. S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

As you are aware, a delegation of BMW members from Amtrak and Conrail met with National Mediation Board Chairman Patrick Cleary on Tuesday, February 18, at the NMB offices in Washington.

It has been brought to my attention that there have been allegations of inappropriate actions during the meeting. Subsequently, I have had the chance to meet with the three members of the NMB and the leaders of the delegation. Furthermore, I have asked BMW Pennsylvania Federation General Chairman Jed Dodd to supply me with a detailed accounting of the meeting. For your information, I have enclosed a copy of his report.

As a result of my discussions and the report, it has become apparent to me that the allegations I have heard have been overstated and that the images of threatening actions that have been conveyed are mischaracterizations of the meeting. To be sure, it was an emotional and even confrontational meeting, but it should be viewed in the context of the frustrations our members are feeling as a result of the three and a half years they have endured without a new contract and their inability to see any light at the end of the tunnel.

Chairman Cleary has established a far more open line of communication with our representatives than existed previously, and this is to his credit. We regret that in this instance the communication process became uncomfortable, but the frustration our members feel must be appreciated.

12050 Woodward Avenue
Detroit, MI 48203-3596
Telephone 313 868-0490

President's Dept.
FAX 313 868-5122

Secretary-Treasurer's Dept.
FAX 313 868-0602

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I would be glad to meet with you to discuss this matter further to clear the air if you think it would be appropriate.

Sincerely,

Mrs. J. Fleming
President

Enc.

cc: P. Cleary, Chairman, NMB
K. Madigan, Board Member, NMB
J. Javits, Board Member, NMB

**STATEMENT OF JED DODD, GENERAL CHAIRMAN, BMWE
REGARDING MEETING WITH THE NMB ON 2/18/92**

1. On February 18, 1992, approximately 120 members of the Brotherhood of Maintenance of Way Employees, met with Mr. Patrick Cleary, Chairman of the National Mediation Board.
2. Approximately three to four weeks prior to February 18, 1992, I contacted Mr. Cleary and asked that he meet with a delegation of my members. I estimated the number who would come to be approximately 15.
3. I contacted Lodge officers from around the system to inform them of the meeting and invited them to come speak to the "man" who heads the National Mediation Board, the government agency that has sat on our negotiations for approximately the past three years on Conrail and Amtrak and ask him the questions they have been asking me -- why won't the National Mediation Board proffer arbitration and declare impasse when it is clear that the parties cannot and will not reach agreement? and -- when will you give us the rights we support for workers in other countries, the right to strike when negotiations fail?
4. I began to get reports that there might be a large turnout because the Lodge officers raised the Cleary meeting to their coworkers and many people were interested in meeting the person who was in charge of the government agency that:
 - a. held up meaningful negotiations for over three years on Conrail and Amtrak by simply refusing to declare impasse when the parties have been at impasse for over two years;
 - b. ignored the fact that we were in local handling on Conrail and Amtrak and arrested negotiations on Conrail by fiat until after P.E.B. 219 made its onerous recommendations and those recommendations were imposed;
 - c. by refusing to declare impasse, permitted Conrail to expend billions of dollars on restructuring schemes and management buyouts, even though labor settlements had not been reached and resources that could have been used for such settlements were being depleted by these restructuring schemes;
 - d. scheduled only two meetings on Conrail between May, 1989, when mediation was invoked and August, 1991 (after P.E.B. 219 recommendations were imposed nationally) and then scheduled a series of meetings in which Conrail steadfastly refused to offer anything substantially different from P.E.B. 219;
 - e. waited for a three month period between October 31,

1991 and late January, 1992 before scheduling further meetings even though Conrail was on record since early 1990 that it would not meet with the BMW unless ordered to do so by the NMB;

- f. knows that the membership had seen a substantially deterioration in their standards of living because they had been without a raise since July 1, 1988;
 - g. knows that over the period since the expiration of the past moratorium that Conrail had reduced its forces by a third and reduced the length of its production seasons for many of those who were left causing massive economic pain for virtually anyone on Conrail even as Conrail expended billions in the above mentioned restructuring schemes, buyouts and management sales of stock options making numerous individual Conrail managers incredibly wealthy;
 - h. knows that Amtrak employees were earning 12% less than the national freight lines while living in areas of the country that have among the highest costs of living in the United States and that many of those BMW members were earning only 75%-95% of the full reduced rate on Amtrak because they had not yet obtained 5 years seniority; and
 - i. has been made fully aware that management was intentionally dragging out the process and using the NMB to ratify dragging out the process in order to force MW workers in local handling on Conrail and Amtrak to accept the despicable recommendations that came out of P.E.B. 219 as was described in the June 21, 1991 letter of C & NW C.E.O. R. Schmiede to the chiefs of the other Class 1 railroads (including Mr. Hagen of Conrail and Mr. Claytor of Amtrak); and
 - j. has been asked numerous times to schedule immediate, intensive negotiations between the parties for the purposes, within a short time frame, of either coming to agreement or ending mediation sessions.
5. A few times in the past there appeared to be commitments by members to come to various events scheduled by the Union in which very few members actually came. February 18, 1992 was the day after a holiday and any working member who actually came could lose two days pay, the day of the meeting and President's Day, as our members must work the day before and the day after a holiday in order to be paid for the holiday.
6. I encouraged my officers to have as many members come as wished to hear Mr. Cleary because I had lost any confidence that the National Mediation Board members would ever declare impasse and felt (and feel) that perhaps when Mr. Cleary saw

the incredible pain his actions were inflicting on the membership he might be moved by their plight to grant American workers the rights that our government, in a bipartisan manner, advocates for workers in Russia, Eastern Europe and throughout the rest of the world.

7. I felt that in the event of a large turnout, our members clearly had the right to peacefully assemble and petition their government officials for redress of grievances.
8. February 18, 1992 was a rainy day, punctuated by periods of showers and downpours.
9. We had decided that in the event of a large turnout we would conduct picketing outside of the NMB and bring as many people as we could to hear Mr. Cleary defend the indefensible -- the policies and neutrality of the National Mediation Board.
10. BMW members came from as far away as Terre Haute, Indiana, Piqua, Ohio, western Pennsylvania, Boston, Massachusetts and from as near as Washington, D.C. and Baltimore to attend.
11. I decided that we would attempt to have everyone meet with Mr. Cleary, and, in the event he said "no", to have as many as he would meet with stay and send the rest of the members back out into the inclement weather for informational picketing.
12. Mr. Cleary agreed to meet with everyone and told us to go to Room 735. He told us it would be tight, but offered no objection to meeting with the whole group. We were favorably impressed with Mr. Cleary's willingness to meet with all of us.
13. Mr. Cleary was approached by federal police and told them to permit the meeting. Federal police stayed in the corridor outside of the meeting room throughout the entire meeting and the door to the room was opened the whole time.
14. Mr. Cleary came in and the group asked questions and presented their story -- they showed him food stamps they receive and are eligible for; they told him about severe economic pain they were going through; they asked that he release us and give a description of what he thought they might do in order to get the right to strike. It was a mixed group of Whites from the midwest and Blacks and Hispanics from the inner cities. Many were Vietnam Veterans. These are honest, law abiding, hard working blue collar workers who believed that if they could talk to Mr. Cleary -- explain the pain he is inflicting on them by holding up a declaration of impasse - that they might receive justice.
15. Mr. Cleary stated at the very beginning of the meeting that he would meet with the whole group and stay until midnight if necessary to answer questions. He stated that he believed it

was part of his job to talk to the members.

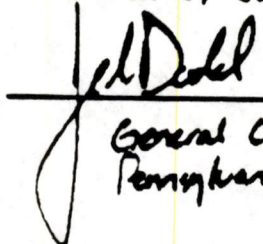
16. At one point, the meeting momentarily became unruly. One of the 120 members made a comment in a loud and bellicose manner that we should shut out the lights and give Mr. Cleary a blanket party and shut out the lights for a second. The lights were immediately turned back on and the member was told to be quiet or get out by members directly around him. Mr. Cleary kept taking questions. There were three or four other times the lights went out, though no threat was made. This occurred because the room was so crowded that members inadvertently leaned against the switch.
17. Some of the members talked loudly and periodically used profanities, and this is the normal way of talking for some of the members. Mr. Cleary also used profanities while answering questions. At no point was there any possibility of Mr. Cleary being attacked physically.
18. At one point one of the members with a bullhorn spoke and stated that we would not leave the room unless impasse was declared. The members chanted for a short period of time and then resumed questioning Mr. Cleary.
19. At no point did Mr. Cleary ask to leave the room. After the member with the bullhorn stated that we would not leave until he declared impasse, Mr. Cleary stated that he would not be extorted into declaring impasse. One of my officers told him at that time that no one was attempting to extort him, that he was free to leave at any time and no one would harm him in any way. The only purpose was to have him understand the impact of his decisions on the membership. Mr. Cleary did not ask to leave at that time either.
20. During the meeting two federal police officers came into the meeting and asked to talk to me. I left the meeting and we talked outside in the hallway. They told me that the building closes at 5:30 p.m. and they would expect us to be out by that time. They fully realized that Mr. Cleary was in no danger.
21. The meeting started at about 2:20 p.m. and the men left the room in substantial numbers at about 5:00 p.m. The incidents with the lights and the bullhorn and chanting lasted no longer than 3 to 5 minutes combined.
22. When the meeting was over four or five of the full time officers remained and talked in a friendly manner with Mr. Cleary. Mr. Cleary indicated that he had learned things he didn't know and gave no indication that he felt personally threatened and intimidated by the meeting. He again indicated that he considered it a part of his job to meet with the public and said that he would meet with the group again.
23. We asked Mr. Cleary to view a 12 minute video which depicts

BMWE work with us. Mr. Cleary invited us to up to his offices with us and watched the video with us.

24. When we left Mr. Cleary gave no appearance of anger, although he did state that I should have informed him of the size of the group ahead of time.
25. Mr. Cleary had told me in previous conversations that he had worked in an auto plant and I believed that he understood the nature of union meetings and the manner men talk when they are frustrated.
26. With respect to allegations that there were liquor bottles found, we had several people assigned as monitors throughout the crowd to make certain that there was no drinking. I have talked to each of those individuals. They state that they were observing for any use of liquor and looked at the corridor and hallway and observed no drinking or liquor containers. Again, there were police located in the hallways and they did not bring to our attention any instances of members imbibing.
27. One of the reasons I was even willing to bring the membership to such a meeting is because I had developed a relationship with Mr. Cleary and felt that he would be an articulate spokesman for the indefensible position of the Board regarding Conrail and Amtrak negotiations. Although I had come to believe that Mr. Cleary's policies regarding impasse would be no different from that of his predecessor, I felt that he was more democratic and open in his relationship with us.
28. I was astounded when I heard Mr. Cleary's rewrite of the incident. Mr. Cleary changed his version of what occurred and has attempted to portray a give and take with angry, frustrated, law abiding railroad workers as a confrontation between him and a "mob". Despite the fact there were no incidents of violence, no property damage, no rifling of files and no arrests despite the continuous presence of federal police, Mr. Cleary has attempted to present this legitimate exercise of our members' rights of free speech and assembly as some type of action by a group of lawless individuals who personally threatened him. He took an unfortunate incident which took no longer than 30 seconds in the 2 and one half hour meeting and presented it as if it was the main thrust of the meeting.
29. Mr. Cleary approved the meeting even after seeing the number of people attending, never indicated that he felt personally threatened, never asked to leave and never even requested that we quiet the meeting. At the meeting he even agreed to become personally involved in Conrail (lack of) negotiations and to inquire about scheduling Amtrak meetings. He did not agree to, nor was he forced to despite the presence of what he characterized as a "mob", declare impasse.

30. In my opinion, Mr. Cleary's after-the-fact characterization of a meeting in which there were no arrests, no property damage and no incidents of violence whatsoever as one in which he was personally intimidated, is merely a political decision to justify the indefensible, biased actions of the Board taken well prior to the scheduling of the February 18, 1992 meeting. Mr. Cleary and the rest of the Board members have always intended to deny impasse as long as rail management and the administration tells the Board members they should. In short, Mr. Cleary and the other two board members never intended to declare impasse in these disputes and are perfectly willing to hold the membership hostage until they agree to concessions to the companies that are not warranted and will contribute to the recession. They are an extension of the companies. It is the National Mediation Board and its selfish, careerist members who are acting as terrorists and committing extortion.
31. In a meeting conducted on February 20, 1992, Mr. Cleary stated to us that "the tree has broken." He indicated that because our members exercised their right of free speech and assembly on February 18, 1992, the Board would not declare impasse. The other two Board members agreed. Mr. Cleary also stated that we have been out for 3 and 1/2 years and it could easily be another 3 and 1/2 years. He scheduled a phone conversation with me on March 6, 1992 and said it may well be the first in an annual series of March 6 conversations with me, meaning that the next time he intended to talk with me regarding Conrail and Amtrak would be March 6, 1993.

DATED: February 21, 1992


General Chairman
Pennsylvania Federation B.N.W.E.

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Following Page

3/12/92

Please file for Cam Findlay :

Petroleum Industry Issues

MAJOR PETROLEUM INDUSTRY ISSUES

Regulations That Could Encourage Growth:

Issue	Agency/Status	Impact on Industry	Action Needed
Mega NOPR Notice of Proposed Rulemaking being developed to complete regulatory changes needed as a result of natural gas price deregulation	FERC	Comprehensive overhaul of the structure of pipeline transportation, rates and sales; will create a level playing field with respect to sales and transportation competition.	Strongly promote early implementation of rule.
Toxicity Characteristic (TC) New York petition to defer RCRA regulation of petroleum contaminated media	EPA	Contaminated media would be exempt from RCRA TC requirements and would allow clean-up of petroleum spills without being encumbered with redundant RCRA waste management requirements and related costs.	EPA should issue the deferral to states with existing programs as soon as possible.

Regulations That Hinder Growth:

Issue	Agency/Status	Impact on Industry	Action Needed
Permitting Requirements - to implement operating permit provisions of CAAA.	EPA - Final rule was due 11/15/91.	May force operations to shut down if permit requirements are overly stringent or delay/deter initiation of new projects	Issue final rule similar to proposed rule. Provide de minimis level for changes in operations, public notice requirement limit
Benzene NESHAP - rule to control benzene from refinery wastewater systems	EPA - Final rule due 12/1/92.	Could require capital investments in excess of \$2 billion even though emissions pose very low risk to neighboring populations. Controls were to be installed by 3/7/92--a date which could not be met by most of the industry.	On 2/24/92 EPA stayed the effective date and issued the proposed API/EPA settlement for comment and asked for information on alternative approaches. More cost effective implementation of these regulations should be developed and integration with other refinery regulatory requirements sought.
NRDA Non-Use Values - Regulations issued under CERCLA and the Oil Pollution Act to impose liability for injuries to natural resources including damages for the emotional loss to persons not using those resources ("non-use value")	DOI - Final rule was expected 12/91. DOC (NOAA) proposed rule is due 8/18/92.	Would impose large costs on industry and federal facilities based on seriously flawed economic methodology. With this approach, Exxon Valdez damages could have been as high as \$15 billion.	Do not impose speculative damages for non-use values, and specifically eliminate contingent value methodology as means of measuring loss. Require Regulatory Impact Analysis for rules being developed by DOI and NOAA.
Offshore Effluent Guidelines	EPA	Could have a significant cost impact on offshore operations and result in leases being abandoned.	EPA should focus on improving existing technologies and avoid bans on the discharge of produced water and oil-based muds and associated cuttings. The guidelines should be issued as soon as possible. EPA should reissue the Gulf of Mexico NPDES General Permit with the same conditions and requirements contained in the 1986 Permit.

Issue	Agency/Status	Impact on Industry	Action Needed
Fuels - • Reg-Neg Implementation regarding reformulated gasoline (RFG). Supplemental notice of proposed rulemaking expected shortly. • Phase II reformulated gasoline requirements	EPA Final rule was due 11/15/91. Proposed rule due 11/92. Final rule due 3/93.	• Enforcement provisions would raise performance standard through ratchet and increase refiners' cost of compliance without demonstration of noncompliance. Overall program is becoming increasingly burdensome and costly. • All RFG must be recertified under complex model (3/97) and significant new investment could be required. Onerous year 2000 standards such as CA RFG could increase cost of gasoline by 20¢/gallon or more.	• Do not independently trigger VOC ratchet based on RVP or oxygen level. Allow self-certification instead of requiring audits, streamline enforcement program for both RFG and oxygenated fuels. • Develop RFG complex model based on sound scientific data such as auto/oil. Establish reasonable and cost-effective year 2000 standards.
Air Toxics - • Hazardous Organic NESHAP - Proposed standard establishing MACT control requirements and defining sources. • Discretionary rule expanding definition of major source to include lesser quantity emissions	EPA - Final rule due 4/28/93 EPA	• Sets overly stringent MACT. Limited emissions averaging provisions severely restrict the practical application of averaging. • Goes beyond statutory requirements by changing definition of major source for 47 pollutants and subjecting them to more stringent MACT controls. Could result in many additional petroleum industry facilities (especially E & P facilities) becoming subject to rule.	• Retain MACT at statutory definition (12% average). Provide more useful emissions averaging as in 1986 trading policy and recent API recommendations. Source definition should be based on facility fenceline. • Do not issue such a proposal. Should develop on a source basis only if necessary.

Issue	Agency/Status	Impact on Industry	Action Needed
RCRA Definition • Used Oil Listing - EPA has proposed several options for the management of used oil including listing used oil as hazardous or requiring stringent management standards. • Mixture and Derived From Rules - classified substances as hazardous if mixed with or derived from any hazardous substance regardless of risk. Regulation recently overturned by DC Court of Appeals on procedural grounds. • Definition of Solid Waste	EPA - Final rule due May 1992. EPA - Interim final rule issued 2/18/92. Possible new regulatory approaches to be proposed by 4/28/92. Final rule due 4/28/93. EPA	• Listing would have a significant detrimental impact on used oil collecting and recycling. Do It Yourselfers dispose of 95% of oil and Subtitle C requirements could force many small businesses to stop collecting used oil from the public. Listing used oil would increase legal liabilities making it more difficult for businesses to obtain insurance liability coverage. • Enormous quantities of non-hazardous wastes are needlessly subjected to Subtitle C requirements of RCRA. These rules have a far reaching "ripple effect" since they create new volumes of "hazardous wastes" at every stage of the waste management system, even after actual risk has been eliminated. • The current definition imposes large costs on industry by defining numerous secondary materials as wastes even though they will be recycled or reprocessed. Once defined as "solid wastes," many materials are classified as hazardous and subject to RCRA Subtitle C requirements. The key issue is whether secondary materials -- which might be considered hazardous when disposed -- are considered hazardous when they are recycled.	• EPA should not list used oil as hazardous but should issue management standards instead. • The Court action provides an opportunity to narrow the scope of the requirements and significantly amend the current listing system • EPA should propose and finalize revisions to exclude all secondary materials which are recycled from the definition of solid waste.

Issue	Agency/Status	Impact on Industry	Action Needed
Toxicity Characteristic - (TC) • RCRA Land Disposal Restriction for primary sludge TC Wastes • Underground Storage Tank (UST) deferral for TC • Stay of TC requirements for groundwater reinjection during product recovery activities	EPA - Proposed rule is expected 3/92 EPA EPA - Two year stay of the rule was issued in 1/91.	• EPA is considering a requirement to treat these wastes to standards which are well below the level at which the wastes are hazardous. This requirement would add additional cost and control requirements for no attendant health or environmental benefits. • EPA temporarily deferred UST cleanups from the TC rule requirements because such cleanups are conducted under Subtitle I of RCRA. TC application to UST cleanups would require extensive testing and removal/disposal of significant amounts of soil imposing large unnecessary costs to industry. • The TC Rule would discourage voluntary cleanup operations that are environmentally beneficial projects and are well regulated by the states	• Adopt no treatment standards below characteristic level. • Make UST deferral permanent. • Make stay permanent.
Financial Responsibility -- Regulations under OPA	DOT/Coast Guard	Would eliminate traditional insurance coverage, severely limit number of vessels allowed to operate in U.S. waters, cause disruption in U.S. energy supplies and international trade	Coast Guard should write self-insurance regulations accepting as an asset, reasonable financial criteria of proof of entry in a P & I Club (or in a comparable mutual indemnity association) with direct access to the responsible party.
Fuel and Fuel Additives - establishes criteria for health effects data necessary for fuel certification.	EPA - Proposed rule required by court by 4/92.	Could require extensive and costly health effects testing. Unless handled properly, could impede introduction of RFG and preclude early use of complex model.	Establish baseline category to include all substantially similar fuels. Rely on sound existing health effects data to maximum extent possible.

Issue	Agency/Status	Impact on Industry	Action Needed
Onboard Refueling Vapor Recovery Controls	EPA - Proposed rule was due 11/15/91.	Would produce economic and environmental benefits compared with more costly Stage II control systems which could cost \$193 - 324 million/year.	EPA should mandate the refueling canister as required by the CAAA.
Corrective Action	EPA - Proposed rule issued 7/27/90	Proposed regulations would cover facilities that have solid waste management units and are permitted as treatment, storage and disposal facilities under RCRA Subtitle C. Important issues include clean-up standards, definition of management units, allowable clean-up remedies, etc. Corrective Action could have widely varying costs and impacts based on decisions to be made by EPA.	The rule should be issued only if it contains concepts such as conditional remedies, corrective action management units, etc.
OCS Air Regulations - transfer of authority from MMS to EPA for OCS platforms within 25 miles of states on the Pacific, Arctic and Atlantic coasts and the western coast of Florida and application of same emissions requirements to platforms as for onshore sources. Federal requirements, as established by EPA, also could be made applicable beyond the 25 mile boundary. A study also is required on whether to apply similar requirements to other areas such as the Gulf of Mexico.	EPA/MMS Proposed rule issued 12/15/91. (CAAA had set 11/15/91 deadline for final rule).	If such standards are applied to Gulf of Mexico, it would have a substantial adverse impact on E&P activities in the Gulf.	Final promulgation should be delayed until EPA reevaluates the fugitive HC emissions factors used to quantify OCS emissions since they are not based on sound science. A recent MMS study supports such a reevaluation.

New Issue

Issue	Agency/Status	Impact on Industry	Action Needed
CERCLA/Superfund • Hazard Ranking System • National Contingency Plan • Site Settlement -- municipal settlement policy/cost allocation	EPA - Existing regulations (40 CFR 300 App. A) EPA - Existing Regulations (40 CFR 300.430) EPA Guidance to Regions	Expands the number of sites where contamination must be cleaned up under the consolidated Superfund program and impedes voluntary cleanup.. Causes excessive expenditures for administration, oversight and implementation of site cleanups. Likely to increase litigation and slow the pace of cleanup. Causes excessive expenditures for administration, oversight and implementation of site cleanups. Likely to increase litigation and slow the pace of cleanup.	Existing regulations should be revised to require the use of a more realistic risk assessment. Remedy selection provisions of existing regulation should be revised to improve cost-effectiveness. Issue guidance document to establish more equitable and increased use of settlement and cost-sharing authorities.

3/3/92

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3/12/92

Please file for Cam Findlay :

Campaign



Bobby R. Burchfield
General Counsel
(202) 336-7110

March 9, 1992

Mr. Floyd Brown
38 Ivy Street, S.E.
Suite A
Washington, D.C. 20003

Dear Mr. Brown:

The President has asked me to send this letter demanding that you and any persons associated with you *immediately cease any and all activities* undertaken in the name of "Citizens for Bush," "Presidential Victory Committee," or any similar designation that raises the possibility of confusing your efforts with those of Bush-Quayle '92.

We first learned of your activities last week when we received a letter signed by you soliciting funds in the name of "Citizens for Bush: A Project of Presidential Victory Committee." Your group has neither asked for nor received permission to solicit funds using the name of President Bush. Your letter appears intended to lead recipients to the false belief that their contributions are for the use of the President's re-election effort through such statements as "every dollar you contribute will help Citizens for Bush fight to keep George Bush in the White House." The "disclaimer" in your letter is at best ambiguous, and nowhere in the text of the four page letter does it even attempt to make clear that your organization has no affiliation or contact with Bush-Quayle '92. The President strongly disapproves of this misleading use of his name and reputation.

I understand that you were involved with a similar effort called "Americans for Bush" in 1988. That group failed to heed the campaign's instructions to cease raising and spending money under that name. Even though Bush-Quayle '88 took precautions to avoid any contact or association with your group, your

Mr. Floyd Brown
March 9, 1992
Page Two

activities resulted in protracted litigation before the Federal Election Commission and now in the United States District Court. I urge that you learn a lesson from this history and immediately cease your activities.

In the event I do not receive notification within ten (10) business days of this letter that you have ceased any and all activities that might mistakenly be attributed to Bush-Quayle 92, I will be forced to take further action such as initiation of proceedings before the Federal Election Commission and the Internal Revenue Service. I will look forward to your prompt reply.

Sincerely,


Bobby R. Burchfield

cc: The President of the
United States

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3/12/92

Please file for Cam Findlay :

North Pacific Fishery Management
Council

THE WHITE HOUSE
WASHINGTON

March 6, 1992

MEMORANDUM FOR THE FILE

FROM: SAMUEL K. SKINNER 

SUBJECT: Meeting with Alaska Delegation on Commerce Department Decision

On March 3, 1992, at 5:00 p.m., I met at their request with several members of the Alaska congressional delegation regarding a pending decision by the Commerce Department whether to approve or disapprove recommendations of the North Pacific Fishery Management Council.

At the meeting, the members expressed their support for a Commerce Department decision approving the Council's recommendations, for the reasons stated in the attached letter. I made no commitment to intervene in the decision on either side.

Attachment

cc: Thomas Campbell, Esq.

Congress of the United States
Washington, D.C. 20510

February 24, 1992

The Honorable Samuel K. Skinner
Chief of Staff to the President
The White House
Washington, D.C. 20500

Dear Sam:

The North Pacific Fishery Management Council has forwarded two important fishery management plan amendments to the Department of Commerce for approval. These amendments will substantially reduce waste of a valuable public resource and significantly increase overall economic benefits to the nation by improving the efficiency with which Alaska groundfish stocks are utilized. In addition to these benefits, the amendments will further environmental concerns by reducing pollution of fishing grounds and will also stabilize the economies of several coastal communities that depend on fishing.

The two amendments comply fully with the requirements of the Magnuson Fishery Conservation and Management Act and other applicable law. Unfortunately, an unprecedented lobbying campaign by private parties interested only in maximizing their private profits has resulted in a concerted effort by some within the Administration to block approval of the amendments.

These amendments will help reduce the enormously wasteful harvesting and processing practices of the factory trawl fleet in the Gulf of Alaska and the Bering Sea. Not surprisingly, the large, highly-mobile factory trawlers, which both catch and process fish, oppose the amendments. Their lobbyists have tried to paint the amendments as inefficient and inconsistent with free market principles. In fact, it is the factory trawlers who are inefficient.

Observer data gathered by the National Marine Fisheries Service (NMFS) documents the incredible waste of the factory trawlers. Of every 100 pounds of fish the factory trawlers bring on board, NMFS data shows that at least 7 pounds goes back over the side dead, without even an attempt to process it. Of the remaining 93 pounds which are processed, only 14 pounds are recovered as food products which are sold to consumers. The rest, approximately 79 pounds, are dumped back over the side as waste.

The Honorable Samuel K. Skinner
February 24, 1992
Page Two

When the same 100 pounds are caught by shore-based boats and processed onshore, NMFS data shows that only 1 pound goes back over the side dead, and the remaining 99 pounds are processed into 20 pounds of products which are sold to consumers. In addition, the 79 pounds of waste generated cannot, by law, be simply dumped back into the sea. Instead, it must be processed into fish meal and other non-food products. When the 6 pound difference in finished food products is applied to the 2.8 billion pounds of pollock caught annually off Alaska, the loss to the consumer and the national economy through the inefficiency of the factory trawlers is truly staggering. It is estimated that approval of the Council amendments would result in a 3 billion pound reduction in waste, a 250 million pound increase in food product sold to consumers, and a gain in revenue to the nation of over \$246 million when compared to the status quo fishery supported by the factory trawlers.

In essence, factory trawlers substitute a free public good, pollock or cod, for labor inputs. Rather than pay an employee to trim defective fillets, they waste billions of pounds of fish that would otherwise become product available for sale to consumers. In addition, they exploit the fact that their competitors are subject to the Occupational Health and Safety Act, the Fair Labor Standards Act, the Clean Water Act, and the health and safety laws of the State of Alaska, to further maximize their private profits. By wasting a valuable public resource, sacrificing worker safety and wages, and polluting the environment, the factory trawlers are able to externalize their costs to the detriment of the nation. This federal subsidy should be terminated.

Furthermore, NMFS data documents that the factory trawlers have a higher bycatch, also known as incidental take, of prohibited species. The Council sets caps on the amount of bycatch that can be taken, and when a cap is reached the target fishery is closed. The factory trawlers have already reached the first quarter halibut bycatch cap in the Bering Sea, less than 30 days after the fishery opened. This closure does not stop the factory trawlers from fishing for pollock, because they switch from bottom trawling to mid-water trawling. Instead, it shuts down trawling for Pacific cod, thus reducing the revenue that would have accrued to the nation had the cod fishery continued. Approval of the amendments will reduce bycatch and increase national revenues.

The amendments also provide a temporary solution to a serious preemption problem in the North Pacific fishery. The large, mobile factory trawlers use their greater physical size and speed to prevent shore-based fishing vessels from effectively utilizing fishing grounds near the shore plants to which they must deliver their catch. The factory trawlers deliberately cripple their competition by fishing near shore until bycatch caps are reached, then they simply steam elsewhere to new fisheries.

The Honorable Samuel K. Skinner
February 24, 1992
Page Three

Without the amendments to provide relief while a longer term solution is crafted, the predatory behavior of the factory trawlers will destroy a domestic industry and thousands of jobs. The shore boats, like the shore plants and coastal communities which depend on them, have no alternatives. They cannot pull up their nets and steam elsewhere like the factory trawlers can.

The Magnuson Act established the Council system to provide regional input into fishery management. The North Pacific Council has spent more than two years developing these amendments, and voted 9 to 2, including the NMFS regional director and members from Washington and Oregon, in favor of the amendments. It has heard extensive public testimony, considered all concerns raised, and has utilized the best information available in making their decision. Both NMFS and the Office of Management and Budget have been involved in gathering the economic data that was used by the Council to consider the economic impact of these amendments. As outlined above, the record clearly supports a conclusion that there will be a net gain to the nation in the economic sense.

Some people within the Administration have urged that these amendments be disapproved because the economic analysis accompanying the amendments was not done using the specific cost-benefit format they feel is now desirable. However desirable, such an analysis has never before been required in any fishery management amendment approved by the Secretary. To impose a requirement now that a specific cost-benefit format be used for economic analysis would be contrary to the plain language of the Magnuson Act, would go well beyond any previous application of existing law and administrative guidelines by the Department of Commerce, and would contradict settled judicial precedents. In effect, the Secretary would be applying a new standard of review, which the Secretary is not at liberty to do without following proper administrative procedures.

The amendments proposed by the Council will reduce waste and environmental pollution, increase food available to consumers, increase revenue to the nation, and improve the economic stability of coastal communities. We are confident that they represent good policy and pass muster under existing law, and urge you to actively support approval of the amendments by the Secretary of Commerce.

With best wishes,

Cordially,



FRANK MURKOWSKI



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CAFE

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Regulation

Fall 1991 The Cato Review of Business & Government

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we are dedicated to fostering a more reasoned national process of setting public health priorities.

*John D. Graham
Harvard School of Public Health*

Death by Regulation

There are certain universal truths widely recognized by careful observers of the Washington scene. First, politicians want to "do something positive." This wish exists regardless of whether there is any real need to do anything at all, and to question the need for action is anathema. Responses to Love Canal, Chilean grapes, and Alar indicate how often government safety programs are launched, not on the basis of science, but on sensationalism.

Second, an important asymmetry exists between action and inaction. There are risks associated with an agency's decision to act, and there are risks associated with a decision not to act. The latter, however, are usually much more visible than the former. For example, a program to improve automobile side impact protection will also increase the retention rate for older, less safe cars by making new vehicles more costly. But consider how much easier it is for a journalist to focus on the first story rather than the second—the photographs of crumpled cars, the videotapes of crash tests, the interviews with victims' families. By comparison, how would one even begin to identify the accidents that result from the price effect of a new standard? In short, one photographable injury outweighs a thousand unphotographed fatalities.

Finally, there is political power. All government agencies like it. They will often act to increase it, and they will rarely turn it down—even when increased political power comes at the direct expense of the public safety the agency is charged with promoting.

Frequently, these factors result in safety measures that are ineffective and overpriced—attributes that are no surprise in government programs. Occasionally, however, the results are inadvertently lethal. And sometimes programs are not only lethal, but their nature is deliberately concealed by the administering agency. These latter two outcomes comprise what I call death by regulation. Death by regulation should be a sobering counterweight to the notion that, when it comes to public safety, less-than-ideal

markets are a sufficient condition for government involvement. Unfortunately, death by regulation is alive and well in Washington today.

Safer Drugs, Fewer Drugs

The Food and Drug Administration's drug approval process is the foremost example of asymmetrical political risk. There are two types of errors the FDA can make in reviewing a new drug application: it can approve a drug that turns out to have unexpectedly adverse side effects, or it can delay or deny a beneficial drug. From a public health standpoint, both of these errors can be equally deadly, but from a political standpoint, they are worlds apart.

Incorrectly approving a drug can produce highly visible victims, highly emotional news stories, and heated congressional hearings. The paradigmatic example is thalidomide, a sedative introduced in several countries (not including the United States) before being linked to severe fetal deformities in 1961.

Incorrectly delaying a drug, on the other hand, will produce invisible victims and little more. The FDA's ten-year delay in approving beta-blockers (from 1967 to 1976), for example, was probably responsible for upwards of ten thousand deaths—a toll as huge as it is unappreciated.

Not surprisingly, the FDA's fundamental approach to drug approval is designed to reduce the likelihood of the first type of error while paying little attention to the second. The well-documented result of this excessive caution is drug lag—the frequent unavailability of major new drugs in this country long after they have been approved elsewhere. Despite numerous reform efforts by the FDA over the past decade, this phenomenon continues unabated.

The FDA's overcaution is reinforced by a similar bias in Congress. One former FDA commissioner asserted: "In all of FDA's history, I am unable to find a single instance where a Congressional committee investigated the failure of FDA to approve a new drug. But, the times when hearings have been held to criticize our approval of new drugs have been so frequent that we aren't able to count them. . . . The message to FDA staff could not be clearer. Whenever a controversy over a new drug is resolved by its approval, the Agency and the individuals involved likely will be investigated. Whenever such a drug is disapproved, no inquiry will be made. The Congressional pressure for our negative action on new drug applications is, therefore, intense. And it seems to be increasing."

This same asymmetry appears in media coverage

of the agency. Every FDA announcement of a major new drug approval should raise an obvious question: If this drug is going to start saving lives tomorrow, how many people died yesterday waiting for the agency to act? But the question is hardly ever asked, much less answered. Finding the victims of the drug's side effects is far easier than identifying the victims of its unavailability.

Can the FDA be reformed? Probably not in any fundamental sense. The AIDS crisis has produced some incremental changes because it is the first time that drug lag's potential victims have organized themselves into a powerful political constituency. But it may also be the last time, and it is still unclear whether the AIDS-inspired reforms, such as liberalized distribution of drugs before full approval and more lenient standards for test data, will be significantly utilized. (See the article by Joanna Siegel and Marc Roberts.)

The ultimate issue continues to be one of asymmetry in public perception and in institutional incentives. When the agency approves a new drug, it could easily compute the therapeutic benefits that were lost to the public during the approval process. This loss is a major cost of the FDA's approval process; quantifying (let alone minimizing) it is central to any attempt to truly protect public health. Absent some major shift in public recognition of this fact, deadly overcaution will continue to be the FDA's dominating inclination.

Air Safety versus Highway Deaths

Mandatory airline child seats represent another issue that is fueled by the political asymmetry of risks—in this case one death in a publicized airplane crash outweighs a hundred anonymous highway fatalities.

Under current Federal Aviation Authority regulations, children under two may ride on their parents' laps. As a result, airlines allow these children to fly free. In the United Airlines Sioux City crash in July 1989, however, two lap-held children were torn from their parents' grasp at impact; one of them died, as did 111 other passengers. Because a child restraint seat could have saved the child's life, a push for mandatory airline child seats has begun.

Mandatory child seats would mean that families flying with young children would have to purchase tickets for children who had been flying at no charge. Faced with substantially increased costs, some of these families would undoubtedly shift at least some of their air travel to highways, where fatality and injury risks are far higher. Thus, mandatory child

seat requirements would not only increase the costs to consumers traveling by air by several hundred million dollars annually, but would also result in a net loss of life.

Politically, a child's death in a major airline crash counts far more than a highway fatality. The former is national news, while the latter is a back-page story in a local paper. Within months of the Sioux City crash, the FAA faced both petitions and congressional proposals to require child seats on planes.

As of this writing, the FAA has made no final decision, but it has opposed congressional legislative efforts on safety grounds. This position is encouraging, but it also appears to be at least partly fortuitous. The FAA's request for public comment did not initially raise the highway fatality issue. Fortunately, several academic researchers did consider the impact of higher air travel costs on highway travel, and the FAA incorporated their findings, presented at a congressional hearing, in its analysis. But the FAA's attempt to consider the total impact on safety drew fire from the National Transportation Safety Board. NTSB Vice Chairman Susan M. Coughlin argued that the FAA was out of bounds. She testified: "We are confusing the issues when we start comparing aviation safety to highway safety. The FAA [is] responsible for aviation safety. There is no one who is making the argument that we are not safer buckled in and restrained in those seats during the critical phases of flight. So I have a hard time accepting the intertwining of those issues. Even if it were to drive more people to the highway, what we are dealing with here today is aviation safety and the right thing to do is to require all occupants to be restrained."

Lest anyone be distracted by the broader issue of overall safety, Rep. Jim Lightfoot, sponsor of the congressional bill, quickly dismissed the FAA spokesman: "I would only say that if your assumptions are correct, and my baby is the one baby that dies, I don't give a damn about your assumptions." Although this may be an understandable emotional response to a tragedy, it is a disastrous basis for policy.

A Safety Agency Becomes a Killer

Finally, in auto fuel economy standards we find an instance of a safety agency's concealing the lethal effects of its own activities. Before the 1975 enactment of the Corporate Average Fuel Economy (CAFE) program, the National Highway Traffic Safety Administration's major responsibilities were to issue motor vehicle safety standards, to order recalls,

and to assist state highway safety programs. In this area NHTSA is generally credited with improving new car safety, although there is disagreement about the magnitude of this improvement, and the agency has made some major blunders. For example, NHTSA's passive restraint requirement was accompanied by several attempts to conceal unfavorable air bag data, and its promotion of air bags as obviating the need for seat belts was characterized as "misleading" by a federal court.

CAFE gave NHTSA a degree of power over the automobile industry that the agency never before possessed. CAFE essentially requires that each automaker's yearly output meet a specified minimum average fuel economy standard, now set at 27.5 miles per gallon. To the extent that this standard differs from manufacturers' assessments of market demand for fuel economy, it is an important factor in product design, manufacturing, and marketing decisions and even in plant location. CAFE often requires full-line producers such as General Motors and Ford to engage in massive juggling acts to comply with the standard because their large-car sales often imperil their compliance with CAFE.

Downsizing is one of the most powerful tools for improving auto fuel efficiency. According to NHTSA, "each 10 percent reduction in weight improves the fuel economy of a new vehicle design by approximately 8 percent." The doubling of new-car fuel efficiency that occurred from 1975 to 1985 was due in large part to the 1,000-pound reduction in average new car weight during the period.

But large cars are generally more crashworthy than small cars owing to their heavier construction, their greater crush space to absorb collision forces, and their larger occupant space. The occupant death rate in the smallest cars on the road is more than twice that of the largest cars. This relationship between vehicle size and occupant safety holds true in single-vehicle accidents as well as in multivehicle collisions, and it is supported by a wide range of studies. Thus, although CAFE has increased NHTSA's jurisdiction, it has also threatened NHTSA's safety accomplishments.

NHTSA could have admitted that CAFE exacts a toll in increased traffic deaths and injuries and then attempted to achieve some balance between conservation and safety in setting CAFE standards. Such an approach would certainly be advantageous from the standpoint of informed decisionmaking and public awareness of the true price of its fuel conservation measures.

Institutionally, however, such an approach is diffi-

cult. No agency, and particularly not one whose middle name is safety, wants to admit that one of its programs kills people. Thus, in administering CAFE, NHTSA's course has been to acknowledge possible safety problems in the abstract while denying their existence in any one particular model year. Each time the safety issue arises, NHTSA exonerates the particular standard in question and announces that the matter is best left for future consideration.

In a report to Congress in 1974—before CAFE's enactment—the agency examined this very safety issue, however. At the time NHTSA characterized the size-safety relationship as "well known" and stated that "[a] sustained or increased shift to more fuel economical cars, without a concurrent upgrading of their crashworthiness or increased utilization of effective passenger restraints, will result in a rise in the serious injury and death rate on the highway."

But NHTSA began to backtrack from this position after CAFE was enacted. By 1977, when the agency issued CAFE standards for model years 1981 to 1984, its view of the size-safety relationship had become far more equivocal than earlier. NHTSA argued that crashworthiness was not dependent on size in single-vehicle accidents. As for multivehicle crashes, NHTSA claimed that the adverse effect of downsizing was only temporary, and that it would "apparently be offset by the reduction in the range of passenger automobile weights which is projected to occur as the larger automobiles are downsized." NHTSA also claimed that smaller cars were less accident-prone and that large cars were more dangerous to other cars and to pedestrians.

While NHTSA was obfuscating the size-safety issue in the context of CAFE, however, it took a totally different position when it came to safety standards. In a 1980 study NHTSA stated that "[s]afety standards have saved more than 64,000 lives since 1968, but these gains are being outweighed by the shift to smaller cars." In a similar publication in 1981 it noted: "The traffic safety problem will become even more serious during the 1980s. . . . One of the most worrisome problems is the changing vehicle mix and the general downsizing of all passenger cars and light trucks. With these smaller and lighter vehicles joining an increasing number of heavy trucks and older, heavier cars already on the road, the risk of death and serious injury will increase markedly." The more NHTSA could portray the small-car trend as a safety hazard, the better its case for issuing more safety standards. And if this posed a problem for the agency when it came

to CAFE, that was nothing that a little creative writing could not solve.

In 1985 the president's Council of Economic Advisers raised the safety issue as a justification for reducing the 1986 model year CAFE standard below the 26.0 miles per gallon proposed by NHTSA. The CEA noted that NHTSA's proposed standard had not even mentioned the safety issue posed by CAFE. According to the CEA, "NHTSA's failure to consider the adverse safety consequences of its decision can only mean that its proposed 26.0 mpg standard is set higher than it would be if safety factors were taken into account."

NHTSA responded by denying the existence of any real size-safety relationship. The agency noted that occupant deaths had dropped in recent years despite downsizing: "Passenger car occupant deaths have in fact dropped from 28,200 in 1978 to 23,500 in 1984, a 17 percent decline. This occurred during a time when the average new car's weight was reduced by 1,000 pounds." Another NHTSA document of the period stated that "deaths per VMT [vehicle miles of travel] have dropped nearly 20 percent."

Appealing as that argument sounds, for anyone familiar with traffic death rates it is an obvious piece of statistical legerdemain. The car occupant death rate has been dropping not only since 1978, but for the past fifty years. In all likelihood it would have dropped even more in recent years but for downsizing. Using NHTSA's logic, one could just as well argue that AIDS is not a health hazard because since it first appeared in the United States in 1981, average life expectancy has increased by about nine months. Then again, life expectancy has been increasing since colonial times.

In subsequent CAFE rulemakings the safety issue was raised by a broadening array of groups, including the Insurance Institute for Highway Safety, the Competitive Enterprise Institute, and the National Safety Council. A 1988 study by Brookings senior economist Robert W. Crandall and Harvard public health professor John D. Graham found that cars produced under a 27.5 miles per gallon standard would experience a 14 to 27 percent increase in occupant deaths—2,200 to 3,900 additional fatalities per model year fleet. NHTSA rejected the study as methodologically flawed.

NHTSA's treatment of the CAFE-safety issue became increasingly strained. For example, in 1986 NHTSA argued that crash test results from its New Car Assessment Program (NCAP) showed that small and large cars were equally crashworthy. In the agency's words, the program "demonstrates that in

crashes with cars of equal weight, small cars can provide equivalent protection as do large cars when they crash into other large cars. . . . [A] number of small cars . . . have exhibited good occupant crashworthiness in NCAP testing." But NHTSA's interpretation of these test results was directly contradicted by the program's actual report, whose cover sheet carries the following warning: "**Large cars usually offer more protection in a crash than small cars.** These test results are only useful for comparing the performance of cars in the same size class."

Although after fourteen years of CAFE the agency has yet to find cause for concern over the safety effects of even one CAFE standard, NHTSA has taken one significant step in 1990 by raising the safety issue as a reason for opposing congressional proposals to boost CAFE to 40 miles per gallon. At a September 1990 press conference, the agency released new reports demonstrating the applicability of the size-safety relationship to single-vehicle accidents, and NHTSA Administrator Jerry Curry characterized one bill as "a killer" that "exchange[s] body bags for oil barrels." Ironically, both Curry and Transportation Secretary Samuel Skinner emphasized that their new safety-size studies were consistent with the earlier Crandall-Graham study. NHTSA has not changed its position on the innocence of its existing CAFE program, however. The agency's criticism of the 40 miles per gallon bill is carefully worded to avoid any admission that current standards reduce safety.

Finally, NHTSA proved prescient with its 1980 prediction that the benefits of its safety standards were being wiped out by the shift to small cars. The protection offered by an air bag, for example, has been estimated to be equivalent to approximately 400 pounds of increased car mass. The Crandall-Graham study concludes that, absent the 27.5 miles per gallon CAFE standard, average new car weight would be 500 pounds higher. In effect, the current CAFE program has more than offset the safety benefits of air bags. Having paid the cost of new safety standards, the public is left with downsized cars that offer little if any net safety gains, and NHTSA continues to claim credit for saving both gasoline and lives.

Reform, Recidivism, or Incurability?

These are discouraging tales. Occasional hopeful signs can be undone by a new agency head or wiped out by a new administration. The intractable nature of the problem stems not from the fact that agencies

err (we all do), but from the inherent lack of correcting mechanisms in centralized decisionmaking. Couple this with the asymmetry of political risks, and it is surprising that matters are not worse.

It would be one thing if agencies only advised. We could view them as elderly kinfolk fixated on safety, who dependably remind us to wear our galoshes but rarely tell us when to remove them. As long as we understood that they only gave us one side of the story, we would not be badly misled. Agencies not only overadvise, however; they overregulate. And as these stories demonstrate, sometimes agencies even regulate against safety.

What can be done? Certainly the asymmetry can be minimized by making less visible risks more prominent. Suppose that the FDA accompanied every drug approval announcement with a public estimate of the therapeutic loss caused by its review process. Pressures to reduce those losses would introduce new competing agency incentives. Whether they could ultimately triumph over various forms of administrative gamesmanship is an open question.

Public health and safety are often viewed as representing one of the strongest cases for government regulation. Many who trust competition to give them low prices and wide variety are less sure of market results when it comes to product safety. But death by regulation, whether unintentional or deliberate, is the relatively unknown opposite side of that coin. Its recognition as an aspect of government regulation would be a significant step forward in civic education.

*Sam Kazman
Competitive Enterprise
Institute*

NIMBY and LULU

Modern society requires places to put hazardous wastes, halfway houses for prisoners, radioactive detritus, and trash. Government officials carefully write rules so that these LULUs (locally unwanted land uses) are reasonably safe. But when the broad studies are completed and a specific area or community is selected, residents there usually say, "It's a fine idea to store wastes (or prisoners, or mentally retarded people) in a well-designed building. But put it somewhere else." As James Goldberg, a

consultant on public policy issues, writes, "[i]f the State Office of Leprechaun Affairs wanted to site a pot of gold, the war-cry would go up, 'Not in my back yard!'"

Consider some examples. In April 1990 residents of Allegany County in western New York were strongly opposed to the county's being one of the two sites proposed for a low-level radioactive waste site. (A survey showed 91 percent of county residents were hostile to the idea.) When officials from the siting commission showed up to inspect a possible site, rioting erupted. Citizens attempted to keep the officials away by rolling giant snowballs on them, blocking their path with horses, and chaining themselves across bridges. As an indication of the intensity of feeling in the county, none of the rioters was indicted by the county grand jury convened to investigate the disturbance. This was despite the facts that the activities had been captured by still and video cameras and that state police were willing to testify.

On November 8, 1990, rioting broke out in South Korea about plans to dispose of low- and medium-level radioactive wastes. A police station was burned to the ground in the battle, 73 people were arrested, 22 were injured, and as many as 10,000 were said to have protested. The minister of science and technology was replaced as result of the clash.

For the past four years Nevada has been engaged in legal skirmishes against the U.S. government. Nevada was designated by the Nuclear Waste Policy Act amendments of 1987 as the sole state to be investigated for the purpose of constructing a high-level nuclear waste repository. This has naturally led Nevada residents to surmise that they will host the eventual location. The Supreme Court held in February 1991 that Nevada cannot prevent the federal government from proceeding with the project, but few individuals are placing bets that the Department of Energy will begin construction any time soon.

If the residents of Allegany County, South Korea, or Nevada were asked whether those wastes should be stored in a well-designed facility somewhere, they would almost certainly say, "Yes, but not here." The NIMBY problem only *seems* insoluble, however. In fact, similar problems are resolved every day by a "reverse Dutch auction."

Consider the problems facing an airline manager. He knows that a percentage of the passengers on a specific flight will not have shown up when the aircraft is ready to take off. As a result, the airline may sell more tickets for a flight than there are seats available in the expectation that a normal

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Welfare Reform

March 12, 1992

WAIVER TRACKING SHEETS

Highlights:

- * The Oregon Medicaid reform waiver request is still with Secretary Sullivan.
- * HHS/ACF staff have been working with Wisconsin to facilitate waivers including the bonus for AFDC mothers who marry, nicknamed "bridefare" in the press. The State is very interested in being the first to submit its formal request. A detailed draft package will be submitted to HHS within a few days, with an eye towards a final package next week. There don't seem to be any significant unresolved issues.
- * California may submit its waiver package within a couple of weeks. Some waiver requests have not been worked through in detail and may not be included in this first package.

March 12, 1992

WELFARE AND MEDICAID WAIVER TRACKING SHEET

STATE (new States in bold)	PROPOSAL	AGENCY	RECEIVED BY AGENCY	STATUS (new items & changes in bold)
RECEIVED				
Oregon	Medicaid waivers part of broader health access and cost containment proposal. Medicaid would be extended to all below poverty, but only a standard package.	HHS/HCFA	8/91	With Sec Sullivan for decision. Issues include, consistency with ADA, budget neutrality, grandfathering of current recipients, concerns that abortion incentive may exist under some circumstances.
EXPECTED				
California	AFDC benefits reduced 10 percent across the board, another 15 percent after a family has been on the rolls 6 months; new arrivals receive benefits at the level of States they left for one year; no additional benefits for children born to mothers on the rolls; minor mothers must live with parents, are rewarded for staying in school, face penalty from dropping out; disregard one-third of earnings permanently; eliminate 100 hour rule for two-parent families. Some interest in Medicaid expansions for children.	HHS/ACF HHS/HCFA	Not received yet.	OMB meeting with CA officials took place 3/9. At subsequent meeting with HHS, State officials decided to submit waiver package without request for waivers for new-arrivals benefit. Evaluation to be based on experimental design.
Colorado	Require school attendance by dependent children; require immunizations; liberalize requirements for AFDC-UP to make marriage more attractive.	HHS/ACF	Not received yet.	HHS received copy of a bill that may be introduced before the State legislature.

STATE (new States in bold)	PROPOSAL	AGENCY	RECEIVED BY AGENCY	STATUS (new items & changes in bold)
Connecticut	Require school attendance by dependent children; require that parents immunize children.	HHS/ACF	Not received yet.	No contact yet between State and HHS. Press reports more than 60 welfare bills pending before State legislature.
Florida	Medicaid: expansion of eligibility to permit Medicaid buy-in as part of broader access effort including small business and other pooled purchasing arrangements. Voluntary price controls and admin savings measures.	HHS/ACF HHS/HCFA	Not received yet.	Medicaid: 1/31 Chiles letter to Sullivan: 1) providing overview of bill that must go through State legislature; 2) asking for help in the future with Federal waivers and statutory changes.
	AFDC: incentive payments or reductions for school attendance of teenagers on AFDC.			AFDC: proposal is in bill before legislature.
Maine	Benefits would not increase automatically for mothers on AFDC who have another child while on the rolls.	HHS/ACF	Not received yet.	State letter to HHS regional office asking guidance about how to get Federal approval of change.
Maryland	Reduce AFDC benefits across the board about 30 percent, but restore benefits for good behavior - immunizing children, school attendance.	HHS/ACF	Not received yet.	State wants to make changes without waivers. ACF considering whether that would be possible under current law.
Mississippi	Liberalize AFDC-UP workforce attachment requirement for AFDC-UP applicants under 20 years old. Increase their earnings disregard to \$200 plus 50 percent. Limit grant to one-child. Require all dependent children to remain in school.	HHS/ACF	Not received yet.	State legislator provided HHS with description of a bill he might propose.
Missouri	Require school attendance by dependent children; increase skills training for AFDC teens and noncustodial parents.	HHS/ACF	Not received yet.	HHS received copy of draft letter from Gov Ashcroft to Secretary Sullivan.

STATE (new States in bold)	PROPOSAL	AGENCY	RECEIVED BY AGENCY	STATUS (new items & changes in bold)
New Jersey	Benefits would not increase automatically for mothers on AFDC who have another child. However, they would be eligible for higher earnings disregards that would permit them to keep more of their AFDC as their earnings rise. Step-parent income deeming liberalized. Eliminate 100-hour rule for AFDC-UP fathers. Extend transitional Medicaid to two years.	HHS/ACF HHS/HCFA	Not received yet.	Gov Florio and other State officials met with OMB officials 3/12. State will soon share draft materials related to cost and evaluation design. Target is waiver approval by 5/4 and phased start-up beginning 7/1.
Oregon	State referendum called for conversion of AFDC, food stamps, other programs into single jobs program.	HHS/ACF HHS/HCFA USDA/FNS	Not received yet.	HHS met with Oregon officials last year on plan passed in referendum. Implementing legislation is pending in State. It is doubtful that proposal could be approved due to limitations in current Food Stamp Program waiver authority.
Rhode Island	Benefits would not increase automatically for mothers on AFDC who have another child.	HHS/ACF	Not received yet.	Based on discussion of waivers at NGA meeting, State has phoned HHS regional office about how to get Federal approval of change.
Utah	Grants would be lowered and termed "child support assurance," differential would be restored for participation in JOBS education and training activities; AFDC-UP attachment to work force rule would be liberalized.	HHS/ACF	Not received yet.	Utah submitted draft waiver package to HHS/ACF this week.

STATE (new States in bold)	PROPOSAL	AGENCY	RECEIVED BY AGENCY	STATUS (new items & changes in bold)
Vermont	AFDC: All child support payments go directly to AFDC family; target child support enforcement; waive rule that families are not eligible for AFDC-UP if father works more than 100 hours per month; workfare for all AFDC-UP fathers on the rolls more than one year; increase maximum earnings disregarded in calculating benefits; cash incentives to participate in parenting classes, carry out specific responsibilities; possibly workfare for all AFDC adults after a certain period on the rolls. Food Stamps: Disregard first \$50 in child support (like AFDC); liberalize maximum auto value; cash-out benefits to working poor; implement EBT.	HHS/ACF USDA/FNS	Not received yet.	State submitted report recommending many AFDC changes, ten of which appear to require waivers. ACF and FNS held conference call to answer State's questions about application procedures. Waivers would not be implemented before FY93-4.
Virginia	AFDC benefits would not increase automatically for mothers on AFDC who have another child. Disregard 25 percent of earnings when calculating benefits.	HHS/ACF	Not received yet.	No contact between HHS and State yet. Information from press item about bill before State legislature.
Washington	State has major liberal reform demonstration in fourth year. Legislature to consider a wide range of "new paternalism" changes.	HHS/ACF	Not received yet.	No contact between HHS and State yet. Information from press item on bills that may be submitted to the State legislature.

STATE (new States in bold)	PROPOSAL	AGENCY	RECEIVED BY AGENCY	STATUS (new items & changes in bold)
Wisconsin	State has several demonstrations in progress from LIOB days including Learnfare (attend school or lose AFDC). State may ask for waivers to: encourage marriage of unmarried mothers on AFDC by liberalizing two-parent rules, increasing work incentives; provide families who move in from other States with benefits set at the level of the States they left.	HHS/ACF HHS/HCFA	No waiver requests pending.	Draft application for bridefare waivers to be submitted to HHS in a few days. The State is very interested in being the first to get waivers approved. Will do evaluation with experimental design. State has received more than \$40m in Federal matching funds based on "savings" from their demonstration beginning in 1987 (most from a 5 percent benefit cut). State currently pursuing an additional \$100m in "savings" claimed from the same demonstration. HHS and OMB disagree with State's claim.

WEEKLY WAIVER TRACKING SHEET

STATE (newer States in bold)	PROPOSAL	AGENCY	RECEIVED BY AGENCY	STATUS (new items & changes in bold)
RECEIVED				
Florida	Medicaid Extension to Pregnant Women and Children - (mandated by section 6407, P.L. 101-239, OBRA 89). Florida's demonstration will implement a program to market low-cost commercial health insurance to families whose children are currently ineligible for regular Medicaid benefits and who have been without insurance for at least 6 months. The School Enrollment-Based Health Insurance project will offer coverage through a major Florida school system.	HHS/HCFA	Awarded 09/90.	The waiver cost estimate has been pending in OMB since February 11, 1992.
Oregon	Medicaid waivers part of broader health access and cost containment proposal. Medicaid would be extended to all below poverty, but only a standard package.	HHS/HCFA	08/91	Briefing held for Sullivan. Issues include budget neutrality, grandfathering of current recipients, concerns that abortion incentive may exist under some circumstances.

WEEKLY WAIVER TRACKING SHEET

STATE (newer States in bold)	PROPOSAL	AGENCY	RECEIVED BY AGENCY	STATUS (new items & changes in bold)
RECEIVED				
New York	PACE - (mandated by P.L. 99-509, as amended by P.L. 101-508, OBRA 90). This project will implement the Program for All-Inclusive Care for the Elderly (PACE) at the Rochester General Hospital in New York. The eighth PACE site, this demonstration will provide comprehensive health care services on a prospective, capitated basis to the very frail elderly who are nursing home eligible but remain in the community as a result of the services offered through the demonstration.	HHS/HCFA	Received 02/92.	The waiver cost estimate is under review in HCFA.

WEEKLY WAIVER TRACKING SHEET

STATE (newer States in bold)	PROPOSAL	AGENCY	RECEIVED BY AGENCY	STATUS (new items & changes in bold)
RECEIVED				
New York	Pregnant Substance Abuser Demonstration - New York was chosen to participate in a demonstration to provide treatment for pregnant drug-addicted women. This project will provide residential treatment for women and their children up to 2 years of age, including treatment in Institutions for Mental Disease. These treatment programs will provide services to both mothers and children, including substance abuse treatment, health care, and developmental screening.	HHS/HCFA	Awarded 09/91.	New York State is revising the draft protocol, and the waiver cost estimate is expected next week.
Massachusetts	Pregnant Substance Abuser Demonstration - Massachusetts will provide community outreach, comprehensive case management service, coordination for high risk women, and services will be provided to women residing in Institutions for Mental Disease.	HHS/HCFA	Awarded 09/91.	Massachusetts submitted the draft protocol. The waiver cost estimate is expected next week.

WEEKLY WAIVER TRACKING SHEET

STATE (newer States in bold)	PROPOSAL	AGENCY	RECEIVED BY AGENCY	STATUS (new items & changes in bold)
RECEIVED				
South Carolina	Pregnant Substance Abuser Demonstration - South Carolina's project will provide intensive medical care to high risk pregnant women, as well as ancillary services such as nutrition assessment, social work assessment, and case management. Also included is a 5-day detoxification in a residential setting.	HHS/HCFA	Awarded 09/91.	South Carolina is revising the draft protocol, and HCFA is reviewing the waiver cost estimate.
South Carolina	Uninsured Demonstration - (mandated by section 4745 of P.L. 101-508, OBRA 90). SC was chosen to participate in a Congressionally-mandated demo to provide Medicaid services to certain low-income families. SC will offer to uninsured individuals below 150% FPL, employed by small firms, a package of Medicaid benefits similar to those offered through the State Medicaid program. The project will use primary care physicians as gate-keepers.	HHS/HCFA	Awarded 09/91.	South Carolina is revising the draft protocol, and is preparing the waiver cost estimate.

WEEKLY WAIVER TRACKING SHEET

STATE (newer States in bold)	PROPOSAL	AGENCY	RECEIVED BY AGENCY	STATUS (new items & changes in bold)
RECEIVED				
Washington	Pregnant Substance Abuser Demonstration - Yakima County, which has the highest teen pregnancy rate in the State, will expand established outreach programs to identify and recruit low-income substance abusing pregnant women who do not currently receive health care or drug treatment. Services will also be provided in Institutions for Mental Disease.	HHS/HCFA	Awarded 09/91.	HCFA is reviewing Washington's draft protocol and is waiting for the draft waiver cost estimate.
Washington	Uninsured Demonstration - (mandated by section 4745, P.L. 101-508, OBRA 90). This project is a variation on the statewide Washington Basic Health Plan and will provide services for individuals whose incomes are below 150 percent FPL who are not eligible for Medicaid. PPOs and HMOs will be used to provide care.	HHS/HCFA	Awarded 09/91.	Washington is revising the draft protocol and is preparing the waiver cost estimate.

WEEKLY WAIVER TRACKING SHEET

P.02 STATE (new States in bold)	PROPOSAL	AGENCY	RECEIVED BY AGENCY	STATUS (new items & changes in bold)
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California 12	To provide a selective provider contract for individuals who need a nursing facility care. The Nursing Home Placement Waiver Program will be mandatory Statewide.	HHS/HCFA	1/24/92	Pending in HCFA; 90th day is 4/23/92.
Colorado 02.R06	Renewal--To provide a primary care case management program in a fee-for-service setting. The Primary Care Case Management Program has an enrollment of 100,200 AFDC and SSI participants and is mandatory Statewide.	HHS/HCFA	12/10/91	Additional information request sent to RO on 2/20/92; therefore 90-day clock has stopped. Awaiting State's response.
Florida 12	To provide a primary care case management program in a prepaid health plan and fee-for-service setting. The Florida Prepaid Mental Health Plan will be mandatory in Hardee, Highlands, Hillsborough, Mantee, and Polk Counties for the AFDC and SSI population.	HHS/HCFA	2/4/92	Pending in HCFA; 90th day is 4/23/92.
Georgia 01	To provide a selective provider contract for all Medicaid pregnant women. The Day Treatment for Pregnant Women/Substance Abusers program projects an enrollment of 3,000 participants and will be mandatory in Atlanta and in urban Dekalb and Fulton Counties, and in rural Liberty, Gwynn, and Bullock Counties.	HHS/HCFA	2/18/92	Pending in HCFA; 90th day is 5/18/92.
Illinois 03.001	To provide a selective hospital contracting waiver program to furnish additional services which are not covered under its approved State Medicaid Plan. The Experimental Projects program will be Statewide.	HHS/HCFA	9/3/91	Additional information request sent to RO on 12/1/91; therefore, 90-day clock has stopped. Awaiting State's response.

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Kentucky 4R03	Renewal--To provide a primary care case management program in a fee-for-service setting. The Kentucky Patient Access and Care System (KenPAC) has an enrollment of 196, 836 AFDC and AFDC-related participants and is mandatory in nearly all counties.	HHS/HCFA	12/5/91	Additional information request sent to RO on 1/29/91; therefore, 90-day clock has stopped. Awaiting State's response.
Maryland 2.M03	Waiver modification to provide a primary care case management program in a fee-for-service setting. The Diabetes Care Program projects an enrollment of 2,912 categorically needy recipients, who are discharged from an inpatient stay related to diabetes and will be voluntary Statewide.	HHS/HCFA	1/3/92	Additional information request sent to RO on 3/2/92; therefore, 90-day clock has stopped. Awaiting State's response.
Michigan 01.R05.M01	Waiver modification to provide a primary care case management program in a fee-for-service setting. The Primary Care Physician Sponsor Program has 90,000 AFDC and AFDC-related participants and is mandatory in 1 county.	HHS/HCFA	12/19/91	Additional information request sent to RO on 3/2/92; therefore, 90-day clock has stopped. Awaiting State's response.
Michigan 08	Renewal--To provide a primary care case management program in a fee-for-service setting. The Primary Care Physician Sponsor Program has 95,000 AFDC and AFDC-related participants and is mandatory in 1 county.	HHS/HCFA	2/21/92	Pending in HCFA; 90th day is 5/21/92.
Missouri 01.R02	Renewal--To provide a primary care case management in a fee-for-service setting. The Managed Health Care Program has an enrollment of 30,726 AFDC and AFDC-related participants and is mandatory in Jackson County.	HHS/HCFA	2/28/92	Pending in HCFA; 90th day is 5/28/92.
Montana 01	To provide a selective provider contract for individuals residing in personal care facilities. The Personal Care Facilities Pilot Program projects an enrollment of 32 participants and will be voluntary in four facilities Statewide.	HHS/HCFA	1/7/92	Pending in HCFA; 90th day is 4/6/92.

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New York 6.R01	Renewal--To provide a primary care case management program in a prepaid health plan setting. The Erie County Physician Case Management Program II provides all primary care physician and clinic services for 3,000 AFDC, SSI children and adults under 65 years of age and is voluntary for specific zip code areas within Buffalo and Orange County.	HHS/HCFA	12/19/91	Pending in ASMB as of 3/2/92; 90th day is 3/18/92.
New York 18	To provide a primary care case management program in a fee-for-service setting. The Broome County Physicians Case Management Program projects 1,800 AFDC recipients to participate in this voluntary waiver in Broome County.	HHS/HCFA	2/7/92	Pending in HCFA; 90th day is 5/7/92.
Pennsylvania 14.R03	Renewal--To provide a primary care case management program in a health insuring organization setting. The HealthPASS waiver program provides all State Plan services, except for long-term care, dental, eyeglasses and similar items and services, for 85,000 Medicaid eligibles and is mandatory in south and west Philadelphia.	HHS/HCFA	1/27/92	Pending in HCFA; 90th day is 4/26/92.
Pennsylvania 14.M12	Waiver modification to expand the scope of benefits to persons eligible under categorically and medically needy categories under a primary care case management program (HealthPASS).	HHS/HCFA	1/29/92	Pending in HCFA; 90th day is 4/28/92.
South Carolina 12.R01	Renewal--To provide a primary care case management program in a fee-for-service setting. The Mental Health Case Management program has 160 Medicaid eligible SSI mentally ill and non-institutionalized individuals between ages 22 through 64 and is mandatory in 8 counties.	HHS/HCFA	11/5/91	Additional information request sent to RO on 1/24/92; therefore, 90-day clock has stopped. Awaiting State's response.
Tennessee 13.R07	Renewal--To provide primary care case management in a fee-for-service setting. The Memphis Pediatric Case Management Project has 3,200 categorically needy AFDC and AFDC-related participants under age 21 and is voluntary in Shelby County.	HHS/HCFA	8/14/91	Additional information request sent to RO on 10/23/91; therefore, 90-day clock has stopped. Awaiting State's response.

Washington
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To provide a primary care case management program in a health maintenance organization setting. The Spokane County Mandatory Choice program will be mandatory in Spokane County for AFDC recipients.

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Additional information request sent to RO on 1/9/91; therefore, 90-day clock has stopped. Awaiting State's response.

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HOME AND COMMUNITY-BASED

Alabama 0241.01	Waiver modification to 0241 to change specialized medical equipment and supplies, to medical supplies and assistive technology and revise formula.	HHS/HCFA	2/18/92	Pending in HCFA: 90th day is 5/18/92.
Alabama 0245	To provide case management, respite, personal care, habilitation, environmental modifications, skilled nursing, specialized medical equipment and supplies, personal emergency response systems, companion services, physical therapy, occupational therapy, speech hearing and language and residential services to the mentally retarded/developmentally disabled inappropriately placed in nursing facilities.	HHS/HCFA	12/6/91	Additional information request sent to RO on 2/20/92; therefore, 90-day clock has stopped. Awaiting State's response.
Alabama 0001.90.R1.03	Waiver modification to 0001.90.R1 to remove resident services component and replace with residential habilitation, training, expand services to include environmental modifications, medical equipment and supplies, personal emergency response systems, and skilled nursing, expand habilitation services to include day habilitation, prevocational and supported employment, add clients and revise formula.	HHS/HCFA	1/10/92	Additional information request sent to RO on 3/5/92; therefore, 90-day clock has stopped. Awaiting State's response.
California 0164.90	Renewal--To provide case management, home health aide, respite, environmental modifications, skilled nursing, utility coverage and Medi-Cal supplementation for infants and children in out-of-home care to physically disabled.	HHS/HCFA	2/3/92	Pending in HCFA; 90th day is 5/3/92.
Colorado 0006.90.R1.03	Waiver modification to 0006.90.R1 to request exemption of independent assessment requirement.	HHS/HCFA	11/12/91	Additional information request sent to RO on 2/4/92; therefore, 90-day clock has stopped. Awaiting State's response.

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TO

HCFA - BUDGET

FROM

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daho 076.90.R1	Renewal--to provide personal care services to A/D and the mentally retarded/developmentally disabled.	HHS/HCFA	12/24/91	State stopped clock on 3/5/92 to resubmit information.
Illinois 0147.90	Model waiver to provide home health aide, respite, environmental modifications, private duty nursing, special medical supplies, equipment and appliances, medical day care and placement maintenance counseling to technology dependent and medically fragile children.	HHS/HCFA	12/16/91	Stopped stopped clock on 3/4/92 to resubmit information.
Illinois 0142.90.01	Waiver modification to 0142.90 to serve individuals under age 21, increase clients who meet spenddown obligation, include individuals who are ventilator assisted and accommodate growth of waiver.	HHS/HCFA	10/23/91	State stopped 90-day clock on 12/19/91 to resubmit information.
Illinois 0204.01	Waiver modification to 0204 to add waiver clients, revise formula and add community living facilities an optional residential setting.	HHS/HCFA	10/1/91	Additional information request sent to RO on 12/13/91; therefore, 90-day clock has stopped. Awaiting State's response.
Illinois 0205.01	Waiver modification to 0205 to increase waiver clients and revise cost estimates.	HHS/HCFA	9/6/91	Additional information request sent to RO on 11/21/91; therefore, 90-day clock has stopped. Awaiting State's response.
Illinois 0167	Model waiver to provide home health aide, respite, environmental modifications, private duty nursing, special medical supplies, equipment and appliances, medical day care and placement maintenance counseling to technology dependent and medically fragile children.	HHS/HCFA	12/16/91	State stopped 90-day clock on 2/14/92 to resubmit information.

Indiana 0249	To provide case management, personal assistance, respite, adult day care, residential and day habilitation, prevocational services, supported employment, environmental modifications, assistive technology, personal emergency response systems, physical therapy, occupational therapy, speech/language services to individuals with mental retardation and related conditions.	HHS/HCFA	1/7/92	Pending in HCFA; 90th day is 4/6/92.
Indiana 3210.01	Waiver modification to 0210 to correct technical language in service definitions and standards, to indicate that Level of Care can be delegated to preadmission screening agencies; conduct random sample of Level of Care determine on quarterly basis.	HHS/HCFA	2/25/92	Pending in HCFA; 90th day is 5/25/92.
Kentucky 10145.90	Model waiver to provide private duty nursing, medical equipment and supplies to 2 children under 13 with campomelic dysplasia.	HHS/HCFA	2/24/92	Pending in HCFA; 90th day is 5/24/92.
Louisiana 1200.11	Waiver modification to 0200 to increase recipients in years 2 and 3.	HHS/HCFA	2/25/92	Pending in HCFA; 90th day is 5/25/92;
Louisiana 1251	To provide personal care attendant services to adults with loss of sensory or motor functions.	HHS/HCFA	1/10/92	State stopped 90-day clock on 2/14/92 to resubmit information.
Maryland 1023.91.R1	Renewal--to provide case management, resident habilitation, day habilitation, environmental modifications, respite and intensive behavior management program to the mentally retarded/developmentally disabled.	HHS/HCFA	1/23/92	Pending in HCFA; 90th day is 4/22/92;
Maryland 1023.91.08	Waiver modification to 0023.91 to specify support services required under COMAR, expand residential and day habilitation to include dental and nursing, modify residential habilitation to include CSLA, add intensive behavior management, expand definition of environmental modifications, include individuals who are developmentally disabled other than mentally retarded, increase waiver clients and other technical changes.	HHS/HCFA	12/11/91	Additional information request sent to RO on 2/13/92; therefore, 90-day clock has stopped. Awaiting State's response.

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Maryland 0118.90.07	Waiver modification to 40118.90 to exclude any entities with a conflict of interest as providers of waiver case management.	HHS/HCFA	3/9/92	Pending in HCA; 90th day is 6/7/92.
Massachusetts 059.92.R1	Renewal--to provide case management, chore, homemaker, social day care and respite to the frail elderly.	HHS/HCFA	2/20/92	Pending in HCFA; 90th day is 5/22/92.
Minnesota 0169.01	Waiver modification to 40169 to request that the effective date be changed from March 1, 1991 to April 1, 1992.	HHS/HCFA	3/9/92	Pending in HCFA; 90th day is 6/7/92.
Missouri 197.04	Waiver modification to 0197 to request an exemption of independent assessment requirement.	HHS/HCFA	12/2/91	Additional information request sent to RO on 2/4/92; therefore, 90-day clock has stopped. Awaiting State's response.
New Hampshire 060.90.03	Waiver modification to 0060.90 to increase waiver recipients for years 7 and 8.	HHS/HCFA	1/11/91	Additional information request sent to RO on 3/19/91; therefore, 90-day clock has stopped. Awaiting State's response.
New Mexico 161.90	Renwal--To provide case management, homemaker/personal care and private duty nursing to patients with AIDS or ARC.	HHS/HCFA	7/24/91	State stopped 90-day clock on 9/12/91 to resubmit information.
New Jersey 244	To provide case management, respite, homemaker, environmental modifications, transportation, special medical equipment and supplies, private duty nursing, hospice, special home services, provider supervision, intensive supervision in Division of Youth and Family Services adoption homes, special groups, foster care homes, specialized nutrition and nonlegend drugs to medically fragile children through age 21.	HHS/HCFA	11/27/91	Additional information request sent to RO on 2/4/92; therefore, 90-day clock has stopped. Awaiting State's response.

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North Carolina 0132.90.02	Waiver modification to 0132.90 to update 3 waiver service definitions and qualifications.	HHS/HCFA	12/2/91	Additional information request sent to RO on 2/5/92; therefore, 90- day clock has stopped. Awaiting State's response.
North Carolina 0132.90.03	Waiver modification to 0132.90 to request exemption of independent assessment requirement.	HHS/HCFA	2/3/92	Pending in HCFA; 90th day is 5/3/92.
North Dakota 0037.90.R1.01	Waiver modification to 0037.90R1 to specify waiver services for developmentally disabled individuals, revise formula and update administrative and operational changes regarding delivery of waiver services.	HHS/HCFA	3/2/92	Pending in HCFA; 90th day is 5/31/92.
Ohio 0196.02	Waiver modification to 0196 to delete private duty nursing and revise formula.	HHS/HCFA	1/21/92	Pending in HCFA; 90th day is 4/20/92.
Ohio 0228	To provide case management, homemaker, personal care, specialized dental treatment, social work/counseling and transportation to AIDS or ARC patients at risk of hospitalization.	HHS/HCFA	12/27/91	State stopped 90-day clock on 2/7/92 to resubmit information.
Oregon 0117.90.05	Waiver modification to 0117.90 to implement ADP and amend definition of habilitation services to include residential services that provide less than 24 hr. supervision and live-in caregiver, add medical, dental and psychiatric services to definition of specialized consultation services and make minor technical changes.	HHS/HCFA	12/31/91	Pending in HCFA; 90th day is 3/30/92.
Oregon 0117.90.06	Waiver modification to 0117.90 to request exemption from independent assessment requirement.	HHS/HCFA	3/5/92	Pending in HCFA; 90th day is 6/3/92.
Oregon 0185.90	Renewal--To provide inhome services, residential care facility services, assisted living facility services, adult foster home services, minor physical adapts to home, home delivered meals and specialized living facility services to persons with physical disabilities.	HHS/HCFA	11/15/91	State stopped 90-day clock on 1/27/92 to resubmit information.

Rhode Island 0176.90	Renewal--To provide case management, adult day health homemaker, environmental modifications, medical equipment and supplies and personal emergency response systems to aged individuals 65 and over.	HHS/HCFA	3/3/92	Pending in HCFA; 90th day is 6/1/92.
South Carolina 0186.90	Renewal--To provide case management, private duty nursing, personal care, home delivered meals, inhome counseling, foster care, hospice and day care to HIV/AIDS patients.	HHS/HCFA	1/21/92	Pending in HCFA; 90th day is 4/20/92.
Tennessee 0128.90.01	Waiver modification to 0128.90 to personal assist, nursing related and minor home modifications and increase waiver clients.	HHS/HCFA	12/6/91	Additional information request sent to RO on 2/10/92; therefore, 90-day clock has stopped. Awaiting State's response.
Tennessee 0248	To provide case management, personal care, home delivered meals and environmental modifications to the aged and disabled.	HHS/HCFA	1/6/92	Pending in HCFA; 90th day is 3/30/92.
Texas 0181.90	Renewal--To provide skilled nursing to medically dependent children.	HHS/HCFA	12/24/91	State stopped 90-day clock on 2/27/92 to resubmit information.
Texas 0240.01	Waiver modification to 0240 to make waiver Statewide.	HHS/HCFA	2/24/92	Pending in HCFA; 90th day is 5/24/92.
Texas 0221.01	Waiver modification to 0240 to make many technical changes and changes to provider standards.	HHS/HCFA	2/24/92	Pending in HCFA; 90th day is 5/24/92;
Utah 0247	To provide case management, respite, homemaker, personal emergency response systems, adult day care and supportive maintenance to aged individuals 65 and over.	HHS/HCFA	12/31/91	Additional information request sent to RO on 3/9/92; therefore, 90-day clock has stopped. Awaiting State's response.
Virginia 0149.90	Renewal--to provide private duty nursing and respite to technology assisted individuals.	HHS/HCFA	2/10/92	Pending in HCFA; 90th day is 5/10/92.

West Virginia 0134.90.06	Waiver modification to 0134.90 to revise values C and D.	HHS/HCFA	6/28/91	Additional information request sent to RO on 9/13/91; therefore, 90- day clock has stopped. Awaiting State's response.
Wyoming 0236	To provide case management, personal care, respite, adult day health, transportation, personal emergency response system and home delivered meals to elderly and physically disabled individuals.	HHS/HCFA	2/21/91	Additional information request sent to RO on 5/10/91; therefore, 90- day clock has stopped. Awaiting State's response.

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3/16/92

Please file for Cam Findlay

Welfare Reform

File Insights From Past Federal-State Welfare Reform Demonstrations

- *State welfare reform demonstrations during the 1980s played a key role in the design and passage of the Family Support Act of 1988.*
 - Rigorous evaluations provided evidence that work/welfare programs are feasible and have positive impacts.
 - Extensive State investment in welfare reform created a momentum for change at the Federal level.
 - During floor debates on the Family Support Act Senator Moynihan said: "We know [welfare mothers] can succeed. And that is what we have set out to do. We are not without knowledge. The Governors' programs have been studied. . . The Manpower Demonstration Research Corporation in New York has given us some solid data."
- *Success in creating Federal-State welfare reform partnerships has depended heavily on the ability of Federal agencies to send clear, advance signals as to the criteria which will be used to review and approve waiver requests.*
 - Standards for determining "rigorous evaluation" and "cost neutrality" requirements should be clear.
 - Extensive, pre-submission technical assistance to States should be offered aggressively by Federal agencies.
- *Despite strongly-worded requirements for rigorous evaluation, the initial waiver requests submitted by most States have been accompanied by extremely weak evaluation designs.*
 - 80% of the initial evaluation proposals submitted with waiver requests would not have provided credible impact results.
 - Many States initially proposed State-wide reforms which made rigorous evaluation using control or comparison groups virtually impossible.

- *The quality of the evaluation design and the clarity of the standards for determining cost neutrality has greatly influenced both what has been learned from demonstrations and the magnitude of the cost risk to the Federal government.*
 - Weak evaluation designs and cost neutrality standards in a past New Jersey demonstration led to a \$25 million windfall for the State based on inadequately documented caseload reduction estimates.
 - A weak evaluation design for the Wisconsin Learnfare demonstration has hampered efforts by both HHS and the State to refute claims that Learnfare has failed.
 - "Terms and conditions" related to the determination of "cost neutrality" must be stated with extreme care. Extensive negotiations with Washington State resulted from this oversight.
- *In most cases, post-submission negotiations with States have resulted in the development of acceptable evaluation designs.*
 - Of the 16 states with approved waivers, all but one agreed to rigorous evaluation designs for at least some portion of the demonstration. Evaluation control or comparison group strategies have provided the most reliable basis for determining what costs would have been in the absence of the demonstration.
 - However, several states withdrew waiver requests because agreement could not be reached on evaluation design.
- *Good demonstration program and evaluation design do not necessarily guarantee successful implementation.*
 - Political and fiscal changes have created unevenness in the ongoing State support for approved demonstrations.
 - Implementation of cost neutrality standards has required extensive involvement of State operations and financial management staff who did not participate in the framing of the original demonstration.

SEC. 3. SECTION 1115 DEMONSTRATION WAIVERS.

Section 3 would amend section 1115 of the Social Security Act to permit waivers, for demonstrations under titles IV-B and IV-E, of State plan requirements and limitations on Federal matching payments.

SEC. 3. SECTION 1115 DEMONSTRATION WAIVERS.

Section 1115(a) of the Social Security Act (42 U.S.C. 1315(a)) is amended --

(1) in the matter preceding paragraph (1), by striking out "part A or D" and inserting instead "part A, B, D, or E";

(2) in paragraph (1), by inserting "422, 471, 472, 473," after "402,"; and

(3) in paragraph (2), by inserting "423, 474," after "403,".

Congress of the United States
House of Representatives
Washington, DC 20515

March 12, 1992

The Honorable Jo Anne Barnhart
Assistant Secretary for
Family Support Administration
Department of Health & Human Services
370 L'Enfant Promenade, S.W., Suite 600
Washington, D.C. 20447

Dear Jo Anne:

Thanks so much for meeting with us today. We wanted to review the points we discussed during the meeting:

1. We would appreciate your help in convincing the White House and the Secretary to be very aggressive in pushing the welfare waiver issue. We recommend that the President send a letter to the governors outlining the types of reform now being considered for waivers (making benefits contingent on immunizations, modifying the marriage penalty, eliminating benefit increases for additional children, etc.) and the procedures states should follow to get waivers under Section 1115 of the Social Security Act. The letter should clarify cost neutrality and the types of evaluations that must be conducted to qualify for waivers. Guaranteeing a speedy turnaround -- perhaps 30 days or so -- is essential. Beyond this effort, we would like you to discuss with the White House welfare group the idea of a downlink hookup between the President and governors and state legislators interested in waivers. This program could help highlight the steps the Administration has already taken to streamline and simplify the waiver process.

2. Also, the President could conduct a press conference in which he points out that the welfare system has grown sclerotic because of the maze of committees, programs, statutes, and regulations in Washington. We would suggest that he use such visual aids as a 6-foot high stack of books that contain the regulations for just one set of social programs. After observing that Washington is choking the states, he should say that the simplest way to cut through this cement spaghetti is to let governors take the money going to any given state for the many programs in a particular area (e.g., education, day care, drugs, job training) and allow them to receive a lump-sum payment from the federal government to streamline the programs, minimize paperwork, and increase the efficiency with which government uses

taxpayer dollars (it might be a good idea to have Bob Woodson or similar community advocates represented at the press conference). He would then announce that he is introducing a bill that would cut through the committees, statutes, and regulations to give states the flexibility they need to help people get themselves off welfare.

3. Another possibility is for the Administration to contact all the governors who have shown interest in welfare reform and invite them to a 1-day conference on how the federal government, including the Congress, could be reformed to allow innovation at the state and local level. We should pay careful attention to what they say and use it, along with recommendations from those knowledgeable about welfare reform in the Administration and Congress, to formulate proposals.

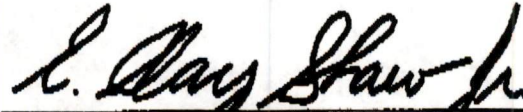
4. You have the outline of a welfare reform bill featuring time-limited AFDC that we will be introducing. Republicans on the Ways and Means Committee will introduce a second bill that, in addition to time-limited AFDC, features a child support assurance demonstration. We would value your comments and suggestions on the outline bill and would like to be in touch with you about the Ways and Means bill as it is being drafted. To the extent that it is useful to you, we would welcome the Administration's sponsorship of either or both bills. In fact, we would be very pleased to work with you in modifying the bills to be more in line with your judgements about what constitutes strong welfare reform legislation.

Finally, we hope you will communicate to the White House group our feeling that welfare reform is a good issue for Republicans. As long as we emphasize family values, work, wellness, and learning our initiatives will be greeted with public support, especially if they are cost neutral (they should not save money in the short run). All of us will benefit from a cooperative effort. We plan to meet with Gail Wilensky and Clayton Yeutter next week to communicate these messages to them as well.

Thanks again for meeting with us and for doing such an exemplary job of running many of the nation's most important welfare programs. We look forward to working with you.

Sincerely yours,


The Honorable Vin Weber


The Honorable E. Clay Shaw


The Honorable Newt Gingrich

Outline of Weber/Gingrich/Shaw Welfare Reform
March, 1992

1. Create the AFDC Transition Program

a. After 1 year of regular AFDC, families move into the AFDC Transition Program in which they are expected to work or prepare for work; at state option, participation in the AFDC Transition can begin as soon as families enroll in AFDC

b. At the end of 1 year, and every year thereafter, an assessment is made by states to determine whether the recipient has made "clear and substantial effort" toward preparing for work.

c. States, in consultation with the Secretary, must establish the guidelines by which "clear and substantial effort" is defined. States can set their own guidelines within the following framework:

1) families must participate at least 25% time on a year-round basis; their participation is calculated on a one-year measurement period (e.g., 100% time for 3 months or 50% time for 6 months fulfills the requirement)

2) within 12 months of enactment, the Secretary must publish rules about how education hours are counted; the guiding principle should be that meeting whatever a given educational institution (including professional training schools, 2-year programs, and 4-year programs) considers full-time enrollment, and maintaining at least minimum passing evaluations, should count as 100% time

3) in two-parent families, at least one parent must meet participation requirements

4) states can require participation of parents regardless of the age of their children, but all parents of children age 3 and older must participate

5) children born while the family is enrolled in AFDC do not exempt parents from participation under the child age rules (i.e., parents who have a child over age 3 or whatever minimum age is set by the state and then have a baby are required to renew their participation within 2 months of the birth)

6) all the programs authorized in section 482(d) count as participation under the AFDC Transition program

c. Sanctions. Participants who fail to meet the state-defined criteria for participation are sanctioned as follows:

--for the first offense, the AFDC grant is reduced by 50% of the difference between a household of 1 person and a household of 2 persons in that state

--for the second offense, AFDC grant is reduced by 100% of the difference between a household of 1 person and a household

of 2 persons in that state

--for the third offense, the family is dropped from AFDC altogether

d. Exemptions.

--disabled

--2 months following birth

--under 3 (or less at state option)

--last trimester of pregnancy

--providing full-time care of disabled

e. Families must leave welfare after 4 years

f. More money for states to educate and train

2. Parental Responsibility Initiative

a. Immunizations and Well-Child Examinations

--This program is optional for states

--Parents on AFDC must demonstrate that their children have received the set of immunizations and completed the well-child visits recommended by the American Academy of Pediatrics

--States, in consultation with the Secretary, should develop their own procedures to verify compliance with these requirements; however, the verification procedures cannot require visits by parents to the welfare departments; compliance procedures must be accomplished by phone, by mail, or by similar methods of communication

--Sanctions for noncompliance are the same as above

b. School Attendance

--This program is optional for states

--AFDC parents are required to insure that their children between the ages of 6 and 18 be enrolled in and attend on a regular public school or an accredited alternative school

--In consultation with the Secretary, states should define the attendance standards children must achieve

--Sanctions for noncompliance are the same as above

3. Marriage Penalty. If ^{an adult} ~~a mother~~ on AFDC marries a man who is

not the father of one or more of her children, and if their combined income is less than 150% of the poverty level, the AFDC grant would continue for up to two years. The grant would be for the family size equal to the number of children who are not the husband's.

4. Waiver Authority. Is Section 1115 restricted to demonstration programs? What would need to be changed to allow the Secretary to grant broader flexibility to states?

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3/23/92

Please file for Cam Findlay :

Title X

1. The President's November memo says that "Nothing in these regulations is to prevent a woman from receiving complete medical information about her condition from a physician." What does this mean for abortion discussion in Title X funded clinics?

The 1988 regulation will be implemented in accordance with the President's memorandum. The President's memorandum recognizes the unique physician-patient relationship, and ensures that Title X physicians and patients can speak on any medical matter. It applies to medical information provided by a physician to address a patient's medical condition or to respond to a patient's inquiry.

2. Is the physician is able to initiate a discussion about abortion with a patient? If not isn't this a restraint on a physician's speech?

A physician should provide a patient with whatever information he deems medically necessary within his judgment. He may also provide medical information in response to a patient's inquiries.

3. Is the physician in Title X permitted to make referrals for abortion?

A physician certainly can present the medical aspects of abortion and pregnancy to a patient who wishes to discuss it. Referrals may be made by Title X programs to full-service health care providers that perform or refer for abortion, such as Community Health Centers and hospitals, but not to providers whose principal activity is providing abortion services.

4. As there are remaining restraints on physicians, won't those Members of Congress who accepted the President's assurance of free speech feel betrayed?

The Department is not restraining free speech or good medical practice. Members of Congress and the medical community will not be upset by the parameters of good medical practice for physicians in Title X: no Member has called for physicians to steer confused pregnant teenagers to abortion.

5. Is the President's memo consistent with the 1988 regulation?

Yes, the President's memo is fully consistent with the regulation.

6. Why do you exclude nurse practitioners from the privilege given the physicians, even though nurse practitioners provide most of the prenatal care in the settings to which Title X clients will be referred?

Abortion can be a complicated medical situation. Only physicians, who have full medical training, should give that sort of advice.

7. Are non-physician Title X staff permitted to even say the word "abortion"?

The regulation does not forbid Title X staff from saying the word "abortion". In general, clinicians should state that abortion counseling and abortion referral are not services provided by Title X projects. Clinicians will make it clear that they can refer a client to the continuing health and social services necessary to promote her own health and the health of her unborn child.

8. Many or most Title X programs are integrated with other primary care health providers, such as those supported by the Maternal and Child Health program (MCH), why does the department insist that a list be used for referral to prenatal care, instead of simply moving a client from the Title X to the MCH rolls?

Provision of the list ensures both client choice and continuity of care. The Title X client should have the opportunity to freely choose her continuing care provider. If there are several providers in her area, there may be one that is more convenient for her, or one with whom she has had previous experience. If, upon review of the list, the client chooses the co-sited care, not only can she be transferred into the program, but the continuing health care can directly follow, if clinic scheduling permits.

9. A number of grantees have vowed to refuse Title X funds rather than acquiesce to the regulation. How will the Department react to that, and would you be able to replace them?

The Department does not believe that many grantees will leave the program. In the event that we lose grantees, the Department will expeditiously move to replace them to continue to serve our clients. In any event, resources and services available for family planning under Title X, will not be affected.

10. Why did the Department take so long in issuing the regulation?

This regulation affects a network of 4,000 clinics and presents many complex and interrelated issues that require careful consideration. In addition, the Federal court injunctions enjoining the regulation were not lifted for months after the Supreme Court decision that upheld the regulation in its entirety.

11. What is the oversight of the implementation in the Department?

The Title X program is administered by the 10 PHS regions, under Regional Health Administrators (RHAs). In addition, the Office of Population Affairs (OPA) in Washington will oversee the Regional Offices and provide guidance on questions that arise; OPA will ensure consistent application of the regulation nationwide.

THE WHITE HOUSE
WASHINGTON

DATE: _____

TO:

FROM: LINDA TARPLIN
Special Assistant to the President
for Legislative Affairs
1st Floor, East Wing, x7557

HHS forgot I
edit we all agreed
on this A.M.

Please substitute
this for the 1st
version I sent
you (of the fact
sheet)

IMPLEMENTATION OF THE TITLE X REGULATIONS

- o The purpose of the Title X program is the provision of preventive, pre-pregnancy family planning services. The Title X program is not a full-service health program. Once a woman is found to be pregnant, she no longer needs the services provided by Title X. Ten percent or less of the total number of clients coming into Title X clinics are found to be pregnant. Clients seeking more comprehensive medical services must be referred to another provider.
- o These regulations do not interfere with the doctor-patient relationship. The regulation will be implemented in accordance with the November 5, 1991 memorandum from President Bush which provides, "Nothing in these regulations is to prevent a woman from receiving complete medical information from a physician." This provision is intended to apply to medical information, provided only by a physician directly to his or her patient.
- o These regulations prohibit Title X projects from such activities as counseling, referring or steering clients for abortion. The regulations do not, however, forbid Title X projects from mentioning the word "abortion." These regulations provide that when a Title X client is found to be pregnant, that she must be provided a list of prenatal and social service providers. These providers may perform or refer for abortions, such as hospitals or Community Health Centers, as long as their principal business is not the provision of abortion. There, the client can learn about all her options from medical personnel trained in obstetrics.
- o These regulations are consistent with the policy that abortion is not an appropriate method of family planning. They are also consistent with the statute that created Title X, "None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning" (Section 1008 of Title X of the Public Health Service Act). The regulations only apply to Title X projects, and not to other HHS-funded programs.
- o Referral to specialized medical care for medical conditions which may complicate pregnancy must be made, even if the ultimate result may be the termination of her pregnancy. If a client is pregnant and suffers from a medical emergency, such as an ectopic pregnancy, the regulations require that the clinic refer her to emergency treatment even if it results in an abortion.
- o Because the Title X program is administered by Regional Health Administrators (RHA) in the 10 Public Health Service regions, the Department has issued a guidance on the implementation process and related issues. Within two weeks of reception of this guidance the RHAs will send letters to the grantees, seeking their assurances of compliance with the requirements of the regulation.
- o The assurance indicates that the grantee will not include abortion as a method of family planning. This assurance must be provided to the appropriate RHA within

30 days of notification. Following the provision of the assurance, grantees will have a 30 day period to come into compliance with the regulation. They may seek an extension if necessary.

- o These regulations do not prevent a woman from seeking an abortion outside of the Title X program. The regulatory requirements do not apply to grantee activities which are not a part of the Title X project.
- o The regulations have been implemented without incident in 5 states (Texas, Kentucky, South Dakota, Iowa, Nevada) since it became effective in 1988. Nationwide implementation was held up by litigation from 1988 until the regulation was upheld in its entirety by the U.S. Supreme Court in Rust v. Sullivan (1991) and injunctions restraining the Department were lifted.
- o Title X is a \$150 million federal family planning program serving 4 million clients through 4,000 clinics. It was established in 1970.

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3/23/92

Please file for Cam Findlay:

Title X

THE WHITE HOUSE
WASHINGTON

DATE: Mar. 19, 1992

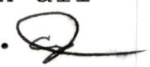
TO: Cam Findley

FROM: **CLAYTON YEUTTER**
Counsellor to the President for
Domestic Policy

File:
Title X

Cam, the Calio/Gray/Porter memo to the President on Title X looks good to me. If the implementation guidance fits the content of the memo, I see no reason why HHS should not proceed. The matter will unquestionably be controversial, but I'm not persuaded the regs should be put on hold until after the election. And if they are going to come out, I'd rather they came out now than later.

The President sure shouldn't be blindsided though, so Sam might want to schedule an oral briefing for the President before they go. With the tax bill issue on the agenda this week, it may be hard to fit into his schedule. That's particularly true if you want to do it today--ahead of the hearings you mentioned. But I'll let you and Sam figure that out.

Roger Porter should be in such a briefing since he has been heavily involved in all of this. No need for me to be there. 

THE WHITE HOUSE

WASHINGTON

March 17, 1992

MEMORANDUM FOR THE PRESIDENT

THROUGH: SAMUEL K. SKINNER
CHIEF OF STAFF

FROM: NICHOLAS E. CALIO
ASSISTANT TO THE PRESIDENT FOR LEGISLATIVE AFFAIRS

C. BOYDEN GRAY
COUNSEL TO THE PRESIDENT

ROGER B. PORTER
ASSISTANT TO THE PRESIDENT FOR ECONOMIC AND
DOMESTIC POLICY

SUBJECT: Title X Abortion Provisions: HHS Implementation
Guidance

As you will undoubtedly remember, HHS has in place regulations issued under its Title X family planning program forbidding projects receiving grant money under the program from engaging in abortion counseling or referral as a method of family planning. Last November, you vetoed the first version of the HHS appropriation bill because it contained a rider that attempted to suspend implementation of these regulations for one year. The House of Representatives sustained your veto after you issued a memorandum directing Secretary Sullivan to administer the regulations in a manner that would protect the doctor-patient relationship. See Tab A. Congress then passed the bill without the rider, and you signed it.

In the next day or two, HHS is planning on issuing implementation guidance to grantees concerning the administration of these regulations. This guidance will require grantees to sign a certificate stating that they are in compliance with the regulations, and will thus be the first serious step toward enforcing the regulations. Consistent with your memorandum, this guidance will make clear that HHS's regulations should not be construed to prevent doctors from giving medical advice that they believe appropriate for a project client. This week's Newsweek portrays the Administration position as a reasonable compromise that "ungagged" the doctors. See Tab B.

Nevertheless, a number of pro-choice Members and advocates may complain about the implementation guidance. Senators Chafee, Simpson, and Packwood have already met with HHS staff members and indicated their dissatisfaction with HHS's proposed implementation guidance. They and other opponents may try to raise the same issues with you directly.

First, HHS advises that the above-mentioned Senators would like HHS to issue no guidance and take no steps toward implementing the regulations until after the election. Were HHS to follow this course, however, it would be entirely inconsistent with your veto of last November, which prevented Congress from suspending the regulations for one fiscal year, to expire in October. Indeed, the course the Senators are recommending would suspend the regulations for one month longer than the bill you vetoed.

Second, opponents of the regulation may argue that the HHS guidance is inconsistent with your memorandum, because the guidance memorandum states that "referrals may be made by Title X programs to full-service health care providers that perform abortions, but not to providers whose principal activity is providing abortion services." This limitation, they may contend, is inconsistent with your directive to allow doctors to give clients complete medical information.

This language, however, is a direct quotation from the fourth point in your memorandum. Indeed, HHS Counsel's Office is of the view that the guidance the Senators advocate, permitting referrals to abortion clinics, would be inconsistent with the existing regulations and would therefore require a new rulemaking. That in turn would be viewed by the right-to-life groups as a betrayal.

Finally, critics of the regulation believe that not only doctors, but everyone else in Title X projects operating under the direction of doctors (e.g. nurses and social workers), should be able to give the "medical advice" they deem in the patient's best interest. The core objection to the regulations that your memorandum sought to address, however, was their supposed interference with the doctor-patient relationship, not their interference with the social worker-client relationship. And the memorandum's limitation to doctors was critical to its acceptance by pro-life representatives and advocates.

Thus, although some pro-choice Members and advocates may claim otherwise, HHS's proposed guidance is fully consistent with your memorandum, and the guidance the pro-choice forces advocate would be inconsistent with your memorandum, the regulations, and the policies underlying the regulations.

LEGISLATIVE OUTLOOK

While a number of pro-choice Republican Senators have been active in trying to influence the course and substance of the implementation document, it is the House of Representatives on which we must ultimately rely to sustain any veto on this issue. Further, the next legislative action will occur in the House.

Congressman Waxman is ready to move his bill, H.R. 3090, the "Family Planning Amendments Act of 1991", which would nullify the regulations. He is likely to have a hearing three days after the release of the guidance and has already requested HHS to testify. He could then immediately bring his legislation to the House floor as it was reported out of the Energy and Commerce Committee last July. Once passed, H.R. 3090 would be conferenced with S. 323, the Senate version of this legislation which passed the Senate by voice vote last year. In addition, this issue is likely to resurface in the annual HHS appropriation bill as it did last year. The veto on the FY 92 bill was sustained in the House by a vote of 276 to 156 and we believe that the House can sustain your veto again this year.

THE WHITE HOUSE

WASHINGTON

November 5, 1991

MEMORANDUM FOR THE SECRETARY OF HEALTH AND HUMAN SERVICES

Throughout the debate about the relationship of the Title X family planning program and abortion counseling, some have raised questions about the regulations dealing with services offered to pregnant women.

We must ensure that the confidentiality of the doctor/patient relationship will be preserved and that the operation of the Title X family planning program is compatible with free speech and the highest standards of medical care.

In order to clarify the purpose and intent of these regulations, I am directing that in implementing these regulations you ensure that the following principles, inherent in the statute, are adhered to:

1. Nothing in these regulations is to prevent a woman from receiving complete medical information about her condition from a physician.
2. Title X projects are to provide necessary referrals to appropriate health care facilities when medically indicated.
3. If a woman is found to be pregnant and to have a medical problem, she should be referred for complete medical care, even if the ultimate result may be the termination of her pregnancy.
4. Referrals may be made by Title X programs to full-service health care providers that perform abortions, but not to providers whose principle activity is providing abortion services.

I am determined to assure the integrity of the Title X program in its mission to provide family planning services to low-income individuals; adherence to this guidance will produce this result.





The 'Bush flu': In Tokyo

EPIDEMICS

Political Bug

President Bush finally beat the flu that caused him to vomit in front of the world. Unfortunately, Japan hasn't. A similar flu strain is rampant there, and now there's an appropriate name for it: *Busshu kaze*, or "Bush flu." Suffice it to say this particular virus generally provokes a certain unfortunate stomach reflux. According to *The Daily Yomiuri*, an English-language newspaper, the term is now one of the most popular new buzzwords in the country. It has even been used to describe a malady Japanese officials caught while negotiating trade issues with the United States.

PHILANTHROPY

Boca Raton Is Talking...

About the countess who perhaps wasn't. For years, Countess Henrietta de Hoernle, 79, was one of the biggest philanthropists in the Florida resort town. She and her husband, Count Adolph, donated millions to the city. Then the Boca Raton News reported that the de Hoernles bought their titles from a con man for \$20,000—a charge they deny. The countess, in turn, changed her will and put the \$22 million she had bequeathed to local charities into an undesignated trust. She later willed it back to charity.

Getting even: The countess



PERI PICKS

Hollywood is finally coming to its senses. It has stopped routinely forking out \$1 million-plus for every mediocre Bruce-Mel-Kevin vehicle that comes in over the transom. In 1990 "The Ticking Man," about a nuclear-bomb-armed robot terrorizing Moscow, sold for \$1 million with Willis in mind for starring role. Bruce passed—and now it's the town's priciest doorstep. An update on other bonus scripts:



Medicine Man: Tom Schulman got \$2.5 million for this tedious rain-forest romp. It's earned an unspectacular \$34.5 million.



The Last Boy Scout: Big-budget Willis romp has performed only so-so, considering Shane Black's script sold for \$1.75 million.



Radio Flyer: Columbia sank about \$40 million into this bomb about child abuse, including \$1.1 million to writer David Mickey Evans.



Basic Instinct: Joe Eszterhas's \$3 million script outraged gays and feminists. With a \$49 million budget, it'll be hard to break even.

ABORTION

Ungagged

George Bush may have averted a midcampaign fracas over abortion. After the Supreme Court last year upheld Reagan-era regulations barring doctors in federally funded family-planning clinics from counseling patients about abortion, the White House called for new rules based on the court's decision. As a sop to pro-choice activists and doctors, the new regulations, due later this month, will permit doctors in those clinics to refer women who want to end their pregnancies to facilities that perform abortions. But in a nod to pro-lifers, nurses won't be allowed to discuss abortion. Pro-lifers, who lobbied hard for a gag on both doctors and nurses, say they will accept the compromise regs.



Shopping his memoirs: Noriega

MEDIA

Noriega Tells All

Manuel Noriega's trial isn't over yet, but the former Panamanian strongman is confident about the future. He has taken on literary agent George Englund to shop his story. Publishing sources say Noriega wants "several million" dollars but so far has been offered less than \$500,000. Ironically, Englund was recently involved in a TV project about George Bush in World War II.

THEME PARKS

Falls Guys

Is Niagara Falls ready for a New Age theme park? The Maharishi Mahesh Yogi, founder of Transcendental Meditation, and Canadian magician Doug Henning have been secretly buying up land in Ontario, near the falls. This week the guru and the magician will announce plans for a 1,400-acre, \$1.5 billion park featuring magical rides, a Vedic (higher consciousness and all that) health center, a TM university and a residential development. The name: Maharishi Veda Land Canada.



Niagara Falls

NED ZEMAN and LUCY HOWARD
with bureau reports

BUZZWORDS

As more and more Americans get laid off, headhunters get busier. Here's what they're saying after you walk out the door:

Don Quixote: A job hunter who wants a job for which he isn't qualified.

Peacenix: Laid-off defense workers.

Vacationer: Someone who lives off his severance pay.

Midnighter: A person who waits until the last minute before severance runs out before looking for a job.
Usage: "How does that midnighter expect me to find him a job tomorrow?"



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3/23/92

Please file for Cam Findlay:

March 20th

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

March 20, 1992

The President's Address Announcing Tax Bill Veto

FACT SHEET

I. Vetoing the Congressional Democrats' Tax Bill

President Bush signed a message to Congress today vetoing the tax bill crafted by Congressional Democrats because raising taxes will stifle economic growth. He again urged Congress to pass his seven-point plan to promote economic growth without raising taxes and called on Congress to "stop holding the American economy hostage in a partisan game."

II. Restoring Congressional Accountability

The President observed that the failure of Congress to enact an economic growth plan without raising taxes reflects "a deeper systemic problem that is gnawing at the strength of our nation....Our Congressional system is broken."

The President called for:

- Eliminating political action committees (PACs);
- Enacting term limitations for Members of Congress;
and
- Having Congress apply to itself the same laws that it imposes on American citizens and businesses.

III. Protecting Workers' Rights

Declaring that "no worker should be forced to have money taken out of his paycheck to fund politicians he or she disagrees with," the President announced a government-wide effort to implement the Supreme Court's decision in Communications Workers of America v. Beck. The Beck decision prohibits unions from expending certain employee fees for political activities over the employee's objections.

- The President will soon issue an Executive Order to ensure that employees working on government contracts are informed of their Beck rights. The President will direct the Secretary of Labor to institute procedures for enforcing the Executive Order.
- The President expects the National Labor Relations Board to take further steps to implement the Beck decision in the near future. He also expects the Department of Labor promptly to issue a proposed regulation to ensure that union members are better informed about how union leaders are spending their money.

IV. Restraining Federal Spending and Reducing Unnecessary Regulation

The President declared that "in spite the hopelessly tangled Congressional web of PACs, perks, privilege, partisanship and paralysis," he would use "every legal means at [his] disposal to keep the economy moving up."

Line-Item Rescissions

The President today sent to the Congress a series of 67 special messages which propose line-item rescissions of \$3.6 billion in fiscal year 1992. The President indicated that these rescissions would be the first of a series he plans to send to Capitol Hill in the coming months. The President indicated that he would work with Republicans in the Congress to force a vote on each of these proposals -- thus increasing accountability and inhibiting waste and abuse of taxpayer dollars.

The President noted that his fiscal year 1993 budget proposes to freeze domestic discretionary spending and government employment and to cap the growth of "mandatory" programs, without touching Social Security.

The rescissions submitted by the President are consistent with his proposal to terminate 246 Federal programs, and over 4,000 individual projects, in his fiscal year 1993 budget.

Most of the items proposed by the President for line-item rescission in fiscal year 1992 were proposed for termination in fiscal year 1993. Many of these are projects which were not selected on a merit or peer-reviewed basis, are not nationally significant, and would not have qualified for Federal funding in a traditional competitive process. The President noted that spending on such projects "destroys public confidence in the integrity of the government."

Regulatory Reform

In the President's State of the Union address, he announced an intensive, government-wide effort to cut needless red tape and curb regulations that impose an undue economic burden on businesses, consumers, and workers. Today the President noted that the Administration has "already taken specific steps to remove the regulatory roadblocks to growth," as the following examples illustrate:

- The Administration has issued government-wide guidance that will reduce the regulatory costs of developing and marketing innovative biotechnology products. These reforms will help the biotechnology industry -- which is expected to raise revenues of \$50 billion a year, with a large expansion of high-skilled jobs over the next ten years -- maintain its competitive edge.
- The Department of Labor has given contractors greater flexibility to hire semi-skilled "helpers" for Federally-funded construction projects. This will reduce construction costs and create more entry-level jobs in building trades.
- The Federal Energy Regulatory Commission and the Environmental Protection Agency have taken several actions to remove regulatory barriers to the use of clean-burning natural gas. Increased natural gas use means more American jobs, lower energy costs for consumers, and cleaner air for our Nation's cities.
- The Administration has developed a market-based plan to help remove old cars -- the biggest polluters and gas guzzlers -- from the road. This "Cash-for-Clunkers" program will help businesses meet the tough standards of the Clean Air Act at less cost, without sacrificing either the environment or economic growth.
- The Securities and Exchange Commission has taken steps to make it easier for small businesses to raise money to finance their growth. Small companies are creating most of the new jobs in America.
- The Interstate Commerce Commission and the Federal Maritime Commission are trimming complex regulations that needlessly increase the costs of truck, rail and ocean transportation. Moving goods more cheaply means a stronger economy and lower prices for American consumers.

- The Department of Agriculture is reducing the costs of implementing nutrition labelling requirements.

V. Creating Public/Private R&D Partnerships with Federal Laboratories

The President today announced two steps taken by the Department of Energy to advance the President's efforts to help move American innovations from the laboratory to the marketplace. The President has proposed, in each of his budgets, to sharply increase investment in applied research and development into high-payoff technologies that will help Americans compete in the global marketplace.

The President's fiscal year 1993 budget includes substantially increased investments in such areas as high performance computing and communications, advanced materials, biotechnology, and energy R&D. In conjunction with this increased investment, the Administration has launched the National Technology Initiative, an interagency effort designed to improve increased U.S. global competitiveness by stimulating the transfer of Federally funded technology from the public sector to American industry for rapid commercialization.

As part of this effort, the Department of Energy today signed a model Cooperative Research and Development Agreement (CRADA) with the Computer Systems Policy Project (CSPP). This agreement, which will serve as a model for cooperation in a number of fields, grew out of the interagency High Performance Computing and Communications Initiative created by the President. It sets forth the terms and conditions under which the nation's leading computer manufacturers will cooperate with the DOE labs in an attempt to usher in a new generation of scalable computers 1000 times more powerful than today's computers and to develop a national network with dramatically enhanced communications capability.

In addition, DOE is also initiating a new \$50 million per year competitive program to pursue research in promising dual-use technologies at its national labs in partnerships with private sector entities. Under the program, the labs will compete for applied R&D funds for promising projects in dual-use technologies. To qualify for the funds, the labs will have to have secured a private sector partner willing to cooperate in the research on a cost-shared basis. This will ensure that the R&D is conducted in areas felt by the private sector to have sufficiently high commercial promise.

VI. Ensuring American Success in a Global Economy

The President noted that "for more than two centuries, America has been a force for change...Because of this, today America is the most productive nation on earth, with the highest standard of living." He expressed concern, however, that "at the exact moment of triumph for American values around the world," the current paralysis of Congress has caused too many Americans to lose confidence in our future.

The President outlined a five-point strategy for ensuring American success in a global economy:

- Expand markets for American products by negotiating free and fair trade agreements, investing in basic research and development and in key technologies, and changing the tax code to encourage increased private investment;
- Prepare our workforce to compete by revolutionizing American education, and consolidating and simplifying federal job training programs;
- Comprehensively reform the nation's health care system;
- Reform the legal system to reduce litigation costs and create incentives for early dispute settlement; and
- Accomplish these reforms without raising taxes or increasing government spending.

The President's strategy rejects the status quo approach of the Democratic Congress and instead embraces the kind of change "which respects markets more than government dictates; which recognizes fundamental American values and the difference between right and wrong; which rewards excellence and punishes wrongdoing..." and recognizes "that actions should have consequences."

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THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

March 20, 1992

**Major Administration Legislative Initiatives
That Have Not Received Favorable Congressional Action**

FACT SHEET

Since 1989, President Bush and his Administration have transmitted to the 101st and 102nd Congresses a comprehensive economic and domestic agenda of initiatives designed to provide sustained economic growth and undertake fundamental reform in critical areas such as education, crime, health, banking, trade, energy, the environment, and civil justice. During the last three years, the Congress has failed to implement much of the President's economic and domestic agenda.

The President's legislative initiatives that have not been enacted by the Congress include:

1. Economic Growth

- Savings and Economic Growth Act of 1990
- Economic Growth Tax Act of 1992

On February 1, 1990, the President transmitted to the Congress the Savings and Economic Growth Act of 1990. This legislation provided a comprehensive and balanced program to stimulate domestic savings and lower the cost of capital through family savings accounts, a capital gains tax rate reduction, and provisions to stimulate home ownership.

On January 29, 1992, the Administration transmitted to the Congress the Economic Growth Tax Act of 1992. The President's plan includes provisions that would stimulate economic recovery and job-creating investment; open up opportunity for home ownership and real estate recovery; and help families build for the future.

2. Education

- Educational Excellence Act of 1989
- AMERICA 2000 Excellence in Education Act of 1991

On April 5, 1989, the President transmitted to the Congress the Educational Excellence Act of 1989. This education reform bill rewarded educational achievement, promoted greater choice and flexibility, targeted Federal funding on the neediest students, and ensured greater accountability for results. Two years later, on May 22, 1991, the President transmitted the AMERICA 2000 Excellence in Education Act that included provisions designed to accomplish four important goals:

- Create better and more accountable schools for today's students;
- Create a new generation of American schools for tomorrow's students;
- Transform America into a nation of students; and
- Make our communities places where learning will happen.

3. Crime

- Comprehensive Violent Crime Control Act of 1989
- Comprehensive Violent Crime Control Act of 1991

The President has twice submitted comprehensive legislation to combat violent crime, on June 15, 1989, and on March 11, 1991. This legislation includes an enforceable Federal death penalty, reform of habeas corpus procedures, reform of the exclusionary rule, and enhanced penalties for crimes committed with a firearm. This legislation is intended to protect America's citizens and their property so that they can live in a society where they are safe and feel secure. Those who commit violent crimes should, and must, be held accountable for their actions. The President's crime legislation would ensure that our criminal justice system has as its principal objective the swift and certain apprehension, prosecution, and incarceration of those who break the law.

4. Energy

- National Energy Strategy Act of 1991

On March 4, 1991, the Administration submitted to Congress the National Energy Strategy Act of 1991, a comprehensive and balanced plan designed to reduce our energy vulnerability. By the year

2010, this legislation, in conjunction with initiatives already undertaken, will:

- reduce domestic oil demand by 3.4 million barrels per day below projected levels;
- increase domestic oil production by 3.8 million barrels per day above projected levels;
- add more than half a million new jobs to our economy;
- increase the use of alternative transportation fuels, such as compressed natural gas, ethanol, and methanol;
- increase the electricity produced from renewable sources, such as solar, hydropower, and geothermal by 16 percent;
- improve air quality by reducing emissions of pollutants that contribute to acid rain and smog.

5. Banking Reform

- Financial Institutions Safety and Consumer Choice Act of 1991
- Financial Institutions Safety and Consumer Choice Act of 1992

On March 20, 1991, the Administration transmitted to the Congress the Financial Institutions Safety and Consumer Choice Act of 1991. This comprehensive legislation was designed to reform and modernize our financial system by permitting inter-state banking and branching, as well as broader financial activities, and by improving bank supervision.

On December 19, 1991, the President signed into law the Federal Deposit Insurance Corporation Improvement Act of 1991. The legislation omitted most of the Administration's key proposals, and represented an exceedingly narrow approach to reform -- long on additional regulatory burden for banks and devoid of provisions that would strengthen the banking industry by addressing its underlying problems.

On February 4 and 7, 1992, Representative Michel and Senator Dole, respectively, introduced on the President's behalf the Financial Institutions Safety and Consumer Choice Act of 1992 as part of his economic growth package. This legislation includes the key elements that Congress omitted from the 1991 legislation, including inter-state banking and branching and broader financial activities for banking organizations. If enacted, this legislation would modernize America's outmoded banking system so

that it can attract needed capital and better perform its traditional role of financing jobs and growth in the economy.

6. Health Reform

- Health Care Liability Reform and Quality of Care Improvement Act of 1991

The President proposed the Health Care Liability Reform and Quality of Care Improvement Act of 1991 on May 15, 1991, providing incentives to States to adopt reforms with proven effectiveness. They include capping non-economic damages, eliminating joint and several liability for non-economic damages, eliminating the collateral source rule that allows for double recovery, and allowing the payment of awards on a periodic basis rather than a lump-sum basis. States would also be required to make available pretrial alternative dispute resolution mechanisms and implement quality assurance reforms to reduce the incidence of malpractice. As part of his Comprehensive Health Reform Program announced on February 6, 1992, the President called for additional reforms, including changing rules to permit either party in a malpractice claim to ask for out-of-court dispute resolution. If the other party refuses and loses at trial, that party would have to pay the other's legal fees.

7. Trade

- Enterprise for the Americas Initiative Act of 1991

On February 26, 1991, the President asked Congress to enact the Enterprise for the Americas Initiative Act of 1991. The Act would provide authority to reduce debts owed by countries in Latin America to the U.S. Government, and provide funds to the Inter-American Development Bank's Multilateral Investment Fund. The legislation has not been enacted (although authority to reduce debt related to food was provided in the 1990 Farm Bill).

8. Economic Opportunity

- Enterprize Zone - Jobs Creation Act of 1991
- Community Opportunity Act of 1991

The President submitted legislation specifications to Congress on July 25, 1989, and the Department of Housing and Urban Development submitted legislation on February 25, 1991, to help attack urban poverty and promote investment in economically distressed neighborhoods. Enterprize zones, by targeting tax incentives and regulatory relief to some of our country's most economically depressed areas, will attract new seed capital for small business start-ups, create new incentives for entrepreneurial risk-taking

and reduce highly restrictive tax rates on those seeking to move from welfare to work.

Likewise, the Community Opportunity Act of 1991, submitted on May 3, 1991, was designed to enable local communities to develop "community opportunity systems" and allow them to restructure Federal programs to provide services and benefits in ways that the community deems best to meet the needs of the individuals and families served. Through the use of Federal waivers, communities would be able to develop their own strategies to integrate, combine, and restructure services and benefits at the community level, and to ensure that the individuals and families served are active participants in designing this system.

9. Government Reform

- Line-Item Veto Constitutional Amendment

The President has also long supported a line-item veto, a tool already used by 43 state governors, in order to control federal spending and cut the federal budget deficit. [He formally introduced such a proposal on April 25, 1990.]

10. Civil Justice Reform

- Access to Justice Act of 1992

The President's civil justice reform proposals, transmitted to the Congress on February 4, 1992, in the Access to Justice Act of 1992, will make America more competitive by making America less litigious. These reforms rely on market-type incentives to encourage potential parties and lawyers to consider costs before they decide to litigate. This legislation would:

- impose the "Fairness Rule" (i.e., the "Loser Pays" rule) in Federal diversity cases;
- promote alternative dispute resolution and more efficient court procedures; and
- require precomplaint notification in many cases in order to promote expeditious dispute resolutions, prior to court supervision.

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THE WHITE HOUSE
Office of the Press Secretary

For immediate release

March 20, 1992

IMPLEMENTING THE BECK DECISION

FACT SHEET

Declaring that "no worker should be forced to have money taken out of his paycheck to fund politicians he or she disagrees with," the President announced he is taking steps to protect workers' rights recognized by the Supreme Court in Communications Workers of America v. Beck.

In Beck, the Supreme Court held that a union may not, if an employee objects, use dues or fees collected from that employee on activities unrelated to collective bargaining, contract administration or grievance adjustment. In particular, a union may not spend an employee's dues or fees to fund political candidates or causes, if the employee objects.

Many employees are still unaware of their rights recognized in the Beck decision. Moreover, some employees who have objected to the use of their dues for purposes unrelated to collective bargaining have been hindered or frustrated from exercising their Beck rights.

- The President will soon issue an Executive Order to ensure that employees working on Government contracts are informed of their Beck rights.
- The Department of Labor will soon issue a proposed rule amending the financial reporting requirements for unions. The proposed rule would require unions to report their expenditures by functional categories, such as contract negotiation and administration, safety and health, political activities and other functions. Functional reporting will enable workers to monitor expenditures by the union to ensure that their dues are not spent in ways that they do not support.
- The National Labor Relations Board has begun a rulemaking proceeding to implement the Beck decision on several related issues. This rulemaking promises to implement the Beck decision earlier than would be done by case-by case adjudication of the hundreds of cases now in the Board's pipeline.

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

March 20, 1992

Today, the President transmitted 67 Special Messages containing 68 rescission proposals to the Congress under the Congressional Budget and Impoundment Control Act of 1974. These proposals would rescind \$3.6 billion in fiscal year 1992 budgetary resources. They represent the first installment of a continuing process to identify and rescind programs and projects that do not merit funding in fiscal year 1992.

The FY 1993 Budget proposed the termination of 246 domestic Federal programs and over 4,000 individual projects. If enacted by the Congress, these terminations would save almost \$5 billion in FY 1993 budgetary resources and almost \$1 billion in FY 1993 outlays.

The programs and projects that were proposed for termination met the following criteria:

- o Evaluations indicated a low return on investment;
- o Programs were not consistent with the Administration's view of the appropriate Federal role (versus that of State and local governments or the private sector);
- o The original purposes of the program or project were fully achieved and/or were overtaken by events;
- o The programs or projects were duplicated elsewhere; or
- o The projects were substandard in relation to legal or administrative guidelines, or in relation to competitive requirements, normally held to be applicable (in the absence of Congressional "earmarks").

The programs and projects proposed for termination have been reviewed to determine which terminations could and should be accelerated through proposed rescissions in FY 1992. The domestic projects proposed for rescission are those that: (1) are on the FY 1993 termination list or have been newly identified as meeting the same criteria; (2) have not yet had FY 1992 funds obligated; (3) have not been accelerated for purposes of job creation in 1992; and (4) are not known to have merit sufficient to override a presumption in favor of proposing a rescission. The proposed rescissions and the specific reasons supporting the rescissions are listed below. Additional rescission proposals will be transmitted as reviews of programs and projects are completed.

Attachment

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March 20, 1992

PROPOSED RESCISSIONS
(in millions of dollars)

<u>Rescission Number</u>	<u>Projects Proposed for Rescission</u>	<u>Budgetary resources proposed for rescission</u>
<u>Department of Agriculture:</u>		
Animal and Plant Health Inspection Service:		
R92-35	Cattail management in North Dakota....	0.1
	This blackbird control project did not meet the usual Department of Agriculture tests for animal control projects. No cooperative agreement for joint funding with the state and local governments exists as is generally required. There was no assessment of the severity of the problem and the ensuing environmental impacts.	
Cooperative State Research Service:		
Buildings and facilities:		
R92-36	Animal care facility.....	0.3
	This project to fund facilities to care and house animals used in university research projects is the responsibility of the institution. It was not peer-reviewed or awarded competitively.	
R92-37	Building consolidation.....	0.5
	This project to consolidate Rhode Island facilities related to coastal lands and waters should be funded by the university. It has no national significance.	
R92-38	Facility road.....	0.5
	This project to construct a road on university property is clearly the responsibility of the institution. It has no national significance.	
R92-39	Food marketing center.....	2.7
	This project to construct a facility a university's food marketing activities should be funded by the institution. It has no national significance.	

<u>Rescission Number</u>	<u>Projects Proposed for Rescission</u>	<u>Budgetary resources proposed for rescission</u>
R92-40	Food processing plant.....	0.4
	This plant would process oilseeds, providing a direct benefit to the oilseed industry. It was not peer-reviewed or recommended by the Department of Agriculture's research community.	
R92-41	Poultry center in Arkansas.....	3.1
	This center should be funded by its direct beneficiaries, the large and profitable poultry industry.	
R92-42	Vidalia onion storage.....	0.2
	This assistance to a facility that conducts atmosphere storage research should be funded by its direct beneficiaries.	
	Special research grants:	
R92-43	Alternative to Dinoseb.....	0.2
	This project funds the collection of residue data for pesticide alternatives to Dinoseb. It duplicates another project which has nationwide participation.	
R92-44	Appalachian hardwoods.....	0.8
	This project funds economic and market analysis and some product development that should be conducted and funded by the private sector.	
R92-45	Asparagus yield decline.....	0.1
	This project to develop fusarium resistant asparagus germplasm at East Lansing, Michigan was not competitively awarded, was not peer-reviewed, and is not considered a national priority by the Department of Agriculture research community.	
R92-46	Celery fusarium.....	*
	This \$39 thousand project to develop fusarium resistant celery germplasm at East Lansing, Michigan was not competitively awarded, was not peer-reviewed, and is not considered a priority by the Department of Agriculture research community.	

<u>Rescission Number</u>	<u>Projects Proposed for Rescission</u>	<u>Budgetary resources proposed for rescission</u>
R92-47	Cool season legume research.....	0.4
	This project focuses on breeding, production, and integrated pest management strategies for legumes in Idaho and Washington. It was not competitively awarded, was not peer-reviewed, and is not nationally significant.	
R92-48	Eastern filbert blight research.....	0.1
	This project to develop disease management strategies for hazelnuts and filberts in Oregon was not peer-reviewed or awarded competitively. It is not nationally significant, and did not receive funding from direct beneficiaries.	
R92-49	Integrated orchard management.....	*
	This \$49 thousand project to find integrated apple pest and production methods for Vermont apple growers was not peer-reviewed or awarded competitively. It is not nationally significant.	
R92-50	Leafy spurge biocontrol.....	0.1
	This project focuses on control of the leafy spurge weed with emphasis on livestock grazing and management. It was not peer-reviewed and direct beneficiaries were not required to contribute to the funding.	
R92-51	Lowbush blueberry research.....	0.2
	This project on weed, insect, and disease control, and remote sensing management of lowbush blueberries was not peer-reviewed or competitively awarded. It is not nationally significant, and direct beneficiaries were not required to contribute to the funding.	
R92-52	Manure disposal.....	0.1
	This project focuses on comprehensive management technologies for handling of animal manure and the development of resolution techniques for conflicts between producers and the general public. There was no peer-review or competitive award.	

<u>Rescission Number</u>	<u>Projects Proposed for Rescission</u>	<u>Budgetary resources proposed for rescission</u>
R92-53	Mechanical tomato harvester.....	0.1
	This project to develop concepts for machine components necessary to construct a green tomato harvester should be conducted and funded by its direct beneficiaries.	
R92-54	Mesquite and prickly pear.....	0.1
	This project to breed improved mesquite and prickly pear and to find new uses for this product had no peer-review, was not awarded competitively, has no national significance, and did not require funding from direct beneficiaries.	
R92-55	Mink feeding and reproduction research	*
	This \$46 thousand project to study aspects of the utilization of squawfish in mink diets and the reproduction of minks is inappropriate because it could be funded by the producers of mink products and because squawfish are listed as an endangered species.	
R92-56	Oil from jojoba.....	0.2
	This project to accumulate high levels of liquid wax esters in the seed of rapeseed and soybeans, as possible alternative crops, duplicates an ongoing program of the Department of Agriculture, and was not peer-reviewed.	
R92-57	Safflower research.....	0.2
	This project to enable the Northern Great Plains farmers to maintain and expand safflower as an alternative crop was not peer-reviewed or awarded competitively.	
R92- 58	Seedless table grapes.....	0.1
	This project to develop new grape juice products from Arkansas seedless table grapes should be conducted and funded by its beneficiaries.	

<u>Rescission Number</u>	<u>Projects Proposed for Rescission</u>	<u>Budgetary resources proposed for rescission</u>
R92-59	Small fruit research in Oregon.....	0.2
	This project for research in the improvement of small fruit varieties is outside the Department of Agriculture's extensive program in plant breeding, and was not the subject of competitive peer review.	
R92-60	Swine research in Minnesota.....	0.1
	This project to research emerging diseases in swine was not peer-reviewed or awarded competitively.	
R92-61	Urban pest research in Georgia.....	0.1
	This project for research on household and structural insect pests is not appropriate due to the existence of a major industry that could conduct and fund research on the eradication of these pests.	
Extension Service:		
Special grants:		
R92-62	American Pacific agriculture.....	0.6
	This project duplicates other programs designed to promote agriculture through the United States and its territories.	
R92-63	Cow/calf management.....	0.2
	This project to improve cow/calf management in southeast Iowa does not address a unique problem, and is likely not to pass a competitive award process that includes peer-review and a requirement for national significance.	
National Agricultural Library:		
R92-64	Leflar School of Law.....	0.5
	This grant for agricultural law research and information was not competitively awarded or subjected to rigorous peer review.	

<u>Rescission</u>		<u>Budgetary</u>
<u>Number</u>	<u>Projects Proposed for Rescission</u>	<u>resources</u>
		<u>proposed for</u>
		<u>rescission</u>

Department of Housing and Urban Development:

Housing Programs: Annual contributions for assisted housing:
R92-65 Public housing new construction..... 547.7

Public housing new construction costs are at least twice as expensive as rental assistance, whether it is in the form of rental assistance or housing vouchers. Providing rental assistance in the form of vouchers enables more families to benefit, at a lower Federal cost.

Annual contributions for assisted housing: Special project grants:

R92-66	Alliance of Residence Theaters, New York, New York.....	1.5
R92-67	Atlantic Economic Development Corporation for the Sweet Auburn Curb Market.....	1.0
R92-68	Economic development in Davenport, Iowa	2.0
R92-69	Government center, Warren, Rhode Island	0.2
R92-70	Improvements to the West Side Community Center, Asbury Park, New Jersey.....	0.1
R92-71	Infrastructure development of the Hawaiian homelands.....	1.2
R92-72	Infrastructure improvements for Clinton, Tennessee.....	1.0
R92-73	Job retention for agricultural workers at Hawaiian sugar cane mills.....	1.3
R92-74	Land acquisition, construction, public improvements, Bay City, Michigan.....	3.6
R92-75	Miami Center for Contemporary Art, Miami, Florida.....	2.5
R92-76	Municipal center in Bloomfield, New Mexico.....	1.5
R92-77	North Dakota Business Marketing Alliance.....	0.5
R92-78	Oxbow project, Castlewood and St. Paul, Virginia.....	1.0
R92-79	Parking garage, Ashland, Kentucky.....	1.0
R92-80	Performing Arts Center, North Miami Beach, Florida.....	0.5
R92-81	Recreational facilities, Biscayne Park, Florida.....	0.1
R92-82	Recreational facilities, Myersdale, Pennsylvania.....	0.1
R92-83	Recreational facilities in three Pennsylvania communities.....	1.5

<u>Rescission Number</u>	<u>Projects Proposed for Rescission</u>	<u>Budgetary resources proposed for rescission</u>
R92-84	Refurbish Cresson Street trestle, Manayunk, Pennsylvania.....	0.7
R92-85	Rehabilitate Pease Auditorium, Ypsilanti, Michigan.....	1.0
R92-86	Water supply system for the City of Crawford, Nebraska.....	0.8

Funds for the type of projects included as special project grants, to the extent that they have merit, are available through the Community Development Block Grants program, received by over 880 communities and all 50 States.

Policy Development and Research:

Research and technology:

R92-87	State of Hawaii Real Estate Commission	0.4
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This project provides for a nationwide study to evaluate the advantages and disadvantages of reforming the Internal Revenue Code to qualify residential ground lease financing for deductions or tax credits. Such a study should be conducted by private sector beneficiaries, or to the extent the Federal government believes it has value in formulating tax policy, by the Treasury in order to be most useful in evaluating future revisions in Federal tax policy.

Department of the Interior:

Bureau of Indian Affairs:

Construction:

R92-88	Indian reservation road sealing.....	8.6
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This project overlaps funding of almost \$24 million received from the Highway Trust Fund.

National Park Service:

Construction:

R92-89	Reconstruct buildings and water amenities in Perth Amboy, Trenton, and Paterson, New Jersey.....	7.7
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Funding for rehabilitation of non-Federal historic structures prevents funds from being used for the approximately 3,900 national historic landmark and register properties owned and/or managed by the Federal Government.

<u>Rescission Number</u>	<u>Projects Proposed for Rescission</u>	<u>Budgetary resources proposed for rescission</u>
Operation of the National Park system:		
R92-90	Hawaiian arts and crafts.....	2.0
Funding to increase nationwide cultural appreciation of Hawaiian arts and craft duplicates efforts by better established and equipped organizations. It prevents funds from being used for critical operation and maintenance requirements of the National Park Service.		
<u>Corps of Engineers:</u>		
Construction, general:		
R92-91	Red River Basin chloride control, Texas and Oklahoma.....	3.0
This project would fix a highly localized water supply problem with easily identifiable direct beneficiaries who should pay 100 percent of the costs.		
Operation and maintenance, general:		
R92-92	Structural erosion control measures, Missouri River, Montana, South Dakota, Nebraska.....	1.4
The project is uneconomic and the legislation exempts its beneficiaries for cost sharing in violation of the spirit of the 1986 Water Resources Development Act.		
<u>Environmental Protection Agency:</u>		
Abatement, control, and compliance:		
R92-93	American Water Works Association Research Foundation.....	1.3
This project should be funded by its direct beneficiaries and would not have been funded if it had been subjected to normal administrative procedures for ensuring competition and the allocation of resources to the highest priority activities.		
R92-94	Environmental education by satellite, Nebraska Department of Education.....	0.4
This project was not awarded competitively and duplicates another EPA program.		

<u>Rescission Number</u>	<u>Projects Proposed for Rescission</u>	<u>Budgetary resources proposed for rescission</u>
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R92-95	National Wood Energy Association.....	0.1
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This biomass gasification demonstration project was not awarded competitively and should be funded by the association members.

R92-96	Non-competitively selected water projects: University of Kansas, Iowa State University, University of Nebraska.....	1.5
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These studies of non-point source pollution by three universities avoided the normal competitive process.

Buildings and facilities:

R92-97	Research and training facility, Bay City, Michigan.....	20.0
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This facility duplicates existing facilities, there is no plan for its usage, its location is inconvenient for EPA employees, and associated administrative expenses are unnecessarily costly.

Research and development:

R92-98	Local wetlands research, University of Nebraska.....	0.1
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These two projects were not awarded competitively and have no national significance.

National Aeronautics and Space Administration:

Construction of facilities:

R92-99	Consortium for International Earth Science Network (CIESIN).....	3.4
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This project in Saginaw, Michigan has not been peer-reviewed, and was not awarded competitively.

Research and development:

R92-100	Delta College Learning Center.....	0.8
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This project has not been selected competitively. A proposal for the effective use of these funds has not been made by the Learning Center.

**Rescission
Number**

Projects Proposed for Rescission

**Budgetary
resources
proposed for
rescission**

Department of Defense:

Procurement:

SSN-21 submarines:

R92-101	Shipbuilding and conversion, Navy.....	2,765.9
R92-102	Other procurement, Navy.....	189.4

Two SSN-21 submarines would be canceled due to the reduced threat from Soviet submarines.

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

March 20, 1992

TO THE HOUSE OF REPRESENTATIVES:

I am returning herewith without my approval H.R. 4210, the "Tax Fairness and Economic Growth Acceleration Act of 1992." In my State of the Union Message, I proposed a responsible, balanced economic growth program. I challenged the Congress to pass incentives for growth by March 20. The Congress failed to meet that challenge. The Congress' response, H.R. 4210, is a formula for economic stagnation, not economic expansion.

My Administration's economic growth program would create jobs, generate long-term economic growth, and promote health, education, savings, and home ownership. My plan would encourage investment and enhance real estate values -- without tax increases.

Tax increases would undermine the emerging recovery and act as a barrier to long-term growth. I call on the Congress to pass the seven commonsense measures that I asked for by this date, without tax increases, and to join me in pursuing a long-term agenda for growth.

I am disappointed that after 52 days the Congress has produced partisan, flawed legislation. Rather than work in a constructive manner to strengthen the economy and to create jobs, congressional leaders chose the path of partisanship. H.R. 4210 would jeopardize the recovery. It would not create jobs. It would not create incentives for long-term investment and growth, it does not contain a tax credit for first-time homebuyers, and it contains wholly inappropriate special interest provisions.

H.R. 4210 would increase taxes by more than \$100 billion. More than two-thirds of all taxpayers facing tax increases as a result of this bill would be owners of small businesses and entrepreneurs. Small businesses are the primary source of new job creation.

H.R. 4210 would raise income tax rates substantially for some individuals, in some cases increasing marginal rates by more than 30 percent.

This is the wrong time to raise taxes, to increase the deficit, or to send a message of fiscal irresponsibility to financial markets.

I am therefore returning H.R. 4210, and I ask the Congress again to pass my economic growth program, without raising taxes.

GEORGE BUSH

THE WHITE HOUSE,
March 20, 1992.

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THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

March 20, 1992

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Attachment

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March 20, 1992

PROPOSED RESCISSIONS
(in millions of dollars)

<u>Rescission Number</u>	<u>Projects Proposed for Rescission</u>	<u>Budgetary resources proposed for rescission</u>
<u>Department of Agriculture:</u>		
<u>Animal and Plant Health Inspection Service:</u>		
R92-35	Cattail management in North Dakota....	0.1
This blackbird control project did not meet the usual Department of Agriculture tests for animal control projects. No cooperative agreement for joint funding with the state and local governments exists as is generally required. There was no assessment of the severity of the problem and the ensuing environmental impacts.		
<u>Cooperative State Research Service:</u>		
<u>Buildings and facilities:</u>		
R92-36	Animal care facility.....	0.3
This project to fund facilities to care and house animals used in university research projects is the responsibility of the institution. It was not peer-reviewed or awarded competitively.		
R92-37	Building consolidation.....	0.5
This project to consolidate Rhode Island facilities related to coastal lands and waters should be funded by the university. It has no national significance.		
R92-38	Facility road.....	0.5
This project to construct a road on university property is clearly the responsibility of the institution. It has no national significance.		
R92-39	Food marketing center.....	2.7
This project to construct a facility a university's food marketing activities should be funded by the institution. It has no national significance.		

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R92-40	Food processing plant.....	0.4
	This plant would process oilseeds, providing a direct benefit to the oilseed industry. It was not peer-reviewed or recommended by the Department of Agriculture's research community.	
R92-41	Poultry center in Arkansas.....	3.1
	This center should be funded by its direct beneficiaries, the large and profitable poultry industry.	
R92-42	Vidalia onion storage.....	0.2
	This assistance to a facility that conducts atmosphere storage research should be funded by its direct beneficiaries.	
	Special research grants:	
R92-43	Alternative to Dinoseb.....	0.2
	This project funds the collection of residue data for pesticide alternatives to Dinoseb. It duplicates another project which has nationwide participation.	
R92-44	Appalachian hardwoods.....	0.8
	This project funds economic and market analysis and some product development that should be conducted and funded by the private sector.	
R92-45	Asparagus yield decline.....	0.1
	This project to develop fusarium resistant asparagus germplasm at East Lansing, Michigan was not competitively awarded, was not peer-reviewed, and is not considered a national priority by the Department of Agriculture research community.	
R92-46	Celery fusarium.....	*
	This \$39 thousand project to develop fusarium resistant celery germplasm at East Lansing, Michigan was not competitively awarded, was not peer-reviewed, and is not considered a priority by the Department of Agriculture research community.	

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R92-47	Cool season legume research.....	0.4
	This project focuses on breeding, production, and integrated pest management strategies for legumes in Idaho and Washington. It was not competitively awarded, was not peer-reviewed, and is not nationally significant.	
R92-48	Eastern filbert blight research.....	0.1
	This project to develop disease management strategies for hazelnuts and filberts in Oregon was not peer-reviewed or awarded competitively. It is not nationally significant, and did not receive funding from direct beneficiaries.	
R92-49	Integrated orchard management.....	*
	This \$49 thousand project to find integrated apple pest and production methods for Vermont apple growers was not peer-reviewed or awarded competitively. It is not nationally significant.	
R92-50	Leafy spurge biocontrol.....	0.1
	This project focuses on control of the leafy spurge weed with emphasis on livestock grazing and management. It was not peer-reviewed and direct beneficiaries were not required to contribute to the funding.	
R92-51	Lowbush blueberry research.....	0.2
	This project on weed, insect, and disease control, and remote sensing management of lowbush blueberries was not peer-reviewed or competitively awarded. It is not nationally significant, and direct beneficiaries were not required to contribute to the funding.	
R92-52	Manure disposal.....	0.1
	This project focuses on comprehensive management technologies for handling of animal manure and the development of resolution techniques for conflicts between producers and the general public. There was no peer-review or competitive award.	

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R92-53	Mechanical tomato harvester.....	0.1
	This project to develop concepts for machine components necessary to construct a green tomato harvester should be conducted and funded by its direct beneficiaries.	
R92-54	Mesquite and prickly pear.....	0.1
	This project to breed improved mesquite and prickly pear and to find new uses for this product had no peer-review, was not awarded competitively, has no national significance, and did not require funding from direct beneficiaries.	
R92-55	Mink feeding and reproduction research	*
	This \$46 thousand project to study aspects of the utilization of squawfish in mink diets and the reproduction of minks is inappropriate because it could be funded by the producers of mink products and because squawfish are listed as an endangered species.	
R92-56	Oil from jojoba.....	0.2
	This project to accumulate high levels of liquid wax esters in the seed of rapeseed and soybeans, as possible alternative crops, duplicates an ongoing program of the Department of Agriculture, and was not peer-reviewed.	
R92-57	Safflower research.....	0.2
	This project to enable the Northern Great Plains farmers to maintain and expand safflower as an alternative crop was not peer-reviewed or awarded competitively.	
R92- 58	Seedless table grapes.....	0.1
	This project to develop new grape juice products from Arkansas seedless table grapes should be conducted and funded by its beneficiaries.	

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R92-59	Small fruit research in Oregon.....	0.2
	This project for research in the improvement of small fruit varieties is outside the Department of Agriculture's extensive program in plant breeding, and was not the subject of competitive peer review.	
R92-60	Swine research in Minnesota.....	0.1
	This project to research emerging diseases in swine was not peer-reviewed or awarded competitively.	
R92-61	Urban pest research in Georgia.....	0.1
	This project for research on household and structural insect pests is not appropriate due to the existence of a major industry that could conduct and fund research on the eradication of these pests.	
Extension Service:		
Special grants:		
R92-62	American Pacific agriculture.....	0.6
	This project duplicates other programs designed to promote agriculture through the United States and its territories.	
R92-63	Cow/calf management.....	0.2
	This project to improve cow/calf management in southeast Iowa does not address a unique problem, and is likely not to pass a competitive award process that includes peer-review and a requirement for national significance.	
National Agricultural Library:		
R92-64	Leflar School of Law.....	0.5
	This grant for agricultural law research and information was not competitively awarded or subjected to rigorous peer review.	

**Rescission
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Projects Proposed for Rescission

**Budgetary
resources
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Department of Housing and Urban Development:

Housing Programs: Annual contributions for assisted housing:

R92-65 Public housing new construction..... 547.7

Public housing new construction costs are at least twice as expensive as rental assistance, whether it is in the form of rental assistance or housing vouchers. Providing rental assistance in the form of vouchers enables more families to benefit, at a lower Federal cost.

Annual contributions for assisted housing: Special project grants:

R92-66	Alliance of Residence Theaters, New York, New York.....	1.5
R92-67	Atlantic Economic Development Corporation for the Sweet Auburn Curb Market.....	1.0
R92-68	Economic development in Davenport, Iowa	2.0
R92-69	Government center, Warren, Rhode Island	0.2
R92-70	Improvements to the West Side Community Center, Asbury Park, New Jersey.....	0.1
R92-71	Infrastructure development of the Hawaiian homelands.....	1.2
R92-72	Infrastructure improvements for Clinton, Tennessee.....	1.0
R92-73	Job retention for agricultural workers at Hawaiian sugar cane mills.....	1.3
R92-74	Land acquisition, construction, public improvements, Bay City, Michigan.....	3.9
R92-75	Miami Center for Contemporary Art, Miami, Florida.....	2.5
R92-76	Municipal center in Bloomfield, New Mexico.....	1.5
R92-77	North Dakota Business Marketing Alliance.....	0.5
R92-78	Oxbow project, Castlewood and St. Paul, Virginia.....	1.0
R92-79	Parking garage, Ashland, Kentucky.....	1.0
R92-80	Performing Arts Center, North Miami Beach, Florida.....	0.5
R92-81	Recreational facilities, Biscayne Park, Florida.....	0.1
R92-82	Recreational facilities, Myersdale, Pennsylvania.....	0.1
R92-83	Recreational facilities in three Pennsylvania communities.....	1.5

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R92-84	Refurbish Cresson Street trestle, Manayunk, Pennsylvania.....	0.7
R92-85	Rehabilitate Pease Auditorium, Ypsilanti, Michigan.....	1.0
R92-86	Water supply system for the City of Crawford, Nebraska.....	0.8

Funds for the type of projects included as special project grants, to the extent that they have merit, are available through the Community Development Block Grants program, received by over 880 communities and all 50 States.

Policy Development and Research:

Research and technology:

R92-87	State of Hawaii Real Estate Commission	0.4
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This project provides for a nationwide study to evaluate the advantages and disadvantages of reforming the Internal Revenue Code to qualify residential ground lease financing for deductions or tax credits. Such a study should be conducted by private sector beneficiaries, or to the extent the Federal government believes it has value in formulating tax policy, by the Treasury in order to be most useful in evaluating future revisions in Federal tax policy.

Department of the Interior:

Bureau of Indian Affairs:

Construction:

R92-88	Indian reservation road sealing.....	8.6
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This project overlaps funding of almost \$24 million received from the Highway Trust Fund.

National Park Service:

Construction:

R92-89	Reconstruct buildings and water amenities in Perth Amboy, Trenton, and Paterson, New Jersey.....	7.7
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Funding for rehabilitation of non-Federal historic structures prevents funds from being used for the approximately 3,900 national historic landmark and register properties owned and/or managed by the Federal Government.

<u>Rescission Number</u>	<u>Projects Proposed for Rescission</u>	<u>Budgetary resources proposed for rescission</u>
Operation of the National Park system:		
R92-90	Hawaiian arts and crafts.....	2.0
Funding to increase nationwide cultural appreciation of Hawaiian arts and craft duplicates efforts by better established and equipped organizations. It prevents funds from being used for critical operation and maintenance requirements of the National Park Service.		
<u>Corps of Engineers:</u>		
Construction, general:		
R92-91	Red River Basin chloride control, Texas and Oklahoma.....	3.0
This project would fix a highly localized water supply problem with easily identifiable direct beneficiaries who should pay 100 percent of the costs.		
Operation and maintenance, general:		
R92-92	Structural erosion control measures, Missouri River, Montana, South Dakota, Nebraska.....	1.4
The project is uneconomic and the legislation exempts its beneficiaries for cost sharing in violation of the spirit of the 1986 Water Resources Development Act.		
<u>Environmental Protection Agency:</u>		
Abatement, control, and compliance:		
R92-93	American Water Works Association Research Foundation.....	1.3
This project should be funded by its direct beneficiaries and would not have been funded if it had been subjected to normal administrative procedures for ensuring competition and the allocation of resources to the highest priority activities.		
R92-94	Environmental education by satellite, Nebraska Department of Education.....	0.4
This project was not awarded competitively and duplicates another EPA program.		

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R92-95	National Wood Energy Association.....	0.1
	This biomass gasification demonstration project was not awarded competitively and should be funded by the association members.	
R92-96	Non-competitively selected water projects: University of Kansas, Iowa State University, University of Nebraska.....	1.5
	These studies of non-point source pollution by three universities avoided the normal competitive process.	
	Buildings and facilities:	
R92-97	Research and training facility, Bay City, Michigan.....	20.0
	This facility duplicates existing facilities, there is no plan for its usage, its location is inconvenient for EPA employees, and associated administrative expenses are unnecessarily costly.	
	Research and development:	
R92-98	Local wetlands research, University of Nebraska.....	0.1
	These two projects were not awarded competitively and have no national significance.	
	<u>National Aeronautics and Space Administration:</u>	
	<u>Construction of facilities:</u>	
R92-99	Consortium for International Earth Science Network (CIESIN).....	3.4
	This project in Saginaw, Michigan has not been peer-reviewed, and was not awarded competitively.	
	<u>Research and development:</u>	
R92-100	Delta College Learning Center.....	0.8
	This project has not been selected competitively. A proposal for the effective use of these funds has not been made by the Learning Center.	

Rescission
Number

Projects Proposed for Rescission

Budgetary
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Department of Defense:

Procurement:

SSN-21 submarines:

R92-101	Shipbuilding and conversion, Navy.....	2,765.9
R92-102	Other procurement, Navy.....	189.4

Two SSN-21 submarines would be canceled due to the reduced threat from Soviet submarines.