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OA/ID Number: 29179
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Folder Title:
Legislative Affairs (McClure) (1990) [2]

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THE WHITE HOUSE
WASHINGTON

6/27

TO:

JOHN SUNUNU

FROM:

FRED McCLURE *fm*
Assistant to the President
for Legislative Affairs

- ☒ FYI
- ☐ Comment
- ☐ Action

Constitutional amendments
re: flag burning

THE WHITE HOUSE
WASHINGTON

June 26, 1989

MEMORANDUM FOR FRED MCCLURE

THROUGH: NICK CALIO *29C*
FROM: JACK HOWARD *24*
RE: LEGISLATION OUTLAWING FLAG BURNING

Copies are attached of all the available legislation introduced in the House to date which makes burning the flag a crime. Not all the bills have been printed yet, so I have also attached a LEGIS printout of all the bills introduced to date. Only the circled bills have been printed.

When the House reconvenes tomorrow, more bills will be introduced. One person I talked to heard a rumor that there would be 247 introduced; however, I talked to Legislative Counsel and could find no evidence of any mass drafting of legislation. They are drafting six or seven more bills for introduction tomorrow.

One of the Constitutional amendments to be introduced tomorrow will be Representative Bob Michel's. As currently drafted, it empowers the Congress or states to enact laws prohibiting the desecration of the flag and assesses criminal and civil penalties for breaking those laws. In general, that seems to be one of two primary approaches to dealing with this problem by amending the Constitution. The other approach is embodied by Representative Bentley's legislation which stipulates that desecrating the flag does not constitute free speech.

Representative Bill Young has a statutory solution which amends the U.S. Code to make it a crime, punishable by a \$1,000 fine, to burn or otherwise desecrate the flag. On Friday, Senator Biden took that language and added it to the child care bill. It was adopted by voice vote.

101ST CONGRESS
1ST SESSION

H. CON. RES. 72

Condemning the Art Institute of Chicago and the School of the Art Institute of Chicago for permitting the display of an exhibit that encourages disrespect for the flag of the United States and abuses the right of freedom of speech as guaranteed by the Constitution.

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 1989

Mr. PORTER submitted the following concurrent resolution; which was referred to the Committee on the Judiciary

CONCURRENT RESOLUTION

Condemning the Art Institute of Chicago and the School of the Art Institute of Chicago for permitting the display of an exhibit that encourages disrespect for the flag of the United States and abuses the right of freedom of speech as guaranteed by the Constitution.

Whereas a student of the School of the Art Institute of Chicago submitted to the Art Institute of Chicago an exhibit for display consisting of a flag of the United States placed on the floor in front of a ledger for viewers to write their comments;

Whereas this exhibit is entitled: "What is the proper way to display a United States flag?" ;

Whereas the design of this exhibit is conducive to viewers walking on the flag and demonstrating disrespect for the flag of the United States as a symbol of our Nation;

Whereas this exhibit is extremely offensive to the people of the United States who regard the flag with great reverence;

Whereas the Art Institute of Chicago has not only approved this exhibit but has continued to defend it as legitimate artistic expression, even in the face of widespread and growing outrage by veterans groups, private citizens, and public officials;

Whereas the continued display and defense of an exhibit that is offensive to so many of the people of the United States abuses the right of freedom of speech as guaranteed by the Constitution and engenders great bitterness and cynicism in our society toward protected speech: Now, therefore, be it

1 *Resolved by the House of Representatives (the Senate*
2 *concurring), That—*

3 (1) Congress condemns the Art Institute of
4 Chicago and the School of the Art Institute of Chicago
5 for having exercised poor judgment in permitting the
6 display of an exhibit that encourages disrespect for the
7 flag of the United States, and

8 (2) it is the sense of Congress that the insensitiv-
9 ity of the Art Institute of Chicago and the School of
10 the Art Institute of Chicago to the outrage this exhibit
11 has produced and their decision to defend this exhibit
12 as a form of expression that is protected by the Consti-
13 tution threatens to erode the understanding and toler-

- 1 ance of the people of the United States toward such
2 expression.



101ST CONGRESS
1ST SESSION

H. CON. RES. 35

Expressing the sense of the Congress regarding the flagrant and malicious desecration of the United States flag.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 1989

Mr. EMERSON (for himself, Mr. McCURDY, and Mr. DORNAN of California) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary

CONCURRENT RESOLUTION

Expressing the sense of the Congress regarding the flagrant and malicious desecration of the United States flag.

Whereas the United States flag is a venerated symbol of American pride and liberty;

Whereas the United States flag is in itself a symbol of the freedoms of speech, press, and religion;

Whereas the United States flag represents the cherished, fundamental American beliefs of liberty, freedom, and justice for all peoples; and

Whereas the Congress has expressly provided criminal penalties for the public desecration of the United States flag: Now, therefore, be it

1 *Resolved by the House of Representatives (the Senate*
2 *concurring), That it is the sense of the Congress that—*

3 (1) the United States flag is a symbol of American
4 patriotism and national heritage and should be treated
5 with due respect;

6 (2) public desecration of the United States flag is
7 not considered symbolic speech under the first amend-
8 ment to the Constitution; and

9 (3) the prohibitions against the willful and know-
10 ing display of contempt of the United States flag, con-
11 tained in section 700 of title 18, United States Code,
12 should be dutifully enforced.

○

101ST CONGRESS
1ST SESSION

H. R. 1295

To amend title 18, United States Code, to forbid the display of the flag of the United States on the floor or ground.

IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 1989

Mr. MONTGOMERY (for himself, Mr. STUMP, Mr. APPELGATE, Mr. SOLOMON, Mr. HARRIS, Mr. ROWLAND of Connecticut, Mr. PAYNE of Virginia, Mr. SANGMEISTER, Mr. PARKER, Mr. BUSTAMANTE, and Mr. HASTERT) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to forbid the display of the flag of the United States on the floor or ground.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That section 700(a) of title 18, United States Code, is
4 amended—

5 (1) by inserting “(1)” after “(a)”; and

6 (2) by adding at the end the following:

7 “(2) Whoever knowingly displays the flag of the United
8 States on the floor or ground shall be fined under this title or
9 imprisoned not more than one year, or both.”.

101ST CONGRESS
1ST SESSION

H. R. 163

Regarding the flagrant and malicious desecration of the United States flag.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 1989

Mr. EMERSON introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

Regarding the flagrant and malicious desecration of the United States flag.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 The Congress finds that—

5 (1) the United States flag is a venerated symbol of
6 American pride and liberty;

7 (2) the United States flag is in itself a symbol of
8 the freedoms of speech, press, and religion;

9 (3) the United States flag represents the cher-
10 ished, fundamental American beliefs of liberty, free-
11 dom, and justice for all peoples; and

1 (4) the Congress has expressly provided criminal
2 penalties for the public desecration of the United
3 States flag.

4 **SEC. 2. PURPOSE.**

5 It is the sense of the Congress that—

6 (1) the United States flag is a symbol of American
7 patriotism and national heritage and should be treated
8 with due respect;

9 (2) public desecration of the United States flag is
10 not considered symbolic speech under the first amend-
11 ment to the Constitution; and

12 (3) the prohibitions against the willful and know-
13 ing display of contempt of the United States flag, con-
14 tained in section 700 of title 18, United States Code,
15 should be dutifully enforced.

○

101ST CONGRESS
1ST SESSION

H. R. 1590

To prevent the desecration of the United States flag.

IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 1989

Mr. MICHEL introduced the following bill; which was referred to the Committee
on the Judiciary

A BILL

To prevent the desecration of the United States flag.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 700(a) of title 18, United States Code is amend-
4 ed by inserting in subsection (a), following the word "burn-
5 ing," the words "displaying the flag of the United States on
6 the floor or ground".

○

101ST CONGRESS
1ST SESSION

H. J. RES. 317

Proposing an amendment to the Constitution of the United States relative to the desecration of the American Flag.

IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 1989

Mr. PICKETT (for himself, Mr. MONTGOMERY, Mr. JOHNSON of South Dakota, Mr. CAMPBELL of Colorado, Mr. SARPALIUS, and Mr. PAYNE of Virginia) introduced the following joint resolution; which was referred to the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States relative to the desecration of the American Flag.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled*
3 *(two-thirds of each House concurring therein), That the fol-*
4 *lowing article is proposed as an amendment to the Constitu-*
5 *tion of the United States, which shall be valid to all intents*
6 *and purposes as part of the Constitution when ratified by the*
7 *legislatures of three-fourths of the several States within*
8 *seven years from the date of its submission by the Congress:*

1 "ARTICLE —

2 "SECTION 1. Notwithstanding any provision of the Con-
3 stitution, the Congress is empowered to enact and enforce
4 laws prohibiting the desecration of the Flag of the United
5 States of America.

6 "SECTION 2. The Congress shall have the power to en-
7 force, by appropriate legislation, the provisions of this article.

8 "SECTION 3. This article shall take effect immediately
9 upon ratification."

○

101ST CONGRESS
1ST SESSION

H. J. RES. 304

Proposing an amendment to the Constitution of the United States with respect to
burning the flag of the United States.

IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 1989

Mrs. BENTLEY (for herself, Mr. WELDON, Mr. CLINGER, Mr. MARLENEE, Mr. HOLLOWAY, Mr. RITTER, Mr. QUILLEN, Mr. HAMMERSCHMIDT, Mr. BENNETT, Mr. INHOFE, Mr. EDWARDS of Oklahoma, Mr. MYERS of Indiana, Mr. SOLOMON, Mr. MCDADE, Mr. BEREUTER, Mr. SPENCE, and Mr. DORNAN of California) introduced the following joint resolution; which was referred to the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United
States with respect to burning the flag of the United States.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled*
3 *(two-thirds of each House concurring therein), That the fol-*
4 *lowing article is proposed as an amendment to the Constitu-*
5 *tion of the United States, to be valid only if ratified by the*
6 *legislatures of three-fourths of the several States within ten*
7 *years after the date of final passage of this joint resolution:*

1 "ARTICLE —

2 "SECTION 1. The misuse or desecration of the symbol,
3 emblem, seal, or flag of the United States is not protected
4 speech under the first amendment to the Constitution of the
5 United States.

6 "SECTION 2. The Congress shall have power to enforce
7 this article by appropriate legislation.

8 "SECTION 3. The misuse or desecration of the symbol,
9 emblem, seal, or flag of the several States is not protected
10 speech under the first amendment to the Constitution of the
11 United States.

12 "SECTION 4. The legislatures of the several States shall
13 have power to enforce this article by appropriate legislation.

○

DS

***** 101ST CONG. STATUS PROFILE FOR H.R.1590 ✓ *****
SPONSOR..... Michel
DATE INTRODUCED... March 23, 1989
HOUSE COMMITTEE... The Judiciary
OFFICIAL TITLE.... A bill to prevent the desecration of the United States flag.

DS

***** 101ST CONG. STATUS PROFILE FOR H.R.1295 ✓ *****
SPONSOR..... Montgomery
DATE INTRODUCED... March 8, 1989
HOUSE COMMITTEE... The Judiciary
OFFICIAL TITLE.... A bill to amend title 18, United States Code, to forbid the display of the flag of the United States on the floor or ground.

DS

***** 101ST CONG. STATUS PROFILE FOR H.R.2744 *****
SPONSOR..... Young (FL)
DATE INTRODUCED... June 22, 1989
HOUSE COMMITTEE... The Judiciary
OFFICIAL TITLE.... A bill to amend section 700 of title 18, United States Code, relating to desecration of the flag of the United States.

DS

***** 101ST CONG. STATUS PROFILE FOR H.Con.Res.159 *****
SPONSOR..... Oakar
DATE INTRODUCED... June 22, 1989
HOUSE COMMITTEE... The Judiciary
OFFICIAL TITLE.... A concurrent resolution expressing the sense of the Congress on the desecration of the flag of the United States of America.

DS

***** 101ST CONG. STATUS PROFILE FOR H.J.Res.302: *****
SPONSOR..... Bilirakis
DATE INTRODUCED... June 22, 1989
HOUSE COMMITTEE... The Judiciary
OFFICIAL TITLE.... A joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the act of desecration of the flag of the United States and to set criminal penalties for that act.

DS

***** 101ST CONG. STATUS PROFILE FOR H.J.Res.303: *****
SPONSOR..... Wylie
DATE INTRODUCED... June 22, 1989
HOUSE COMMITTEE... The Judiciary
OFFICIAL TITLE.... A joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the act of desecration of the flag of the United States and to set criminal penalties for that act.

Allen:
Jack
Howard

O = enclosed

DS

***** 101ST CONG. STATUS PROFILE FOR H.J.Res.304: ✓ *****
 SPONSOR..... Bentley
 DATE INTRODUCED... June 22, 1989
 HOUSE COMMITTEE... The Judiciary
 OFFICIAL TITLE.... A joint resolution proposing an amendment to the
 Constitution of the United States with respect to
 burning the flag of the United States.

DS

***** 101ST CONG. STATUS PROFILE FOR H.J.Res.305: *****
 SPONSOR..... Bevill
 DATE INTRODUCED... June 22, 1989
 HOUSE COMMITTEE... The Judiciary
 OFFICIAL TITLE.... A joint resolution proposing an amendment to the
 Constitution of the United States authorizing the
 Congress and the States to prohibit the act of
 desecration of the flag of the United States and
 to set criminal penalties for that act.

DS

***** 101ST CONG. STATUS PROFILE FOR H.J.Res.306: *****
 SPONSOR..... Callahan
 DATE INTRODUCED... June 22, 1989
 HOUSE COMMITTEE... The Judiciary
 OFFICIAL TITLE.... A joint resolution proposing an amendment to the
 Constitution of the United States authorizing the
 Congress and the States to prohibit the act of
 desecration of the flag of the United States and
 to set criminal penalties for that act.

DS

***** 101ST CONG. STATUS PROFILE FOR H.J.Res.307: *****
 SPONSOR..... Derrick
 DATE INTRODUCED... June 22, 1989
 HOUSE COMMITTEE... The Judiciary
 OFFICIAL TITLE.... A joint resolution proposing an amendment to the
 Constitution of the United States authorizing the
 Congress to prohibit the act of desecration of
 the flag of the United States and to set criminal
 penalties for that act.

DS

***** 101ST CONG. STATUS PROFILE FOR H.J.Res.308: *****
 SPONSOR..... Dornan (CA)
 DATE INTRODUCED... June 22, 1989
 HOUSE COMMITTEE... The Judiciary
 OFFICIAL TITLE.... A joint resolution proposing an amendment to the
 Constitution of the United States authorizing the
 Congress and the States to prohibit the act of
 desecration of the flag of the United States and
 to set criminal penalties for that act.

DS

***** 101ST CONG. STATUS PROFILE FOR H.J.Res.309: *****
 SPONSOR..... Fields
 DATE INTRODUCED... June 22, 1989
 HOUSE COMMITTEE... The Judiciary
 OFFICIAL TITLE.... A joint resolution proposing an amendment to the
 Constitution of the United States authorizing the
 Congress and the States to prohibit the act of
 desecration of the flag of the United States and
 to set criminal penalties for that act.

DS

***** 101ST CONG. STATUS PROFILE FOR H.J.Res.310: *****
SPONSOR..... Dreier (CA)
DATE INTRODUCED... June 22, 1989
HOUSE COMMITTEE... The Judiciary
OFFICIAL TITLE.... A joint resolution proposing an amendment to the
Constitution of the United States authorizing the
Congress and the States to prohibit the act of
desecration of the flag of the United States and
to set criminal penalties for that act.

DS

***** 101ST CONG. STATUS PROFILE FOR H.J.Res.314: *****
SPONSOR..... Martin (IL)
DATE INTRODUCED... June 22, 1989
HOUSE COMMITTEE... The Judiciary
OFFICIAL TITLE.... A joint resolution proposing an amendment to the
Constitution relating to the flag of the United
States.

DS

***** 101ST CONG. STATUS PROFILE FOR H.J.Res.315: *****
SPONSOR..... Miller (OH)
DATE INTRODUCED... June 22, 1989
HOUSE COMMITTEE... The Judiciary
OFFICIAL TITLE.... A joint resolution proposing an amendment to the
Constitution of the United States authorizing the
Congress and the States to prohibit the act of
desecration of the flag of the United States and
to set criminal penalties for that act.

DS

***** 101ST CONG. STATUS PROFILE FOR H.J.Res.317: ✓ *****
SPONSOR..... Pickett
DATE INTRODUCED... June 22, 1989
HOUSE COMMITTEE... The Judiciary
OFFICIAL TITLE.... A joint resolution proposing an amendment to the
Constitution of the United States relative to the
desecration of the American Flag.

DS

***** 101ST CONG. STATUS PROFILE FOR H.J.Res.318: *****
SPONSOR..... Rhodes
DATE INTRODUCED... June 22, 1989
HOUSE COMMITTEE... The Judiciary
OFFICIAL TITLE.... A joint resolution proposing an amendment to the
Constitution of the United States authorizing the
Congress and the States to prohibit the acts of
physical abuse, destruction, and desecration of
the flag of the United States.

DS

***** 101ST CONG. STATUS PROFILE FOR H.J.Res.319: *****
SPONSOR..... Schuette
DATE INTRODUCED... June 22, 1989
HOUSE COMMITTEE... The Judiciary
OFFICIAL TITLE.... A joint resolution proposing an amendment to the
Constitution of the United States authorizing the
Congress and the States to prohibit the act of
desecration of the flag of the United States.

DS

***** 101ST CONG. STATUS PROFILE FOR S.J.RES.171: *****
SPONSOR..... Grassley
DATE INTRODUCED... June 23, 1989
SENATE COMMITTEE... The Judiciary
OFFICIAL TITLE.... A joint resolution proposing an amendment to the
Constitution of the United States relative to the
display and care for the flag of the United
States of America.

DS

***** 101ST CONG. STATUS PROFILE FOR S.Res.151 *****
SPONSOR..... Mitchell (ME)
DATE INTRODUCED... June 22, 1989
OFFICIAL TITLE.... A resolution to express the sense of the Senate
on the decision of the United States Supreme
Court, declaring unconstitutional the Texas
statute prohibiting the desecration of the flag.

DS

***** 101ST CONG. STATUS PROFILE FOR H.R.1590 *****
SPONSOR..... Michel
DATE INTRODUCED... March 23, 1989
HOUSE COMMITTEE... The Judiciary
OFFICIAL TITLE.... A bill to prevent the desecration of the United
States flag.

DS

***** 101ST CONG. STATUS PROFILE FOR H.R.163 *****
SPONSOR..... Emerson
DATE INTRODUCED... January 3, 1989
HOUSE COMMITTEE... The Judiciary
OFFICIAL TITLE.... A bill expressing the sense of the Congress
regarding the flagrant and malicious desecration
of the United States flag.

DS

***** 101ST CONG. STATUS PROFILE FOR H.Con.Res.35 *****
SPONSOR..... Emerson
DATE INTRODUCED... January 27, 1989
HOUSE COMMITTEE... The Judiciary
OFFICIAL TITLE.... A concurrent resolution expressing the sense of
the Congress regarding the flagrant and malicious
desecration of the United States flag.

DS

***** 101ST CONG. STATUS PROFILE FOR H.Con.Res.72 *****
SPONSOR..... Porter
DATE INTRODUCED... March 14, 1989
HOUSE COMMITTEE... The Judiciary
OFFICIAL TITLE.... A concurrent resolution condemning the Art
Institute of Chicago and the School of the Art
Institute of Chicago for permitting the display
of an exhibit that encourages disrespect for the
flag of the United States and abuses the right of
freedom of speech as guaranteed by the
Constitution.

DS

***** 101ST CONG. STATUS PROFILE FOR H.Res.184 *****

SPONSOR..... Schaefer
DATE INTRODUCED... June 22, 1989
HOUSE COMMITTEE... The Judiciary
OFFICIAL TITLE.... A resolution expressing the sense of the House of Representatives that the Supreme Court decision to overturn statutes that protect the flag from desecration is without merit and, the flag, as a symbol of institutions and traditions that protect basic rights, must be protected from any attempt to mutilate, damage, destroy, or desecrate it in any manner.

DS

***** 101ST CONG. STATUS PROFILE FOR H.Res.185 *****

SPONSOR..... Stearns
DATE INTRODUCED... June 22, 1989
HOUSE COMMITTEE... The Judiciary
OFFICIAL TITLE.... A resolution expressing the sense of the House of Representatives that the Constitution of the United States allows for a prohibition against acts of desecration against the flag of the United States.

DS

***** 101ST CONG. STATUS PROFILE FOR S.1177 *****

SPONSOR..... Thurmond
DATE INTRODUCED... June 14, 1989
SENATE COMMITTEE.. The Judiciary
OFFICIAL TITLE.... A bill to amend title 36 of the United States Code, relating to the United States flag, to clarify and more clearly define the methods and restrictions for display of the United States flag.

DS

***** 101ST CONG. STATUS PROFILE FOR S.J.RES.165: *****

SPONSOR..... Wilson (CA)
DATE INTRODUCED... June 22, 1989
SENATE COMMITTEE.. The Judiciary
OFFICIAL TITLE.... A joint resolution proposing an amendment to the Constitution relating to the flag of the United States.

DS

***** 101ST CONG. STATUS PROFILE FOR S.J.RES.167: *****

SPONSOR..... Thurmond
DATE INTRODUCED... June 22, 1989
SENATE COMMITTEE.. The Judiciary
OFFICIAL TITLE.... A joint resolution proposing an amendment to the Constitution of the United States to prohibit the desecration of the flag.

DS

***** 101ST CONG. STATUS PROFILE FOR S.J.RES.169: *****

SPONSOR..... Hatch
DATE INTRODUCED... June 22, 1989
SENATE COMMITTEE.. The Judiciary
OFFICIAL TITLE.... A joint resolution proposing an amendment to the Constitution of the United States relating to conduct which casts contempt upon the flag of the United States.

DS

***** 101ST CONG. STATUS PROFILE FOR H.J.Res.321: *****
SPONSOR..... Volkmer
DATE INTRODUCED... June 22, 1989
HOUSE COMMITTEE... The Judiciary
OFFICIAL TITLE.... A joint resolution proposing an amendment to the
Constitution of the United States authorizing the
Congress and the States to prohibit the act of
desecration of the flag of the United States and
to set criminal penalties for that act.

DS

***** 101ST CONG. STATUS PROFILE FOR H.J.Res.322: *****
SPONSOR..... Walker
DATE INTRODUCED... June 22, 1989
HOUSE COMMITTEE... The Judiciary
OFFICIAL TITLE.... A joint resolution proposing an amendment to the
Constitution of the United States authorizing the
Congress and the States to prohibit the act of
desecration of the flag of the United States.

DS

***** 101ST CONG. STATUS PROFILE FOR H.J.Res.323: *****
SPONSOR..... Wolf
DATE INTRODUCED... June 22, 1989
HOUSE COMMITTEE... The Judiciary
OFFICIAL TITLE.... A joint resolution proposing an amendment to the
Constitution of the United States relative to
protection of the flag of the United States.

DS

***** 101ST CONG. STATUS PROFILE FOR H.J.Res.324: *****
SPONSOR..... Emerson
DATE INTRODUCED... June 23, 1989
HOUSE COMMITTEE... The Judiciary
OFFICIAL TITLE.... A joint resolution proposing an amendment to the
Constitution of the United States authorizing the
Congress and the States to prohibit the act of
desecration of the flag of the United States and
to set criminal penalties for that act.

DS

***** 101ST CONG. STATUS PROFILE FOR H.J.Res.325: *****
SPONSOR..... Gekas
DATE INTRODUCED... June 23, 1989
HOUSE COMMITTEE... The Judiciary
OFFICIAL TITLE.... A joint resolution proposing an amendment to the
Constitution of the United States authorizing the
Congress and the States to prohibit the act of
desecration to the flag of the United States and
to set criminal penalties for that act.

DS

***** 101ST CONG. STATUS PROFILE FOR H.J.Res.326: *****
SPONSOR..... Horton
DATE INTRODUCED... June 23, 1989
HOUSE COMMITTEE... The Judiciary
OFFICIAL TITLE.... A joint resolution proposing an amendment to the
Constitution of the United States authorizing the
Congress and the States to prohibit the act of
desecration to the flag of the United States.

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
01. Report	Budget Package Material - For Discussion (6 pp.)	3/20/90	B5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John, Files
Subseries: White House Offices File
WHORM Cat.:
File Location: Legislative Affairs
(McClure) (1990) [2]

Open on Expiration of PRA
(Document Follows)
By JP (NLGB) on 10/28/05

Date Closed: 12/14/2004	OA/ID Number: 29179-001
FOIA/SYS Case #: 1998-0004-F[1]	Appeal Case #:
Re-review Case #: 2005-0426-S	Appeal Disposition:
P-2/P-5 Review Case #:	Disposition Date:
AR Case #:	MR Case #:
AR Disposition:	MR Disposition:
AR Disposition Date:	MR Disposition Date:

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P-3 Release would violate a Federal statute [(a)(3) of the PRA]
P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
(b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
(b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
(b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
(b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
(b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
(b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
(b)(9) Release would disclose geological or geophysical information

FOR DISCUSSION 3/20/90

(A) CONTEXT/AGENDA

- (1) Economic Outlook [see CEA comments]
- (2) Budget Situation

The Budget Committees are scheduled to start mark-up later this week -- with an agreed House-Senate Resolution due April 15 (3.5 weeks). The Rosty phenomenon has satisfactorily complicated things. The Congress is virtually certain to miss the April 15 deadline. The House may even have to postpone Committee mark-up until then.

When mark-up does take place, the Administration's budget will likely be brought up and defeated. Republicans will be seeking our guidance on both short-term tactics and long-term strategy. If we wish to encourage them (especially the Senators) to resist Democratic entreaties to put together a resolution without the Administration, we will have to be able to show some of them a route to a Promised Land (privately).

At some point, the President will probably have to convene the parties in order to start a serious negotiation -- whether before or after Democrats produce a Budget Resolution. If we want to get something responsible done before the debt limit and sequester forcing mechanisms take over, the parties will have to be pulled together fairly soon. If we wait until sequester, the size of the likely sequester could put a gun to our heads as well as theirs. There is also the risk of unnecessarily slow economic growth.

With the near-inevitability of negotiations sooner or later, there is a need to examine further what a serious package agreement might look like.

Hence, the following.

(B) TEN REQUIRED GENERAL CHARACTERISTICS OF A SERIOUS PACKAGE

- (1) It must be oriented toward increased economic growth -- both short-term and long-term.
- (2) It must reduce the FY'91 consolidated budget deficit by a net \$45-50 billion (without "smoke").
- (3) It must bring the forecast consolidated deficit into balance by FY'93 (using the Administration's likely mid-session economic forecast -- i.e., a forecast modestly less favorable than at present, but not as pessimistic as CBO).
- (4) It must include incentive(s) for long-term investment (part or all of which must be a capital gains differential).
- (5) It must include, in substantial measure, mandatory/entitlement program savings that automatically extend into the future.
- (6) It must include effective budget process reform that increases fail-safe budget discipline (especially through a second sequester point, automatic offsets for supplementals, and enhanced rescission authority).
- (7) It must include credit reform measures that decrease the government's likely risk from hidden liabilities (especially through full subsidy scoring, greater risk sharing, and origination fees).
- (8) Its new revenue measures should be weighted heavily toward growth-oriented investment, user fees, and revenue measures that directly promote public goods (e.g., energy conservation, environmental protection, alcohol abuse reduction, etc.)
- (9) It must be capable of commanding bipartisan Congressional support (from leadership and from a reasonable sample of "followership").
- (10) It must be capable of earning the Federal Reserve's respect and cooperation.

(C) SOME ELEMENTS OF A POSSIBLE SAVINGS PACKAGE [RELATIVE TO A "CURRENT SERVICE" -- i.e., INFLATED -- BASELINE]

In addition to whatever is done re process reform, accounting, and credit reform, the following are the main categories for FY'91 savings. [Possible settling points are in brackets.]

- (1) Defense outlay savings: Sasser is at minus 15-20 B. Freeze (Rosty) is minus 10 B. Administration is at minus 3.1 B (for "050") of which minus 3.9 B is for DoD. Comment: Under no approach is the Administration likely to do better than minus 9 B. [10]
- (2) Non-defense discretionary savings: Rosty BA freeze saves 3 B. Administration saves 0.4 B (net of all increases for international, environment, drugs, space, education, aviation, etc.). Comment: Many of the Administration's initiatives (and many Congressional initiatives) are in this pot. It would be tough to hold it to the Administration level, not to mention the Rosty level. On the other hand, this is the pot most threatened by sequester. [2] "150" + DOMESTIC
- (3) Mandatory/Entitlement savings:
 - (a) Medicare. Rosty reimbursement freeze saves 2.4 B. Administration saves 5.5 B. Comment: Without a big deal, savings here will be about 2 B. Even with a big deal, they would only reach 3.5 B. [3.5]
 - (b) COLAs. All options exempt means-tested programs. Rosty freeze saves 9 B. Administration freeze (Rosty minus Social Security) saves 2 B. NOTE: CPI - 2% saves 4.5 B; CPI - 1% saves 2.2 B. Comment: Without a big deal, savings here will be zero. This is political firewater -- but also a symbolic measure of "seriousness" in financial markets. [4.5]
 - (c) Other (farm, postal, federal employee benefits, PMAs, misc.) Rosty saves zero. Administration saves 8.4 B net. Comment: Without a big deal, savings here will be about 1.5 B. [4]
- (4) Fees and Offsetting Collections: Rosty gains zero. Administration gains 5.6 B. Comment: Without a big deal, savings might be 0.5 B. [4]
- (5) Receipts. Administration raises 13.9 B (net, including revenue losers and capital gains). Rosty raises 29 B (net). Comment: 20 B splits the difference in amount. The problem is composition. (See discussion below.) [20]

NOTE: Bracketed total savings = 48 B (almost 50 B with interest savings). Done in the way a big deal would be done, savings would probably total 350-400 B over 5 years.

(D) REVENUE ELEMENTS TO CONSIDER AS PART OF A BIG PACKAGE -- HOW TO GET TO 20 BILLION??

(1) SELECTED ITEMS FROM THE ADMINISTRATION'S BUDGET

-- Growth set:

- (a) capital gains (as it may be modified) [3]
- (b) savings incentive (as it may be modified) [-0.5]
- (c) R+E incentive [-0.9]
- (d) airport [0.5]
- (e) enterprise zones [-0.1]
- (f) oil & gas incentives [-0.3]

-- Other:

- (g) IRS management/enforcement [2]
- (h) State and local HI [1.7]
- (i) telephone [1.6 -- likely used for child care]
- (j) accelerate payroll deposit [0.9]
- (k) extend HI deduction for self-employed [-0.2]
- (l) extend low income housing credit [-0.1]
- (m) miscellaneous [wash]

Comment: These would total [8.5 B] as part of a big deal. Most are doable. After capital gains, HI and oil are the most difficult politically. The principal item dropped is State and local OASDI (2.1 B).

(2) "HEALTH" OPTIONS

(a) Rosty items:

- (i) Double cigarette [2.8]
- (ii) Double beer & wine [1.4]

(b) Alternatives:

- (i) 25 cents/ounce of alcohol [7.2]

Comment: Cigarette increase would violate a specific pledge and would trigger a filibuster. Option (a)(ii) would split the alcohol industry and have widespread interest group support. Option (b)(i) produces much more revenue, but unites the industry in opposition.

(3) "ENVIRONMENT"/"ENERGY SECURITY" OPTIONS

- (a) Rosty gas tax @ 15 cents [12]
- (b) \$5/barrel oil import fee [8.5]
- (c) 5% energy retail value [14.2]
- (d) "CO2 stabilization" (carbon) fee [22.5]

COMMENT: Gas tax doesn't yield as much after likely Bentsen adjustments and allocation to highways. It also looks like a tax! Oil import fee bothers many economist (!), but has something to recommend it. Tax on all energy encourages conservation and doesn't discriminate against particular fuels; administered at the retail level, it minimizes the inflationary effect. But it, too, looks like a tax. "CO2 stabilization" is the equivalent of an additional \$28/ton of carbon -- \$3.50/barrel of oil; 45 cents per thousand cubic feet of natural gas; and \$17 per ton of coal. With coal's current price at \$24 per ton, this increase would be prohibitively high. Variations could, of course, be set at lower rates per unit of carbon.

(4) "FAIRNESS" OPTIONS

- (a) Roll back January Social Security tax increase of 0.16% [-7]
- (b) Skip one year of tax indexing (except EITC -- as per Rosty) [7]
- (c) Increase portion of Social Security benefits treated as taxable income (from 50% over threshold to 85%) [1.1]

NOTE: If thresholds were eliminated this would yield 12 B -- but that's not doable.

- (d) Eliminate the bubble by lowering the 33% rate to 31% for the 3.5 million taxpayers in the bubble and raising the rate from 28% to 31% for the 1 million taxpayers above the bubble -- i.e., establish a simple 3-rate system: 15-28-31. [0.2]

NOTE: Rosty's bubble burst -- raising the top rate to 33% -- increases revenue by 3.5 B the first year (and by 40-45 B over 5 years).

- (e) excise fee for short term pension fund transactions at 10% of gain (30 days), 5% of gain (6 months), then 0% -- as per Dole-Kassebaum [0.2]

NOTE: 5% on all short term gain yields only 0.5 B.

- (f) 0.5% securities transfer fee [7.8]
- (g) "Foreign Tax Equity Act" -- as per Gephardt-Rosty today.

ILLUSTRATIVE NOTE: "Selected Administration growth and other items" [8.5], plus "double beer/wine" [1.4], plus \$5 oil import fee [8.5], plus Social Security roll back combined with one-year indexing delay [0], plus Social Security benefit inclusion at 85% [1.1], plus 15-28-31 [0.2], plus Dole-Kassebaum [0.2] = 19.9 B. Other combinations and permutations are also possible.

Withdrawal/Redaction Sheet

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Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
02. Report	Budget Package Material - For Discussion (3 pp.)	3/22/90	P5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John, Files
Subseries: White House Offices File
WHORM Cat.:
File Location: Legislative Affairs
 (McClure) (1990) [2]

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 (b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
 (b)(9) Release would disclose geological or geophysical information

FOR DISCUSSION 3/22/90

- (1) February deficit report: We've just hit the GRH deficit target seven months ahead of schedule! [That's not quite as good as it sounds: The cumulative deficit for FY'90 is already \$100 billion -- only 5 months into the year. That's also not as bad as it sounds. . . .]
- (2) Congressional Budget Update: Budget Committee delays, as expected . . . latest Sasser plan . . . Domenici entreaty, as expected . . . Senate Deficit Reduction Caucus . . .
- (3) "Five Reasons for a Serious Package" (see attached)
- (4) "Ten Required Characteristics . . . " (see attached)
- (5) Meeting one of the ten requirements: Budget Process Reform (by popular demand) (see attached re items (a)-(d))
 - (a) Closing the G-R-H loophole (second sequester trigger)
 - (b) Enhanced rescission
 - (c) Supplemental restraint (automatic offsets)
 - (d) Joint budget resolution
 - (e) Credit reform accounting
 - (f) Comptroller/CFO/Auditing capability
 - (g) Accounting corrections for Social Security, RTC -- and Budget Concepts Commission.

3/21/90

FIVE REASONS FOR A SERIOUS PACKAGE
(four positive, one negative)

TO:

- (1) accelerate economic growth (and the many benefits therefrom);
- (2) reduce the growing burden of debt (and hidden future liabilities);
- (3) provide greater room for initiatives that would:
 - (a) keep America number one;
 - (b) allow America to secure a more favorable new world order;
- (4) achieve desired reforms -- both programmatic and procedural (which could only be enacted as part of a larger package); and
- (5) avoid potential adverse consequences -- budgetary, economic, and political -- from a failure to act in a timely fashion.

TEN REQUIRED GENERAL CHARACTERISTICS OF A SERIOUS PACKAGE

- (1) It must be oriented toward increased economic growth -- both short-term and long-term. That is, it must contribute to a reduction in real, long-term interest rates and an increase in productivity growth.
- (2) It must reduce the FY'91 consolidated budget deficit by a net \$45-50 billion (without "smoke"). Any less would not meet the test of seriousness; any more would not be optimal for the economy.
- (3) It must bring the forecast consolidated deficit into balance by FY'93. That is, it must be projected to meet the current GRH target for FY'93 -- zero -- [using the Administration's likely mid-session economic forecast].
- (4) It must include incentive(s) for long-term investment. These should include a capital gains differential, an improved savings incentive, a permanent R&D credit, enterprize zones, etc.
- (5) It must include substantial [\$12 billion for FY'91] mandatory/entitlement program savings that automatically extend into the future. This is necessary to help stabilize the non-sustainable pattern of mandatory program growth, and to provide some basis for confidence in financial markets.
- (6) It must include effective budget process reform that increases fail-safe budget discipline. It should do so especially through a second sequester point and also, e.g., automatic offsets for discretionary supplementals, enhanced rescission authority, and improved budget accounting/auditing/oversight systems.
- (7) It must include credit reform measures that decrease the government's likely risk from hidden liabilities. It should do so especially through full subsidy scoring and limits thereon, greater risk sharing, and origination fees.
- (8) Its new revenue measures should be weighted heavily toward growth-oriented investment, user fees, and revenue measures that directly promote public goods (e.g., energy conservation, environmental protection, alcohol abuse reduction, etc.). [The total of such measures should not constitute more than half of the savings package.]
- (9) It must be capable of earning the Federal Reserve's respect and cooperation. [That means monetary policy to accommodate greater growth.]
- (10) It must be capable of commanding bipartisan Congressional support (from leadership and from a reasonable sample of "followership").

VII.A. REFORMING THE BUDGET PROCESS

The process by which Congress deals with the budget each year is flawed in several respects. It consumes too much time and works poorly; and it is not achieving the deficit targets established by Congress itself in the Gramm-Rudman-Hollings law.

The President cannot by himself do much to reform the budget process. The formulation of the Presidential budget is not at issue. *The problem lies in the legislative consideration of the budget.* The President can suggest reforms, but in full awareness that these fall within congressional prerogatives.

An exception is amending the constitution, which is addressed below. But amendments requiring a balanced budget and providing for a line-item veto would require several years, at best, to complete the process of ratification. In the meantime, it is important to pursue reform through legislative action.

MAKING THE PROCESS WORK BETTER

Joint Budget Resolution.—At present the annual budget resolution is a concurrent resolution, which does not require the signature of the President. A joint resolution, which needs approval of the President, would guarantee Presidential involvement in budget negotiations early in the process. The ensuing legislation—appropriations bills, revenue measures and reforms of mandatory programs in reconciliation bills—would reflect those negotiations and thus there should normally be less conflict between the executive and legislative branches over these bills in the later stages of each Congress.

There will always be problems of interpretation of budget resolutions and a joint resolution will not make the later budget process completely smooth. But it would at least assure a negotiation each year and should settle the basic boundaries for later legislative action.

Budget Measurement and "Scorekeeping".—The budget process has been plagued by differences between the Administration and Con-

gress in measurement of the budgetary impact of various legislative provisions. The Bipartisan Budget Agreement reached in April 1989 made significant progress in resolving many of these issues, and a recent agreement between OMB, the Department of Defense, and the Congressional Budget Office (CBO) has resolved most differences in scorekeeping for defense.

In some cases, different assessments of the impact on outlays or receipts of specific legislative proposals or amendments reflect honest differences of judgment. But other issues involve definitions or similar matters, such as whether certain outlays are "mandatory" or "discretionary." The Administration, the CBO and the Congressional committees concerned should build on their recent cooperative work and seek further progress in resolving the remaining differences.

Biennial Budgeting.—If the budget process could cover 2 years instead of 1, there would be a large saving of congressional time and better opportunities for improved program management in the executive branch.

Numerous Members of Congress and such expert outside observers as the first Director of the Congressional Budget Office have proposed biennial budgeting. But progress has been slow. For example, in the 1985 defense authorization act Congress mandated 2-year budgeting for the Department of Defense, starting with the budgets for 1988 and 1989. But in practice this mandate has not been followed by the Appropriations Committees, which continue to enact annual appropriations.

A reform that stops short of 2-year appropriations for all sectors of the government could still be useful. The Bipartisan Budget Agreement reached in late 1987 covered the 2-year period of 1988 and 1989. While it was reached too late to affect the congressional budget process in calendar year 1987, it helped to make the process in calendar 1988 far smoother. This was the case even though by their nature such executive-legislative branch

agreements cover only broad budget categories and cannot settle most details of the budget.

It is important that any biennial budgetary process be linked with improved discipline in the supplemental appropriations process (discussed below). If these are not linked, biennial budgeting could easily degenerate into budgeting by near-continuous supplementals.

MAKING THE PROCESS MORE EFFECTIVE IN REDUCING THE DEFICIT

Enhanced Rescission Authority.—The Budget and Impoundment Control Act of 1974 severely restricted the President's powers to "impound" funds appropriated by Congress. The provision in that law under which the President can "rescind" all or parts of appropriations items has, from the President's perspective, been essentially unworkable. Such rescissions are not effective unless affirmatively approved by both houses of Congress within 45 days, and the great majority of proposed rescissions in the 15 years since the Act was passed have been killed by simple inaction.

Congress has approved rescissions totaling \$19.6 billion of \$57.8 billion submitted by Presidents Ford, Carter, Reagan and Bush, but \$11.7 billion of the approved rescissions, or 60 percent, were in 1981, President Reagan's first year. In the last 4 years only eight rescissions, totaling \$183 million, have been approved out of 164 submitted with a total of \$16.1 billion.

The President strongly supports a form of enhanced rescission authority called "legislative line item veto" proposed by a group of Senators headed by Senators Coats and McCain in late 1989. This would require an up-or-down vote in Congress on Presidential rescission proposals. In the absence of a line-item veto amendment to the constitution, enhanced rescission would give the President a realistic opportunity to seek to eliminate from appropriations bills special interest items that he deems unworthy, while offering Congress full protection through the provision for a vote on each rescission.

At present the entire government, with its myriad programs and agencies, is financed by only 13 appropriations bills. If the President finds in these multi-billion-dollar bills items that he regards as not in the general interest,

his only choice is between vetoing the entire bill or sending to Congress a rescission with little hope that it will be approved. The public interest would be better protected if the President had more effective authority to be selective in approving appropriations bills.

Restraining Supplemental Appropriations.—If abused, the use of supplemental appropriations can undo much of the effect of budgetary discipline exercised during the budget process. It is generally acknowledged that supplementals are sometimes needed to respond to emergencies, such as natural disasters or fast-breaking developments abroad. However, this necessity should not be permitted to develop into a huge loophole that opens the way to spending above the limits originally established for a fiscal year. Until recently the executive branch shared some of the blame with Congress for over-liberal use of supplementals.

Supplemental appropriations are one reason that deficits since enactment of the GRH law have invariably been higher than the target levels. Enacted supplementals totaled \$39.8 billion in 1985-88 inclusive, of which \$12.3 billion were congressional additions to Administration proposals.

In 1989 Congress acted with commendable restraint on supplementals, including provision of offsets. It would be desirable to ensure such restraint in the future through formal congressional procedures.

- Supplementals should be required to meet a "dire emergency" standard, both in their submission by the President and their approval by Congress.
- There should be provision for automatic offsets for both budget authority and outlays in all supplementals. The basic rule should be an offset through a uniform across-the-board reduction in discretionary accounts in the same appropriations act that is the subject of the supplemental (that is, accounts in the jurisdiction of the same appropriations subcommittee). This rule would apply unless an alternative full offset were provided in the supplemental. Otherwise, the automatic across-the-board offset rule should be waived only by a supermajority vote.

Closing Loopholes in Gramm-Rudman-Hollings.—The principal loophole is that spending increases or revenue reductions enacted after the final sequester order date of October 15 of each year do not count against the G-R-H deficit target or sequester trigger point and are not penalized in any way. This problem is readily solved by having a second sequester trigger date, preferably early in the next calendar year. The sequester calculations would have to use the same economic and technical assumptions as in the original calculations and only the deficit effect of new policy actions (including regulations as well as legislation) would be added to the calculation. If the new estimate of the deficit were above the trigger point (i.e., \$10 billion above the deficit target for that year), a sequester would be imposed or the original sequester increased in magnitude.

Reinforcing Sequester.—As the G-R-H law now stands, it can be relatively painless for Congress to fail to meet the deficit target and allow a sequester to be ordered in October. Later legislation can cancel the sequester (with or without real budget savings to reduce the deficit). While it is widely agreed that sequester is not the preferred means of cutting spending, the savings from sequester are real and reduce the deficit. A desirable change would require a supermajority vote to cancel (or restore) sequester savings once achieved.

BUDGETARY TREATMENT OF SOCIAL SECURITY

At present and for several decades in the future the income of the old age, survivors and disability insurance trust fund will exceed its outlays for benefit payments, resulting both in sizeable annual trust fund surpluses and a large accumulated reserve balance. The reserve balance—which will grow to several trillion dollars under current economic assumptions—is intended to be available to finance the benefits of the “baby boom” generation when it retires in the next century.

Since the inception of the social security system in the late 1930's trust fund reserve balances have been invested in special issues of U.S. Government securities. When, as at present, there are annual social security surpluses, these investments reduce, dollar for dollar, the Treasury's need to borrow in the

public financial markets. In that sense, social security surpluses are “financing” part of the deficit in the non-social security portion of the budget.

This situation has led to proposals in Congress to remove social security from the calculation of the budget deficit or surplus for purposes of Gramm-Rudman-Hollings. Some of these proposals would require a balance in the remainder of the budget, not immediately but at a later point. The effect of these proposals would be to produce large surpluses in the unified budget as now calculated and a reduction in the publicly held national debt. This may well be desirable.

Apart from the social security question, the Gramm-Rudman-Hollings law is silent on what is to happen with the budget after it reaches balance in 1993. Some proposals for excluding social security from the budget, as noted above, would extend G-R-H by requiring gradual achievement of balance in the non-social security portion of the budget.

However, there is a danger in these proposals. If social security were taken out of the G-R-H budget calculations altogether, given the large size of the annual surpluses and the prospective huge reserve balances, there would be great temptation to spend the reserves and/or reduce social security receipts. Such changes, by reducing the social security reserves, would jeopardize the benefits of those who are working now and who will retire in the next century.

There is a parallel problem in simply allowing G-R-H to expire after 1993, while retaining the present unified budget concept. As surpluses developed in the budget, chiefly as a consequence of the excess of social security receipts over outlays, Congress would be likely to “spend” those surpluses on any number of possible programs and projects, leaving at best a balance in the budget as presently defined. The total budget would grow and the social security surplus would still be financing a large deficit in the rest of the budget. The capacity to finance future benefit payments, however, would be reduced—and the necessity for either a future social security tax increase or a future social security benefit cut would be increased.

To address this problem the Administration is proposing an alternative to simply removing social security from the budget and the deficit calculation. The G-R-H law would be extended beyond 1993 and would require *a balance in the unified budget for all future years*. The social security trust fund would be retained in the budget totals as it is now, with its reserve balances building up. But a new "*Social Security Integrity and Debt Reduction Fund*" would be created. Starting in 1993 with a 3-year phase-in, an amount equal to the projected annual social security surplus would be paid each year into the new fund and would count as an outlay in the budget. The budget would have to be balanced *including* this outlay. The new fund would use its annual receipts to retire outstanding publicly held debt.

This proposal has several useful practical consequences:

- The social security trust fund would be protected and would not be a victim of raids on the reserves, which would build up exactly as under present law for the protection of future retirees.
- The national debt held by the public (i.e., outside the government) would be reduced by substantial amounts each year, with favorable effects on interest rates, investment and the future capacity to fund social security obligations.
- The total budget each year would be balanced. There would be no "surplus" to create a temptation for additional spending.

FUNDAMENTAL CHANGE—AMENDING THE CONSTITUTION

Balanced Budget Amendment.—Changes in the constitution should never be proposed lightly. But several developments of recent years suggest that only a change in the constitution to require an annually balanced budget would guarantee the kind of fiscal discipline that the well-being of the economy demands.

- The Federal Government has had only one balanced budget in the last 30 years. Earlier in our history there was an unwritten law that the annual budget should be balanced except in time of war or depression.

That law is no longer honored, and only a change in the constitution is likely to assure a return to habitually balanced Federal budgets.

- Recent research in the economic discipline known as "public choice" has demonstrated the imbalance that exists in modern democracies between the forces demanding higher spending for particular purposes and the general taxpayer interest in spending restraint. This imbalance leads to ever-higher spending and chronic deficits.
- While the Gramm-Rudman-Hollings law has been useful in bringing greater fiscal discipline, it has clearly not yet achieved its statutory goals. In every year since enactment, the deficit has been higher than the target established in the law.

A balanced budget constitutional amendment would help to remedy the problem. It should include safeguards against achieving the balance through higher taxes. Because such an amendment would halt the steady build-up of the national debt, it would protect the interest of future generations, who are not now able to represent themselves.

Line-Item Veto.—This essential tool is available to the Governors of more than 40 States, and there have been no serious complaints that it unduly increases executive power at the expense of the legislature. As noted above in the discussion of enhanced rescission authority, the President, as representative of the general interest, should have the power to strike from legislation provisions that reflect only narrow local or special interests, especially in an era where the pressures for higher spending have produced a long string of deficits in the budget.

To be fully effective the line-item veto should not be limited to appropriations bills but should also apply to provisions of authorizing bills that create entitlement or other mandatory spending, and to revenue bills. At present about 47 percent of total spending is mandatory (not counting an additional 15 percent for interest, which, of course, would always have to be paid).

As with any other veto, a veto by the President of an item in a spending or revenue bill would be subject to override by a two-thirds vote in each house of Congress. The available

evidence suggests that the public strongly favors granting the President line-item veto authority. The time has come to amend the constitution and achieve this change.

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Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
03. Memo	From Frederick McClure to John Sununu Re: Expected Telephone Call from Senator Ted Stevens (2 pp.)	1/10/90	P5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John, Files
Subseries: White House Offices File
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(McClure) (1990) [2]

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(b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
(b)(9) Release would disclose geological or geophysical information

12:00N

THE WHITE HOUSE
WASHINGTON

file

THE CHIEF of STAFF
has seen

January 10, 1990

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: FREDERICK D. MCCLURE *fm*

SUBJECT: EXPECTED TELEPHONE CALL FROM SENATOR TED STEVENS (R-AK)

Senator Stevens will call for the President this morning to discuss Alaska's concerns regarding the proposed Memorandum of Agreement (MOA) between EPA and the Army Corps of Engineers on wetlands mitigation requirements under the Clean Water Act. As we have discussed, we would recommend that you take the call.

Alaskans believe the no net loss policy could halt development if not administered on a flexible basis. As you know, the developing MOA is the Administration's first effort to put forth elements of the no net loss policy and is not without controversy.

During the conversation, the Senator is likely to make the following points:

- 1) EPA and the Corps have not demonstrated a willingness to be flexible or to make changes in the proposed MOA, despite the fact that the Departments of Transportation, Energy and Interior share some of these concerns.
- 2) We should make changes in the draft MOA or pull it back before January 16 (the proposed date of implementation) and let the DPC wetlands process subsume this effort. The MOA makes changes in existing regulations without the proper notice and comment period and may violate the Administrative Procedure Act.
- 3) Alaskans share the goal of no net loss and want to work toward its implementation. However, because of the state's unique climate and topography, a rigid one-for-one replacement of wetlands is not feasible.

Air. by Justice ?
Deadline ?

The following points may help to allay his concerns:

- 1) The original implementation date was postponed for 30 days in recognition of the concerns expressed by Alaska. In the meantime, every effort is being made to reconcile the differences of affected agencies and Alaska. The Justice Department and others are being consulted in this DPC process to ensure the MOA does not exceed existing statutory or regulatory authority.
- 2) The MOA is receiving careful White House scrutiny. We will continue to work with the Alaska delegation in an open manner to resolve all reasonable concerns.
- 3) We have sought to make flexibility a hallmark of all of our environmental initiatives and will work to ensure that those initiatives are rational, flexible and consistent with continued economic growth.

cc: Bob Grady
Nancy Maloley
Roger Porter

THE WHITE HOUSE
WASHINGTON

1/
18

TO: JOHN SONNICH

FROM: FRED McCLURE *fm*
Assistant to the President
for Legislative Affairs

- ☒ FYI
- ☐ Comment
- ☐ Action

The Gramm - Gingrich crime
proposal.

01-17-80 18:11 202 224 9102 JUD. COMM. MINOR 1 4002

Senator Phil Gramm
"The National Drug and Crime Emergency Act"
December 20, 1989

NATIONAL CRIME EMERGENCY

- Declare the existence of a National Crime Emergency
- Already Done*
- A. During the period of the National Crime Emergency, every individual convicted of a violent crime or a drug felony must serve the full prison sentence imposed by the court, up to five years *(unless you talking about State Courts)*
 - B. During the period of the National Crime Emergency, prisoners may be housed in temporary or sub-standard facilities, including tents.
 - C. During the period of the National Crime Emergency, courts will be able to limit, or "cap", inmate population levels in state prisons only when it has been proven that overcrowding has imposed cruel and unusual punishment on an individual prisoner and when no other remedy exists.

EXPANSION OF PRISON SPACE

- Direct the federal government to identify facilities such as military installations, for use as temporary detention quarters.
- Authorize the U.S. Attorney General to enter into private contracts for prison construction and operation.
- Identify and eliminate non-essential prison construction costs with specific review of such requirements as air-conditioning and recreational facilities.

PRISONS AND PRISONERS

- Repeal legal constraints on the interstate sale of goods produced by prisoners.
 - Require that every prisoner work while incarcerated; such requirement may be suspended only for medical reasons.
 - Require the U.S. Attorney General to recommend to Congress any changes in law required to encourage the development of prison industries.
 - Use prison labor (with appropriate security safeguards) for public purposes such as road repair, picking up litter, etc. *(disposing hazardous waste?)*
 - Withhold all Federal benefits from prisoners--up to the cost of their incarceration.
- DRUG C3AR*
- Require states, as a condition of receiving federal funds, to begin drug testing of individuals arrested, convicted or released from prison.

currently
Done (Not
mandatory
cases)

Establish a program for drug testing of individuals released from federal prisons.

Authorize the U.S. Attorney General to contract with private businesses for the use of inmate skills that are in market demand. A portion of the fees and payments for such services would be used to offset the cost of incarceration. Inmates would return to prison each day and only those presenting no security risk would be able to participate.

IMPOSE MINIMUM MANDATORY PRISON SENTENCES WITHOUT RELEASE

- 10 years without release for possession of a firearm during commission of a violent crime or drug crime; 20 years without release for discharge of a firearm during such a crime; death penalty for killing another person with a firearm during commission of a violent crime or a drug crime or mandatory life imprisonment without release if the death penalty is not imposed for such crimes.
- 10 years without release for the sale of drugs to a minor or for involving a minor in drug trafficking; 20 years without release for a second offense; life imprisonment without release for a third offense.
- 5 years without release for drug trafficking involving an adult; 10 years without release for a second offense.
- 1 year extension of current sentence for drug possession in prison; 10 years without release for smuggling drugs into prison.
- Deportation of criminal aliens immediately upon completion of prison sentence; 20 years without release for illegal re-entry or attempted illegal re-entry into the United States; life imprisonment without release for 2d illegal re-entry or attempt.
- Encourage states to impose minimum mandatory prison sentences by giving them 10% of the federal law enforcement assistance funds that would otherwise go to the states that do not have such mandatory sentences.

JUDICIAL REFORM TO ELIMINATE CRIME WITHOUT PUNISHMENT

- Limit authority of court appointed "Special Masters" who oversee prison operations.
- Habeas Corpus reform as proposed by Sen. Strom Thurmond to speed and streamline the judicial appeal process while protecting Constitutional rights.

01/21/80 10:10 2001 111 0101

Senator Phil Gramm
"The National Drug and Crime Emergency Act"
December 20, 1989
Page 3

- Exclusionary rule reform as proposed by President Bush to help prevent criminals from being released on technicalities.
- Compile an annual report on the sentencing patterns of judges.
- Prevent convicted felons from retaining or using property obtained with illegal drug profits.

Forfeiture

DRUG USER PENALTIES

- Require individuals convicted of drug possession to pay for the cost of their trial and, in addition, fine them 10% of their annual income for a first offense; 25% for second and subsequent convictions. Empower government to seize assets and garnish wages to obtain payment.
- Withhold unearned federal benefits from those convicted of drug possession—one year for a first offense and 5 years for second and subsequent offenses.
- Empower school systems, states, counties, cities and private entities to engage in random drug testing.
- Require states to revoke for 1 year the drivers license of those convicted of drug possession; for first offenders, allow restoration of the license after 3 months of community service or upon completion of a drug rehab program.
- Require states to implement statewide drug-treatment programs and to use the performance of treatment centers as a factor in determining how drug funds are allocated.
- Establish as a condition of eligibility for federal funds, a requirement that schools and universities establish drug-free programs.
- Direct the U.S. Department of Transportation to implement a system of random drug testing of transportation employees, including operators of aviation, rail, and motor carriers as proposed by Senators Danforth and Hollings and extend these requirements to all mass transit authorities which receive federal funds.

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
04. Memo	From Boyd Hollingsworth to Andy Card Re: Attached (2 pp.)	1/10/90	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John, Files
Subseries: White House Offices File
WHORM Cat.:
File Location: Legislative Affairs
(McClure) (1990) [2]

Open on Expiration of PRA
(Document Follows)
By JP (NLGB) on 10/28/05

Date Closed:	12/14/2004	OA/ID Number:	29179-001
FOIA/SYS Case #:	1998-0004-F[1]	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

RESTRICTION CODES

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C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

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THE WHITE HOUSE
WASHINGTON

Rec'd 1/12
AHC

Gov. S-
FYI
Andy

January 10, 1990

TO: Andy Card
FROM: Boyd Hollingsworth
RE: Attached

The original request from Senator McClure was received and routinely referred to Presidential Messages. They determined that the commercial nature of the celebration (the 50th anniversary of Albertson's Incorporated) made it inappropriate for a Presidential message -- according to our policy on that subject -- and further referred the request to Commerce for a message from Commerce Secretary Mosbacher, which I understand is the usual procedure. The office originating the request does not receive notice of this determination and further referral, so the first indication that Legislative Affairs had that McClure's request was being denied was when we checked with Presidential Messages in response to the follow-up phone call from McClure's office.

Staff assistants in this office, at my instruction, appealed the denial of a Presidential message on at least two occasions. Knowing the prominence of Joe Albertson in Idaho, I subsequently contacted Presidential Messages personally to suggest that a message be sent for "Joe Albertson Day", and not mention the grocery chain -- but this too was denied since the recognition of Joe Albertson was so clearly linked to the anniversary of the Albertson's Incorporated. We did not contact McClure's office during this time in which we were attempting to reverse the negative decision -- giving rise to the assertion that their call was not returned for several days. I felt that we would ultimately be able to obtain some Presidential message and that it would be better not to tell McClure's office that their request was denied. Unfortunately, as it turned out, the process of appealing the decision took several days and the final outcome was the same.

Following the receipt of McClure's letter during the August recess, I visited with Jack Gerard, McClure's Legislative Director, in the Capitol off the floor of the Senate. He brought up the subject of the letter and these events. He indicated the McClure staff was somewhat uncomfortable with the letter, and that although the letter bore McClure's signature, it had been drafted by the state staff person who had been working directly with Albertson's. Gerard told me that McClure's office did not

expect any written response to the letter from Fred. (Gerard did not tell me, but I suspected that the state staff person had "overcommitted" on his ability to deliver a letter from the President, and had been embarrassed by his failure to do so. The McClure letter confirms that the state staff had in June expressed the opinion of "no inherent problems" in getting the letter.)

Even though Gerard had indicated that the letter did not require a response and that they had merely wanted to point out the problem, I volunteered to him that as a result of receiving the letter this office had taken steps to give an earlier alert to offices about possible complications from commercial connections on presidential messages and to encourage them to emphasize other aspects of the event in appropriate cases. I also told him that there were sound reasons for the general policy against Presidential messages in connection with commercial activities, but that sometimes exceptions could be made and in this case I had tried, unsuccessfully, to have an exception made for Senator McClure. I informed Fred of my conversation with Gerard and recommended that he not reply to McClure's letter. I believed at the time, and still do, that this response was adequate and appropriate. I ran into McClure's AA, Tod Neuenschwander, several times last fall and we had almost a running joke about "any more letters from McClure", referring to this incident and one other occasion when McClure wrote complaining of inaction by the White House (the Idaho Secretary of State had written directly requesting a centennial message for Idaho and had not received a reply.) At no time did Neuenschwander indicate to me that they were upset at not receiving a written reply to the letter.

I believe that the whole incident regarding Albertson's demonstrates two improvements that we can make. First, some exceptions should be made to the prohibition on Presidential messages in connection with a commercial enterprise. I felt that an exception should have been made in this case -- but others disagreed. I have had other conversations with Shirley Green and others where I have been convinced an exception would not be appropriate. As long as the process remains open to possible exceptions, especially for political considerations, the current general policy will prove most workable.

Second, Legislative Affairs can do a better job of alerting Member's offices to potential problems with their request -- and we have taken steps in that direction. Since the McClure incident, and partly as a result of it, we have instituted a tracking system for these requests, and try to follow up on those requests that are delayed or where we have no response a reasonable time in advance of the event. In addition, we are continually learning more about the factors that create problems, such as a commercial connection, and try to identify those to the offices when we first see their request and help them to resubmit the request to avoid the potential problems.

United States Senate

WASHINGTON, DC 20510

August 11, 1989

copy
to JHS 11/89

Frederick D. McClure
Assistant to the President
for Legislative Affairs
The White House
Washington, DC 20500

Dear Fred,

I hate to bring an item of this type to your attention, but nobody worked harder for President Bush's election than did I, and I want him to succeed. I hope this is an isolated incident, but it brought ill will to me, to the President, and to all involved because of a seemingly simple request.

In May of this year, my staff contacted the White House to find out how we might go about, and who might handle a letter of special recognition from the President. My staff was instructed to send our request to Boyd Hollingsworth in the legislative affairs office.

The letter of recognition was for an event on July 21st. Upon learning the date, the White House told my staff not to send our request to Boyd until one month prior to the event because the White House will not send out letters of this nature until one week prior to the special occasion.

As requested, my letter to your office was consequently sent on June 13 to Boyd Hollingsworth requesting a letter of congratulation from the President to Joe and Kay Albertson on their 50th anniversary of Albertson's Incorporated. Albertson's is a national supermarket chain headquartered in Boise.

On June 19th, I received a letter from Boyd Hollingsworth acknowledging receipt of my letter and informing me that he had forwarded the letter to appropriate staff to ensure the letter would "be given prompt and careful attention".

On July 12, after hearing nothing, my staff made a follow-up phone call to your legislative affairs office to check on the status of the letter. My staff was assured that your office would check on the progress and call back. The call was not returned to my office.

Frederick D. McClure
August 11, 1989
Page 2

On July 18, my staff again contacted the office of legislative affairs seeking information on the letter. At that time, and only at that time, was my staff informed that there was a potential problem with the President sending such a letter. Staff was informed later that day, after initiating yet another call to legislative affairs, that the President would not send a letter of special recognition because it appeared to promote a company that operates for profit. My staff was also told that this was a White House rule. This was the first that any such rule was ever mentioned to my staff.

My Boise office then informed Albertson's of the unfortunate turn of events. Needless to say, my constituents at Albertson's were less than happy. They had been told since early June that we saw no inherent problems in obtaining a letter from the President to commemorate the humble beginnings of a family grocery store which has evolved into a national food chain.

I certainly appreciate the necessity for the White House to establish standards for letters from the President. We all have to maintain control of letters that go out under our signature. But I have no understanding why my staff was not informed of this months ago when the request was first made, or even subsequently before political damage was done. Not to be informed of such a rule until virtually the date of the event is simply inexcusable.

Obviously this put me in a very embarrassing situation with the Albertsons. More importantly, it puts our President in an embarrassing situation.

This experience has caused some real problems with an old friend and supporter of over 20 years, Joe Albertson, not to mention the ill will caused to the many fine Albertson's people who were dealing with my office. Joe Albertson is an institution around Idaho for the kind and generous individual he is, for the numerous gifts he has bestowed upon the citizens of our state in the form of educational facilities, public parks, scholarships and more. This 50th anniversary celebration was, in actuality, the tribute to the man, who through his "profit making" endeavors, has enriched the lives of many in a whole variety of ways. It is truly regrettable that The President could not have played a small but significant part.

As President Bush moves into the 1992 election cycle it will be difficult not to remember that the White House will not deal with corporations which seek to make a profit.

Frederick D. McClure
August 11, 1989
Page 3

My purpose in writing this letter is twofold, since the damage in this particular instance has been done.

First, I would encourage you to reexamine an apparent White House policy which summarily dismisses any and all letters commemorating a significant event, if that event deals with our system of free enterprise. That, on its face, appears to contradict much of what we stand for.

Second, should such a White House policy exist, let those of us who are longtime and ardent supporters of the President know what that policy is at the time we make such requests, rather than string us along till the last possible moment only to cause embarrassment to the President and ourselves in the process.

There is no need to attempt to take any remedial action in this particular instance. Let's just not let it happen again.

Sincerely,

James A. McClure
United States Senator

McC:tns

cc: James R. Wray
Boyd Hollingsworth

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
05. Note	From Andy Card to Boyd Hollingsworth Request for guidance (1 pp.)	12/7/90	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John, Files
Subseries: White House Offices File
WHORM Cat.:
File Location: Legislative Affairs
(McClure) (1990) [2]

Open on Expiration of PRA
(Document Follows)
By JP (NLGB) on 10/28/05

Date Closed: 12/14/2004	OA/ID Number: 29179-001
FOIA/SYS Case #: 1998-0004-F[1]	Appeal Case #:
Re-review Case #: 2005-0426-S	Appeal Disposition:
P-2/P-5 Review Case #:	Disposition Date:
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RESTRICTION CODES

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C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

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THE WHITE HOUSE
WASHINGTON

Date: 12/7/89

FOR: Boyd Hollingsworth

FROM: ANDY CARD

- ☐ Action
- ☐ Your Comment - guidance-what's
the real story?
- ☐ Let's Talk
- ☐ FYI

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
06. Memo	From Frederick McClure to John Sununu Re: Meeting with Senate Republican Policy and Conference Committees (2 pp.)	1/19/90	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John, Files
Subseries: White House Offices File
WHORM Cat.:
File Location: Legislative Affairs
(McClure) (1990) [2]

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(Document Follows)
By *JP* (NLGB) on 10/28/05

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THE WHITE HOUSE
WASHINGTON

January 19, 1990

MEMORANDUM FOR JOHN H. SUNUNU

FROM:

FREDERICK D. McCLURE 

SUBJECT:

Meeting with Senate Republican Policy and
Conference Committees; Tuesday, January 23, 1990

At the request of Republican Leader Bob Dole, Dick Darman and you will be meeting with the Senate Republican Policy and Conference Committees next Tuesday, January 23. The meeting will be held in Senator Dole's Capitol office (S-230). I suspect that you should allot approximately one hour for the discussion. All Republicans are expected to be present, except Senators Gramm, Mack, Roth and Wilson. I will also be at the meeting.

Dole would like for you to discuss his "Five C's":

Clean air (scheduled for beginning floor consideration that day)
Capital gains
Child care
China veto override (tentatively scheduled for floor consideration Wednesday or Thursday)
Campaign finance reform

I suggest that you use this opportunity as well to request that the ranking members of committees push for confirmation of the President's **nominees** currently pending in the Senate.

In a conversation with Dole yesterday, he indicated to me that he had visited with Mitchell regarding the schedule for the first couple of weeks. Items Mitchell mentioned for consideration **prior to** the President's Day recess included clean air, the Nunn National Service bill, two education bills (vocational education and excellence), and the China veto override. Also in that equation is the already agreed upon consideration of the crime legislation on February 8.

Although I have not yet confirmed the following, Dole indicated that Mitchell is planning to speak to the National Press Club on the 25th for the purpose of outlining his agenda for the Second Session. This might be a bit premature given the

fact that Democrats are "getting their heads together" starting Friday of next week.

On another matter, Dole, Thurmond, Hatch and Cochran have scheduled a meeting for Monday with Jeffords on the judgeship and our discussions of last week.

Finally, following your participation in the 10:30 a.m. meeting, Cheney and Baker have been invited to participate in the Republican Policy Committee lunch. At last check, Cheney had a conflict with a speech in New York. I do not know how this has been resolved. The purpose is to have a discussion similar to the one that you, Cheney and Darman had with Dole several days ago on the defense budget. Baker is to discuss foreign affairs matters from the past couple of months, as well as to share his view as to what lies ahead.

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
07. Memo	From Brent Scowcroft to POTUS Re: Characterizing Defense Budget Reductions (3 pp.)	1/16/90	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John, Files
Subseries: White House Offices File
WHORM Cat.:
File Location: Legislative Affairs
(McClure) (1990) [2]

Open on Expiration of PRA
(Document Follows)
By *[Signature]* (NLGB) on 9/21/08

Date Closed:	12/14/2004	OA/ID Number:	29179-001
FOIA/SYS Case #:	1998-0004-F[1]	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
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THE WHITE HOUSE
WASHINGTON

January 16, 1990

INFORMATION

MEMORANDUM FOR THE PRESIDENT

FROM: BRENT SCOWCROFT 
SUBJECT: Characterizing Defense Budget Reductions

Although your budget is not scheduled to go to the Hill until late this month, it already has been the subject of intense press and Congressional attention. Some on the Hill are eagerly anticipating a "peace dividend." Others see a budget in "freefall." Still others are pointing to a defense budget process they view as uninformed by any coherent strategic perspective or appreciation of the dramatic geostrategic changes that are taking place.

It is clear to all that the FY 1991 defense budget will be smaller than previously planned, and that this is largely the result of fiscal pressures. That said, we should recognize that how we characterize the strategic rationale underpinning the FY 1991 defense budget in Congressional testimony and public statements may have as telling an effect on national security as the budget itself. Not only will our characterization help shape the size and content of the defense program, it will also affect the perceptions of friends and adversaries about the nature of the American assessment of and engagement in a "post-containment" world.

As various spokesmen have previewed portions of the FY 1991 defense budget in backgrounders and responded to press leaks, we have tended to use one or the other of two different explanations for the budget cuts. Neither is entirely satisfactory.

Describing defense reductions as the product of fiscal constraints and an inescapable result of Gramm-Rudman-Hollings makes it more difficult for us to argue for an irreducible floor on what Les Aspin has described as a budget in "freefall." If we exaggerate the fiscal pressures, the Hill could have a field day savaging your defense budget request at the same time that it flails the Administration for the lack of a coherent strategy. At home and abroad this approach leaves us vulnerable to the criticism that we are oblivious to the revolutionary changes that are happening all around, or at least have no plan for seizing new opportunities and meeting new challenges.

cc: Vice President
Chief of Staff

Alternatively, describing defense reductions as the product of a reassessment of recent changes in the geostrategic environment might meet some of the demands we are already seeing on the Hill for a redefinition of our defense strategy. But such an approach in advance of consultations and agreements with our Allies would make it much harder for us to argue that they should hold the line on defense spending. After all, the appropriate response to these "favorable" changes in the security environment should be an Alliance decision benefiting them as well as the U.S. A unilateral assessment, therefore, risks triggering a spiral of Allied cuts that could undercut efforts to reach an early CFE agreement and to create a CFE architecture within which future reductions could be managed.

In fact, both of these characterizations of the FY 1991 defense budget are accurate but each is incomplete. We need to integrate both themes -- budget constraints and new international realities -- in a coherent and persuasive presentation of the defense budget. The FY 1991 cuts may be "fiscally driven," but they are being taken against a backdrop of changes in the world that make such reductions tolerable.

We should characterize the defense budget request as the first step in restructuring our defense program and military capabilities in ways that position us for ongoing and prospective changes in the security environment. We should emphasize the challenges we face in managing a defense planning process that anticipates developments such as a CFE agreement, but does not irrevocably commit us to a course of action should those anticipated developments fail to occur.

Publicly articulating an approach along these lines would help ensure that reductions are properly shaped by a changing strategic landscape whose implications the Administration has assessed. Even more so than in the past, the twin demands of fiscal constraints and a rapidly changing environment dictate that the defense program reflect the broad perspective of the executive against the more narrow, short-term and local interests that frequently motivate Congress.

The following could be some key themes in that perspective:

- American power has been an important precondition to the positive changes we are witnessing in Soviet behavior and elsewhere in the international environment. This is a difficult period of transition in which we must sustain our strength and use it wisely to encourage continuation of the change it has fostered thus far.
- If present trends continue we will have a fairly clear picture of what the security environment will look like by mid-decade and a good idea of what kind of military capabilities we will need. Our defense program is responsive to these emerging trends, but is keyed to currently changing realities, not hoped-for futures.

- In light of these emerging trends, our forces must continue to deter the Soviets, but also have increased utility for other, more likely, conflicts.

- Over time we envisage our active forces being smaller, more global in their orientation and having a degree of agility, readiness and sustainability appropriate to the demands of likely contingencies.

- The proposed budget, in both its overall level and its programmatic specifics, begins building toward these kinds of forces in a responsible way.

- But, in the near-term, because of the uncertainty of the trends with which we must deal, we must not take hard-to-reverse steps.

- Over the longer term we will continue to build a certain degree of reversibility into what we do as a hedge against unforeseen changes in the international situation.

- This is the essence of good defense planning and military strategy: allocating limited resources effectively to deal with an environment of fluid situations and a wide variety of possible contingencies.

- More than ever we need the support and understanding of Congress to ensure that our approach to reshaping and restructuring our military capabilities is coherent, and that it results in forces that are well suited to defend our interests in a rapidly changing world.

Such an approach is appropriately cautious but ties the defense program to real changes that are occurring in the world and sets the stage for future, more dramatic, adjustments should they prove warranted. In an admittedly difficult situation it allows the Administration to occupy some strategic high ground and use it as a defensible position from which to dampen unrealistic expectations for an immediate and large peace dividend. It also protects the Administration from accusations that its defense program is insensitive to changes in the international environment, and gives us leverage in resisting Congressional efforts to protect various constituencies against painful budget cuts.

We have a difficult job ahead of us and it is important to ensure that we all have a common, coherent rationale to use in presenting and defending the FY 1991 defense budget, beginning with a possible "defense budget summit" that some in Congress have suggested.

SENATOR MOYNIHAN'S SOCIAL SECURITY PROPOSAL

Senator Moynihan has announced that he will introduce legislation on January 23, 1990 to cut the Social Security payroll tax rate. This memo

- a. Outlines current law;
- b. Describes Senator Moynihan's proposal; and
- c. Outlines pros and cons.

A. CURRENT LAW

The 1983 Social Security Amendments set payroll tax rates to accumulate a Social Security Trust Fund surplus. That surplus would then be available to help finance the retirement benefits of the baby boom generation.

SOCIAL SECURITY TAX RATES

	<u>Employee Share</u>	<u>Employer Share</u>	<u>Total</u>
1984 - 1987	5.70%	5.70%	11.40%
1988 - 1989	6.06%	6.06%	12.12%
1990 and after	6.20%	6.20%	12.40%

NOTE: This does not include the 1.45% payroll tax for the Medicare Hospital Insurance (Part A) program.

The tax is paid on annual earnings of up to \$51,300 in 1990. No tax is paid on earnings above that amount. The \$51,300 limit -- the so-called wage base -- is increased each year based on year-to-year growth in the national average wage.

B. SENATOR MOYNIHAN'S PLAN

The plan has two parts:

1. Repeal the 1990 increase.

For 1990, Senator Moynihan would reduce the rate from 6.20% each on employer and employee to the 1989 level of 6.06%.

Estimated 1990 cost: \$7 billion.

2. Beginning in 1991, Shift Social Security to Pay-As-You-Go Financing.

- a. For 1991 - 2014, Senator Moynihan would cut the payroll tax rate dramatically to 5.1%. This would return Social Security to so-called "pay-as-you-go" financing, under which a given year's benefits are paid for by that year's payroll tax receipts. Social Security operated under pay-as-you-go for many years prior to 1983.

Estimated 1991 cost: \$55 billion.

- b. For 2015 - 2045, Senator Moynihan would increase the tax rate significantly in order to pay the baby boom retirement benefits. Senator Moynihan estimates it would jump to 6.0% in the year 2015 and reach 7.6% by 2025.

Basically, Senator Moynihan trades a lower payroll tax rate in the next 25 years (1990 - 2015) for a higher rate in later years (2015 - 2049).

The following shows tax rates under current law and Senator Moynihan's plan:

SOCIAL SECURITY TAX RATE
EMPLOYEE SHARE ONLY (MATCHED BY EMPLOYER)

	<u>Current Law</u> <u>(Build Surplus)</u>	<u>Senator Moynihan</u> <u>(Pay-As-You-Go)</u>
1984 - 1987	5.70%	Not applicable
1988 - 1989	6.06%	Not applicable
1990	6.20%	6.06%
1991	6.20%	5.10%
1992	6.20%	5.10%
2015	6.20%	6.0%
2020	6.20%	6.80%
2025	6.20%	7.60%
2049	6.20%	7.70%

Note: These rates do not include the payroll tax of 1.45% for Medicare Hospital Insurance (Part A) Coverage because the proposal affects only the tax rate for the Old Age, Survivors, and Disability (OASDI) program. The proposal would not change the current rate of 1.45% for Medicare Part A. Nor does it change the wage base of \$51,300 in 1990.

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
08. Agenda	Agenda Prior to Recess; Republican Conference (3 pp.)	1/23/90	P5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John, Files
Subseries: White House Offices File
WHORM Cat.:
File Location: Legislative Affairs
 (McClure) (1990) [2]

Open on Expiration of PRA
 (Document Follows)
 By JP (NLGB) on 10/28/05

Date Closed:	12/14/2004	OA/ID Number:	29179-001
FOIA/SYS Case #:	1998-0004-F[1]	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

P-1 National Security Classified Information [(a)(1) of the PRA]
 P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
 P-3 Release would violate a Federal statute [(a)(3) of the PRA]
 P-4 Release would disclose trade secrets or confidential commercial or
 financial information [(a)(4) of the PRA]
 P-5 Release would disclose confidential advice between the President
 and his advisors, or between such advisors [(a)(5) of the PRA]
 P-6 Release would constitute a clearly unwarranted invasion of
 personal privacy [(a)(6) of the PRA]

(b)(1) National security classified information [(b)(1) of the FOIA]
 (b)(2) Release would disclose internal personnel rules and practices of an
 agency [(b)(2) of the FOIA]
 (b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
 (b)(4) Release would disclose trade secrets or confidential or financial
 information [(b)(4) of the FOIA]
 (b)(6) Release would constitute a clearly unwarranted invasion of
 personal privacy [(b)(6) of the FOIA]
 (b)(7) Release would disclose information compiled for law enforcement
 purposes [(b)(7) of the FOIA]
 (b)(8) Release would disclose information concerning the regulation of
 financial institutions [(b)(8) of the FOIA]
 (b)(9) Release would disclose geological or geophysical information

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

JANUARY 23, 1990

JHS

REPUBLICAN CONFERENCE
S-230 - 10:30 A.M.

1. AGENDA PRIOR TO RECESS

2. 5 C's:

- o Clean Air ✓
- o Chinese Students ✓
- o Child Care
- o Campaign Finance
- o Capital Gains ✓

3. OTHER ISSUES:

- o Moynihan Social Security
- o Puerto Rican Statehood

4. STATUS OF NOMINATIONS

REPUBLICAN CONFERENCE
JANUARY 23, 1990 - S 230 - 10:30 A.M.

1. Agenda Prior to February Recess

- Clean Air
- National Service Legislation (S.1430 Kennedy)
- Crime Bill (Feb 7-8-9) UC Agreement in place

2. Major Issues: 5 C's (HANDOUT: PRESIDENT'S LETTER)

A. Clean Air

- Mitchell hopes to complete prior to Feb. recess
- Are we willing to allow Senator Mitchell to proceed to the bill?
- You might ask for indication of who intends to offer major amendments

B. Child Care

- House Democrats are still trying to reach some consensus on a proposal
- White House continuing to press for tax credits

C. Chinese Students (HANDOUTS: AG LETTER & 2 PAGE SUMMARY)

- House taking up veto on Wednesday
- Critical that we support the President at this time - his actions as good as legislation.
- Information would have us believe changes in China occurring
- Hope we can delay vote on veto

D. Campaign Finance Reform

- Senator Mitchell anxious to move bills soon after February recess
- House Republicans and Democrats moving ahead with discussions
- Some receptivity among House Republicans (and others - Rudman) to place limit on campaign expenditures
- We need to determine where Senate Republicans stand

E. Capital Gains

- White House will again include a proposal very similar to last years Packwood proposal

OTHER ISSUES

- Moynihan Social Security Proposal (HANDOUT DESCRIPTION OF BILL)
- Don't sign on too quickly -- we need to develop Republican position
- Moynihan proposal sure fire way to lead to higher taxes (to make up budget deficit or to pay baby boom benefits) in the future or benefit reductions to accommodate lower reserves.
- We should legitimately consider ways to "fence" the reserves so they are available to pay future benefits --perhaps investing in the private sector--not Treasury securities
- The Administration has a proposal to use money to pay down deficit - not current services
- Basically we need to examine proposal very carefully -- through extensive hearings. Lets not trash the 1983 agreement too quickly.

Puerto Rican Statehood

- Senator Ford very anxious to move bill - as is Senator McClure
- We have to examine possible implications for the Party -- as two Democrat senators very likely
- No reason to leap on the bandwagon at this time

THE WHITE HOUSE
WASHINGTON

6/19

TO: *John Sonunda*

FROM: **FRED McCLURE** *FM*
Assistant to the President
for Legislative Affairs

☒ FYI

☐ Comment

☐ Action

THE CHIEF of STAFF
has seen

The attached may be useful.
Excerpted from CQ's "Guide
to the Presidency."

Give copy to V.P. office
Andy, Markin, Ed, RWC

pressing the president's views on the bills in question. Whatever their other purposes, veto messages are political statements and are directed not only toward Congress but to the public at large. In this sense, then, the messages become additional resources in the president's effort to influence public policy.

Historical Development

Early presidents conformed with the prevailing view that Congress best represented the public will and thus confined vetoes to bills deemed unconstitutional. The notion that a president should veto a bill simply because it was "bad" was not yet widely accepted. Indeed, the first six presidents issued few regular vetoes between 1790 and 1830 and in most instances did so on constitutional grounds.

This narrow interpretation of the president's right (and, perhaps, duty) to use the veto underwent significant redefinition during the tenure of Andrew Jackson (1829-1837)—hero of the War of 1812, keen foe of Eastern business and banking interests, and self-styled "Tribune of the People." Jackson was a strong party loyalist who quickly entered into warfare with his congressional foes, and the veto in his hands became an instrument of political as well as constitutional power. In eight years Jackson issued twelve vetoes, more than his predecessors combined, and none of them was overridden. Perhaps most controversial was his 1832 rejection of a bill rechartering the Bank of the United States, which was opposed bitterly by frontier settlers and farmers hurt by its high interest rates. As political scientist Clinton Rossiter suggested, Jackson "revived the veto and purified it of the niceties that had grown up around it" by making it an overtly political instrument.¹²

Whig presidents after Jackson, while professing allegiance to their party's doctrine of congressional supremacy, also proved surprisingly resolute when challenged by the legislature. John Tyler (1841-1845), for example, vetoed two major bank bills supported by his own party, and his 1843 veto of a controversial tariff measure sparked the first formal attempt in Congress to impeach a president. That effort failed, and Tyler's successors showed equally notable bursts of independence. Even so, only fifty-nine bills were vetoed between 1789 and 1865, more than half of them during the terms of Presidents Jackson, Tyler, and Franklin Pierce (1853-1857).

Post-Civil War Era

Presidents and Congress after Abraham Lincoln (1861-1865) clashed increasingly within a national political arena rife with sharp regional and partisan antagonisms, dramatic social and economic changes, and disputes over the proper role of government. This era, although marked generally by congressional dominance, nonetheless saw stark surges in presidential use of the veto as successive executives attempted to grapple with massive numbers of bills spawned by an often antagonistic Congress. The period between the Civil War and the late 1890s saw some of history's keenest partisan battles, which often spilled over into conflict between the branches of government.

Andrew Johnson (1865-1869), for example, wrestled strenuously with Congress immediately after the Civil War and became the first president whose veto of an important bill was overridden. Among all presidents, Johnson in fact had the greatest percentage of regular vetoes overturned by

Table 1 Vetoes and Vetoes Overridden, All Bills, 1789-1988

President	All bills vetoed	Regular vetoes	Pocket vetoes	Vetoes overridden
Washington	2	2	0	0
J. Adams	0	0	0	0
Jefferson	0	0	0	0
Madison	7	5	2	0
Monroe	1	1	0	0
J. Q. Adams	0	0	0	0
Jackson	12	5	7	0
Van Buren	1	0	1	0
W. H. Harrison	0	0	0	0
Tyler	10	6	4	1
Polk	3	2	1	0
Taylor	0	0	0	0
Fillmore	0	0	0	0
Pierce	9	9	0	5
Buchanan	7	4	3	0
Lincoln	7	2	5	0
A. Johnson	29	21	8	15
Grant	93 ^a	45	48 ^a	4
Hayes	13	12	1	1
Garfield	0	0	0	0
Arthur	12	4	8	1
Cleveland (1st term)	414	304	110	2
B. Harrison	44	19	25	1
Cleveland (2d term)	170	42	128	5
McKinley	42	6	36	0
T. Roosevelt	82	42	40	1
Taft	39	30	9	1
Wilson	44	33	11	6
Harding	6	5	1	0
Coolidge	50	20	30	4
Hoover	37	21	16	3
F. Roosevelt	635	372	263	9
Truman	258	191	67	12
Eisenhower	188	79	109	2
Kennedy	21	12	9	0
L. Johnson	29	18	11	0
Nixon	43	24	19 ^b	5
Ford	68	49	19	12
Carter	31	13	18	2
Reagan	68	41	27	8
Total	2,475	1,439	1,036	100

Sources: *Guide to Congress*, 3d ed. (Washington, D.C.: Congressional Quarterly Inc., 1982), 763; *Congressional Quarterly Weekly Report*, various issues.

a. Veto total listed for Grant does not include a pocket veto of a bill that apparently never was placed before him for his signature.

b. Includes Nixon's pocket veto of a bill during the 1970 congressional Christmas recess later that was ruled invalid by the federal courts.

Congress (fifteen out of twenty-one, or 71 percent). So acrid was the antipathy between the branches that Johnson's refusal to abide by the Tenure of Office Act, a law passed over his veto that forbade presidents from firing political appointees without congressional approval, led directly to his impeachment by the House. Johnson was acquitted in the Senate by only one vote, and the Tenure of Office Act (which many constitutional scholars later viewed as unconstitutional) was repealed in 1887.¹³

Table 2 Private Bills Vetoed, 1789-1988

President	Regular vetoes	Pocket vetoes	Vetoes overridden
Washington	0	0	0
J. Adams	0	0	0
Jefferson	0	0	0
Madison	2	0	0
Monroe	0	0	0
J. Q. Adams	0	0	0
Jackson	0	0	0
Van Buren	0	1	0
W. H. Harrison	0	0	0
Tyler	0	0	0
Polk	0	0	0
Taylor	0	0	0
Fillmore	0	0	0
Pierce	0	0	0
Buchanan	2	0	0
Lincoln	0	1	0
A. Johnson	0	2	0
Grant	29	37	3
Hayes	1	0	0
Garfield	0	0	0
Arthur	1	8	0
Cleveland (1st term)	271	82	1
B. Harrison	5	23	9
Cleveland (2d term)	30	99	2
McKinley	4	32	0
T. Roosevelt	27	31	0
Taft	10	7	0
Wilson	7	2	0
Harding	3	0	0
Coolidge	3	17	0
Hoover	4	6	0
F. Roosevelt	317	180	0
Truman	137	38	1
Eisenhower	43	64	0
Kennedy	8	4	0
L. Johnson	12	4	0
Nixon	0	3	0
Ford	3	2	0
Carter	0	2	0
Reagan	7	5	0
Total	926	650	16

Sources: *Guide to Congress*, 3d ed. (Washington, D.C.: Congressional Quarterly Inc., 1982), 357; *Congressional Quarterly Weekly Report*, various issues.

Note: The official distinction between public and private bills was rather hazy through the 1930s, although private bills generally were classified as those benefiting a single individual rather than a large segment of society (for example, a private pension bill). Beginning in 1936, however, a Library of Congress publication has listed all private bills.

Johnson's experiences aside, most of the vetoes produced during the rest of the nineteenth century were aimed at "private" bills, actions by Congress that benefited specific individuals, companies, or municipalities. (See Table 2.) Most private bills during the late 1800s provided pensions for Civil War veterans, but many were fraudulent or excessive claims that often were passed late in the congressional session. Grover Cleveland (1885-1889, 1893-1897)

vetoed 482 private bills during his eight years in office—43 during one three-day period in 1886 alone.¹⁴ Many were through the use of pocket vetoes, and only three of Cleveland's vetoes of private bills were overridden.

Modern Presidents

Franklin D. Roosevelt (1933-1945) used the veto more vigorously than any other president, was the first to use it against major tax legislation, and crafted the threat of the veto into his legislative strategy. Roosevelt in many ways created the modern presidency, and the veto became yet another instrument of executive influence within an environment of expansive government action and power.

His influence on the presidency endures, particularly because contemporary U.S. government so often is marked by split partisan control over the White House and Congress. (See table, *Party Affiliations in Congress and the Presidency, 1789-1989*, p. 1453, in the Appendix.) Vetoes have been used most frequently when such partisan splits occur. Harry S. Truman (1945-1953), for example, in 1947 vetoed the controversial Taft-Hartley Labor Act, a bill the Republican-dominated Congress passed to restrain the power of labor unions. Truman subsequently used congressional overrides of this and other vetoes to great political effect in rallying voters to the Democrats in the 1948 presidential and congressional elections.

Republican president Dwight D. Eisenhower (1953-1961) wrestled with a Congress dominated by Democrats during all but two of his eight years in office. He used the veto often to stop liberal social programs and relied heavily on a "conservative coalition" of congressional Republicans and southern Democrats for support against overrides. One notable case occurred in 1959 when Eisenhower squared off against congressional Democrats intent on pushing a new domestic agenda. Eisenhower's veto warnings went unheeded, but the conservative coalition in Congress held fast throughout the year to sustain successive vetoes against new spending for urban housing, rural electrification, and other domestic programs. Threats of further vetoes persuaded Democrats to cut back drastically on their efforts.¹⁵

Democrats John F. Kennedy (1961-1963) and Lyndon B. Johnson (1963-1969), blessed with friendly majorities in Congress, seldom used the veto, but Republicans Richard Nixon (1969-1974) and Gerald R. Ford (1974-1977) fared differently. Both Nixon and Ford faced off against Democratic Congresses, so the veto by necessity became central to their legislation strategies. Nixon issued several vetoes on major bills he deemed inflationary and even appeared on national television to veto a massive appropriations bill. As when Eisenhower was in office, the conservative coalition in Congress often proved large enough to derail override attempts.

Because the success of the veto is inextricably tied to a president's overall "strength," Nixon's political troubles eventually weakened his national popularity and influence within Congress. In 1973, for example, a resurgent Congress soundly overrode his veto of the War Powers Resolution, an act aimed at limiting presidential ability to commit U.S. armed forces abroad without congressional approval. Congress also overrode Nixon's veto of the 1974 Budget Impoundment and Control Act, which he opposed because it limited presidential ability *not* to spend funds appropriated by Congress. (See discussion of item veto later in this section on veto power.)

Ford, who became president after Nixon's resignation

August 9, 1974, used the veto frequently and to great effect. Despite facing a Congress strongly controlled by Democrats, Ford was sustained on all but four of the seventeen vetoes issued in 1975 alone. Ford also used the threat of a veto to derail a consumer protection bill popular in both chambers. His experience showed how the veto can be used to compensate partially for the severe political weakness of being an unelected chief executive succeeding a disgraced president.

Jimmy Carter (1977-1981), like Kennedy and Johnson, relied on the veto less frequently because his fellow Democrats dominated Congress. A notable exception was his rejection of a 1977 energy research bill, a \$6 billion authorization measure that Carter successfully opposed because it included funds for a nuclear breeder reactor he thought dangerous and too expensive.¹⁶ Carter was not challenged on that veto, but in 1980 he became the first president since Harry Truman to suffer an override at the hands of his own party.¹⁷ Carter had vetoed a bill to limit the national debt because it contained a provision eliminating import fees on foreign oil. He lost this time, however, because the fees were widely unpopular and, perhaps, because members of Congress were emboldened by the apparent weakening of Carter's public support as the Iran hostage situation dragged on.

The experiences of Ronald Reagan (1981-1989) in many ways mirrored those of Nixon, although Reagan for one term faced a Congress itself split between a Republican Senate and a Democratic House. Like Nixon, Reagan vetoed major spending bills contrary to his program and often warned, "my veto pen is inked up and ready to go," when Congress was on the brink of passing legislation he opposed.¹⁸ Reagan's great popularity with the voters in his first term often was enough to deter congressional action, and his veto of a 1981 continuing appropriations bill proved so potent that Congress reworked the measure to his satisfaction. Reagan found it harder to make veto threats work to his advantage, however, after Democrats regained full control over Congress in the 1986 elections. Indeed, Congress in early 1987 easily overrode his vetoes of major water pollution and highway bills, signaling to many a shift in the president's influence over national policy. (See box, *A Veto Message*, p. 454.)

An Instrument of Presidential Power

James Bryce, the nineteenth-century English observer of U.S. government, argued that the veto "conveys the impression of firmness."¹⁹ Contemporary scholars of the presidency agree with Bryce only to a point, since most view the veto as both a clumsy instrument of executive power and one whose frequent use displays political weakness, not strength.²⁰ Thomas Cronin, a political scientist who long has studied the presidency, has argued simply that to see the veto as a tool of "strong presidents" is illusory, since presidents historically have used vetoes predominantly against private bills and seldom have vetoed major tax and appropriations measures.²¹ Another scholar of the presidency, George Edwards III, added that the veto is a negative instrument, good for stopping unwanted legislation, but once used, it indicates largely that the president has failed to sway Congress from its course.²² Having a veto overridden underscores a president's relative political weakness, particularly if Congress is dominated by the president's own party.

In discussions of the veto's strength, Ford's frequent use of the device is often mentioned because scholars of the presidency think he was dealt the weakest political hand of any modern president. After succeeding Nixon, he faced a fiercely independent Congress dominated by liberal Democrats. To defend his prerogatives, he used the veto more frequently than any other twentieth-century president because political circumstances gave him no option. That so many of his vetoes were sustained within a largely hostile Congress suggests the raw power of the veto to stop legislation.

The experiences of other presidents buttress this view. Harry Truman's crafty use of the veto as a political weapon against congressional Republicans did not hide the fact that he often lost important override battles. Ronald Reagan's defeat in successive override episodes during early 1987 emphasized his weakening leverage in light of renewed Democratic dominance in Congress and his own troubles over secret arms sales to Iran. In sum, the veto more often than not is the weapon of last resort, to be used when all other attempts at persuasion fail.

When presidents veto legislation, the move may be viewed as a sign of relative weakness; but when they successfully head off unwanted legislation by *threatening* to use the veto, the tactic is seen as an indicator of presidential strength. Veto threats are useful bargaining tools in the hands of a popular and wily executive. Presidential scholars often point to Franklin Roosevelt, who was known to beg his aides to "find something I can veto" as both a lesson and a reminder to Congress of his potential power.²³ The strength of Ronald Reagan's public popularity during his first term more than once allowed him to challenge Congress with the veto and successfully get legislation reworked to his liking. Even Gerald Ford, despite his problems, effectively used the threat of a veto to deter legislation, although he did so when Congress was about to adjourn.

Congress, however, finds ways to undermine vetoes or threats of vetoes made by even popular presidents. Because the president cannot veto parts of a bill, members of Congress many times will load up major legislation with amendments on a completely different subject (known as "riders") or with pet spending programs that they know the president must accept to ensure passage. To make matters more complicated, Congress in recent years has relied on massive omnibus (or "catch-all") bills to pass the budget, to appropriate funds, and to levy new taxes simultaneously. Ronald Reagan several times had to accept omnibus bills containing programs or provisions he detested simply because he needed other spending contained in the same bill. A prime example was the Boland Amendment, a provision restricting U.S. aid to the rebels opposing the Nicaraguan government, which was tacked onto a 1984 appropriations bill.

Congress also tends to wait until late in each session to pass critical spending bills, which narrows the president's range of possible responses because a veto may not be feasible if Congress has adjourned and the funds needed to run the federal government are contained in the legislation.

Finally, a president cannot totally rely on fellow party members in Congress for support on veto threats, or even during override battles, since most members resist being seen by their constituents as mere rubber stamps for the president's wishes. This is true especially when the bill in question benefits a member's district or state, as when Congress overrode Reagan's vetoes on water treatment and

A Veto Message

A bill passed by Congress is formally vetoed when the president returns it to Capitol Hill unsigned and accompanied by a message stating the reasons for executive opposition. Presidents today rarely write their own veto messages. Instead, the messages typically are composed by professional staff assistants in the Executive Office of the President, often with input from experts in the Office of Management and Budget (OMB) or other executive branch agencies. The president may scan the final draft, and on occasion may pen major parts of controversial veto messages, but the overall process of rebuffing Congress on a piece of legislation largely is a collective one.

Whether the reasons given for a veto are constitutional, fiscal, substantive, or "merely" political—or a combination of reasons—a veto message is designed with more than Congress in mind. In today's media-saturated political atmosphere, any message from the White House to Congress is scrutinized closely for its potential political ramifications. Veto messages thus are crafted carefully, designed above all to sell the president's views on a bill to national opinion makers and to the public, not simply to Congress.

Most veto messages are signed in the relative privacy of the Oval Office and sent by courier to Capitol Hill. They then are delivered to the chamber from whence the bills in question originated, which normally takes the lead in any efforts to override the veto. On vetoes of major bills, however, a president may use the opportunity to convene a public ceremony, complete with supporters and members of the national press, to attack the bill and to generate public sentiment against Congress.

In the following excerpt, President Ronald Reagan explained his objections to amendments to the Clean Water Act passed by Congress in January 1987. Despite Reagan's opposition, however, Congress easily overrode the president's veto by large bipartisan majorities.

TO THE HOUSE OF REPRESENTATIVES:

I am returning herewith without my approval HR 1, the "Water Quality Act of 1987." Because all regulatory, research, enforcement, and permit issuance activities are continued un-

der permanent law and current appropriations—including grants to finance the construction of sewage treatment plants—I emphasize that my veto will have no impact whatsoever on the immediate status of any water quality programs.

The cleanup of our nation's rivers, lakes, and estuaries is, and has been for the past 15 years, a national priority of the highest order. This Administration remains committed to the objectives of the Clean Water Act and to continuing the outstanding progress we have made in reducing water pollution. But the issue facing me today does not concern the ensuring of clean water for future generations. The real issue is the Federal deficit—and the pork barrel and spending boondoggles that increase it.

The Clean Water Act construction grant program, which this legislation funds, is a classic example of how well-intentioned, short-term programs balloon into open-ended, long-term commitments costing billions of dollars more than anticipated or needed. Since 1972, the Federal government has helped fund the construction of local sewage treatment facilities. This is a matter that historically and properly was the responsibility of State and local governments. The Federal government's first spending in this area was intended to be a short-term effort to assist in financing the backlog of facilities needed at the time to meet the original Clean Water Act requirements. When the program started, the cost of that commitment to the Federal taxpayer was estimated at \$18 billion. Yet to date, \$47 billion has been appropriated. HR 1 proposes to put still another \$18 billion of taxpayers' money into this program. Despite all this money, only 67 percent of all municipalities have actually completed the construction needed to comply with the Clean Water Act pollution limits. On the other hand, non-municipal treatment systems, which have received no federal funding, have completed 94 percent of the construction needed for compliance with Federal pollution standards. I want a bill that spends only what we need to spend and no more—not a blank check. For these reasons I must disapprove HR 1, a bill virtually identical to S 1128, which I disapproved last November. . . .

HR 1 gave the Congress the opportunity to demonstrate whether or not it is serious about getting Federal spending under control. The Congress should fulfill its responsibility to the American people and support me on these important fiscal issues. Together we can cut the deficit and reduce spending. But by passing such measures as HR 1, the Congress divides our interests and threatens our future.

Ronald Reagan

The White House,
January 30, 1987

highway bills in 1987. So popular were both measures that Republicans abandoned the president in droves, sacrificing his agenda for their constituents' interests.

The veto is a powerful weapon for stopping legislation when all other means have failed. As a tool for crafting policy, however, its utility is limited by a president's popularity, political skills, and timing, not to mention circumstances perhaps beyond the control of the White House.

Pocket Veto

The veto is mentioned specifically in the Constitution, as is the method for congressional override. But, as often is

the case with the Founders' handiwork, minor provisions have evolved over time into major constitutional battles between Congress and the presidency. One of the most heated of these battles has been over what has come to be known as the *pocket veto*.

Constitutional Provision

The Constitution gives the president ten days (excluding Sundays) either to sign a bill into law or to return it to Congress with a veto message. A bill not approved by the president becomes law after ten days "unless the Congress by their adjournment prevent its return, in which case it shall not be law" (Article 1, section 7). This provision was

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
09. Memo	From Nick Calio to John Sununu Re: National Voter Registration Act (4 pp.)	1/25/90	P5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John, Files
Subseries: White House Offices File
WHORM Cat.:
File Location: Legislative Affairs
(McClure) (1990) [2]

Open on Expiration of PRA
(Document Follows)
By *JF* (NLGB) on 10/28/05

Date Closed: 12/14/2004	OA/ID Number: 29179-001
FOIA/SYS Case #: 1998-0004-F[1]	Appeal Case #:
Re-review Case #: 2005-0426-S	Appeal Disposition:
P-2/P-5 Review Case #:	Disposition Date:
AR Case #:	MR Case #:
AR Disposition:	MR Disposition:
AR Disposition Date:	MR Disposition Date:

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

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(b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
(b)(9) Release would disclose geological or geophysical information

Governor,

We are trying
to get the bill
pulled so that it
will not come up
next Wednesday.
J. H. C.

MEMORANDUM FOR GOVERNOR SUNUNU

January 25, 1990

FROM: FRED MCCLURE

FROM: NICK CALIO
JACK HOWARD

SUBJECT: NATIONAL VOTER REGISTRATION ACT

THE CHIEF of STAFF
has seen JAN 27 1990

Pursuant to your request at the senior staff meeting this morning, this is a memorandum on the National Voter Registration Act, commonly called the "motor/voter" bill. The bill liberalizes voter registration requirements and requires States to periodically purge their voter registration rolls to remove ineligible voters.

ISSUE BACKGROUND

Specifically, the bill liberalizes voter registration procedures three ways:

1. Motor/voter: An application for a driver's license would also serve as an application for voter registration. In order to refuse to register, a person would have to decline in writing on the driver's license application.
2. Mail registration: States would have to make available a form that applicants could complete and mail to election officials to register.
3. Agency registration: States would have to designate some state and federal offices as well as private sector locations (e.g., schools, libraries, post offices, unemployment and other public welfare agencies) to distribute and collect applications for voter registration.

The purge features require States to adopt one of two systems of voter confirmation:

1. Biennial mass mailings: Once every two years, states would send a nonforwardable registration card to every registered voter. If the card is returned as undeliverable, then the state may remove the registrant from the list of eligible voters, but only after sending a forwardable notice advising the registrant to provide a current address to avoid removal.
2. National change of address program: At least once every two years, a state would obtain information on address changes submitted to the Postal Service. Depending on whether a voter has moved within or out of the jurisdiction, the state then would send either a verification of registration or a notice of removal.

POTENTIAL PROBLEMS

The crux of the problem is that liberalizing voter registration procedures is a very powerful idea. However, this bill has many troublesome aspects:

1. Chief among them is that it greatly expands the chances for voter fraud. The motor/voter component is not much of a problem, since many of the generic skills involved in processing driver's license applications can be used in processing voter registration applications.

But the registration by mail and the agency registration components are much more troublesome. Under the mail registration program, a registrant never has to appear in person before a registrar, although the bill does require that mail voter registration application forms include an attestation by the applicant, under penalty of perjury, that he/she meets all the eligibility requirements.

Even more troubling, agency registration entrusts the task of registering voters to individual government and private personnel who make lack training in voter registration procedures.

2. The purge provisions raise a host of logistical problems, but the overriding concern is that, in the past, purging voters from the rolls has been used to deny the voting franchise to minority voters. It is conceivable that the bill could have that unintended consequence.

3. The final major problem is cost. The bill authorizes not more than \$20 million to carry out the requirements of the bill, but it is very difficult to project with any certainty exactly how much states will incur in the way of administrative costs involved in complying with the bill's mandates. The bill would not merely regulate state registration procedures, but intangible costs deriving from the diversion of personnel from their traditional tasks of processing driver's licenses and assisting in the provision of public benefits to processing voter registration forms cannot be accurately estimated. Of course, as more people register to vote the costs to states will rise.

STATUS

The Justice Department has expressed concerns about the bill, as have our Political Affairs Department and the Republican National Committee.

Republican Leader Bob Michel is opposed to the bill, too. The bill would, as it was described to him, create the potential for so much fraud in and around Chicago that "Republicans would never again carry Illinois in a Presidential year." Supposedly, Representative Dan Rostenkowski privately opposes the bill, too,

on the theory that the new fraudulent voters may not necessarily be Rostenkowski supporters.

Republican Whip Newt Gingrich supports the bill, although it is not clear that he is aware of all the particulars and their ramifications. However, he is powerfully moved by the bill's intent, believing that it would have its greatest effect among younger voters who are applying for drivers licenses, voters who tend to register in greater numbers for the Republican Party.

Representative Bill Thomas, ranking Republican on the House Administration Committee, is a driving force behind the bill. On several occasions, Administration representatives have discussed with Rep. Thomas and his staff our concerns. We are continuing to do so. They believe that our concerns are unfounded.

On the committee, Representatives Barbara Vucanovich and Pat Roberts have problems with the bill, although it is unclear whether they would vote against the bill on final passage.

On the Senate side, a similar but worse bill is pending on the Senate Calendar.

RECOMMENDATIONS

Given the bill's strong appeal, it would be very unwise for the Administration to position itself publicly as being opposed to the concept it embodies. Politically, it would be damaging to our efforts to reach out to voters beyond our traditional base. Needless to say, we want to avoid a veto strategy. Therefore, I suggest the following:

1. Develop a list of improvements or changes we think are needed to make the bill acceptable. That list should be turned into five or six key amendments that can be offered when the bill gets to the floor.

2. Simultaneously, we should sit down with key Members and attempt to educate them about the effect of this bill. We are already engaged in that effort. Representative Gingrich should be a prime target. As noted above, he feels very strongly that the key to Republicans taking control of the House is vastly increasing the registration of young voters. We may encounter some initial hostility because he may think we are trying to use him to help kill the bill.

Our list of improvements/amendments will be useful to demonstrate that we just want to clean up the bill so we can sign it. Internally in the House Republican Leadership, it is to his advantage to try to cooperate with both his Republican Leader and the Administration in making improvements to the bill.

cc: Roger Porter
Jim Wray

101ST CONGRESS
2D SESSION

H. RES. 411

Requesting the President to furnish certain information to the House of Representatives on the United States' invasion of Panama in December 1989, and related matters.

IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 1990

Mr. GONZALEZ submitted the following resolution; which was referred jointly to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence

RESOLUTION

Requesting the President to furnish certain information to the House of Representatives on the United States' invasion of Panama in December 1989, and related matters.

1 *Resolved*, That the President is requested to furnish to
2 the House of Representatives, not later than seven days fol-
3 lowing the adoption of this resolution, full and complete infor-
4 mation on the following:

5 (1) Any and all payments made to General
6 Manuel Noriega by or through the direction of the
7 United States Government or any agent of the United
8 States, at any time, and the source thereof;

1 (2) Any and all payments made to Guillermo
2 Endara by or through the direction of the United
3 States Government or any agent of the United States,
4 at any time, and the source thereof;

5 (3) A list of any and all communications of the
6 United States Government or any agent of the United
7 States with regard to Panamanian police, Panamanian
8 Armed Forces, or any officials of the Panamanian Gov-
9 ernment, police, or armed forces, at any time;

10 (4) An accurate accounting of the number of Pan-
11 amanian civilians killed during, or by virtue of, the
12 United States' invasion of Panama, including a list of
13 the number of Panamanian civilian casualties reported
14 in the media of England, countries of Central America,
15 and countries of South America;

16 (5) The location of all United States military per-
17 sonnel in Panama, the number of United States mili-
18 tary personnel in Panama, and the mission of all
19 United States military personnel remaining in Panama
20 as of the date of this resolution is adopted;

21 (6) Any and all contacts (including but not limited
22 to telephone conversations, personal meetings, or com-
23 munication of whatever sort through third parties) be-
24 tween any Director of the United States Central Intel-
25 ligence Agency, any United States President, or any

1 United States Vice President, at any time, and Gener-
2 al Manuel Noriega; and

3 (7) Any and all activities of General Manuel Nor-
4 iega in support of the armed resistance ("Contras") in
5 Nicaragua from 1979 through 1989 known to the
6 United States Government.

7 The information requested in this resolution shall be
8 submitted to the House and disposed of in accordance with
9 the Rules of the House.

○

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
10. Memo	From Frederick McClure to POTUS Re: Gonzalez Resolution (1 pp.)	6/18/90	P5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John, Files
Subseries: White House Offices File
WHORM Cat.:
File Location: Legislative Affairs
(McClure) (1990) [2]

Open on Expiration of PRA
(Document Follows)
By JP (NLGB) on 10/28/05

Date Closed: 12/14/2004	OA/ID Number: 29179-001
FOIA/SYS Case #: 1998-0004-F[1]	Appeal Case #:
Re-review Case #: 2005-0426-S	Appeal Disposition:
P-2/P-5 Review Case #:	Disposition Date:
AR Case #:	MR Case #:
AR Disposition:	MR Disposition:
AR Disposition Date:	MR Disposition Date:

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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THE WHITE HOUSE
WASHINGTON

June 18, 1990

THE CHIEF of STAFF
has seen

MEMORANDUM FOR THE PRESIDENT

FROM: Frederick D. McClure 
SUBJECT: Gonzalez Resolution

On June 11, 1990, Representative Henry Gonzalez introduced H.Res. 411 which was referred to the House Foreign Affairs Committee (Fascell) and the Permanent Select Committee on Intelligence (Beilenson). A copy of the resolution is attached.

H.Res. 411 is a privileged resolution, and under the rules of the House, the committees must act within 14 legislative days. Both the Chairman of the Intelligence Committee and the Chairman of the Foreign Affairs Committee have asked for our response to the resolution by June 26. If either committee reports the resolution adversely, it will die. The 14-day reporting period will expire shortly after the July Fourth recess, the date dependent on the House schedule for the coming weeks.

We believe this resolution was developed by Gonzalez himself and is not a leadership initiative. However, we should probably respond to the committees' requests in a manner that avoids Democratic leadership involvement. Representative Fascell's staff has asked the Administration to meet with them regarding this bill. Before that occurs, there will be an internal meeting to discuss how we respond.

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
11a. Note	From POTUS to James Cicconi Re: Gonzalez Resolution (1 pp.)	6/16/90	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John, Files
Subseries: White House Offices File
WHORM Cat.:
File Location: Legislative Affairs
(McClure) (1990) [2]

Open on Expiration of PRA
(Document Follows)
By *JP* (NLGB) on 10/28/05

Date Closed: 12/14/2004	OA/ID Number: 29179-001
FOIA/SYS Case #: 1998-0004-F[1]	Appeal Case #:
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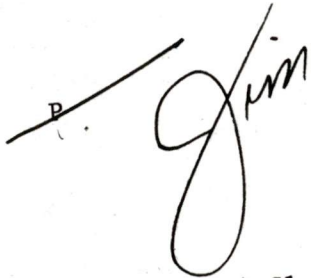
THE WHITE HOUSE
WASHINGTON

DATE:

6 16

FROM THE PRESIDENT

To:

A handwritten signature, likely of John F. Kennedy, written in dark ink. The signature is stylized, with a large 'J' and 'K'.

Please ask McClure what
"?" on page 3 is about.

gb

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
11b. Report	Page 3 of report on Congress (1 pp.)	6/16/90	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John, Files
Subseries: White House Offices File
WHORM Cat.:
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because of non-basic human needs loans to China, drastically reduces the military assistance account, and includes the Moakley (D-MA) El Salvador language. It also includes large funding increases for Eastern Europe and Africa, and earmarks for Israel, Egypt, Jordan, West Bank, and Cyprus. Full committee mark up is set for next Wednesday, June 20, with House floor action on June 27.

The **Committee on Banking and Urban Affairs** passed H.R. 1180, the omnibus housing reauthorization bill on Wednesday night. While the bill includes many of the President's H.O.P.E. initiatives, it is still costly on the budgetary side. We believe that some significant changes on the cost side may have to occur before the bill is acceptable to the Administration. The full House is expected to consider the housing bill after the July Fourth recess.

Scheduled for Wednesday, June 13, **Education and Labor Subcommittee** markup of the **NEA** reauthorization was cancelled to allow consideration of the matter by the full Committee only. Full Education and Labor Committee markup is now scheduled for June 19. Subcommittee Chairman Pat Williams (D-MT) intends to make the Administration bill (a clean reauthorization) the vehicle for committee action. Tom Coleman (Ranking Republican on the Subcommittee) would like to report a clean five-year reauthorization from committee and offer a substitute bill on the House floor. He is drafting a bill that makes some structural changes in the NEA and may contain moderate anti-obscenity language.

On Wednesday Under Secretary of Commerce Michael Darby testified before an **Energy and Commerce Subcommittee** in support of H.R. 4608, regarding data collection and reporting of foreign investment in the United States. Sponsored by ranking Republican Norman Lent (R-NY), the bill allows the Bureau of Economic Analysis and the Census Bureau to coordinate data collection.

The **Foreign Affairs Committee** held a hearing on Wednesday on the U.S.-Soviet Summit with Secretary Baker testifying.

On Monday Representative Henry Gonzalez (D-TX) introduced a privileged resolution requesting the President to furnish certain information between General Noriega and any President, Vice President or Director of the Central Intelligence Agency. The **Foreign Affairs Committee**, which has fourteen legislative days to act on the measure, has asked for our comments on the resolution. ???

Tuesday the **Judiciary Committee** marked up H.R. 4225, the Restricted Weapons Act of 1990, and reported it to the full House by a vote of 21 to 15, with Democrats Brooks, Boucher, and Feighan voting no and Republicans Campbell and DeWine voting yes. *

Issue: S.J. RES 332: FLAG
AMENDMENT

ATTACHMENT A

Date: 6/18/90
 Time: 5:00 pm

	Yes	LnsYes	Undcded	LnsNo	No
ADAMS					✓
AKAKA			✓		
BAUCUS	✓				
BENTSEN		✓			
BIDEN		✓			
BINGAMAN				✓	
BOREN				✓	
BRADLEY				✓	
BREAUX	✓				
BRYAN	✓				
BUMPERS					✓
BURDICK	✓				
BYRD		✓			
CONRAD				✓	
CRANSTON					✓
DASCHLE				✓	
DeCONCINI	✓				
DIXON	✓				
DODD					✓
EXON	✓				
FORD	✓				
FOWLER		✓			
GLENN				✓	
GORE					✓
GRAHAM				✓	
HARKIN				✓	
HEFLIN	✓				
HOLLINGS	✓				
INOUE				✓	
JOHNSTON	✓				
KENNEDY					✓
RBRT KERREY				✓	
JOHN KERRY				✓	
KOHL				✓	
LAUTENBERG				✓	
LEAHY				✓	
LEVIN			✓		
LIEBERMAN				✓	
METZENBAUM				✓	
MIKULSKI				✓	
MITCHELL				✓	
MOYNIHAN				✓	
NUNN		✓			
PELL				✓	
PRYOR				✓	
REID	✓				
RIEGLE				✓	
ROBB		✓			
ROCKEFELLER		✓			
SANFORD				✓	
SARBANES				✓	
SASSER				✓	
SHELBY	✓				
SIMON				✓	
WIRTH				✓	

TtLS: Ys 13 LnYs 7 UND 2 LnNo 26 No 7

	Yes	LnsYes	Undcded	LnsNo	No
ARMSTRONG	✓				
BOND		✓			
BOSCHWITZ	✓				
BURNS	✓				
CHAFEE				✓	
COATS	✓				
COCHRAN	✓				
COHEN			✓		
D'AMATO	✓				
DANFORTH					✓
DOLE	✓				
DOMENICI	✓				
DURENBERGER			✓		
GARN	✓				
GORTON	✓				
GRAMM	✓				
GRASSLEY	✓				
HATCH	✓				
HATFIELD			✓		
HEINZ	✓				
HELMS	✓				
HUMPHREY					✓
JEFFORDS				✓	
KASSEBAUM	✓				
KASTEN	✓				
LOTT	✓				
LUGAR	✓				
MACK	✓				
MCCAIN	✓				
MCCLURE	✓				
MCCONNELL	✓				
MURKOWSKI	✓				
NICKLES	✓				
PACKWOOD				✓	
PRESSLER	✓				
ROTH	✓				
RUDMAN				✓	
SIMPSON	✓				
SPECTER		✓			
STEVENS	✓				
SYMS	✓				
THURMOND	✓				
WALLOP	✓				
WARNER	✓				
WILSON	✓				

Totals: Yes 34 LnYes 2 Und 3 LnNo 4 No 2

Senate #6 updated: 6/18/90

TOTAL: Yes and LnYes 56

18
June 12, 1990 4:30 p.m.

CO-SPONSORS OF OF S.J. RES. 332, THE FLAG AMENDMENT

REPUBLICANS

- 1) Dole
- 2) Thurmond
- 3) Hatch
- 4) Grassley
- 5) Burns
- 6) Coats
- 7) Cochran
- 8) D'Amato
- 9) Domenici
- 10) Garn
- 11) Hains
- 12) Helms
- 13) Kasten
- 14) McCain
- 15) McConnell
- 16) Murkowski
- 17) Nickles
- 18) Pressler
- 19) Simpson
- 20) Warner
- 21) Armstrong
- 22) Lott
- 23) Gramm
- 24) Boschwitz
- 25) Lugar
- 26) Symms
- 27) Wilson
- 28) McClure*
- 29) Stevens*
- 30) Gorton* - Switch
- 31) Roth*
- 32) Wallop*
- 33) Mack* *Kassebaum*
- 34) Hatfield* - Switch

DEMOCRATS

Heflin
Dixon
Hollings
Reid
Shelby
Burdick
Ford
Breaux*
Exon*
Bryan*
Johnston
DeConcini
Baucus

(HATFIELD WITHDREW COSPONSORSHIP 6/14)

BOND - WILL NOT COSPONSOR, WILL VOTE IN FAVOR

TARGET SENATORS

- 1) Cohen (R-Maine)
- ~~2) Easton (R-Washington)~~
- ~~3) Hatfield (R-Oregon)~~
- 4) Rudman (R-New Hampshire)
- 5) Specter (R-Pennsylvania)
- 6) Jaffords (R-Vermont)
- ~~7) Baucus (D-Montana)~~
- 8) Bentsen (D-Texas)
- 9) Bingaman (D-New Mexico)
- 10) Boren (D-Oklahoma)
- 11) Bradley (D-New Jersey)
- ~~12) Bryan (D-Nevada)~~
- 13) Byrd (D-West Virginia)
- 14) Conrad (D-North Dakota)
- ~~15) DeConcini (D-Arizona)~~
- 16) Fowler (D-Georgia)
- 17) Glenn (D-Ohio)
- 18) Graham (D-Florida)
- 19) Harkin (D-Iowa)
- 20) Inouye (D-Hawaii)
- ~~21) Johnston (D-Louisiana)~~
- 22) Lautenberg (D-New Jersey)
- 23) Lieberman (D-Connecticut)
- 24) Akaka (D-Hawaii)
- 25) Moynihan (D-New York)
- 26) Nunn (D-Georgia)
- 27) Pell (D-Rhode Island)
- 28) Pryor (D-Arkansas)
- 29) Riegle (D-Michigan)
- 30) Robb (D-Virginia)
- 31) Rockefeller (D-West Virginia)
- 32) Sasser (D-Tennessee)
- 33) Simon (D-Illinois)

June 15, 1990

SENATORS EXPECTED TO BE AGAINST THE FLAG AMENDMENT

1. DANFORTH
2. HUMPHREY
3. ADAMS
4. BUMPERS
5. CRANSTON
6. DASCHLE
7. DODD
8. GORE
9. KENNEDY
10. KERREY
11. KERRY
12. KOHL
13. LEAHY
14. LEVIN
15. METZENBAUM
16. MIKULSKI
17. MITCHELL
18. SANFORD
19. SARBANES
20. WIRTH

SENATE RECORD VOTE ANALYSIS

101st Congress
1st Session

Vote No. 251

October 19, 1989, 11:07 a.m.
Page S-13733 (Temp. Record)

FLAG DESECRATION/Constitutional Amendment

SUBJECT: A Proposed Constitutional Amendment to Protect the Flag of the United States . . . S. J. Res. 180. Passage.

ACTION: JOINT RESOLUTION DEFEATED, 51-48

SYNOPSIS: S. J. Res. 180 proposes a constitutional amendment to protect the flag of the United States. The resolution states, "The Congress and the States shall have power to prohibit the physical desecration of the flag of the United States."

NOTE: A proposed Constitutional Amendment requires a two-thirds vote (67) for passage. The Senate previously passed H.R. 2978, a bill to protect, by statute, the flag of the United States (see vote Nos. 224-227).

Those favoring the resolution contended:

We strongly support S.J. Res. 180, the proposed amendment to the Constitution authorizing Congress and the States to prohibit the physical desecration of the flag of the United States.

Last week, the House approved the Senate-passed bill to punish certain physical acts of desecration of the flag. While we support the enactment of statutory flag protection, we remain unconvinced that the bill we passed earlier will survive constitutional scrutiny. There is sharp disagreement among constitutional scholars as to whether a Federal statute overturning the *Texas v. Johnson* decision is constitutional. For instance, Robert Bork, William Barr, and several outstanding law professors all share the view that only a constitutional amendment would be sufficient to overturn the recent Supreme Court decision.

In that decision, the Supreme Court held that flag burning for expressive purposes is conduct protected by the first amendment. Furthermore, they found that, if such conduct is to be prohibited, the Government's reason must be important and unrelated to expression.

Unfortunately, our efforts to protect the flag are inherently related to expression. Therefore, if we wish to protect our flag from desecration, we must amend the Constitution. It is the intent of this resolution's sponsors to unequivocally authorize Congress and the States to prohibit flag burning and other contemptuous acts of flag desecration.

(See other side)

YEAS (51)			NAYS (48)			NOT VOTING (1)	
Republicans (33 or 75%)		Democrats (18 or 33%)	Republicans (11 or 25%)	Democrats (37 or 67%)		Republicans (1)	Democrats (0)
Armstrong	Lott	Bentsen	Chafee	Adams	Kohl	Wilson—2	
Bond	Lugar	Breaux	Cohen	Baucus	Lautenberg		
Boschwitz	Mack	Bryan	Danforth	Biden	Leahy		
Burns	McCain	Burdick	Durenberger	Bingaman	Levin		
Coats	McClure	Byrd	Gorton	Boren	Lieberman		
Cochran	McConnell	DeConcini	Hatfield	Bradley	Matsunaga		
D'Amato	Murkowski	Dixon	Humphrey	Bumpers	Metzenbaum		
Dole	Nickles	Exon	Jeffords	Conrad	Mikulski		
Domenici	Pressler	Ford	Packwood	Cranston	Mitchell		
Garn	Roth	Fowler	Rudman	Daschle	Moynihan		
Gramm	Simpson	Heflin	Specter	Dodd	Pell		
Grassley	Stevens	Hollings		Glenn	Pryor		
Hatch	Symms	Johnston		Gore	Riegle		
Heinz	Thurmond	Nunn		Graham	Sanford		
Helms	Wallop	Reid		Harkin	Sarbanes		
Kassebaum	Warner	Robb		Inouye	Sasser		
Kasten		Rockefeller		Kennedy	Simon		
		Shelby		Kerrey	Wirth		
				Kerry			

EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

The Supreme Court clearly states in the *Texas v. Johnson* that the Government's interest in flag protection does not precede an individual's first amendment rights. In other words, we cannot overturn the *Johnson* decision through a statutory provision. By amending the Constitution, this resolution will give Congress and the States the power to protect our flag, and we should overwhelmingly support it.

Those opposing the resolution contended:

First Argument:

Two weeks ago, the Senate overwhelmingly passed a bill to protect, by statute, the U.S. flag. With only nine exceptions, we supported that effort to protect the U.S. flag from mutilation and abuse. We do not support, however, changing the American Constitution for this purpose. We believe amending the Constitution in this case is unnecessary and hurtful to the integrity of our most important national document.

When the Supreme Court ruled 5 to 4 that the Texas law prohibiting flag burning was unconstitutional. It did so because the Texas statute made flag burning a crime only when done in a manner offensive to observers. The majority ruling did not question the right of Texas to protect national or State flags, nor did the court assert that the first amendment protects the act of flag burning. Instead, the ruling stated, "We do not doubt that the Government has a legitimate interest in making efforts to preserve the national flag as an unalloyed symbol of our country."

The bill recently passed by Congress makes it a crime to knowingly mutilate the flag, regardless of the intentions behind the act. It is a simple, direct, and effective response to the Supreme Courts ruling. In comparison, the pending resolution is an overly complicated means of accomplishing the same goal. We have already passed legislation to protect the U.S. flag. This resolution is unnecessary and should be defeated.

Second Argument:

The Bill of Rights is the heart of our Constitution, the protector of our most precious rights. In over 200 years, it has never been altered. The pending constitutional amendment would do more violence to the Constitution than the all the flag burners could ever hope to accomplish through their pusilanimous acts of protest. For the first time in 200 years, an amendment to the Constitution has been proposed that creates an exception to the guarantee of free speech.

We honor the flag not for its physical presence but for what it represents--individual freedom and democracy. Throughout our history, freedom of expression has rested on the idea that the Constitution requires us to tolerate opposing points of view. We do not respect the flag--indeed, we disrespect the flag--when we diminish the freedoms for which it stands.

As the statutory legislation that preceded it, this amendment restricts our freedom of speech. It conflicts with the basic tenets of our Constitution and trivializes the constitutional amendment process. For these reasons, it should be defeated.

REPUBLICAN WHIP CHECK

ATTACHMENT B

09:33 AM
145

15-Jun

MEMBER TO MEMBER: MICHEL/MONTGOMERY FLAG AMENDMENT

8

9

4

7

3

0

YES

LEAN YES

UNDECIDED

LEAN NO

NO

NO RESPONSE

ABSENT

Arney	Bateman	Archer	Frenzel	Boehlert	Coleman
Baker	Clinger	Conte	Houghton	Chandler	Pashayan
Bellenger	Fawell	Kolbe	Morella	Grandy	Robinson
Bartlett	Gunderson	Lewis (CA)	Smith, P (VT)	Green	
Barton	Herger	Petri		Henry	
Bentley	Hopkins	Porter		Leach	
Bereuter	Lent	Regula		Schneider	
Bilirakis	McMillan	Schiff			
Bliley		Shays			
Broomfield					
Brown					
Buechner					
Bunning					
Burton					
Callahan					
Campbell					
Coble					
Combest					
Coughlin					
Courter					
Cox					
Craig					
Crane					
Dannemeyer					
Davis					
DeLay					
Dewine					
Dickinson					
Dornan					
Douglas					
Dreier					
Duncan					
Edwards					
Emerson					
Fields					
Fish					
Gallegly					
Gallo					
Gekas					
Gillmor					
Gilman					
Gingrich					
Goodling					
Goss					
Gradison					
Grant					
Hammers' mt					
Hancock					
Hansen					
Hastert					

Hefley
Hiler
Holloway
Horton
Hunter
Hyde
Inhofe
Ireland
James
Johnson
Kasich
Kyl
Lagomarsino
Lewis (FL)
Lightfoot
Livingston
Lowery
Lukens
Machtley
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
Meyers (KA)
Michel
Miller, C.
Miller (WA)
Molinari
Moorhead
Morrison
Myers (IN)
Nielsen
Oxley
Packard
Parris
Paxon
Pursell
Quillen
Ravenel
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Rohrbacher
Ros-Lehtinen
Roth
Roukema

Rowland
Saiki
Saxton
Schaefer
Schuette

Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Slaughter
Smith, C (NJ)
Smith, D (OR)
Smith, R (OR)
Smith, V (NE)
Smith, L (TX)
Smith, R (NH)
Snowe
Solomon
Spence
Stangeland
Stearns
Stump
Sundquist
Tauke
Thomas, (CA)
Thomas, (WY)
Upton
VanderJagt
Vucanovich
Walker
Walsh
Weber
Weldon
Whittaker
Wolf
Wylie
Young, Bill

DEMOCRATIC SUPPORTERS

Bevill (AL)
Browder (AL)
Erdreich (AL)
Flippo (AL)
Harris (AL)

Alexander (AR)
Anthony (AR)

Bates (CA)
Condit (CA)
Martinez (CA)

Campbell (CO)

Carper (DE)

Bennett (FL)
Hutto (FL)
Nelson (FL)

Barnard (GA)
Darden (GA)
Hatcher (GA)
Jenkins (GA)
Ray (GA)
Rowland (GA)
Thomas (GA)

Stallings (ID)

Annunzio (IL)
Costello (IL)
Lipinski (IL)
Poshard (IL)
Sangmeister (IL)

Long (IN)

Hubbard (KY)
Mazzoli (KY)
Natcher (KY)
Perkins (KY)

Hayes (LA)
Huckaby (LA)
Tauzin (LA)

Byron (MD)
Dyson (MD)
McMillen (MD)

Donnelly (MA)
Kennedy (MA)
Moakley (MA)
Neal (MA)

Traxler (MI) - Leaning

Espy (MS)
Montgomery (MS)
Parker (MS)
Taylor (MS)
Whitten (MS)

Skelton (MO)
Volkmer (MO)

Hoagland (NE)

Bilbray (NV)

Pallone (NJ)

Hochbrueckner (NY)
McNulty (NY)

Clarke (NC)
Hefner (NC)
Jones (NC)
Lancaster (NC)
Valentine (NC)

Applegate (OH)
Eckart (OH)
Traficant (OH)

English (OK)
McCurdy (OK)
Watkins (OK)

Gaydos (PA)
Kanjorski (PA)
Kolter (PA)
Murphy (PA)
Murtha (PA)
Walgren (PA) - Leaning
Yatron (PA)

Derrick (SC)
Patterson (SC)
Spratt (SC)
Tallon (SC)

Johnson (SD)

Clement (TN)
Gordon (TN)
Lloyd (TN)
Tanner (TN)

Andrews (TX)
Brooks (TX)
Bustamante (TX)
Chapman (TX)
Coleman (TX)
de la Garza (TX)
Frost (TX)
Geren (TX)
Hall (TX)
Laughlin (TX)
Leath (TX)
Ortiz (TX)
Sarpalius (TX) (??)
Stenholm (TX) (??)
Wilson (TX)

Olin (VA) -- Leaning
Payne (VA)
Pickett (VA)
Sisisky (VA)

Dicks (WA) -- Leaning

Mollohan (WV)
Rahall (WV)
Staggers (WV)

JUN 20 1990

DRAFT LETTER TO ROUKEMA

Dear Marge:

It is unfortunate that the headline of your OpEd piece urging the President to not veto the Family and Medical Leave Act in today's New York Times created the impression that the

President will be breaking a promise made to the American people.

As you ~~know~~ ~~for~~ undoubtedly know

Nothing could be further from the truth.

The President's position on the issue of mandated parental and family leave has been very clear, dating back to Congress' consideration of this issue in late 1988. The enclosed position paper, dated June 13, 1988, reflects the President's views that remained unchanged. In that paper it was noted that "the federal government should not mandate parental leave." It continues by noting that the government "should encourage private efforts to establish flexible standards allowing workers with newborn children, seriously ill family members, and those in similar circumstances to follow through on important family-related work."

Also enclosed is an October 8, 1988, United Press International story noting that the then Vice President wanted "'to encourage private efforts to establish flexible standards...to follow through on important family-related work' but [he did] not believe government should impose the requirement on employers."

When the House of Representatives approved H.R. 770 on May 8, 1990, the Statement of Administration Policy (copy enclosed) noted the Administration's strong opposition to the measure. As is noted in the first paragraph, "if this or any other mandated leave legislation...were presented to the President, his senior advisers would recommend that it be vetoed." Further, the policy statement indicated "the Administration supports and encourages parental and medical leave policies designed to meet the specific needs of individual companies and their employees. This objective can be best achieved voluntarily through the normal collective bargaining process between management and labor, not by the Federal Government mandating employee benefits."

It is for these reasons that the President will veto H.R. 770 when it reaches his desk. Should you have additional questions about the President's longstanding position on this issue, please do not hesitate to let me know.

NO: 406030
DATE: 6/13/88

SOCIAL ISSUES/ WOMEN'S ISSUES/ PARENTAL LEAVE

STATEMENT OF VICE PRESIDENT
GEORGE BUSH

The federal government should not mandate parental leave. However, due to enormous changes in the workplace over the past decade and because of the need to re-establish our nation's competitive edge economically, we should encourage private efforts to establish flexible standards allowing workers with newborn children, seriously ill family members, and those in similar circumstances to follow through on important family-related work.

###

Proprietary to the United Press International 1988

October 8, 1988, Saturday, BC cycle

SECTION: General News

LENGTH: 477 words

HEADLINE: Campaign '88 -- The Issues Bush vs. Dukakis on family and social issues

DATELINE: WASHINGTON

KEYWORD:

Family-Issues

BODY:

Here is a comparison between Democrat Michael Dukakis and Republican George Bush on a series of family and social issues:

The Pledge of Allegiance:

Dukakis: Vetoed a 1977 Massachusetts law requiring teachers to lead pupils in reciting the pledge after advisory opinions said the law was unconstitutional and violated a 1943 Supreme Court ruling. The state legislature overrode Dukakis's veto and the bill remains law, although not enforced.

Bush: Has said he would have signed the law.

Abortion:

Dukakis: Supports the 1973 Supreme Court decision making abortion legal and opposes current restrictions that deny Medicaid coverage to poor women for abortions.

Bush: Opposes the 1973 decision and favors a constitutional amendment that would again make abortion illegal except in cases of rape and incest. Supports current restrictions on Medicaid coverage of the poor and would impose criminal penalties on doctors -- but not the women - who perform abortions.

Day Care:

Dukakis: Supports a \$2.5 billion proposal to help fund state programs subsidize child care for low and middle income families. The program would require centers to meet federal health and safety standards, staff qualifications and child-teacher ratios.

Bush: Has proposed a \$1,000 "toddler tax credit" to assist families with \$10,000 or less income to pay for child care.

Family Leave:

Dukakis: Supports legislation that would require employers to allow workers to take unpaid leave without the threat of losing their job at the time of the birth or adoption of a child or in the event of long-term serious illness of a

family member.

Bush: Wants to encourage the private sector to be more flexible in meeting workers family requirements but opposes laws making family leave a requirement.

Health Care:

Dukakis: Has called for passage of a universal health care program under which most employers would be required to provide a certain minimum level of health insurance coverage to all their workers.

Bush: Bush says he would allow the 37 million Americans currently without health coverage to "buy into Medicaid," the federal health program for the poor.

Death Penalty:

Dukakis: Opposes the death penalty.

Bush: Supports the death penalty has argued that he would like to see it extended to what he calls "kingpin" drug dealers and drug-related murderers.

Housing and the Homeless:

Dukakis: Said he supports a federal commitment to new construction and rehabilitation of low and moderate income housing but has not spelled out the specific details or cost of a program.

Bush: Said he supports full funding of the McKinney Act, which provides federal money for shelters for the homeless and a voucher program for the poor to pay for housing in the private market.



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

May 8, 1990
(House)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 770 - Family and Medical Leave Act of 1989
Clay (D) MO and 151 others

The Administration strongly opposes H.R. 770. This bill would require public and private employers with 50 or more employees, and the Federal Government, to provide their employees with mandatory leave. H.R. 770 would mandate up to 10 workweeks of family leave in any two calendar years, up to 15 workweeks of temporary medical leave in any one year (18 and 26 weeks, respectively, for Federal employees), and other employment protections. If this or any other mandated leave legislation, such as the Penny and Gordon substitute amendments, were presented to the President, his senior advisers would recommend that it be vetoed.

The Administration supports and encourages parental and medical leave policies designed to meet the specific needs of individual companies and their employees. This objective can be best achieved voluntarily through the normal collective bargaining process between management and labor, not by the Federal Government mandating employee benefits.

In addition, H.R. 770 (and the Penny and Gordon substitutes) would:

- Reduce the flexibility necessary to meet the needs of a changing workforce and undermine the current trend toward flexible benefit policies.
- Induce employers to reduce overall employee benefits by limiting voluntary benefits in order to afford new, mandatory parental and medical leave benefits.
- Impose the costs of leave on employers regardless of their ability to absorb such costs, thus reducing their productivity and U.S. competitiveness -- the impact on smaller businesses would be particularly substantial.

* * * * *

(Not to be Distributed Outside Executive Office of the President)

The above position was prepared by LRD (Fairhall) in consultation with LVE (Bernie Martin/Larry Matlack/Joe Wire), HRVL/SS (Mark Menchik) and GO (Frank Seidl/Liz LaPlante). The Departments of Labor (Mike Taylor, Office of the Solicitor), Justice (Mark Pestal, Office of Legislative Affairs), HHS (Susan Burnett,

Office of the General Counsel), Commerce (Pete Dalmut, Office of the General Counsel), and Treasury (Greg Sukys, Office of the General Counsel), OPM (Jim Woodruff, Office of the General Counsel), CEA (Becky Blank), and SBA (Rainnie Deane, Office of Congressional and Legislative Affairs) agree with this position. The White House Office of Policy Development (Larry Lindsey), and the Domestic Policy Council (Ken Yale) also agree with this position.

The above objections are consistent with letters sent by Secretary of Labor Dole to Congress, in which she stated she would recommend veto of any mandated leave legislation. The Attorney General also sent a letter to Congress stating that the Justice Department would recommend veto of the legislation if it were passed by Congress.

The SAP which was delivered to the House Rules Committee yesterday marked the first time in this Congress that a senior advisers veto threat was made on this legislation. Consistent with SAP delivered to the House Rules Committee, Secretary Dole sent a letter to the Hill which contained a senior advisers veto threat on a so-called "compromise" amendment.

Major provisions of H.R. 770 would:

- Require State and local government and private sector employers with 50 or more employees to provide their employees who have at least a thousand hours of service in the last year with:
 - o up to 10 workweeks of parental leave (in a two-year period) for the birth or adoption of a child, or caring for a child or dependent parent with a serious health condition; and
 - o up to 15 workweeks of leave (in a 12-month period) for a serious health condition preventing them from performing their jobs. Employees in the top 10 percent salary range of an employer's workforce could be excluded on the basis of business necessity.

Leave could be unpaid, or taken from leave already accrued to the employee. Three years after the law takes effect, employers with more than 35 employees would be covered.

- Require the Federal Government to provide its non-temporary employees with up to 18 weeks of parental leave in a two year period, and up to 26 weeks of temporary medical leave in a one-year period.
- Require the employers to restore any employee who has taken such leave to a position with equivalent status, benefits, pay, and employment condition, and to maintain the employee's health benefits.
- Establish a Commission on Family and Medical Leave to study existing and proposed policies relating to parental and

costs, benefits, and effects on productivity of employees. The Commission would be required to submit a report to Congress within two years on its findings. Ten of the Commission's 12 members would be appointed by congressional leadership, and the Secretaries of Labor and HHS would sit as ex officio members.

The Senate companion bill, S. 345 (Dodd (D) CT and 20 others) was reported by the Senate Labor and Human Resources Committee in July 1989, but no floor action has been scheduled to date.

S. 345 is similar to H.R. 770, but would cover employers of 20 or more employees, and provides less generous leave (10 weeks of family leave and 13 weeks of medical leave). S. 345 treats public and private employers equally.

Position on Mandated Leave Legislation in the Reagan Administration

In a SAP sent to the Senate on S. 2488 in September 1988, the Reagan Administration stated that it would support a bill that promoted the adjustment of work/family conflicts by providing incentives to employers to provide leave to their employees during reasonable periods at the birth or adoption of a child.

The SAP on S. 2488 went on to state that President Reagan's senior advisers would, however, recommend that he veto S. 2488 because of its mandatory uniform leave policy. The SAP cited many of the same arguments identified in the draft position on H.R. 770.

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
12. Memo	From Rob Portman to John Sununu Re: Flag Amendment Vote Counts (2 pp.)	6/18/90	P5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff to the President, Office of the
Series: Sununu, John, Files
Subseries: White House Offices File
WHORM Cat.:
File Location: Legislative Affairs
(McClure) (1990) [2]

Open on Expiration of PRA
(Document Follows)
By *JF* (NLGB) on 10/28/05

Date Closed: 12/14/2004	OA/ID Number: 29179-001
FOIA/SYS Case #: 1998-0004-F[1]	Appeal Case #:
Re-review Case #: 2005-0426-S	Appeal Disposition:
P-2/P-5 Review Case #:	Disposition Date:
AR Case #:	MR Case #:
AR Disposition:	MR Disposition:
AR Disposition Date:	MR Disposition Date:

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P-3 Release would violate a Federal statute [(a)(3) of the PRA]
P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
(b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
(b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
(b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
(b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
(b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
(b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
(b)(9) Release would disclose geological or geophysical information

THE WHITE HOUSE
WASHINGTON

THE CHIEF of STAFF
has seen

June 18, 1990

MEMORANDUM FOR JOHN SUNUNU

THROUGH: FRED MCCLURE *FM*

FROM: ROB PORTMAN *RP*

SUBJECT: Flag Amendment Vote Counts

Per your request, below is the most recent information we have on how Members are lining up on the constitutional amendment on Flag desecration.

SENATE

Attachment A is our preliminary vote count on the Senate side. It is based on the current cosponsor list for Senator Dole's constitutional amendment (S.J.Res. 332), last year's vote on the amendment (S.J.Res. 180), and recent information we have been able to glean from both sides of the aisle. As you will see, there are only **47** solid votes in favor of the amendment, 19 short of the two-thirds needed. However, if you add those in the yes, leaning yes (9), and undecided (5) columns, you come up with **61** votes, within striking distance.

The GOP Senate targets are Chafee, Cohen, Durenberger, Hatfield, Jeffords, Packwood, Rudman, and Specter.

HOUSE

Attachment B is the latest Democratic and Republican vote count on the Michel/Montgomery constitutional amendment. As of close of business Friday, there were **145** Republicans supporting the amendment; 8 leaning in favor; 9 undecided; 4 leaning against; and 7 opposed to it. There are still 3 Members who have not responded to the whip check. The key target group is the undecided Republicans: Archer, Conte, Kolbe, Lewis (CA), Petri, Porter, Regula, Schiff and Shays.

According to Congressman Montgomery, on the Democratic side there are **102** committed in favor and 4 more leaning in favor. However,

there is some question about the accuracy of this count so we are working to verify it. If Congressman Montgomery's count is accurate, then so far we have a total of **247** Members solidly supporting the amendment, **42** short of the number needed to pass the amendment. If you include the Members leaning toward supporting the amendment (12), that increases the supporters to 259, 30 short of the number needed. We are working this week to secure these additional votes.