Originally Processed With FOIA(s):
2009-0166-S

FOIA Number:
2009-0166-S

FOIA MARKER

This is not a textual record. This is used as an administrative marker by the George Bush Presidential Library Staff.

Record Group/Collection: George H.W. Bush Presidential Records
Collection/Office of Origin: Office of the President
Series: Daily Files
Subseries:

OA/ID Number: 90597
Folder ID Number: 90597-006

Folder Title:
Friday, May 10, 1991 [2]

Stack:	Row:	Section:	Shelf:	Position:
V	0	0	0	0

CLASSIFIED

5/10/91

UNCLASSIFIED UPON
REMOVAL OF CLASSIFIED
ATTACHMENTS

DW 10/22/12

LEGISLATIVE ISSUES UPDATE

<u>OFFICE OF LEGISLATIVE AFFAIRS</u>

MAY 10, 1990

THE WHITE HOUSE

WASHINGTON

1990 MAY 10 PM 6: 56

May 10, 1990

MEMORANDUM FOR THE PRESIDENT

FROM: FREDERICK D. MCCLURE FM

SUBJECT: Legislative Issues Update

Below for your review please find an updated issues analysis prepared by my office. It addresses the major issues before Congress. We will continue to update this summary as issues develop.

Please let me know if you need additional information on these or other legislative issues.

cc: John H. Sununu

LEGISLATIVE ISSUES UPDATE

OFFICE OF LEGISLATIVE AFFAIRS

May 10, 1990

INDEX

ABORTION

ABORTION

BACKGROUND

Congress is trying to liberalize current law with respect to the availability and funding of abortions.. Last fall, a majority of the House and Senate voted to change the so-called Hyde Amendment in the House Labor/HHS appropriations bill to allow federal Medicaid funding for abortion in cases where the woman is a victim of rape or incest. The D.C. appropriations bill also contained such liberalizing language. Although there were sufficient votes to send the legislation to the President, there were not enough votes to override a veto. When the President vetoed the legislation, he was easily sustained, and pro-choice Members backed down.

STATUS

In an effort to seize the initiative, Representative Don Edwards (D-CA) and Senator Bob Packwood (R-OR), along with several colleagues, have introduced the "Freedom of Choice Act" which basically codifies Roe v. Wade. Hearings have begun in the House Judiciary Committee. Progress on this front seems to have stalled, as abortion rights supporters are shifting their focus away from the "abortion-on-demand" argument back to the narrower issues such as the rape and incest exceptions. Currently pending in the conference on the Emergency Central American Supplemental is language allowing the District of Columbia to use locally generated funds for abortion. As noted above, similar language in the D.C. Appropriations bill last year prompted a Presidential veto, after which abortion rights activist backed off further efforts to liberalize current law. This provision was championed by Senator Brock Adams (D-WA), and is only found in the Senate-passed bill. At this writing, it is unclear how conferees will resolve this issue. The matter is made more interesting by Senator Phil Gramm's (R-TX) amendment to the abortion language which requires the District of Columbia to institute the death penalty for certain crimes. It is possible that the conferees will either drop the language entirely or let the issue go back to both houses for resolution.

Even if we are successful in having the abortion language dropped from the FY 1990 Supplemental, we can expect the issue to be raised again in both the D.C. and Labor/HHS FY 1991 appropriations bills.

On another front, the FY 1991 Foreign Aid Authorization bill contains language that would overturn a longstanding policy on abortion. The Kostmayer (D-PA) amendment would allow funds to flow to organizations that support programs of coercive abortion or involuntary sterilization. The amendment passed in committee by a vote of 17 to 10. While the foreign aid bill has been reported from committee, it has not been scheduled for a Rules Committee hearing. It is questionable whether the House will ever vote on this bill since in recent years it has become the practice to appropriate funds without a foreign aid authorization.

Another abortion-related issue is the reauthorization of family planning programs (so-called Title 10). These programs, anathema to pro-life Senators and backed by pro-choice Senators, have not been reauthorized in seven years because they inevitably get mired in controversy and filibuster. A family planning reauthorization bill has been reported out of the Senate Labor and Human Resources Committee and awaits floor action. The bill, as interpreted by the accompanying committee report, would effectively repeal existing HHS regulations prohibiting federal funds from promoting or encouraging abortion.

Senator Kennedy (D-MA) and others are attempting to obtain 60 committed votes to invoke cloture as soon as the bill comes up so that only germane amendments could be offered, thus preventing filibuster. Conservative Republican Senators will block attempts to bring up the bill. One factor that could prevent the bill from coming up is that Senate floor time is already heavily committed. Hatch Act, campaign finance, crime bill, budget resolution and appropriations bills may keep this bill off the Senate floor. It is all the more important that this bill be stopped in the Senate because if it gets voted out, it may be put on the suspension calendar in the House. A tough floor fight

AMERICANS WITH DISABILITIES ACT

This year Congress is expected to complete action on the ADA, which extends federal civil rights protection against discrimination to approximately 43 million disabled persons.

BACKGROUND

Last year, in response to Senator Harkin (D-IA) pushing his original version of the ADA bill, the Administration appointed a working group to negotiate a compromise agreement to which both the Senate and the Administration could agree. The Senate passed this negotiated version of the ADA last September by a vote of 76-8. The House version of the ADA was referred to four committees in the House: Education and Labor; Public Works and Transportation; Energy and Commerce; and Judiciary. Last November, the Education and Labor Committee approved the ADA bill by a vote of 35 to 0. In March, the Public Works and Transportation Committee approved its version of the bill by voice vote. The Energy and Commerce Committee reported its bill shortly afterward by a 40-3 vote. On May 2, the Judiciary Committee reported its version of the ADA bill by a vote of 31-3. The Administration has not opposed any of the four bills, although we did support committee amendments which did not pass.

STATUS

All four bills next go to the Rules Committee, which is charged with the responsibility of combining them into one bill which can be brought to the floor. How that is done and what issues are dropped during the process will determine the parliamentary situation on the floor. It is possible the bill would be on the floor the week of May 14. If not then, it will almost certainly be on the House floor before the Memorial Day recess. If it is made in order under the rule, the Administration may support a floor amendment to limit the remedy provisions of the bill. There is also a possibility that we will support other amendments.

AMTRAK
REAUTHOR.

AMTRAK REAUTHORIZATION

BACKGROUND

The House and Senate both passed Amtrak Reauthorization bills in 1989. The Senate bill passed by voice vote and the House bill passed 296-93. Conferees agreed to a bill the week of May 1 and the House passed the Conference Report on May 9 by a vote of 322-93. No Senate action on the Conference Report is scheduled at this time.

STATUS

The Administration has advised the Congress that the Director of OMB and the Secretary of Transportation would recommend a veto of the bill due to two objectionable provisions:

1. A multi-year authorization for Amtrak appropriations, and,

2. A provision to require Interstate Commerce Commission review of acquisitions of control of rail carriers by non-rail entities.

Although we believe there is more support for our position in the Senate than was evidenced in the House on May 9, sustaining a veto on this measure appears to be problematic. Many Members fail to understand the legislation. We are currently working to provide more information, and garner support in the Senate for our position.

APPROPRIATIONS

APPROPRIATIONS

BACKGROUND

The Senate and House Appropriations Committees continue to hold hearings in preparation for mark-up of the 13 regular appropriations bills for FY 1991. Neither the Senate nor the House have scheduled any mark-ups.

STATUS

Among the likely problem areas are abortion, United Nations Family Planning Assistance (UNFPA), offshore drilling, AMTRAK, defense cuts and defense procurement costs, NASA funding levels, funding levels for the war on drugs, the Superconducting Super Collider, and federal mass transit subsidies.

BUDGET

BUDGET

STATUS

HOUSE

On May 1, the House of Representatives passed the concurrent resolution on the budget after defeating the Representative Kasich (R-OH) "freeze" Substitute, the Representative Dannemeyer (R-CA) Gold Standard Budget, and the Black Caucus Budget. Although the rule making the budget in order allowed Representative Bill Frenzel (R-MN) to offer the Administration's budget, he elected not to offer it. Democrat members were annoyed that the only significant vote would come on final passage of the so-called Panetta budget, thereby allowing the Republican leadership to concentrate their efforts on the committee bill. Democrat Charles Schumer (D-NY) did ask unanimous consent to offer the Administration budget; however, Representative Bob Walker (R-PA) objected. The committee bill passed the House by a close vote of 218 to 208. Republican members were united in their opposition.

As approved, the Panetta budget contains $282 billion in budget authority for defense, a 10 percent or $33 billion cut in the first year. It adds $6 billion for new initiatives and an entitlement increase of $1 billion in FY 1991. Revenues of $19.4 billion are included for FY 1991 and $117 billion over five years. Funding for the House-passed Child Care bill is provided.

It is noteworthy that, for the most part, House members failed to take these votes very seriously. They were viewed more as a preliminary step to a budget negotiation than they were as setting budget policy. For instance, there was greater interest in the individual "secret" meetings held at the White House with the "Big Four" leadership than there was on the votes themselves.

SENATE

The Senate Budget Committee finished mark-up of the FY 1991 budget resolution on Wednesday, May 2. The vote was 14-9, with Senator Grassley (R-IA) the lone Republican supporting the measure. The resolution calls for $43 billion in deficit reduction in the first year, and assumes $11.1 in additional deficit reduction from a combination of increased IRS enforcement and a one-time tax amnesty program.

The Senate resolution assumes a $13 billion reduction in defense outlays in the first year, which is $10 billion more than you requested in your budget. The tax-writing committees are directed to increase taxes by $13.9 billion per year, and the other committees are instructed to find $5.8 billion in additional unspecified receipts, for a total revenue increase of $15.3 billion, compared to your request of $9.4 billion. Domestic discretionary spending is reduced by $3.6 billion, but another $5 billion in spending reductions is hidden in a budget function entitled "Undistributed Offsetting Receipts," which may result in even further reductions in the Appropriations Committees. Your budget suggested reductions in domestic discretionary spending of $0.2 billion. The resolution also calls for entitlement cuts of $4.3 billion, while your budget proposed $12 billion.

The Senate may begin floor debate on the budget after it disposes of campaign finance reform legislation, which could be next week.

OUTLOOK

It is difficult to project at this point how quickly or successfully a budget "summit" will proceed. On the one hand, there seems to be an incipient, but growing sense that it is time to really move aggressively on the deficit. On the other hand, there are all of the normal political and partisan considerations which have stalled progress to date, and which could nip this "growing sense" in the bud.

BUDGET PROCESS
REFORM

BUDGET PROCESS REFORM

BACKGROUND

Dozens of bills have been introduced in the Senate during the 101st Congress dealing with budget process reform. Subjects include constitutional amendments mandating a balanced budget and providing you with a line-item veto, enhanced rescission, Gramm-Rudman-Hollings reform or repeal, abolishing the Budget Committees, forming a Joint Budget Committee, instituting a biennial budget, taking Social Security off-budget, applying a GRH-type mechanism to taxes, and many others.

On April 25, the Administration transmitted its own legislative proposal for a line-item constitutional amendment. The next day, the Senate Judiciary Committee reported S.J.Res. 14 (Thurmond) and S.J.Res. 23 (Dixon), both calling for a constitutional amendment to provide a line-item veto. It is unlikely that either of these measures will be taken up for floor consideration.

STATUS

Senator McCain (R-AZ) has indicated his intention sometime in the next two weeks to offer his enhanced rescission bill (which you have twice endorsed) as a floor amendment to whatever bill is before the Senate.

It is also very likely that whatever budget summit negotiations are conducted between the Administration and the Congress will encompass a discussion of budget process reform. There is very strong sentiment on the Hill to take Social Security out of the budget and GRH calculations, but there is as yet no consensus on whether to delay or modify the GRH deficit targets to account for the resulting increase in the budget deficit.

CAMPAIGN
REFORM

CAMPAIGN FINANCE REFORM

Last year the Administration unveiled a comprehensive campaign reform bill which eliminates most PACs, reduces the advantages of Congressional incumbency, strengthens political parties, and provides for full disclosure of "soft money." Both the House and Senate leadership have expressed interest in moving on this issue in 1990.

BACKGROUND

HOUSE

Early last year, the House Leadership appointed a task force, co-chaired by Representatives Swift (D-WA) and Vander Jagt (R-MI), to try to develop a bipartisan campaign reform proposal. The task force has been meeting for several months and, to date, has made only sporadic progress. Republicans, unsure of whether the task force would be successful, have developed their own consensus proposals, many of which track very closely those in the Administration's bill. That GOP proposal was adopted by the Republican Conference late last year. Since then, discussions between Representatives Swift and Vander Jagt have occurred on some of the key areas of disagreement: spending limits, public financing, PACs, and party spending. In a speech before the National Press Club early this year, Republican Leader Bob Michel (R-IL) surprised people by indicating that he could support some type of spending limits, so long as they were high enough. That seemed to breathe life into the ongoing discussions.

SENATE

The Senate has in recent years been polarized on the issue of campaign finance reform. The Democrats have supported legislation that calls for spending limits and some form of public financing of congressional campaigns, while Republicans have opposed such an approach. During the 100th Congress, Republicans successfully resisted a record eight cloture votes on the issue of campaign reform. This lengthy and contentious debate hardened party positions on the issue.

The Senate Rules Committee reported the Democratic bill on Thursday, March 8. This so-called "Boren bill" includes "voluntary" spending limits and partial public financing but was left purposefully general on many issues so that it could be used as a vehicle on the Senate floor.

On Tuesday, March 6, an independent panel of six "experts" in campaign finance, jointly appointed by Senators Mitchell and Dole, issued a report on their recommendations for campaign finance reform. This report attempted to "bridge the gap" between the Republican and Democratic bills and could become the basis for an attempt at compromise. It included what has been characterized as "flexible spending limits" where a cap would be set, but individual in-state (or in-district) contributions and political party contributions would not be counted against the cap. This would leave PAC contributions and out of state (or out of district) individual contributions subject to a cap.

STATUS

HOUSE

Progress is uncertain at this point. Action is heavily dependent on Senate progress. Early hopes for a bipartisan House effort, independent of the Senate have virtually vanished. At this point, if no Senate consensus develops, odds are that the House Democratic leadership will bring to the floor a bill, most likely featuring public financing, spending limits and other objectionable provisions. The Republicans will offer their bill as a counter. It will reflect the proposals adopted by the Republican Conference mentioned above, with the possible exception of including "flexible spending limits." The stage will thus be set for a partisan shootout between the two bills, which will likely result in a bill with spending limits and some form of public financing that we cannot accept.

The Administration has made clear to Republican Leader Michel and others that we oppose limits and public financing. However, we still need to determine whether a veto threat is appropriate.

SENATE

On May 1, the Senate Republicans announced their own campaign finance proposal, which was crafted by Senators Mitch McConnell (R-KY) and Bob Dole (R-KS) and cosponsored by 32 other Senators, all Republicans. The proposal would eliminate all PACs, reduce the individual contribution limit to $500 for out of state contributions, and strengthen party activities through a number of provisions.

On May 3, the Senate Democrats also announced their own alternative to the committee-reported bill. The Democrats did not have a list of cosponsors of their measure, reflecting what is believed to be a continuing disagreement within their caucus. The Democratic alternative would impose "flexible" spending limits on Senate campaigns, in exchange for a number of "incentives" for candidates. Among the "incentives" is a resurrected proposal for public funding of Senate campaigns, with a cost of approximately $60 million per election cycle, to be funded through a $3 tax return "check-off". In addition, the Democratic proposal would prohibit PAC contributions to Senate campaigns.

Campaign finance reform legislation is expected to be the next item of Senate business after completion of legislation amending the Hatch Act.

CAPITAL GAINS

BACKGROUND

The President has asked Congress to enact capital gains and savings incentives. An Administration bill, the Savings and Economic Growth Act, has been introduced in the House and Senate.

STATUS

SENATE

Capital Gains negotiations between Senator Bentsen (D-TX) and the Administration were derailed by a Joint Tax Committee estimate that the Administration's bill would cost approximately $11 billion over a five-year period. (Treasury Department estimates are that the same bill would increase revenues roughly $12 billion over the same period.) Capital Gains will be a major component of the budget summit negotiations.

HOUSE

On the House side, a sizeable majority of the Republicans have cosponsored the Administration's Savings and Economic Growth Act, but little else of significance has occurred. Early on, the Democratic leadership missed few opportunities to criticize our proposal. However, both Speaker Foley and Ways and Means Committee Chairman Rostenkowski have indicated that a capital gains provision could well be part of a larger deal.

CHILD CARE

CHILD CARE

A consensus seems to have formed on the need to provide assistance for child care. However, a fundamental split still exists over how to meet these needs -- whether to allow tax incentives to parents to make choices for themselves, or whether to authorize funds to state and local governments to establish government operated centers or use the public school system.

BACKGROUND

HOUSE

Last year, several bills were introduced which spanned the spectrum laid out above. Three bills emerged from the pack: one introduced by Education and Labor Committee Chairman Gus Hawkins (D-CA), another by Ways and Means Committee member Tom Downey (D-NY), and a final approach, championed by Representatives Charlie Stenholm (D-TX) and Clay Shaw (R-FL). The Stenholm/Shaw bill was identical to the Downey proposal in expanding the EITC ($5 billion/year), but phased out the Dependent Care Tax Credit for wealthy taxpayers, saving $100 million/year; expended an additional $1.6 billion over four years for Title XX, while not earmarking the funds for child care; and kept new regulations to a bare minimum.

Both the Downey and Hawkins bills were included as separate bills in the reconciliation bill. The Stenholm/Shaw bill was offered as a substitute but was defeated by a vote of 195 to 230. Although it was rumored that the Hawkins bill (H.R. 3) would be jettisoned from the reconciliation bill and brought to the floor for a vote last session, a lack of consensus among Democrats kept that from happening. In late March, the Democratic Leadership brought H.R. 3 to the floor, using it as a vehicle to pass a Hawkins-Downey compromise which incorporated elements of the original H.R. 3 and the Downey bill, featuring an expanded bill and increased Title XX social services block grant funding. The Administration supported a revised Stenholm-Shaw bill which lost on a 195-220 vote. H.R. 3 then passed by a vote of 265 to 145. We have sent a strong veto message on H.R. 3 and by virtue of the votes on final passage and key amendments, we believe we have the votes to sustain a veto.

SENATE

The Senate passed a hybrid bill last session (S.5) that contained elements of ABC and several tax-related provisions. Parts of the package were added to the reconciliation bill, but ultimately stripped when Senate Republicans pressed for a "clean" reconciliation bill.

STATUS

HOUSE

The bill now goes to the Conference with S.5. Conferees will be appointed in the House during the week of May 7. The voted overwhelmingly on May 9 to instruct those conferees to strip out the "ABC" provisions of the Senate bill.

One question which has not been answered is whether child care gets enmeshed with capital gains and a larger budget deal. The link definitely existed last year and could be resurrected this year.

SENATE

On April 24, the Senate, by unanimous consent, struck the House language from H.R. 3, inserted the language of S. 5, requested conference, and named conferees from the Finance and Labor Committees. Unanimous consent was obtained when Republicans agreed to lift objections to action on S. 5 after assurances were made that opportunities would be made available to consider capital gains legislation later this year.

CHINA/MFN SANCTIONS

BACKGROUND

On June 3, the Jackson-Vanik waiver for MFN status for China expires. In order to continue MFN status for China, the waiver must be extended by that date. Curtailment of MFN for China will likely have a significant impact on bilateral trade, which amounted to $12 billion in imports from China and $6 billion in exports to China during 1989. Since June 4 is the anniversary of the military crack-down in Tiananmen Square, any decision by the President will be controversial.

STATUS

Thus far, action has been centered in the Senate, but several events are certain to focus more attention on this issue in both houses. Hearings in the Foreign Affairs Committee will take place in mid-May, giving private sector witnesses and the Administration an opportunity to be heard. In addition, the Ways and Means Committee is currently considering a legislative fix for the Chadha decision to allow a congressional joint resolution of disapproval for trade-related waivers. These pending matters, plus the June 3 and June 4 dates, will no doubt prompt congressional action and rhetoric that could be harmful to Administration policies.

CIVIL RIGHTS

On Wednesday, February 7, the "Kennedy-Hawkins" legislation was introduced to address last year's Supreme Court rulings on affirmative action and quotas.

BACKGROUND

Last summer, the Supreme Court handed down a series of decisions which civil rights activists claim severely restricted affirmative action programs and curtailed the rights of minorities in the workplace. In response, Democrats and some Republicans have introduced legislation which overturns or substantially modifies those decisions. The Justice Department transmitted narrower legislation which undoes two of the key decisions: Patterson v. McLean Credit Union and Lorance v. AT&T Technologies, Inc. The other three decisions, Richmond v. J.A. Croson Co.; Wards Cove Packing Co. v. Atonio; and Martin v. Wilks remain untouched in the Administration proposal. This language has been introduced in both houses.

STATUS

HOUSE

H.R. 4000, the Civil Rights Act of 1990, was introduced on February 7 by Representative Gus Hawkins (D-CA). On Wednesday, May 2, the Education and Labor Committee began marking up the bill. They continued the next day, and are expected to complete action the week of May 7. After that, it goes to the Judiciary Committee. No schedule for Committee action has been announced yet.

Education and Labor Committee Republicans have been very aggressive advocates for the Administration's position, all the more impressive considering the extremely partisan and personal attacks launched by the Committee Democrats. The Attorney General and other senior advisors have indicated that they will recommend a veto of H.R. 4000 if it passes in its current form.

SENATE

S. 2104, the Senate version of the bill, was also introduced February 7 by Labor Committee Chairman Kennedy (D-MA) and 37 cosponsors. The bill was favorably reported from the Labor Committee by a vote of 11-5 on April 4. Over the next several weeks civil rights advocacy groups worked hard to bring on additional cosponsors to persuade the Majority Leader to schedule floor action. On May 2, proponents convinced Senator Danforth (R-MO) to cosponsor with a language change in S. 2104 and H.R. 4000 which purports to eliminate any need for quota-type hiring practices. Justice Department officials have made clear the change does not accomplish that objective and continue a strong press to prevent any further defections. We could be faced with floor action on this bill within the next several weeks.

CRIME/DRUGS

CRIME/DRUGS

BACKGROUND

Last spring, the Administration sent to Congress comprehensive anti-crime legislation, a substantial portion of which was intended to combat the drug problem. The crime bill has not made it to the floor in either House. In the fall, Congress did pass legislation specifically intended to fight the drug war. The Administration will transmit additional drug legislation in mid-May. The timing of this transmittal is crucial. Senate Republicans have not been anxious to have more attention focused on drug efforts because they do not want to have their crime bill become a vehicle for omnibus drug legislation. On the other hand, House Republicans are pressing for speedy transmittal to preempt the Democrats' expected announcement of drug legislation and to unify their own members.

The President's crime bill is predicated on four principles: one, that the primary purpose of government is to protect its citizens; two, that those who commit violent criminal offenses should be held accountable; three, punishment must be swift and certain; and four, success can only be accomplished through coordinated efforts by Federal, State and local law enforcement authorities. House Republican Leader Bob Michel and Senate Judiciary Ranking Republican Strom Thurmond introduced the Administration's bill last spring.

The four Administration drug bills, which followed the announcement of the President's drug strategy last September, were: (1) foreign assistance waivers which permitted law enforcement and other foreign assistance funds to go to Colombia, Peru, and Bolivia; (2) drug-free schools, which conditioned federal funds on schools having drug prevention programs and States mandating drug abuse education programs in elementary and secondary schools; (3) drug treatment programs which required States to have a drug treatment plan as a condition of Federal treatment

funding; and (4) legislation allowing the use of forfeited drug assets to fund the Drug Czar's operation on a quarterly basis. The first two bills passed the Congress and were signed into law. The last two are still in Conference and are expected to either be reported out shortly or as part of an omnibus Crime/Drug bill.

STATUS

HOUSE

Hearings on various parts of the President's crime package have been held. Although the chances of our bill being reported from committee are slim, the Democrat leadership has indicated it would like a crime bill to be reported from the committee this year. Some Democrats will press for inclusion of gun/assault weapons language in a Judiciary Committee crime bill. How this will be resolved is uncertain, especially because Chairman Jack

Brooks' (D-TX) has not made his position on gun control. In the meantime, the Administration is readying a new drug package to be sent to Congress when the time is right--probably mid-May. (Several of the Administration's drug-related amendments from Drug Strategy I are still pending and will probably be folded into this new bill.) As noted above, House Republicans are pressing for speedy transmittal with much hoopla in order to pre-empt the Democrats on this issue and to unify their own members who are currently unfocused. Further, since House Judiciary Committee members see little chance of getting the President's crime bill out of committee, the drug bill assures them an opportunity to consider crime amendments on the floor. A likely scenario is for the House to consider crime/drug legislation in the summer months with conference being completed in late summer or early fall. While some members are still predicting that there will be no drug bill this year, that is unlikely.

SENATE

The President's crime package was introduced in the Senate by Senator Thurmond and referred to the Senate Judiciary Committee. It was offered as a substitute to the DeConcini assault weapons legislation in committee last summer, but was defeated. It received no further attention by the Committee.

The Judiciary Committee has reported out a Thurmond death penalty bill, after amending it to add the objectionable "Racial Justice

Amendment", language which would invalidate the death penalty if it is shown that it has been applied "disproportionately" to members of a racial group.

Senator Thurmond has introduced a bill that incorporates most of the Administration crime package of last year, as well as those items from the drug strategy that have not been enacted, and Republican language on death penalty, habeas corpus reform and exclusionary rule. Senator Biden (D-DE) has introduced his own crime bill which includes portions of the Administration package, as well as other provisions, including the objectionable death penalty language. Senator Biden has also introduced a bill which includes a major drug initiative along with his crime proposals.

The Senate has tentatively scheduled consideration of crime legislation the week of May 21. The vehicle to be considered, as well as whether drug issues will be included in the floor action, has not yet been determined. The Senate has previously postponed action on these issues, and may do so again.

EASTERN
EUROPE

EASTERN EUROPE

BACKGROUND

As a result of the establishment of a non-communist regime in Poland and the promise of free elections in Hungary, the Administration last year proposed an economic aid package for Poland and Hungary. The President requested $300 million in aid for Eastern European countries for FY 1990. Congress reacted by increasing the FY 1990 budget authority to nearly $1 billion.

With the continuing and accelerating collapse of communist regimes in Eastern Europe and the general trend toward democratic forms of governments and free-market economies, the Administration is seeking to expand its Eastern Europe aid package to encompass the entire region, including Yugoslavia.

STATUS

In its FY 1991 authorization bill, the House Foreign Affairs Committee included $579 million for Eastern Europe, largely due to the efforts of Stephen Solarz (D-NY). The bill makes Czechoslovakia, Poland and Hungary eligible for assistance. Yugoslavia could be eligible for aid but the President would have wide latitude to suspend aid. The FY 1991 Foreign Aid Bill was reported from committee on March 28 but floor consideration has not been scheduled. The chances of final passage are not good since a foreign aid authorization bill has not been enacted since

1985. Further, the FY 1991 bill contains controversial abortion language which the Administration opposes.

EDUCATION
ISSUES

EDUCATION ISSUES

Vocational Education (S. 1109; H.R. 7)

This legislation is a five-year reauthorization of vocational education programs administered by the Department of Education. The first year is authorized at $1.53 billion with such sums as may be necessary thereafter.

BACKGROUND

The House approved a bill last session which includes a number of the provisions the Administration had sought. A Senate bill acceptable to the Administration, S. 1109, was passed April 5 by a vote of 96-0.

STATUS

Conferees have not yet been chosen.

Excellence in Education Act (S. 695/H.R. 1675)

To recognize and reward excellence in education; to target federal funds for those most in need; to encourage choice and flexibility; and to assure greater accountability in education.

BACKGROUND

HOUSE

The bill is pending in the House Education and Labor Committee. One hearing was held last year on the Administration bill.

SENATE

On February 7, the Senate approved S. 695 by a vote of 92-8. The Administration supports the legislation for the most part. We do oppose, however, the National Teacher Standards Board provision which would authorize $25 million to develop national teacher standards. Several efforts by Senator Helms (R-NC) to strike or redirect funding from the National Teacher Standards Board failed. A Kassebaum compromise to reduce and compete the grant also failed.

STATUS

HOUSE

Subcommittee markup on the bill was set for March 7. However, markup was postponed for approximately three weeks after Democratic Members claimed to have had inadequate time to study the bill. Following the postponement, Chairman Hawkins (D-CA) wrote the President asking for information on how this effort fits into an overall plan. Secretary Cavazos responded to that request on March 27. On April 3, Secretary Cavazos testified again and expressed great disappointment at the Democrats unwillingness to act on the President's bill. As a display of their frustration, the House Republicans walked out after the Secretary's testimony. In the meantime, Hawkins has put together a massive education bill for consideration by the Committee. While it may include parts of the President's Excellence in Education Bill, those provisions are lost in this huge expansion of existing programs. No future action has been scheduled but we are told Hawkins intends to move the bill through full committee soon.

<u>SENATE</u>

The Senate is waiting on House action.

Literacy Bill

Legislation intended to eliminate illiteracy by the year 2000 and to strengthen and coordinate literacy programs.

BACKGROUND

HOUSE

The principal legislative vehicle is the Adult Literacy and Employability Act, introduced by Representative Tom Sawyer (D-OH).

SENATE

The Senate Labor Committee reported the Comprehensive Illiteracy Elimination Act, S. 1310, last session. The bill, authored by Senator Simon (D-IL), would vastly increase authorizations for literacy programs and duplicate some of the initiatives currently being planned within the Administration.

STATUS

HOUSE

The House will probably add the Sawyer bill to a comprehensive education bill being prepared by Hawkins.

SENATE

On February 6, the Senate passed S. 1310 by a vote of 99-0. The bill, seen as a plum for Simon's reelection effort, was ushered through without amendment by the Senate Majority Leader.

The Administration is preparing a separate literacy initiative, but was unable to respond to the Simon bill with concrete administrative proposals to prevent substantial GOP support for S. 1310.

ENVIRONMENT

ENVIRONMENT

CLEAN AIR ACT

BACKGROUND

The President sent Congress a comprehensive bill to reauthorize the Clean Air Act last July. It represents the first major overhaul of the Clean Air Act in over a decade. The bill includes provisions which regulate acid raid, set new standards for air quality such as ozone control, and lay out new regulations on toxic chemical emissions.

STATUS

HOUSE

The President's bill (H.R.3030) was reported out of the Energy and Commerce Subcommittee on Health and Environment on October 11, 1989.

The full Energy and Commerce Committee reported H.R. 3030 in April and is expected to move the bill on the floor before the Memorial Day recess.

The bill as amended retains the basic structure of the President's bill and according to preliminary estimates, imposes lower aggregate costs on the economy than the Senate passed version.

Major amendments expected on the floor include: 1) Strengthening the alternative fuels program by offering an amendment similar to the Daschle proposal passed by the Senate, 2) An amendment to phase out CFC's, 3) A proposal to improve air visibility in national parks, and 4) Proposals to amend the Permit and Enforcement titles. Committee members are currently negotiating these and other outstanding issues in an attempt to work out agreements before the bill reaches the floor.

SENATE

The Environment and Public Works Committee completed action on S. 1630 just prior to the conclusion of the first session. The Committee refused to negotiate with the Administration during the markup process, resulting in a largely unacceptable bill.

The Senate began consideration of the omnibus bill on January 23, but the process quickly moved to negotiations orchestrated by Senators Mitchell and Dole. Following several weeks of discussion between Senate principals and Administration officials, agreement was reached on a comprehensive package. The agreement includes provisions substantially amending the Committee's air toxics and mobile and stationary non-attainment titles. The package also includes changes in the acid rain title to provide additional emissions allowances to the midwest in phase I and to the west in phase II to provide needed political accommodations to those two regions.

Following several weeks of floor action and the defeat of numerous deal busting amendments, on March 27 the two Senate leaders obtained Senate consent to complete action and go to final passage of S. 1630 on Tuesday, April 3.

On March 29, following intense lobbying by White House principals, the Senate defeated the Byrd coal miner protection amendment in a straight up or down vote of 49 to 50. Later the Senate went on to approve an amendment pushed by Senators Daschle and Dole to broaden the ethanol in the alternative fuels component of the bill. The provision was approved, 69 to 30, over White House and Environmental and Public Works Committee objections.

The biggest problem we face is keeping Senate negotiators on track with the agreement when the conference gets underway. Since we had no binding agreement through conference, Senate negotiators, including Senator Mitchell (D-ME), are free to abandon elements of the agreement in favor of the more pro environmental provisions contained in the House bill.

EPA CABINET STATUS

BACKGROUND

SENATE

Senate Governmental Affairs Committee Chairman Glenn and Ranking Member Roth developed an EPA cabinet elevation compromise with OMB which was announced in February. That package included provisions to establish an interagency committee on global warming and a bureau of environmental statistics. However, under this compromise version of the bill both of these provisions were acceptable to the Administration.

When the Committee acted on the bill (S. 2006) February 28, changes were made or attempted which signaled problems for the compromise. Senator Pryor (D-AR) successfully added onerous conflict-of-interest requirements and Senator Lieberman (D-CT) tacked on a requirement that the interagency global warming committee be headed by the new Secretary of the Environment. In addition, a Senator Bingaman (D-NM) amendment to make the statistics bureau completely independent of the Department, failed narrowly; Senator Bingaman is expected to try again when the bill goes to the floor.

STATUS

HOUSE

The House passed EPA cabinet level status bill on March 28, 1990 by a vote of 371 to 55. The House bill contains several objectionable provisions, including: 1) the Eckart (D-OH) amendment to lift the sovreign immunity of all Federal facilities to force their compliance with RCRA; and 2) a Bureau of Environmental Statistics that is independent from Executive Branch oversight. During consideration of the bill in the House, a Hastert (D-IL) amendment, which provided for a "clean" elevation of the Agency to Cabinet status was rejected by a vote of 161-266. The Administration has indicated it will veto the bill if these objectionable provisions are not removed in conference.

SENATE

Efforts to clear the bill for Senate floor action have failed. Numerous holds have been placed on the bill by members of the Environment and Energy Committees -- both of which have jurisdictional concerns with the Government Affairs Committee bill. The Energy Committee wants the global warming panel stripped out of the bill and the Environment & Public Works Committee, principally led by Senator Mitchell, wants a clean elevation bill, with no policy provisions.

One complication stems from the Eckert Federal facilities amendment added to the House bill during floor action. Senator Mitchell, who introduced the Senate companion measure, has insisted that the House drop this provision and do it as a freestanding bill; he has said he will refuse to go to conference if the House does not accede to his demand. On May 2 the Environment Committee held a hearing on the Mitchell bill; the House has not signaled any willingness to compromise. The EPA cabinet bill remains hopelessly stalled, given the extraneous provisions and their intransigent supporters. The Administration has a veto threat out on these unacceptable provisions.

GLOBAL WARMING

BACKGROUND

During Senate consideration of the Clean Air Act Amendments, Majority Leader Mitchell promised the Environment & Public Works Committee would develop a comprehensive global warming bill for full Senate consideration. Earlier, during the first session, the Senate passed legislation authored in the Commerce Committee by Senator Hollings (D-SC) which contained climate change research funding. Now, to assert its jurisdiction, on May 9 the Energy & Natural Resources Committee will mark-up a comprehensive bill fashioned after, S. 324, sponsored by Senator Tim Wirth (D-CO).

The mark-up vehicle, sponsored by Senators Johnston (D-LA), McClure (R-ID) and Wirth (D-CO), calls for the establishment of an energy policy to reduce the generation of carbon dioxide, a feasibility assessment of achieving a 20 percent reduction by 2005, and R&D funding to foster the development of energy efficient technologies. The vehicle is a compromise Wirth agreed to use as the starting point for Committee action.

STATUS

Mark-up is expected to take several sessions and Johnston and McClure plan to offer numerous amendments to further weaken the bill. Senators Conrad (D-ND) and Heflin (D-AL), who have indicated strong opposition to the Wirth bill, are also likely to force further compromise. Energy Department officials and industry groups are conferring closely with Senator McClure to develop provisions and lobby for changes to make the bill more acceptable. While Wirth can probably be contained in Committee, a more serious problem awaits us on the floor.

If and when Senator Mitchell schedules floor action, we can expect heated debate and some tough votes. The Energy Committee's efforts are likely to awaken a sleeping giant since Senator Mitchell has thus far taken no action in the Environment & Public Works Committee to advance his earlier threat.

There has been no action on this issue in the House.

OIL SPILL LIABILITY AND CLEAN UP

BACKGROUND

Following completion of the Clean Air Act amendments, the Senate and House commenced conference April 25 on their respective oil spill bills (H.R. 1465; S. 686). On balance, the Administration supports the House bill over the Senate legislation, particularly the provisions implementing the 1984 international oil spill protocols.

STATUS

During the conference, Senator Mitchell indicated that he remains inalterably opposed to the House enabling language for the protocols, which has the effect of preempting state oil spill laws. Mitchell has historically opposed ratification of the protocols which have been languishing in the Senate Foreign Relations Committee since 1984.

House Democratic conferees may be softening in their resolve to defend the enabling language from Senator Mitchell's opposition, and may be willing to give up in return for acceptance of the remainder of their bill. House Merchant Marine Republicans remain our lone defenders on the protocol issue. At this stage, they are disappointed the White House has not played a more visible role. In fact, several Administration agencies, including Transportation, have indicated that while they support the protocol language, they would <u>not</u> recommend a veto if the provision is not included in the Conference agreement. We are assessing whether or not we can sustain our position in support of the protocols, and what we should seek in return if we decide we cannot.

EXPORT ADMINISTRATION ACT

BACKGROUND

The 1979 Export Administration Act expires at year end. The law seeks to prevent the sale of technology with potential military use to East Bloc nations or those countries that might made the information available to the East Bloc. While the House Foreign Affairs Committee made clear its intention to reauthorize the Act this year, Administration officials had requested a simple, one-year extension pending results of a thorough study of export control issues. Recent events in Eastern European countries are seen as opportunities for U.S. companies to expand sales abroad and thus committee members did not want to put off reauthorization for one year.

STATUS

On Thursday, May 3, the House Foreign Affairs Committee reported H.R. 4653, to reauthorize the Act and ease restrictions on the sale of high-technology equipment in Eastern Europe, by voice vote. Although the Secretary of Commerce and other Administration officials had asked for a one-year extension of the Act, Subcommittee Chairman Sam Gedjensen (D-CT) moved his bill quickly through subcommittee and to the full committee. Prior to full committee mark up, a closed door briefing for Foreign Affairs and Ways and Means Committee members was held to announce the results of a thorough evaluation of export controls.

Administration officials also discussed our intention to restructure the U.S. core list of key technologies and goods. Although members were interested in the briefing, even Republicans supported moving to committee mark up. In the Senate, the Banking Committee is likely to consider the reauthorization sometime in June.

FARM BILL

FARM BILL

The authorization for the whole gamut of farm programs expires this year. They must be reauthorized by the end of this session.

BACKGROUND

Farm bills are always extremely contentious, pitting Member against Member, region against region and, sometimes, Administration against Congress. This year will be no exception. Not only will the reauthorization of farm programs themselves be controversial, with the sugar, dairy and cotton programs promising to be some of the more difficult issues, but this year rewriting the farm bill will occur against the backdrop of other extenuating factors. One of those is increasing concern about environmental issues, such as food safety and pesticides. In fact, the House panel is likely to report a food safety bill first, separate from the farm bill. However, depending on Senate disposition of the issue, the food safety issue may eventually be tied to the farm bill.

Another extenuating concern is that the farm bill will be considered while the GATT negotiations on trade are occurring, which will have an impact on the bill's trade and export/import features.

Finally, with the Gramm-Rudman law requiring a deficit of $64 billion, the reauthorization of the farm bill's subsidy and grant programs provides a tempting target for spending reductions, something that is an anathema to the interests involved in producing a bill. Of course, none of this is made any easier by the fact that markup and passage is occurring in an election year.

STATUS

HOUSE

Early in the session, Representative Madigan (R-IL), ranking Republican on the House Agriculture Committee, reintroduced the 1985 farm bill as the markup vehicle for producing a 1990 farm bill. Chairman Kika de la Garza (D-TX) is pursuing an ambitious schedule for marking up a farm bill. Most subcommittee markups have concluded. Full committee mark up started on May 2. Not much progress was made, principally because none of the subcommittees want to be the first to try to reconcile their budget numbers with those of the Budget Resolution. At last count, the sum of the subcommittees effort has been a farm bill roughly $25 billion over the baseline for five years. How dramatically the Budget Resolution will lower these totals will be seen when full committee markups resume the week of May 7. Chairman de la Garza wants the bill out of Committee by the Memorial Day Recess. Although more realistic assessments have the bill out of committee by early June. Floor action is entirely dependent on the progress of the budget talks. Committee members are very reluctant to bring a farm bill to the floor that is even slightly over budget in the absence of some overall budget guidelines. So it is likely that they will wait until the disposition of budget negotiations to bring a bill to the floor.

SENATE

In the Senate Agriculture Committee, drafting of the farm bill so far has been remarkably smooth. Several titles of the farm bill have been written already. So far USDA has no major disagreements with the bill as written. But the Committee now begins writing the major titles of the bill affecting dairy and grain programs, where it is likley to be on a collision course with the Administration. Your budget called for cutting farm programs by $5 billion over the next five years. The Senate Budget Committee's budget resolution contains no cuts in four programs. This will be a major issue decided in the budget summit. The result of the summit will clearly affect the final writing of the farm bill.

FLAG BURNING

FLAG BURNING

Last year the Supreme Court handed down a decision stating that flag burning fell within the realm of constitutionally protected free speech. In response, the Administration proposed a Constitutional amendment to outlaw flag burning. Instead, the Congress passed a statutory remedy, claiming that a Constitutional amendment was unnecessary. The President allowed the legislation to become law without his signature.

BACKGROUND/STATUS

The Administration and other Constitutional amendment advocates argue that a law banning flag desecration is insufficient, in that the Court predicated its opinion on a belief that flag burning is a form of constitutionally protected free speech. Nevertheless, last summer the House passed legislation making flag desecration a crime by a vote of 380-38. Despite efforts by House Republicans, there was no vote on a Constitutional amendment. However, after the Senate scheduled votes on both legislation and a Constitutional amendment, Speaker Foley promised Republican Leader Michel a vote on a Constitutional amendment before the close of the First Session. Following the passage of a bill banning flag burning and the defeat of the Constitutional amendment in the Senate, House Republicans decided it would be better to hold off on demanding a vote on their Constitutional amendment until the newly passed law was declared unconstitutional. The Supreme Court is expected to hear arguments on May 14 on the constitutionality of the flag statute. Speaker Foley has promised Republican Leader Michel that he will schedule a floor vote on the Constitutional amendment within 30 days of the court's decision, assuming they hold the statute unconstitutional.

FOOD SAFETY

The President announced a seven point food safety plan on October 26, 1989. The plan calls for major revisions to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), and to the Federal Food, Drug and Cosmetic Act (FFDCA). The plan is designed to eliminate unacceptable risks to public health, and to provide for more orderly regulation of pesticides and their use.

In FIFRA, the President's revisions will streamline EPA's ability to remove potentially hazardous pesticides from the market. In the FFDCA, the President would eliminate a longstanding inconsistency in the law governing pesticide residue in foods, and establish a "negligible risk" standard for such residue.

HOUSE

Administration representatives from the White house, EPA, Agriculture and FDA have been meeting with leaders of the House Agriculture and Energy and Commerce Committees to determine the best way to enact the President's plan into law this year. No specific legislative product has yet emerged from their discussions.

SENATE

The Senate Labor and Agriculture Committees will write this bill. Senators Ted Kennedy (D-MA) and Orrin Hatch (R-UT) are pressing to negotiate a final bill with the Administration. Administration representatives, led by Roger Porter, will negotiate with Senators Hatch and Kennedy this week.

Senator Richard Lugar (R-IN) has introduced his own food safety bill. There are two major issues to be resolved:

1) Suspension: The EPA says is does not have authority to suspend sale and use of toxic chemicals. The Administration's bill increases EPA supervision authority. Farm and chemical groups fear our bill gives EPA too much power to suspend. The Lugar bill makes it tougher for EPA to suspend pesticide use.

2) Preemption: Our bill gives the federal government authority to pre-empt state pesticides rules. Preemption is opposed by Senators Pete Wilson (R-CA) (California will adopt tough pesticide rules and does not want to be preempted) and George Mitchell (D-ME).

FY 1990
SUPPLEMENTAL

FY 1990 SUPPLEMENTAL

BACKGROUND

SENATE

On Tuesday, May 1, the Senate completed action on H.R. 4404. The Senate-passed bill provides $420 million for Panama and $300 million for Nicaragua. The bill also provides $867 million budget authority ($466 million in outlays) for domestic discretionary spending. The bill is considered deficit neutral because of offsets in defense spending.

HOUSE

The House-passed version fully funds ($300 million) the request for assistance to Nicaragua, but provides only $420 million of the $500 million requested for Panama. The bill reallocates the $80 million reduction from Panama for assistance to the Caribbean and Africa. While the Administration has some concerns about the increases in domestic discretionary spending in the House bill, it has indicated the bill is within the range of acceptability.

STATUS

The House/Senate Conference on the FY 1990 Supplemental Appropriations bill began May 9.

The Senate-passed bill contains language sponsored by Brock Adams (D-WA) which would liberalize District of Columbia abortion law by allowing the use of locally-generated funds to pay for abortions. You vetoed the District of Columbia general appropriations bill last year over this language, and have announced your intention to do so again here if necessary. During Senate debate an amendment by Senator Phil Gramm (R-TX) was adopted which would require the District of Columbia to impose the death penalty in drug-related murders. There is a real possibility that the conferees will drop both of these amendments.

It is anticipated that the necessary Brooke-Alexander waivers (waiving the position that aid cannot be sent to countries that are in arrearage to the United States) will be added in conference but that they will be deemed to be outside of the conference's scope, thus requiring a rule to permit House floor action on the waivers. It is likely that Representative Joe Moakley (D-MA), in concert with Representative Jerry Studds (D-MA) and Representative Steve Solarz (D-NY), will try to strip the waivers from the appropriations bill in order to force the Administration to rely on the FY 1990 Supplemental Authorization bill (which continues the waivers) because that bill may also include House language supported by Moakley, Studds, and Solarz restricting military assistance to El Salvador. The authorization bill has been passed by the Senate, but has not been scheduled for House floor action because of the dispute over the inclusion of the Salvador language in the House version.

HATCH ACT

HATCH ACT

BACKGROUND

The Hatch Act was enacted in 1939, and has twice been upheld by the Supreme Court (in 1947 and 1973). In April of last year the House passed legislation which substantailly revised the current limits on the political activities of federal employees found in the Hatch Act. The vote was 297 to 90. Early in the 101st Congress, similar legislation, S. 135, was introduced in the Senate and has since garnered 49 Democratic co-sponsors and 5 Republicans (Stevens, Heinz, Durenberger, Jeffords and Lott). The bill would amend the Hatch Act to allow federal employee union members to solicit each other for political contributions to the union PACs, to endorse political candidates, to solicit votes, and to hold office in a political party.

The Administration opposes this repeal of the major tenents of the Hatch Act. A Statement of Administration Policy on S. 135 states that the President's senior advisors would recommend its disapproval.

STATUS

The Senate is currently considering S. 135, and will probably pass the bill on May 9. The Senate has rejected several Republican substitute amendments, usually by close to 70 votes. We believe there are 31 votes in opposition to final Senate passage of the bill, and are working on the remaining three votes needed to demonstrate the ability to sustain your veto, if necessary.

HOUSING BILL

HOUSING BILL

BACKGROUND

The authorization for most federal housing programs expires this year. Given this fact, the HUD scandal and some of Secretary Kemp's housing reform initiatives, Congress is expected to enact legislation this year. The bill will incorporate some of the President's recently announced H.O.P.E. initiatives, although Democrats are pushing subsidies for low rent income housing construction.

STATUS

HOUSE

Banking Committee Chairman Gonzalez (D-TX) has said that housing will be his Committee's major area of activity this year. On March 13, the Subcommittee on Housing and Urban Affairs held hearings on the Administration's bill, which was unveiled that week. Markup on the Housing bill begins the week of May 1 and should continue during the next two weeks. Floor action on the Housing bill should occur in June.

SENATE

The Senate Banking Committee last week approved a housing bill on a 16-4 vote. The bill includes most of the President's H.O.P.E. legislative initiatives. But it also includes a new $2 billion housing grant program. The overall bill exceeds your five year budget by $3.4 billion. This excessive cost was one reason Senator Garn (R-UT), Ranking Republican, opposed the bill. OMB is now reviewing the bill to determine the Administration's position. The bill could be brought to the floor in June.

LABOR ISSUES

Family and Medical Leave

House and Senate bills provide an employee a total of 10 weeks of unpaid "family leave" (over a two-year period) for either the birth/adoption of a child or the care of a child or parent who has a "serious family condition."

BACKGROUND

HOUSE

H.R. 770 was reported by the House Education and Labor Committee last March and is still pending on the calendar.

SENATE

The Senate version of the bill, S. 345, has been pending on the Senate calendar since early last session. At that time, Senator Dodd (D-CT) was given the choice by Mitchell: Choose between ABC or parental leave. He chose ABC.

STATUS

HOUSE

H.R. 770 is scheduled for floor action the week of May 7. Several substitute proposals may be made in order as amendments. The Administration has sent a strong veto message on not only H.R. 770, but any other mandated leave proposal. We are currently working closely with the private sector to insure veto strength.

SENATE

Prospects for S. 345 remain uncertain.

Mandated Health Benefits

This is an effort to address the health care needs of approximately 37 million uninsured Americans.

BACKGROUND

HOUSE

H.R. 1845, introduced by Representative William Clay (D-MO), includes a phase-in of a federally subsidized Medicaid "buy-in" for persons under 200 percent of poverty level. Employers, regardless of the size of the company, must either offer the minimum plan specified in the bill or a plan that is the actuarial equivalent. Nearly all workers and their families would be covered.

SENATE

Several bills were introduced in the last session to address this issue.

STATUS

HOUSE

Hearings were held on the bill at the end of last session, after which Representative Clay announced that the bill would be marked up by committee early in this session.

SENATE

Senate action appears remote given the cost implications and general reluctance to address health care issues for the elderly following last year's controversial report of the catastrophic health coverage law.

Pensions

Legislation intended to stabilize the nation's pension systems may be considered.

BACKGROUND

Last year there were reports from the Inspector General of the Labor Department raising questions about the financial health of the nation's pension system. Those reports were widely disputed, but concern about the issue may prompt Congressional investigations and legislation intended to stabilize those funds.

STATUS

Efforts to permit employers to transfer excess pension assets to retiree health programs are likely to be a part of reconciliation again this session. Such provisions were stripped from reconciliation legislation last year when Senator Metzenbaum objected. The Labor Department IG reports are likely to again fuel significant concern about the vitality of the private pension system. This may play into the hands of those continuing to press to give organized labor a place at the table in the management of pension assets.

SENATE

On February 28 the Labor Committee approved legislation effectively prohibiting reversions. The provision, offered by Senator Kassebaum, would also significantly expand fiduciary liability for plan decisions.

Job Training Partnership Act Reauthorization

JTPA must be reauthorized this year.

BACKGROUND

There are currently two major House bills pending which reauthorize the program. The first is H.R. 2039 (Hawkins) and the other is H.R. 2803 (Goodling, at the request of the Administration). A major issue to be addressed is the requirement that JTPA participants be both economically disadvantaged and have an additional barrier to employment. Another issue is an effort to amend the current performance standards provisions to add some measure of basic or employability enhancement skills for adults. This would lessen the pressure on local programs to place individuals in employment of any kind as quickly as possible.

STATUS

In the House, Chairman Hawkins has indicated that this will be a priority for the Committee, although no timetable has been set. In the Senate, a compromise bill, with substantial input from the Department of Labor, is pending.

Age Discrimination (Betts case)

There is a provision in the Age Discrimination in Employment Act (ADEA) which exempts from the Act's prohibitions certain age-based distinctions in bona fide employee benefit plans. The EEOC construed that provision to permit age-based distinctions only where they could be justified by the increased cost of providing benefits to older workers.

BACKGROUND

In the Betts decision, the Supreme Court rejected the EEOC interpretation. The Court concluded that the provision was intended to exempt employee benefit plans from the purview of ADEA except to the extent that plans were used as a subterfuge for age discrimination in other, non-fringe benefit aspects of the employee relationship. The Supreme Court also concluded that the employee bears the burden of proving that the benefit plan provision was intended to discriminate in a non-fringe benefit aspect of the employment relationship.

H.R. 3200, the Older Workers Benefit Protection Act, would overrule the Betts decision by amending the ADEA to codify the EEOC interpretation of the exemption for employee benefit plans, so that age-based distinctions would only be permissible where such distinctions could be justified by cost considerations. One of the major concerns is that the bill would outlaw many forms of early retirement incentives that are used by many employers.

STATUS

HOUSE

On March 28, the Education and Labor Committee started marking up H.R. 3200, but delayed finishing it until April 4. The White House sent a letter to Representative Bill Goodling (R-PA) threatening a veto of the bill which had a galvanizing effect on the Committee Republicans. The bill was reported on a party line vote, 21 to 12. House Republicans are becoming increasingly concerned about rumors of negotiations on a potential compromise in the Senate. Committee Republicans don not want to compromise on this issue and are comfortable with the White House's veto statement on the bill.

SENATE

The Senate Labor Committee approved a compromise version of S. 1511 to overturn the Betts decision. the bill, which seeks to resolve differences between senior citizen groups and organized labor, would reinstate EEOC regulations prohibiting discrimination in employee benefit programs. The Administration does not support legislation to overturn the Betts decision, and is working to develop a carefully coordinated position on the issue. Senator Metzenbaum (D-OH) and other proponents are pursuing the Majority Leader for a commitment of floor time as soon as possible. Given the controversy of the issue, this is unlikely.

NATIONAL SERVICE

NATIONAL SERVICE (S. 1430)

BACKGROUND

Early last year Labor Chairman Kennedy held hearings on the President's 1000 Points of Light initiative and other volunteer programs. He sought to work with us, but had a fundamentally different view of national service, as did other Democrats on the Committee. We could not come to agreement on an omnibus package and could not get closure internally on a bill implementing the President's program. The Committee proceeded to mark up its bill, adding its own interpretation of the President's Points of Light Foundation.

STATUS

On March 1 the Senate approved 78-19 a compromise version of S. 1430 which includes $50 million in FY 1990; and $75 million in FY 1991 for distribution to the states on a block grant basis for community services programs. The Administration opposed the legislation. The Senate-passed legislation includes a modified version of the Points of Light Foundation which more closely approximates the President's program concept than the original S. 1430.

HOUSE

While the Education and Labor Committee may mark up a National Service bill this year, no date has been scheduled. During House action, we hope to move the authorization dates to FY 1991 and FY 1992 to make the bill more acceptable. Most Republican Members on the committee oppose federal funding of this effort.

OIRA

OIRA-PAPERWORK REDUCTION ACT

BACKGROUND

On October 6, 1989 Senator Bingaman (D-NM) introduced S. 1742, the Federal Information Resources Management Act of 1989.

This bill has provoked a senior advisors veto from the Office of Management and Budget and the Department of Justice because, among other things, 1) it would require OIRA to maintain a public file of all written communications regarding any OIRA reviews, regardless of whether they were deliberative or pre-decisional, which would chill communication within OIRA and between OIRA and the agencies, and 2) it would carve OIRA into a separate line-item in the budget, making it a much easier target during the appropriations process.

STATUS

HOUSE

The House Government Operations Committee held a mark up on March 13 and reported out a compromise reached by the Committee's Chairman, John Conyers (D-MI), and ranking Republican, Frank Horton (R-NY). A key feature of the compromise was a negotiated "sidebar agreement" which was reached as part of an effort to avoid putting broader statutory restrictions involving public disclosure requirements on OIRA's internal regulatory review process into the OIRA reauthorizing legislation. OMB and Reps.

Conyers and Horton agreed to put those restrictions into an Administrative Agreement which would accompany, but not be part of, legislation reauthorizing OIRA.

Further progress on the bill hinges on the nature of that "sidebar agreement." White House Counsel Boyden Gray and Reps. Conyers and Horton are exchanging letters in an effort to resolve misunderstandings about the agreement. Until those issues are clarified, it is unclear what the fate of the OIRA bill will be and whether it will be a candidate for a veto.

SENATE

The Senate Governmental Affairs Committee held hearings on S. 1742 on February 21 and 22. The bill is expected to be marked up sometime in late May. GOP Senators Rudman (R-NH), Roth (R-DE) and Stevens (R-AK) plan to offer an amendment for a simple four-year reauthorization of the Paperwork Reduction Act. Senator Bingaman (D-NM) will offer a substitute, supported by most Senate Governmental Affairs Committee Democrats, which addresses some business and industry concerns, but which may be intended to further isolate the Administration in its opposition to the bill.

POCKET VETO REFORM

POCKET VETO REFORM

The issue which may be addressed by legislation is whether the adjournment of a House of Congress prevents the President from returning a bill that has passed both Houses.

BACKGROUND

The pocket veto clause of the Constitution (Art. I; Sec. 7) states that, if the President neither signs a bill nor returns it within ten days of enactment, it becomes law "...as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law." Representative Butler Derrick (D-SC), prompted by the recent pocket veto of the Chinese immigration bill, is pushing legislation he introduced last summer which states that "no adjournment of either House of Congress, other than an adjournment sine die to end a Congress, prevents the return of a bill by the President." Passage of this bill should provoke a sharp confrontation over the Constitutional prerogatives of the Executive. The Justice Department and White House Counsel's office are of the firm opinion that if the bill were passed and became law, it would be declared unconstitutional.

STATUS

The bill was approved on a party line vote 7 to 2 by the House Rules Committee on March 1. It has been referred to the

Judiciary Committee. A subcommittee hearing has been scheduled for May 9. Beyond that, it is unclear when further action will occur.

PRODUCT
LIABILITY

PRODUCT LIABILITY TORT REFORM

BACKGROUND

During the first session of the 101st Congress, major, bipartisan product liability reform bills were introduced in both houses: H.R. 2700 (Luken, D-OH) in the House and S. 1400 (Kasten, R-WI) in the Senate. H.R. 2700 is similar to the bill approved by the House Commerce Committee in 1988; S. 1400 is based on the bill approved by the Senate Commerce Committee in 1986.

H.R. 2700 is co-sponsored by 49 House Members and is pending before two committees; Judiciary, and Energy and Commerce. S. 1400, which is co-authored by Senators Danforth (R-MO), Inouye (D-HI) and Rockefeller (D-WV), is cosponsored by 26 members of the Senate and is pending in the Commerce Committee. Vice President Quayle has taken a leadership role in the issue.

STATUS

Product liability legislation will face tough sledding in 1990. H.R. 2700 and S. 1400 face strong opposition from trial lawyers and consumer groups, and House Judiciary Chairman Jack Brooks (D-TX) is less than enthusiastic about the reform efforts. Senate Commerce Committee Chairman Ernest Hollings (D-SC) also remains opposed. At a Commerce Committee hearing held February 22 the Administration testified in support of S. 1400. A final Senate hearing is scheduled for May 10. Markup is probable before the

Memorial Day recess. The Judiciary Committee is requesting sequential referral and the duration of that review is now being negotiated.

Chairman Brooks has publicly stated his intention to hold hearings in early 1990 and Energy and Commerce Committee Chairman John Dingell (D-MI), a strong advocate of product liability reform, has indicated he will address the issue after the Judiciary Committee begins its work. Currently, however, the bill is going nowhere in the House and prospects for meaningful action this year are dim.

RESOLUTION TRUST CORPORATION

BACKGROUND

A variety of questions surround the structure and operation of the Resolution Trust Corporation which was created by last year's savings and loan bill. RTC Board Chairman David Kearney's resignation on February 6 has fueled Congressional concern about the oversight board. William Taylor has been named acting RTC President. His stewardship of the agency over the past several weeks has stemmed some of the congressional criticism that emerged in the wake of the Kearney resignation. One specific question that Congress must resolve early is the budgetary status of collateral borrowing authority and the general issue of RTC working capital. The S&L bill allows the RTC to borrow against assets recovered through government acquisition of failed institutions. The question is whether this collateral borrowing should be "on" or "off" budget. The S&L bill is silent on the subject. The RTC Oversight Board and the RTC have recently advised the Congress of their plans to raise working capital.

The Administration plan has been accepted by the Congress and no legislative action on the working capital issue is expected this year. The Administration continues to work with the Congress on the budgetary treatment of working capital.

Congress will hold general RTC oversight hearings during the next 4-6 weeks. The Senate hearing is scheduled for May 23 and the House on June 14. Also, the House Banking Committee's RTC Task Force continues to monitor thrift asset disposition. The Task Force held a hearing on May 4, at which time FDIC Chairman Seidman testified.

STATUS

RTC legislation is not likely this year. Other issues such as the structure of the RTC will be addressed through continued Banking Committee hearings throughout the year.

SOVIET TRADE

SOVIET TRADE AGREEMENTS

BACKGROUND

The United States and the Soviet Union are now negotiating a Trade Agreement that will seek to address human rights issues and reduce tariffs on products being exported by the Soviet Union. There is an effort to reach agreement before the June Summit as agreed to at Malta. The trade agreement is necessary before we can grant MFN status to the Soviet Union. A key question is whether the trade agreement, once negotiated, has to be returned to Congress for approval.

STATUS

The Senate just passed trade legislation which clarifies Congress' role in approving trade agreements. This bill, which should reach the President's desk in two weeks, requires Congress to approve trade agreements on an up and down, no amendment, fast track basis.

In the House, legislation requiring Congressional approval of certain trade waivers (Jackson-Vanik) has also been approved. It has been added to the mini-trade bill and authorization for trade agencies. Action is possible before the end of May.

VOTER REGISTRATION

VOTER REGISTRATION EXPANSION ("Motor Voter" bill)

Legislation making it easier to register to vote passed the House on February 6.

BACKGROUND

S. 874 and a similar bill, H.R. 2190, were introduced in the last session. H.R. 2190, introduced by Speaker Tom Foley, does three things to facilitate voter registration:

1) Requires states to allow voters to register by mail and when they apply for drivers' licenses;
2) Requires states to distribute and accept registration forms at public buildings, such as public welfare agencies, schools and libraries; and
3) Requires states to purge voter registration rolls and verify voters' addresses every two years.

The bill also expands the Justice Department's authority to combat election fraud.

STATUS

HOUSE

Republican Leader Michel opposed the bill because of its costs, potential for increasing fraud, and because it imposed strict requirements on the states in an area traditionally left to the states. Republican Whip Newt Gingrich and GOP Conference Chairman Jerry Lewis supported the bill.

The bill passed by a vote of 289-132 after Representative Michel's amendments designed to reduce costs and the potential for fraud were defeated. A number of House members are urging us to veto the bill even though we failed to muster veto strength. It is noteworthy that while we gained relatively fair Democratic support, we lost 61 Republicans.

SENATE

S. 874 was reported by the Senate Rules Committee in September and is now on the Senate calendar. No floor action has currently been scheduled. Discussions have been held with several Republican Senators in an effort to develop an alternative bill that the Administration can support. If the alternative fails to attract more support than the Michel substitute on the House side, motor voter legislation similar to S. 874 and H.R. 2190 could pass by a large margin.