

Originally Processed With FOIA(s):
2025-0878-F

FOIA Number:
2025-0878-F

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: Dan Quayle Vice Presidential Records
Collection/Office of Origin: Deputy Chief of Staff's Office
Series: Porter, Richard W., Files
Subseries: Subject Files

OA/ID Number: 21805
Folder ID Number: 21805-031a

Folder Title:
Missouri and Kentucky [1]

Stack:	Row:	Section:	Shelf:	Position:
G	34	6	5	7



OFFICE OF THE VICE PRESIDENT
WASHINGTON

MEMORANDUM FOR THE VICE PRESIDENT

FROM: AL HUBBARD
DAVID MCINTOSH

SUBJECT: DOMESTIC BRIEFING PACKAGE--Missouri and Kentucky

The following information is provided for your use on the Missouri and Kentucky trip.

- Governor Ashcroft of Missouri--Summary of the State of the State & related current issues
- Unemployment Extension
- Civil Rights Compromise
- Environment: Clean Air
- Wetlands
- GATT
- Civil Justice Reform
- Health Care
- FDA--Drug Approval
- Biotechnology
- Crime Legislation
- National and State Energy Positions
- Education
- Banking Legislation
- Transportation
- Administration View--Glenn's "Regulatory Review Sunshine Act of 1991"

Excerpts from Governor John Ashcroft's State of the State Address on January 15, 1992. "Facing Tomorrow: Foundations for the Future"

Governor Ashcroft's main points are as follows:

Reinforcing Families: They are a "preeminent source of care and values". He proposes to push a measure to require school attendance from children whose families receive public assistance.

Healthy Missourians: "Our health care crisis cannot be solved by new tax-and-spend programs that overburden the taxpayer and don't solve the problem". The Governor is in favor of a "full-blown" conversion that embraces cost-control, access, prevention, and competition. i.e.- Expanded health insurance ACCESS for small business. Ashcroft emphasized that a healthy Missouri is a more competitive and productive Missouri.

Education: The Governor is "organizing a Missouri 2000 corporation to recognize schools and communities making progress toward the NATIONAL EDUCATION GOALS"...this "helps implement (the) America 2000 program". In earlier years, the voters of Missouri have not voted for tax increases for education (Proposition B). Why? First, the voters "did not believe that the taxes involved in Prop. B actually would be spent on education". Second, voters believe that "schools need to undergo reform before, rather than after, taxpayers provide more money". The Governor would like to take lottery profits and commit them to education.

Jobs for Missourians: The tourism industry is growing in Missouri. Branson, Mo. and the Ozarks are very popular. An issue affecting tourism is Proposition A. This is the Highway Improvement Program of 1987. This program is way ahead of schedule and a big success for the Governor. The Governor is a big supporter of President Bush's transportation bill-along with Senator Bond.

Drug-Free Missouri: Ashcroft wants to suspend driver's licenses, revoke professional licenses, and stiffen other penalties for drug use. He wants (badly) to give state troopers search-and-seizure authority. Very strong anti-drug message.

Point of Interest: The state of Missouri has the best bond rating possible in the country.

Important Area Issues

1-11-92 /Southwestern Bell Telephone said they will lay off 300 more managers as part of a cost-cutting program that led 3,560 managers to leave the company in December. The announcement is expected by February 10th. 15% of the company's departments in

Missouri could be affected. Many of the managers were offered, and received, early retirement packages. This was not emphasized in the press releases.

1-12-92 /Unemployment in St. Louis is at 6.8% - The unemployment rate is expected to stagnate for the first half of the year.

1-16-92 /Pollution rules could limit road "Wish List". Many road projects promised for the St. Louis area under a proposed state gasoline tax increase may not win Federal approval because of air pollution control rules, a regional official is warning. This has to do with withholding of federal money from projects that would tend to spur more development and congestion within less-developed areas. Alternatives have been given to manage the additional congestion.

UNEMPLOYMENT EXTENSION

TALKING POINTS ON EXTENDED UNEMPLOYMENT BENEFITS

- o Millions of Americans are expected to benefit from the new extended unemployment insurance program worked out in a bipartisan agreement among members of Congress and supported by President Bush.
- o When the new extended benefits program starts, about 1.1 million people who ran out of unemployment insurance after March 1, 1991, will be eligible to collect 6, 13 or 20 additional weeks of benefits, depending upon unemployment levels in their states.
- o In addition, another 1.8 million people will be eligible for extended benefits throughout next summer, as their regular unemployment insurance benefits run out.
- o Beneficiaries will receive checks within about three weeks after the bill is enacted, with the first checks expected to go out before Thanksgiving.
 - The Labor Department is working closely with the states to ensure that all systems are in place to operate the extended benefits program.
 - The national average weekly benefit check will be about \$168.
- o The current bill pays for itself. It represents what the President wanted all along -- a bill which will not cost jobs, a bill which follows the budget agreement, and a bill which will help the unemployed throughout troubled times.
- o Had a compromise been reached earlier, over 840,000 unemployed workers would have already received over \$1,000 each in extended unemployment insurance benefits.
- o Payments of extended benefits are to come from:
 - 1) a -- extension of program for IRS collection of nontax debts to federal agencies.
 - b -- comprehensive revision to guaranteed student loan program.
 - 2) -- 1 year extension of 0.2% FUTA surtax for one year (1996).
 - 3) -- Modification to individual estimated tax requirements so taxpayers make estimated payments based on current year and not previous year.

ECONOMIC UPDATE

CIVIL RIGHTS COMPROMISE

CIVIL RIGHTS COMPROMISE

- o THE QUOTA ISSUE HAS BEEN RESOLVED. THE COMPROMISE BILL IS CONSISTENT WITH THE PRESIDENT'S PRINCIPLES AND WITH HIS CIVIL RIGHTS BILL (S. 661).
 - The burden of proof on the business necessity issue is shifted to the employer (as in all bills);
 - The issue of defining "business necessity" is resolved by adopting the President's approach; (Codify pre- Wards Cove case law including Griggs)
 - The "particularity/group of practices" issue is resolved by adopting the President's approach. (Codifying the Wards Cove approach)
- o THIS BILL DOES NOT IMPEDE MERIT HIRING. IT IS NOT A QUOTA BILL.
- o ON THE DAMAGES ISSUE, THE COMPROMISE INCORPORATES A SLIGHTLY MODIFIED VERSION OF THE DANFORTH PROPOSAL.
 - Compensatory and punitive damages will now be available under Title VII;
 - These damages are capped, setting an important precedent for tort reform;
 - Damages for 98% of all businesses are capped at \$50,000, the lowest tier of the new damages structure (and much lower than the cap in the President's bill).
- o NO BETTER PROOF THAT THE PRESIDENT WAS SUCCESSFUL IN THE CIVIL RIGHTS COMPROMISE IS THAT SENATOR KENNEDY WAS ON THE SENATE FLOOR THE NEXT DAY ATTEMPTING UNSUCCESSFULLY TO UNDO THE LANGUAGE OF THE COMPROMISE.
- o Griggs decision in 1971: employment practices having an adverse statistical impact on certain groups can lead to liability even if there is no hint of discriminatory intent.
- o Wards Cove 1989, Summarized rules under which lawsuits would be conducted - pointing out that unfair rules could force employers to use quotas.
- o A draft of the President's signing statement that included a call for revision of the federal government's affirmative action hiring policies was leaked to the media. The President's final statement did not include this revision.

ENVIRONMENT: CLEAN AIR

CLEAN AIR ACT AMENDMENTS

- o Passage of the Clean Air Act Amendments of 1990 broke a 13-year logjam to enact the most comprehensive, market-oriented program for pollution reduction ever attempted in this country, and maybe even the world.
- o This Administration is committed to realize the ambitious goals of this landmark legislation by implementing it in a **balanced** manner -- without breaking the backs of our nation's businesses.

NOTE: Sentiment in New Hampshire is supposed to be running against the Clean Air Act Amendments, with many pundits blaming it for regional job losses.

UPDATE: CLEAN AIR

Those areas of the CAAA likely to most affect the auto industry are: emissions (tailpipe) standards for cars and light-duty trucks, on-board canisters, vehicle inspection and maintenance, reformulated gasoline, and permitting (for auto body paint shops, etc.)

Tailpipe Standards: New restrictions will be placed on tailpipe emissions of hydrocarbons, carbon monoxide, and nitrogen oxides (NOx) from new vehicles beginning in the 1994 model year.

Reformulated Gasoline: Beginning in 1995, reformulated gasoline is required in the nine worst ozone areas. A proposal went out earlier this year. EPA is currently drafting a supplementary proposal that will have to go through notice and comment procedures.

On-Board Canisters: This issue is described by the cynical as an automakers-v.-big oil problem. Essentially, unless determined by DOT and EPA to be a safety risk, EPA is supposed to promulgate on-board refueling controls in the form of on-board canisters. DOT has determined that such canisters are unsafe (particularly in light of the fact that there is a workable, safe alternative in the form of "jackets" on gas hoses at gas stations) and has asserted that, if it were up to them, canisters would not be required. **Deadline for action was November 15.** EPA has missed that deadline because they are squabbling with DOT (apparently the EPA bureaucracy would prefer to require canisters).

Permitting: This rule sets out EPA's criteria for state permitting programs for "major" sources under Title V. It may affect as many as 300,000 - 400,000 plants nationwide. A final rule on permitting was due out on November 15, but at least one legal issue and a few policy issues remain to be resolved. Formerly costed at zero, CEA is now estimating the cost of these provisions in the \$2 billion - \$4 billion range.

WETLANDS

ENVIRONMENT: Wetlands

- o The 1989 Manual was revised because of its well-documented excesses. Even the Washington Post says, "the 1989 revision of wetland rules was excessive, including much land that is not by any reasonable standard wet." Our revisions were designed to protect truly valuable wetlands, while at the same time to protect private property. If you think there is a voter's revolt today, wait to see what happens if we don't get Uncle Sam off of our nation's farms and out of our backyards.
- o The Council made two substantive changes to the Manual:
 - 1] We said land should be inundated with water for at least 15 days or saturated for 21 days. That means land can be dry for 350 days a year and still be a "wetland."
 - 2] We said that only plants which truly grow in water ("hydrophytic vegetation") should contribute toward meeting the wetland plant test.
- o One of the fundamental questions here is "what land should the Federal Government be in the business of regulating?" There is a private property issue here that cannot be ignored.
- o Now there are some extremists who dismiss the concept of private property. I happen to believe that private property, as well as our environment, is critically important. As a nation, we must take a reasoned, balanced approach to the protection of both.



OFFICE OF THE VICE PRESIDENT
WASHINGTON

FOR IMMEDIATE RELEASE

November 23, 1991

STATEMENT BY THE VICE PRESIDENT'S PRESS SECRETARY

The New York Times erroneously reported today that "the Administration had shifted its stance" in revising a manual defining wetlands eligible for federal protection. In fact, there has been no change whatsoever in the delineation process, which is continuing as planned. A public notice and comment period will remain open until December 15, and the President's Council on Competitiveness, chaired by the Vice President, remains committed to assisting the four agencies responsible in correcting an overly-broad wetlands definition that has caused hardship and unnecessary interference with private property rights since its adoption in 1989.

All responsible officials have agreed that the 1989 manual, which was promulgated without public review and comment, went too far in subjecting non-wetlands to regulatory oversight. The process now being overseen by the Competitiveness Council -- particularly the notice and comment period now underway -- will supply additional information with a goal of eliminating confusion prompted by the unreviewed 1989 manual.

Vice President Quayle stated in July (and numerous times since then) that the final definition will honor the "no net loss of wetlands" pledge made by then-Vice President Bush in 1988, and there has been no shift or wavering on that commitment at any time. Until the public notice and comment period is completed, however, and until information received through that process is evaluated and fully reviewed, no conclusions can or should be drawn by officials about the results.

URUGUAY ROUND OF GATT NEGOTIATIONS

- o The Uruguay Round of the GATT negotiations is the most ambitious trade agreement ever undertaken -- it involves 108 nations and more the 90 percent of the world's commerce.
- o The round, if successful, will benefit American entrepreneurs by protecting their intellectual property, and provide means for settling trade disputes. It will open the world to products made by American workers.
- o It looks as though there is significant progress across the board on the GATT negotiations, though there have been no specific breakthroughs. The President and European leaders remain committed to ambitious results.
- o One of the key "sticking points" has been, and remains to be agriculture. Progress has been made, but there are still gaps. We are committed to opening markets to our farmers, and to seeing an end to export subsidies on the part of the Europeans.
- o There is no breakthrough "deal" or specific agreements or concessions, but, ideas are being exchanged, proposals are on the table. Reforming agriculture is a complex and contentious issue, but the talks are moving forward in good faith and negotiations will continue in Geneva.

CIVIL JUSTICE REFORM

Civil Justice Reform
Implementation - Talking Points

Executive Order

On October 21, President Bush signed an Executive Order to apply immediately the Civil Justice Reform to civil litigation involving the United States Government.

- o Sets "higher standards" but will not prejudice the Government's ability to prevail in litigation
- o Makes federal litigators the model for private sector dispute resolution
- o Government Attorneys now must:
 - pursue Alternative Dispute Resolution
 - attempt agreements for disclosure of "core information"
 - never use "junk science"
 - use only "widely accepted" theories
 - review proposed legislation and regulation to insure drafting errors do not increase litigation

Statute

The Justice Department, OMB and OVP are currently drafting legislation to implement some of the reforms, including:

Multi-door Courthouse
Fairness (English) Rule
Pre-suit Notice

The Administration has been approached by several legislators interested in co-sponsoring the bill.

The Legislation will be introduced early next term.

Rules

We are currently drafting rules to implement:

Discovery Reform
Expert Evidence Reform

The Administration will testify before the Rules Advisory Committee early next year.

Model State Statutes and Rules

The Administration will provide model statutes and rules so that the States may implement the Civil Justice Reform proposals.

HEALTH CARE

lay: Variably cloudy, milder.
h 45. Low 30. Wind 7-14 mph.
nesday: Partly sunny.
h 50. Wind 7-14 mph.
terday: Temp. range: 21-37.
l: 40. Details on Page B2.

The Washington

286

J. SHATTAN

WP

NYT

WSJ

WT

5TH YEAR No. 54

TUESDAY, JANUARY 28, 1992

Prices
Metropoli

Rewrite of Bush Health Package Stops the Budget Presses

By Ann Devroy and Steven Mufson
Washington Post Staff Writers

The White House issued an extraordinary "stop the presses" order yesterday for President Bush's fiscal 1993 budget documents to permit rewriting of the section detailing his health care proposal after congressional Republicans strenuously objected to the plan.

According to White House Chief of Staff Samuel K. Skinner, the objections emerged "in the normal consultative process" with congressional Republicans that was undertaken by Office of Management and Budget Director Richard G. Darman. Skinner defended the rewriting as a proper response to Republican concerns. "We thought if it took a day or two" to rectify the problem, "it was worth" delaying the budget, he said.

The OMB announced yesterday only that the

budget briefings, scheduled for Wednesday morning as part of the budget release process, had been delayed because of a "printing problem." Agencies and departments received faxed instructions late yesterday ordering them to postpone their budget briefings because of the "printing problem."

That problem, officials said, stems from

President Bush's State of the Union address will be televised live by the major networks tonight at 9.

Darman's rewriting of the "introductory segment" of the budget to remove most of the details it once contained. Administration officials said last night that thousands of budgets were already printed and that "correction sheets" will be included in those. Most copies will be printed with the rewritten segment, they said. An official said the briefings are now likely to

occur Wednesday afternoon after a Bush trip to Capitol Hill to promote his budget.

According to senior officials, Rep. Willis D. Gradison Jr. (R-Ohio), a leader in health care legislation, was at the forefront of a revolt by some House and Senate Republican leaders against the Darman-outlined proposal.

A series of meetings that began last Thursday, and an irate call from Gradison to the president on Saturday, culminated yesterday in a Bush-backed decision by Skinner to tell Darman to "stop the presses." Officials said Health and Human Services Secretary Louis W. Sullivan urged the same move.

The Bush approach, as outlined in recent weeks, was to provide tax credits to help the poor buy insurance and deductions for middle-income purchasers of health policies. It would put a ceiling on what a company could deduct for

See PRESIDENT, A5, Col. 1



REP. WILLIS D. GRADISON JR.
led GOP revolt against plan

etail Giant Macy arts Bankruptcy

ershocks of Court Filing
ely to Echo in D.C. Area

By Kara Swisher and Brett D. Fromson
Washington Post Staff Writers

York-based department store giant R.H. Macy &

GIBBS GREETS REDSKINS FANS



C
T
R
Ph
Of
Wi

Th
sion
& Po
teleph
perce
"losin
comm
A l
comm
public
denied
21 per
ordin
PSC
port sa
der Be
ing tou
The P
lantic's
C&P's
trict of
While

People magazine said a psychologist said there are one or two more [serial killers] out there waiting to be caught. I hope not. Oh, boy."

Until a hot night last July when the severed heads and other body parts of 11 of his victims were found in Dahmer's apartment here, Gein was Wisconsin's most notorious killer.

A handyman from the central part of the state, Gein was thought to have butchered at least two women and dug up bodies from graves, using the body parts to make jewelry and articles of clothing and the skin to upholster furniture. In 1957, he was deemed unfit to stand trial and was committed to a state mental institution where he died at age 77 in 1984.

As jury selection began today in the sanity phase of his trial, Dahmer's actions in murdering and dismembering 17 men and boys evoked inevitable comparisons with Gein's horrifying deeds. Dahmer's defense lawyer, Gerald P. Boyle, did nothing to dis-

such testimony would trouble them.

Boyle also described Dahmer as a homosexual and told the jurors that "there is going to be a lot of talk about Mr. Dahmer's sexual conduct [with his victims] before and after death.

"Tough stuff, I understand," he added.

Dahmer, 31, a former chocolate factory worker, has pleaded guilty to 15 counts of murder and has confessed to two other killings. Under an unusual two-phase process in Wisconsin criminal law, he also has pleaded not guilty by reason of mental disease or defect to the same charges. The trial before Milwaukee County Circuit Court Judge Laurence C. Gram Jr. is to determine whether Dahmer should be held criminally responsible for his actions.

Each murder count carries a mandatory life-imprisonment sentence. If found not guilty by reason of insanity, Dahmer will be committed to a state mental institution, also probably for life. Wisconsin does not have capital punishment.

and Court 1 V. About 170 reporters, photographers and technicians representing 70 news organizations from as far as Australia are accredited to cover the event.

Inside the fifth-floor courtroom, an eight-foot plexiglass wall separates trial participants from spectators and victims' families.

A small group of protesters from an organization called the Christian Civil Liberties Union appeared to protest what they called "Dahmer's gay lifestyle."

Jury selection is expected to last one or two more days. Dahmer, dressed in khaki pants, brown sport coat and open-collar, cream-colored shirt, rocked slightly in his chair as he listened to Boyle and McCann address prospective jurors.

Seventy people were questioned, and 25 were dismissed after saying that sequestration for the trial, expected to last two to three weeks, would cause serious hardship.

One woman said she raises birds that would die if she could not feed them. After she was excused, Dahmer said something to a detective sitting next to him, and both laughed.

Health Proposal in Bush Budget Gets Last-Minute Rewrite

PRESIDENT, From A1

contributions it makes to employee health benefits, tax a portion of benefits received by high-income earners and charge the well-to-do higher Medicare premiums. The president's package also would have sought to revise the rules for small group health insurance plans and to provide more money for health centers and other services for low-income people.

According to officials, many Republicans were concerned about requiring employees to pay taxes on some part of their health benefits over a certain level, and about the Medicare provisions. But officials said the major concern was far broader—that congressional Republicans, some of whom have worked on the issue for years, had been led to believe the details were not complete and the plan would not be announced until mid-February, after significant consultation with them.

"There were a lot of individual problems but the big, big problem was that Dick Dar-

man thought he could make policy in the budget and preempt consultations," said one administration source, "and Sam Skinner just handed him a big eraser and said erase it."

White House officials yesterday described as "minor" changes that might occur because of the delay and Skinner insisted Bush's proposal will be presented in detail in February "as planned." But enough opposition to it has emerged that some officials said more than minor changes may occur.

One official described as pivotal the call to Bush from Gradison, a ranking member of the Ways and Means Committee, on Saturday when he reportedly "raised hell" over some of the plan's strategy and substance, arguing, among other things, that it did not adequately address the problem of access to health care by the poor and uninsured.

Officials said Gradison was particularly irked about "Potemkin briefings" that did not fully outline Bush's proposal and was further unhappy that Darman, not Bush, announced the details. "He warned the president that he

and other House Republicans would not stand with Bush on this and it would be a political disaster," one official said. Gradison did not return a reporter's phone calls yesterday.

Ten Republican members of the House and Senate met with OMB, HHS and White House officials yesterday and complained that the administration expected the lawmakers to "follow them off a cliff" and endorse proposals they had not seen in advance—a charge aimed at Darman in particular.

The incident caused a ripple of near glee at many agencies because a large number of officials throughout the government have chafed for three years under what they believed was Darman's propensity to make policy for their agencies and tell them about it later. But Skinner defended Darman and said the two had decided that a delay in the interest of building support in Congress for the eventual program was the "right thing to do."

Staff writer John E. Yang contributed to this report.

STARTING TODAY

STEEL

4 DC STE

1-28-92

WASHINGTON
POST.

Health Care

Summary

Increasing health care costs and uneven access to health care have led to a call for reforms. Proposals range from choice type individual responsibility initiatives to socialized medicine.

Health care is now primarily paid by third party payers. Because decisions about patient care are made by third party payers or providers of care, individual choice and control of for health care costs has become limited. The goals are to improve access, maintain quality, and contain costs.

The Administration believes that reforms must be consistent with economic growth and jobs. Markets, not government, should form the basis of reforms. Markets can be improved by curbing malpractice and costly government insurance mandates, and promoting concepts of managed care. The Administration will be providing details for health care reform after the President's State of the Union speech.

Increasing Costs

Annual US health care costs are approaching \$750 billion, 13% of the GNP, up from 6% in the early 60's.

US costs are higher than per capita expenditures in other modern industrialized nations.

The high rate of health expenditures is not sustainable.

- o Unchecked, health care costs will consume 16% of GNP by year 2000, and 26% by the year 2030.
- o Federal health care entitlements (Medicare and Medicaid) will soon surpass Social Security as the single largest component of mandatory spending in the US budget.

-Medicare part B is now 3% of the federal budget, Medicare parts A & B total about 9% today and are projected to exceed 27% of the federal budget by 2025.

Business spending on health premiums has already risen substantially as a percent of compensation and wages and is now in excess of 100% of after-tax profits.

Uneven Access to Health Insurance

- o 13% of Americans are uninsured and as many as 28% are uninsured for one month or more, a total of upwards of 30 million people.
- o 70% of uninsured are above poverty level
- o uninsuredness is not particularly age-related

The uninsured often receive more expensive emergency-room care and are less likely to receive office, clinic or regular inpatient care.

Because the uninsured pay for only half of their medical costs, the other half is paid by higher prices for the insured, charitable contributions, tax subsidies, etc.

Increasing Health Costs Have Multiple Causes

Third party payors have displaced individuals in paying for health care

- o On average, every time a patient spends a dollar in the medical marketplace, 76 cents is paid by someone else.
- o About 95% of all hospital bills and 80 percent of physicians fees are paid by private public third-party payers.
- o Patients, doctors, and health care industries lack incentives to keep costs down.

Medical costs have risen 4.75% per year above inflation because of:

- o Increased services per person
- o Population growth
- o Relative aging of the population as life expectancy and maximum life span increase
 - growth of volume and intensity of care
 - defensive medicine, litigation, and malpractice insurance costs

Solutions

The Administration believes reforms must support economic growth and jobs. Reforms must be market driven and not government run. Overarching issues for any solution will be to improve access, maintain quality, and contain costs.

The Administration is considering proposals for increased access for: the poor; those not now offered affordable insurance; the aged (now Medicare regardless of income); and, those in need of long-term care

The Administration reforms will include cost controls and will recommend market mechanisms such as incentives for *managed care* (HMOs, PPOs, etc., and increased *consumer choice* through greater *cost sharing* and *plan selection* in a competitive marketplace.

Government and non-market solutions to be avoided include:

government budgetary caps (Canada, Europe, Medicare on physicians)

expanded direct *regulation* (Canadian-type plans, most "play or pay" plans, many states)

Costs caused by governments should be reduced such as state insurance mandates and restrictions on managed care. And costs of malpractice should be reduced through civil justice reforms.

Recent Administration initiatives that would help include:

- o Increased health research and development
- o Targeted resources on infant mortality and maternal health improvement
- o Reduced subsidies for the non-poor
- o Civil justice reform and malpractice reform
- o Limit growth of selected overprices physician's fees
- o End abuses of Medicaid and Medicare

Foreign governments lack cost/effective interventionist solutions.

- o "Solutions" such as controlling access and costs of medical services and pharmaceuticals have taken away from patients the option to choose treatments.
- o Bureaucrats, not patients nor doctors, decide what care is needed.

The Canadian "system" is misunderstood.

- o A collection of different programs run by the provinces and territories, partially funded by the national government.

FDA--DRUG APPROVAL

POSSIBLE QUESTIONS FOR THE VICE PRESIDENT

QUESTION: How will the FDA be able to shorten the drug development and approval times?

ANSWER:

- These reforms will shorten the drug development and approval times in two main ways:
 1. For drugs to treat serious, life-threatening diseases like cancer, AIDS, and cystic fibrosis, FDA will require fewer tests before they give their approval.
 2. For these drugs and all drugs, FDA will dramatically reduce the amount of time it takes for them to review the drug.

QUESTION: Doesn't this mean that patients will be at risk that drugs will not be as safe as before?

ANSWER: No. These proposals ensure that the highest level of safety is maintained. FDA will continue to monitor very strictly to ensure that drugs are safe. Second, for accelerated approval drugs, there will be some additional level of risk, but this is justified when patients are dying or seriously debilitated by injury such as cancer, AIDS, or cystic fibrosis. Then we need to let them take the risk that these treatments will help them get better.

QUESTION: How will these proposals affect the approval for drugs to treat AIDS?

ANSWER: I will leave the technical details to David Kessler. Many of the recent drugs to treat the symptoms of AIDS have been approved using similar procedures in record time. Many more drugs are in the pipeline and FDA will use these accelerated approval procedures to get them to AIDS patients as soon as possible.

QUESTION: Isn't the real problem with drugs that companies can charge monopoly profits and therefore they are too expensive? Many of these treatments are too expensive for average Americans.

ANSWER: This proposal generally does not have to do with the price of drugs once they are approved. However, I would note that by saving as much as \$60 million in development costs for

new drugs will cut the cost of drugs in the United States dramatically. This should allow the companies to pass along their savings to patients, and I will urge them here and now to do so.

QUESTION: When you say that millions of lives will be saved, what does this mean?

ANSWER: A study by [redacted] Medical Center indicates that over a 25-year period, 4.5 million lives could be saved from new drugs to treat coronary heart disease, nearly a million more to treat strokes, half a million to treat lung cancer, and an untold but potentially high number of treatments for the symptoms of AIDS. *Spelling?*

QUESTION: Aren't you proposing these reforms to help big drug companies make more profits?

ANSWER: No. The reason the Council proposed these reforms is to help patients. It is vitally important that these drugs become available to individuals who suffer from devastating diseases such as cancer, AIDS, and cystic fibrosis as soon as they are possible.

QUESTION: Will the government pay for these drugs?

ANSWER: Yes. It is the government's policy in the Medicaid program to pay for drugs (except for outpatient drugs) as soon as they are approved by FDA. This policy will continue even for drugs that are approved under accelerated approval.

QUESTION: Will FDA require additional resources?

Secretary Sullivan and Commissioner Kessler will be considering how to cover any additional costs within the federal budget. In regards to computerization, FDA will be looking to additional resources to pay for computerization. One possibility identified by the Council is a gift to FDA from the private sector under the Food and Drug Revitalization Act enacted last year that Senator Hatch designed.

BIOTECHNOLOGY

Biotechnology

Summary

Biotechnology has made significant advances in 1991 with the industry almost doubling in value and sales approaching \$4 billion. FDA approved four new biotechnology drugs, 20 are in the FDA pipeline and many more are under clinical testing. Agricultural and environmental products are just beginning to enter the commercial market although EPA and USDA have approved over 200 field experiments for new plants and microbes. Industry is waiting for completion of commercialization "roadmaps" under development by the Council's Biotechnology Working Group. The US remains the world leader in biotechnology although Europe and Pacific Rim countries are mounting increasing challenge.

New Hampshire has one biotechnology company, Verax Corporation in Lebanon specializing in cell culture.

- o 100 Employees
- o Agreements with major companies including Eli Lilly

1991

The biotechnology industry, built on a promise of future products, has begun to turn promise into reality in 1991.

- o The biotechnology industry almost doubled in value in 1991 as stocks rose an average 178%.
- o Amgen, in Thousand Oaks California, was added to Standard & Poors top 500 US companies as the market closed on December 31st.
- o Total industry product sales approached \$4 billion for the fiscal year ending June 30, 1990
- o FDA Product approvals
 - 4 new drugs were approved in 1991, making a total of 14 now on the market. 7 additional drugs were reviewed by FDA advisory committees in 1991.
 - Over 20 biotechnology products are at FDA awaiting marketing approval while more than 120 new biologics are in clinical trials, a 33% percent increase over 1989.
 - A total of more than 625 diagnostic products have received FDA approval

- o Agricultural and environmental products

- EPA approved its first new biotechnology pesticide in 1991 for market after some 6 years.

- EPA and USDA have approved some 200 research trials for biotechnology plants and microbes

- Agricultural and environmental products are moving slowly through the research and development phases, in part, due to uncertainty of regulatory requirements.

- Biotechnology industry has conflicts between company strategies for federal regulation.

- ag-chemical companies seek biotechnology plants that produce their own chemical pesticides or will tolerate safer forms of chemical herbicides.

- seed companies seek improved crop lines that have greater resistance to pests and disease without needing ag-chemicals.

International competitiveness is increasing.

- o Governments in Europe and the Pacific Rim are funding industrial development and establishing non-tariff trade barriers.
- o US has been seeking international harmonization using Council on Competitiveness developed principles of regulatory review.

Over the next few months the Biotechnology Working Group of the Council on Competitiveness will

- o Complete work on "commercialization roadmaps" for biotechnology products--foods, plants, animals, and microbes
- o Oversee completion of biotechnology EPA and USDA regulations to insure consistency with the President's principles of regulatory review developed by the Council on Competitiveness.

CRIME LEGISLATION

CRIME LEGISLATION

- o The conference report produced by the Judiciary Committees of the House and Senate has little that the President has supported. A draft letter from the President to the Minority Leader indicates that he will veto it. (Summary of Conference Report on next page.)
- o The President challenged the Congress in March to enact his tough violent crime bill within 100 days. The inability of the Congress to pass a meaningful crime bill is a dramatic demonstration of its disregard for the public's best interests. The public still cares strongly about the problems of violent crime and drugs.
- o The President's crime bill includes new penalties that will result in more violent criminals spending more time behind bars (increased penalties for firearms violence). It will also reduce substantially the number of appeals brought by murderers on death row (habeas corpus reform) and establish a workable federal death penalty. Thus, the only people who benefit from the failure to pass a crime bill are criminals, and particularly convicted murderers.
- o Failure by the Congress to pass a crime bill leaves this country unprepared for terrorist attacks and other heinous violent crimes. Without the President's crime bill there is no death penalty for dozens of federal crimes, including:
 - a. terrorist murders, b. murder by mail bombings, c. assassinations of the President, d. murder through the use of weapons of mass destruction, e. and murder in the course of a hostage taking.
- o In order to achieve consensus, the President stated that he would consider signing the Brady Bill (seven day waiting period) and the DeConcini amendment (assault weapon restrictions) in exchange for adoption of the key parts of his crime bill. And, yet the Congress still has refused to enact a bill.
- o The Senate broke a three-week partisan deadlock over appointment of its negotiators on anti-crime legislation, sending the bill to conference with the House in the hope that a compromise can be reached before adjournment for the year.

Conference Committee Report on the House and Senate Crime Bills

With remarkable consistency, the conference committee for H.R. 3371 and S. 1241 has rejected the better option, and has opted instead for provisions that harm law enforcement and reduce the public's security against crime. Among other flaws, the main features of the conference committee proposal include the following:

-- The conference has rejected the real habeas corpus reforms proposed in title XI of the Senate bill. It has adopted instead habeas corpus provisions that systematically overturn Supreme Court decisions favorable to law enforcement, and that would throw the prison doors wide for thousands of dangerous criminals throughout the country.

-- The conference has rejected the effective death penalty provisions of title XXIII of the House bill, and has adopted instead provisions that are fundamentally flawed.

-- The conference has rejected the real exclusionary rule reforms in section 1720 of the House bill, and has adopted instead a provision that excludes more reliable evidence of guilt than current law.

-- The conference has rejected most of the provisions of the House bill (§§ 521, 531, 532, 1724, 1959) that combat rape and child molestation, and that protect the rights of crime victims.

-- The conference proposal increases the range of cases in which criminal convictions will be reversed on the basis of harmless errors by overturning the Supreme Court's decision in Arizona v. Fulminante, 59 U.S.L.W. 4235 (1991). There is no such provision in the Senate bill, and this issue has not received significant study or consideration in either House of Congress.

Draft Letter from President

Dear Minority Leader:

Since March, I have been calling for the Congress to enact a tough crime bill that will remove the handcuffs from law enforcement and end needless delays to just punishment in the criminal justice system. For too long, the scales of justice have been tipped towards criminals and away from law abiding Americans. The American people want a crime bill that will make the system tougher on criminals than it is on law enforcement.

After months of delay, the Congress is now presented with a conference report that was drafted in the last hours of this session. Once again, conferees from the Senate and House Judiciary Committees have demonstrated that they are quite willing to overlook the will of their colleagues and the American people. In fact, liberal conferees ignored even the appearance of fairness. Refusing to negotiate in good faith in conference, they quickly unveiled their own proposal and ran it through a meaningless process. Clearly, the American people deserve better.

The conferees' crime bill would be a disaster for law enforcement in this country. The bill rejects many of the primary goals for crime legislation that I have presented to the Congress. One essential goal of my crime bill is to bring an end to the frivolous post-appeal challenges brought by convicted criminals, particularly death row inmates. This bill actually expands their ability to frustrate the system by overturning critical Supreme Court decisions that have narrowed the abuse of habeas corpus. Another goal of the Administration's bill is to ensure that criminals do not go free on legal technicalities when a police officer acting in good faith makes a mistake. This bill dares to throw out court decisions that recognize the legitimacy of such a good faith exception to the exclusionary rule and could be construed to limit the Supreme Court's ability to expand the good faith exception in the future.

I will not accept any effort by the Congress to turn the clock back on the progress we have made in the courts on criminal justice reform. If this bill is presented to me, I will veto it and insist that Congress return next year to pass a genuine crime bill.



Office of the Attorney General
Washington, D. C. 20530

The Honorable Robert H. Michel
Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Minority Leader:

I join men and women of law enforcement around the country and victims of crime in voicing my strenuous objections to the so-called "crime bill" reported by the House and Senate conferees this weekend. While law enforcement groups and victims of violent crime cry out for the Congress to move forward aggressively on criminal justice reform, the conferees now propose that we take a significant step backwards. The proposed legislation actually overrules several recent Supreme Court decisions favorable to law enforcement. This conference report does more for those convicted of crimes than it does for those victimized by them.

The American people know that our criminal justice system is failing because convicted criminals are able to escape just punishment through endless delays and repetitive technical legal maneuvering. This abuse has deprived our criminal justice system of any finality: convicted criminals can perpetually reopen and relitigate their cases even when their appeals have been completed and when there is no question as to their guilt. The guilty thus avoid punishment by filing frivolous habeas corpus petitions that drag on for years, consume valuable law enforcement resources, and reopen the wounds of victims and survivors. State law enforcement agencies demand relief. And yet, the conferees now propose that we actually create broad new avenues and new loopholes by which convicted criminals can exploit the system and evade punishment. The conferees propose to make the current situation worse by: 1) overruling certain reasonable limitations recently established by the Supreme Court on successive habeas corpus petitions; 2) imposing substantial costs on the states to fund these frivolous challenges while offering no prospect of finality and no relief to their already overburdened systems; and 3) offering criminals wider opportunities for continued frivolous delays than are allowed even under existing law.

The conferees also propose to step backwards on reasonable reform of the exclusionary rule. By rolling back court decisions which allow for the admissibility of evidence when police have acted in good faith, the conference report will handcuff police and increase the number of criminals who escape justice on legal technicalities.

Finally, in authorizing \$3 billion for law enforcement programs, the bill offers only a mirage. Authorization of this funding when there is no appropriation is essentially meaningless. The irony here is that the Congress failed this year to fully fund the President's budget request for law enforcement, slashing it by \$472 million -- a 64% cut in the increases sought by the President. Dangling the empty promise of more grant programs before the eyes of state law enforcement cannot camouflage a weak crime bill.

In sum, the conferees have let down law enforcement, let down victims, and let down those in Congress who voted for tough anti-crime measures. This "whirlwind weekend conference" cannot obscure the fact that the Congress has again failed to deliver on serious criminal law reform. If this bill comes to the President's desk, I will urge him to veto it.

Sincerely,

A handwritten signature in dark ink, appearing to read "WP Barr", written in a cursive, flowing style.

William P. Barr

NATIONAL ENERGY STRATEGY



Department of Energy
Washington, DC 20585

MEMORANDUM

TO: Bill Burrow
Associate Director
Council on Competitiveness

FROM: Linda G. Stuntz *LGS*
Deputy Under Secretary
Policy, Planning and Analysis

SUBJECT: Update on Energy Issues of Interest to Missouri

DATE: December 3, 1991

Missouri Senator Danforth voted to support cloture on S. 1220, the National Energy Security Act. Senator Bond voted against cloture. We believe Senator Bond's opposition was due to concern about Corporate Average Fuel Economy (CAFE) and Public Utility Holding Company Act reform.

A Fact Sheet on How the National Energy Strategy Could Benefit Missouri is attached for your information.

HOW THE NATIONAL ENERGY STRATEGY CAN BENEFIT MISSOURI

The NES will help Missouri by increasing the State's ability to achieve environmentally responsible economic growth through

- increased energy efficiency,
- expanded use of renewable and alternative fuels,
- reduced vulnerability to oil market disruptions and price shocks,
- enhanced environmental protection, and
- fortified foundations (fundamental research, education, and technology transfer).

I. The NES Will Increase Missouri's Energy Efficiency

The NES will further support the efficiency with which Missouri uses energy in homes and offices, in industry, and in vehicles.

The NES Increases Support for Energy Efficiency Research

The aerospace, agricultural, food processing, chemical, transportation equipment, and mining industries are important to Missouri's economy. The NES supports R&D initiatives that promote industrial energy efficiency and flexibility by increasing support for research, development, and demonstration, using industry-government cost-sharing, and by increasing information and technology dissemination efforts. Industrial energy R&D will stress

- reduction of waste energy in industry and
- advanced industrial processes.

The industrial energy R&D programs currently in place in Missouri include the following:

- DOE supports more than \$66 million of energy-related R&D in Missouri. This amount will be increasing in 1992 and beyond as a result of NES initiatives. In support for industrial R&D, DOE will stress advanced chemical and mechanical heat pumps, process heat exchangers and ceramic recuperators, advanced materials, advanced combustion systems, and industrial cogeneration technology.
- Geothermal heat pumps (GHPs) provide heating and cooling for residences and commercial buildings with substantial energy savings compared to conventional air source heat pumps. Their widespread use would reduce electric utilities' need for additional generating capacity and save their customers money. Compared to

conventional technology, GHP life cycle costs are lower, but higher initial costs inhibit market acceptance. DOE research will reduce these costs.

- Missouri House Bill 459 established the "Industrial/Commercial Energy Conservation Loan Fund" to provide for a loan program to finance the implementation of energy conservation projects proposed by industrial and commercial businesses. Low-interest loans will be made for projects to design, acquire, and install energy conserving devices and/or modifications to a building or to allow for use of alternate energy sources.
- The Monsanto Company, St. Louis, is a participant in DOE's industrial research program.
- DOE provides Basic Research funding to support a superconductivity project at the University of Missouri/Kansas City on novel superconductors.
- Work is funded at the University of Missouri/Rolla on air sinterable YCrO_3 -based ceramics, ceramics that require less heating. This work has reached the invention-disclosure stage.

The NES Encourages Missouri's Utilities to Support End-Use Efficiency

Missouri consumed 1,511.1 TBtu of total energy in 1988, of which 621.9 TBtu, or 41 percent, were consumed as electricity. The energy sources used to generate Missouri's electricity are 82 percent coal, 15.4 percent nuclear, 2.4 percent hydropower, 0.3 percent natural gas and 0.3 percent petroleum. Integrated resource planning (IRP) is under consideration in Missouri, but formal IRP processes or requirements have not yet been initiated in the State. In 1987 and 1988, Missouri rejected IRP legislative proposals that were supported by the Missouri Public Service Commission. Currently, the commission's Electric Strategic Resource Planning Project has a study on IRP for Missouri underway. Missouri does not expect to need additional capacity until about 1996. The NES will support these IRP efforts by

- Exempting from taxation utility incentives to encourage customer investments in energy efficiency, when those incentives are provided as discounts on customer bills.
- Increasing technical assistance to States and utilities using IRP procedures.
- Encouraging local utility use of IRP through Federal regulation of interstate power sales.
- Identifying end-use conservation as an important resource for meeting additional demand.

- Seeking ways to store electricity and allow more efficient use of generating and transmission facilities.

The Missouri Public Service Commission's activities include the following:

- The Commission uses its authority in rate hearings and the certification process to require utilities to submit resource plans. Two utilities are required to file annual reports on conservation and load management activities; these reports and long-range plans are reviewed in the context of rate cases or informally by Commission staff.
- The Commission has limited authority over siting and certification. Advance certification is required only when a facility is outside a utility's service territory.

DOE activities to help Missouri in this area will include the following:

- Increasing the State's awareness of the benefits of IRP processes through training, workshops, seminars, and by providing technical assistance.
- Working with the Southwestern Power Administration (SWPA) to intensify efforts to encourage its customer utilities to adopt IRP processes.

The NES Increases Efficiency in the Production of Electricity

- DOE has recently embarked upon a significant research effort designed to accelerate the development of the next generation of high-efficiency coal-fired power plants. The technology developed for these plants will have dramatically reduced air pollutant emissions, minimized production of solid waste, and increased production of usable by-products. Power plants that will employ this new technology could be in commercial development during the first decade of the 21st century.

The NES Will Support Federal and State Energy Conservation Efforts

A number of conservation programs are currently in place throughout Missouri supported by Federal and State agencies.

- The DOE-sponsored Energy Analysis and Diagnostic (EADC) Program offers energy-conservation assistance to Missouri's industries. The University of Missouri at Rolla is an EADC Center and trained students have conducted more than 80 energy audits in Missouri at no cost to manufacturers. Among the Missouri industries benefitting from EADC audits are Proctor and Gamble Manufacturing Company, U.S. Gypsum Company, and General Mills Inc.

- State energy efficiency programs have resulted in significant reductions in energy usage. DOE funds Missouri's efforts to improve energy efficiency in its homes and institutions. In FY 1991, the Institutional Conservation Program (ICP) provided Missouri with \$833,073 in grants; the Weatherization Assistance Program (WAP) provided \$5.2 million; State Energy Conservation Program (SECP) funding was \$221,800, with savings projections of 113.8 TBtu; and Energy Extension Service (EES) funding was \$95,600.

In support of current actions throughout the State, NES initiatives will

- Develop improved model building standards for use by states,
- Improve the energy efficiency of public housing,
- Expand the use of mortgage financing incentives and energy ratings for homes,
- Establish energy efficiency testing and labeling of lighting and non-residential equipment to encourage improved energy efficiency in the commercial sector.

II. The NES Will Increase Missouri's Production and Use of Renewable Resources

The NES will support renewable energy activities in Missouri by

- Requesting \$202 million for DOE's solar and renewable R&D funding for FY 1992, which represents an increase of more than \$63 million over 1990 levels.
- Extending business energy tax credits for solar and geothermal energy technologies through 1992.
- Proposing reforms of the Public Utility Regulatory Policy Act (PURPA) to promote increased use of renewable electric generating technologies. This would encourage the use of solar, wind, geothermal, and other renewable technologies if these resources are acquired through competitive bidding.
- Reforming hydropower regulations by improving the regulatory environment and efficiency of hydro projects to allow the states to take maximum advantage of resources available at existing dams.
- Promoting relatively non-polluting renewable energy technologies that will produce significant environmental benefits. NES goals are to increase electricity production from renewables by 16 percent in the year 2010 (relative to 1990).
- Promoting the production of alternative fuels from biomass and renewing the ethanol tax credit through the year 2000.

- Supporting municipal solid waste-to-energy programs.

Missouri's renewable resources and renewable activities include the following:

- The State has over 12.5 million acres of forest land. Wood and wood waste-to-energy projects are promoted as alternative fuel sources.
- The Missouri Division of Energy funds the development of biomass-fired equipment, for example, for continuous-flow ethyl alcohol equipment and system development for acid hydrolysis production.
- The University of Missouri will operate an agricultural biomass recovery demonstration project. Materials such as corn stalks and other row crop materials will be used in a heat recovery process on local farms.
- The University of Missouri will demonstrate an agricultural biomass burner for turkey and poultry production. A mixture of sawdust and poultry litter will be used as a fuel source to heat poultry brooder and production units during the winter months.

III. The NES Helps Missouri Meet Its Growing Energy Demand

Ten percent of Missouri's gross domestic product is spent on energy, and it ranks 20th nationwide in total energy consumption. The State acquires 85 percent of its energy resources from outside the State. Missouri's total energy consumption by source is 42 percent petroleum, 36 percent coal, 17 percent natural gas, 6 percent nuclear, and 1 percent hydropower. Various NES initiatives will help Missouri and the Nation reduce oil use through increased utilization of other fuel sources, such as natural gas and coal. General issues concerning the State's energy resources include the following:

- Missouri is undertaking a Statewide energy planning study of sustainable energy resources that will ensure environmentally sensitive economic growth for Missouri in the future. The study, to be completed by December 1991, will explore such energy-related issues as transportation, agriculture, new technologies, environmental impact, economic impacts of energy-price fluctuations, and conservation.
- State House Bill 262 permits the declaration of an energy resource emergency in the event of a resource shortage, supply, or distribution problem that impacts the health, safety, welfare, and economic well-being of State residents. Appropriate agencies would recommend contingency measures to deal with the problem, and those agencies, as well as industries, utilities, and other energy suppliers would furnish data to determine the extent of the shortage.

The NES Will Facilitate Safe, Economical Nuclear Power Development

Missouri has five operating civilian nuclear generating units. The NES seeks to make evolutionary and advanced plant designs, certified by the Nuclear Regulatory Commission (NRC), available to utilities in Missouri for order by the mid-1990s. Specifically, the NES includes the following initiatives:

- Accelerating introduction of standard nuclear power plant designs.
- Reforming the NRC licensing process.
 - DOE is working with the NRC on a Plant Life Extension program that would extend the operating licenses of existing nuclear power plants. Extending the life of plants in Missouri, with proper safety assurances, would benefit the State by providing electricity generation capacity without new construction or siting problems.
- Achieving effective management of high-level nuclear waste program by siting and licensing a permanent waste repository and a monitored retrievable storage facility.

The NES Supports Environmentally Sound Coal Production and Use

More than eighty percent of Missouri's electricity is produced using coal, and clean coal technologies will be important to the State. The NES supports the commercial use of advanced coal technologies in electricity generation and other applications through a wide range of research, development, and demonstration programs. These advanced technologies will greatly reduce SO₂ and NO_x emissions, ease waste disposal requirements, and increase the energy efficiency of coal use.

- The DOE Office of Fossil Energy University Coal Research (UCR) Program sponsors fundamental and exploratory research aimed at improving and understanding coal conversion and utilization science. The UCR Program supports R&D specifically focused on education and training of faculty and student researchers in coal science and technology. A grant with a value of approximately \$122,000 has been provided to Missouri universities for UCR research since 1984.
- A researcher at the University of Missouri, Columbia, has carried out a long-term project to develop a Coal Log Pipeline System, which is a cheaper, faster method for transporting low-sulfur coal from the West to use in eastern States. DOE funded the project for about five years; NIST has set up a consortium that has eight to 10 commercial sponsors. Missouri is the only university doing this research and the system is now a patentable technology. A research center on the campus is dedicated to the project, where it can be seen in operation. Current DOE funding is \$79,516.

- The University of Missouri received DOE and SBIR Program research funding for a mechanism stemming device, an improved blast-control device for mining near populated areas.
- The DOE Clean Coal Technology (CCT) Program is a multibillion-dollar, multiyear effort cofunded by government and industry to demonstrate a new generation of coal utilization processes in a series of full-scale, "showcase" facilities built across the country. Although no CCT projects are currently located in Missouri, the State will benefit from the technical and environmental advances afforded by successful CCT demonstrations.

The NES Will Facilitate the Use of Hydroelectric Power

NES initiatives that support the expanded use of hydroelectric power include the following:

- Eliminating excessive regulatory barriers that add costs and risks to hydropower development.
- Requiring a continuing review of existing hydropower projects to improve operation and maintenance and identify improvements in efficiency that can be made economically.
- Conducting research on environmental studies and mitigation strategies.

The NES Will Expand Production and Use of Natural Gas

Although less than 1 percent of Missouri's electricity is produced with natural gas, consumption is rising in part because of the greater flexibility in the regulation of the gas industry and the recent Free Trade Agreement with Canada. Gas-fired turbines are a potential new source for generating electric power. NES initiatives to reduce U.S. dependence on oil include measures to increase U.S. consumption of natural gas by about 5 percent in the year 2000. NES initiatives will help rectify issues in Missouri concerning increased use of gas.

- The NES proposes continuation of R&D efforts toward developing better recovery technologies for conventional natural gas resources, and broadening efforts to recover unconventional gas resources.
- The NES is also proposing regulatory reforms that would expedite new natural gas pipeline construction.

The NES Will Expand Production of Domestic Oil

Missouri produced a small amount of crude oil, 136,000 barrels, or less than 500 barrels/day, in 1989. The NES will support greater utilization of existing oil recovery technology and will recommend use of experimental technologies for unconventional oil recovery. These initiatives,

which focus on the use of advanced secondary recovery and enhanced recovery technologies, will increase Missouri's oil production capacity. NES deregulation of oil pipelines will improve the efficient use of the system.

The NES Will Lower Transportation Costs Through New Fuels and Technologies

The NES reduces transportation energy demand by cost-effectively improving fleet fuel efficiency. To accelerate the commercialization of advanced, clean, energy-efficient propulsion systems, organizations within industry, government, and academia are performing work on electric and hybrid vehicles.

- Los Alamos National Laboratory has a patented technology for converting methanol into hydrogen for a hydrogen-oxygen fuel cell, and is participating with General Motors, Allison Gas Turbine Division, in a DOE-funded program to demonstrate fuel cells for transportation applications. Missouri will benefit from this cooperative interaction between industry and a national laboratory.

Missouri is a large manufacturer of automobiles. The NES does not include a recommendation to increase corporate average fuel economy (CAFE) standards; a more complete analysis will be undertaken to assess the regulatory requirements on the auto industry.

In 1992, the NES will increase R&D for new transportation fuels 27 percent from last year's \$89 million. The NES encourages incentives for the use of alternative fuel vehicles, stimulates the use of alternative fuels from nonpetroleum sources, accelerates R&D of new feedstocks and conversion processes for domestically produced biofuels, and promotes R&D on long-term alternative fuel transportation systems. Alternative-fuel programs in Missouri include the following:

- House Bill 45 would require each State agency/department to convert its fleet to alternative fuels with systematic replacement of existing State-owned vehicles and vehicles paid for with State money. Any State agency operating a fleet of more than 15 vehicles must achieve a given percentage of alternate-fueled vehicles in the fleet by a given date, as follows: 10 percent by 1996, 30 percent by 1998, and at least 50 percent by 2000.
- Plantings of rapeseed (*Brassica napus*), whose oil is suitable for use as a diesel fuel, were established in Missouri as part of the National Rapeseed Varietal Trial.
- Engineering students from Washington University are participating in the Natural Gas Vehicle Challenge that will be conducted in Oklahoma this summer.
- Crowder College students constructed a solar-powered car to participate in the General Motors-sponsored "Synrayce" from Orlando, Florida, to Detroit, Michigan. This car also participated in and finished in eighth place in the Australian World Solar Challenge in November 1990.



Department of Energy
Washington, DC 20585

MEMORANDUM

TO: Bill Burrow
Associate Director
Council on Competitiveness

FROM: Linda G. Stuntz *Linda G Stuntz*
Deputy Under Secretary
Policy, Planning and Analysis

SUBJECT: Update on the National Energy Strategy (NES) and Issues of Interest to Kentucky

DATE: January 28, 1992

Kentucky Senators McConnell and Ford voted with the President on cloture on S. 1220, the National Energy Security Act.

A Fact Sheet on How the National Energy Strategy Could Benefit Kentucky is attached for your information.

Attachment

THE NATIONAL ENERGY STRATEGY AND KENTUCKY ENERGY CONCERNS

The National Energy Strategy (NES) was transmitted by the President to the Congress and the American people on February 20, 1991.

The NES is designed to increase our energy and economic efficiency, achieve greater energy security, enhance environmental quality, and fortify our foundations (fundamental research, education, and technology transfer).

The legislative component of the NES was forwarded to the Congress in March. The Senate Energy Committee reported a comprehensive energy bill (S.1220) in May. On November 1, the Senate voted not to consider this bill due to the controversy surrounding development of a small part of the Coastal Plain of ANWR. The Administration continues to support environmentally sound development of ANWR as an important component of a balanced energy bill, and we expect that the Senate will revisit S. 1220. In the House, the Energy and Power Subcommittee of the House Energy and Commerce Committee has reported energy legislation that contains many elements recommended in the NES.

Much of the Strategy will be accomplished through administrative action.

The NES will help Kentucky by increasing the State's ability to achieve environmentally responsible economic growth.

The NES contains provisions that will increase the efficiency of energy in Kentucky.

- For example, the NES encourages the most efficient use of transmission facilities, while retaining reliability standards and R&D to help improve inadequate transmission facilities. The Kentucky Public Service Commission has adopted a regulation requiring the State's six major generating utilities to file Integrated Resource Plans with the Commission. The NES will support these and further efforts in integrated resource planning (IRP), as well as increased competition in the energy sector.
- Kentucky industries will benefit from NES initiatives that promote industrial energy efficiency and flexibility by increasing support for research, development and demonstration, using industry-government cost sharing, and by increasing information and technology dissemination efforts.

The NES will increase Kentucky's production and use of renewable resources.

- NES initiatives which call for accelerated development of renewable and alternative fuels will directly benefit Kentucky by promoting utilization of the State's wood and agricultural byproducts and other solid waste resources.
- Kentucky is a large producer of commercial forestry products, with nearly 12 million acres of commercial timberland. The State supports various efforts related to the production of useful energy from wood and wood wastes. The Kentucky Department of Energy Production and Utilization, Division of Alternate Energy Development, actively works to foster and build an awareness of opportunities for wood utilization in the industrial, commercial, and residential sectors.

- The Division of Alternate Energy Development also actively supports efforts to utilize agricultural byproducts as an energy resource.

The NES will help Kentucky meet its growing energy demand.

- NES initiatives will support efforts to increase energy security through expansion of domestic production of oil and gas. The NES will also support efforts to reduce oil vulnerability through the increased use of non-petroleum energy resources, such as natural gas, coal, hydroelectric power, and alternative transportation fuels.
- The NES supports the commercial use of advanced coal technologies in electricity generation and other applications through a wide range of research, development, and demonstration programs. These advanced technologies will greatly reduce SO₂ and NO_x emissions, ease waste disposal requirements, and increase the energy efficiency of coal use. Advanced coal technologies are particularly important to Kentucky, not only because of its dependence on coal for electricity, but because indigenous coal resources in the State have a high sulfur content.
- Kentucky is both a producer and refiner of petroleum. Over 15,000 barrels of crude oil are produced every day in Kentucky, and the State's two operating refineries have a combined capacity of nearly 220,000 barrels per day. Oil production in Kentucky and many other parts of the nation has been declining steadily over the last five years. NES initiatives will help Kentucky delay well abandonments, increase oil production, and prevent refinery shutdowns.

NATIONAL ENERGY STRATEGY

- The Senate failed at an attempt to invoke cloture on November 1, 1991.
- The House Power Subcommittee has reported a bill to the full Energy and Commerce committee. The full Committee will not take the bill up until next year.
- NES represents jobs, economic growth and national security. It is balanced, fair and comprehensive.
- Create 315,000 more jobs in the U.S. by year 2000; and approximately 485,000 additional by 2005.
- Increase GNP in the U.S. by \$30 billion in the year 2000; over \$40 billion by 2010.
- Reduce domestic energy consumption by twice as much as it increases domestic energy production as of 2010.
- Decrease our dependence on foreign oil by 40 percent from projected levels by 2010.

File: ENERGYBB

CAFE

Current CAFE standards are established by statute and regulation for vehicles and light trucks. The standard for automobiles is 27.5 mpg (set by statute in the absence of rulemaking to reduce it); for light trucks, regulation has set the standard at 20.2 mpg for MY 1992; 20.4 for MY 1993; and 20.5 for MY 1994. Recent legislation has sought to increase the CAFE standards: the Bryan bill, opposed by the Administration, would have increased CAFE to approximately 40 mpg; the Johnston bill, would have required DOT to establish the "maximum feasible" uniform percentage increases. Some in the Administration supported the Johnston bill, which may be resurrected next session.

EDUCATION

Current Issues on Education in Missouri

Governor Ashcroft is "organizing a Missouri 2000 corporation to recognize schools and communities making progress toward the NATIONAL EDUCATION GOALS"...this "helps implement (the) America 2000 program". In earlier years, the voters of Missouri have not voted for tax increases for education (Proposition B). Why? First, the voters "did not believe that the taxes involved in Prop. B actually would be spent on education". Second, voters believe that "schools need to undergo reform before, rather than after, taxpayers provide more money". The Governor would like to take lottery profits and commit them to education. 1/28/92

Education Dinosaurs

Anyone who wants to understand why a decade of "reform" has produced only lower SAT scores should watch the Senate stomp all over President Bush's education strategy today. It's a case of dinosaurs fighting back against a political evolution that threatens them with extinction.

Even kids might want to check it out, given their fascination with all the dinosaurs who failed to adapt to a changing world and died out. Ted Kennedy and the Senate Labor Committee have certainly passed a bill with a pea-sized brain that exists only to feed itself and reproduce.

Mr. Kennedy's bill would dole out \$850 million a year to school districts around the country. "Local school officials may decide to undertake whatever initiatives they feel will best improve academic achievement," says the committee's press release. Mr. Kennedy wants us to believe that the same people and bureaucracy that allow drop-out rates of 50% or more in major cities are going to turn it all around with more dollars.

The same Democrats who accuse Mr. Bush of lacking a "domestic agenda" have purged every reform Education Secretary Lamar Alexander proposed. Accountability for administrators, merit pay for teachers and power to state Governors to monitor reforms all lost out to the dictates of the National Education Association, the *Tyrannosaurus* of public-employee unions. The same old crowd will be able not only to control "reform," but also to judge it. And the same Democrats who hated Ronald Reagan's "block grants" to states don't seem to mind when the granting is to their own interest groups.

Mr. Kennedy came down especially hard on the most promising idea—giving parents a choice of schools, public or private. He refused even to talk about a choice "demonstration" and rammed his bill through committee on a voice vote. Mr. Alex-

ander's New American Schools—the idea of developing one new experimental school as a "choice" example in every congressional district—were also cashiered.

The bill's fate shows once again how impossible it is to promote reform inside a system dominated not by parents or individual teachers, but by unions and bureaucracy. The Kennedy bill also shows how Congress, as ever, is concerned only with input (money), not outcomes (education). Senate Democrats (and some Republicans) can brazenly ignore all this because they figure Mr. Bush will never veto a bill labeled "education."

The good news is that the Kennedy dinosaurs may be irrelevant to the genuine reform now taking place beyond the Beltway. The choice movement in particular remains a juggernaut. The U.S. Center for Choice in Education reports that in 1991 11 state legislatures (from Alabama to Massachusetts) passed some sort of choice legislation, up from seven in 1990 and only four in 1989. Minnesota approved a breakthrough "charter schools" plan that lets teachers establish schools outside the current bureaucracy. Only a huge, last-minute union lobbying drive prevented a private-school choice plan from passing in Pennsylvania.

Public opinion is also moving. The 1991 Gallup-Phi Delta Kappa education poll shows public-school choice favored by 62% of Americans, including 69% of minorities. Support for private-school choice climbed to 50% (from 44% in 1987), including 57% among blacks and 60% among people aged 18 to 29.

George Bush has a potential winner in this issue. But to prevail, he and his administration are going to have to show they have the energy and interest to wage a long-term campaign against the dinosaurs who are flattening U.S. education.

The Democrats' Agenda

If George Bush doesn't have a domestic agenda, one reason is that the Democrats in Congress have trashed it and substituted their own. Exhibit A is the education bill.

Last week, led by one of Congress's most prominent and famous Democrats, Ted Kennedy of Massachusetts, the Senate voted 56-36 to kill Mr. Bush's pilot project to support school choice. This is the idea first popularized in Milwaukee by Polly Williams, a black mother and Wisconsin legislator who got fed up with the education that kids were getting in her low-income to no-income neighborhood. So she got a law passed in the Wisconsin legislature to give parents access to several private local academies. To help pay tuition, parents receive some of the tax money that normally subsidize the dead-in-the-water public schools.

The Bush administration then proposed some small-scale choice demonstration projects. The Democrats were aghast. We can't have the federal government supporting anything like this, bellowed Senator Kennedy last week. This would "abandon" those wonderful inner-city public

schools. "We are not going to say that we are going to privatize every school district in this country as some would." What with U.S. inner-city education being the envy of the world, especially in Boston.

School choice will go forward at the local and state levels without the congressional Democrats. But any nominee that the Democrats hope to elect President will have to do business with the Democratic Congress. And the nominee will know that in 1988 one-third of the delegates to the Democratic convention were either a member of, or were married to a member of, the National Education Association, the big public-employees' union for whom the word "private" is like poison.

For now, the Democratic Party's "fairness" agenda includes inalterable opposition to letting poor parents transfer tax money so they can send their children to a nonpublic school of their own choosing. At some future debate, the Democratic candidates should be asked if they support or oppose the congressional Democratic agenda on parental choice.

Editorial

1-28-92

Wall St.

J.

MALCOLM WALLOP
CHAIRMAN

SENATE STEERING COMMITTEE
UNITED STATES SENATE
WASHINGTON, D.C. 20510
202-224-5597
January 24, 1992

Honorable Lamar Alexander
Secretary
Department of Education
400 Maryland Ave., S.W.
Washington, D.C. 20202

Dear Lamar:

Doggone it, Lamar, you just don't listen to warnings!

The education bill about to pass the Senate is the result of an unbelievable collapse of will a mere three days after the Congress reconvened. Don't you recall senators warning you that, despite his constant compromising, the establishment gives President Bush no credit: polls show the public increasingly trusts Democrats on the environment, civil rights, minimum wage, unemployment insurance, the economy, and soon, on education as well.

Don't you recall the warnings that charitable motive and gentlemanly action on our part on your bill would not be reciprocated in kind by the opposition. Proof of this is found in Ted Kennedy's succinct reply to Thad Cochran's benevolence. (See attached.)

While Thad magnanimously spoke of the value of the compromise, Ted Kennedy was quick to explain to his Democratic colleagues that the compromise was in fact a victory for them. Now, with the concession on the issue of private schools in the America 2000 program, he is correct: the victory is not ours, but theirs. We remove the thorn from their side, and then we feel better.

Doesn't the response to the opening blank shot of your rifle suggest that next time you consider using real bullets? We are giving up. Your actions -- combined with everything else we have seen -- leave us wondering what Administration we are working for, that of Bush or Kennedy.

Sincerely,



Malcolm Wallop
Chairman

cc: Samuel Skinner, White House Chief of Staff

102nd, 2nd, Vote 5
January 23, 1992, 7:33 p.m.

Daily Cong. Rec. P. S-270

hatch amdt

School Choice Amdt.

BILL NO.: S.2

AMENDMENT NO.: 1476

SUBJECT: not yet available

RESULT: Amendment Rejected

YEAS (36)

NAYS (57)

DEMOCRATS (3)

REPUBLICANS (33)

DEMOCRATS (51)

REPUBLICANS (6)

Bradley
Breaux
Lieberman

Brown
Coats
Cochran
Craig
Danforth
Dole

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman

Burns
Chafee
Cohen
Hatfield
Jeffords
Specter

PAGE 1

YEAS

NAYS

DEMOCRATS
(Cont'd.)REPUBLICANS
(Cont'd.)DEMOCRATS
(Cont'd.)REPUBLICANS
(Cont'd.)

Domenici
Durenberger
Gramm
Grassley
Hatch
Helms
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood

Boren
Bryan
Bumpers
Burdick
Byrd
Conrad
Cranston
Daschle
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham

PAGE 2 OF 5

YEAS

NAYS

DEMOCRATS
(Cont'd.)REPUBLICANS
(Cont'd.)DEMOCRATS
(Cont'd.)REPUBLICANS
(Cont'd.)

Pressler
Roth
Rudman
Seymour
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

Heflin
Hollings
Inouye
Johnston
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Metzenbaum
Mikulski

Moynihan

Nunn

Pell

PAGE 3 OF 5

YEAS

NAYS

DEMOCRATS
(Cont'd.)REPUBLICANS
(Cont'd.)DEMOCRATS
(Cont'd.)REPUBLICANS
(Cont'd.)

Pryor
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Wellstone
Wirth
Wofford

PAGE 4 OF 5

NOT VOTING (7)

DEMOCRATS (3)

REPUBLICANS (4)

DeConcini--2

Bond--2

Harkin--2

D'Amato--2AY

Kerrey--2

Garn--2AY

Gorton--2AY

EXPLANATION OF ABSENCE:

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

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

PAGE 5 OF 5

SENATE DEFEATS BUSH PLAN FOR PRIVATE SCHOOL CHOICE

The Senate last week rejected President Bush's plan that would allow parents to use federal money to send their children to private schools.

The Senate turned back an amendment to its education reform bill, S. 2, that would have given low-income parents federal money to send their children to a private school. The amendment, which would have authorized \$30 million for six experimental programs, was defeated, 57-36.

The Senate today plans to take up more amendments to the bill, which would authorize \$850 million for a variety of state and local education reforms (ED, Nov. 14, 1991). A final vote is set for Tuesday.

The setback for Bush on the choice issue late Thursday followed a vote earlier that day in which Democrats approved a watered-down plan to allow Education Secretary Lamar Alexander authority to waive federal rules for some education programs. The lawmakers also approved a scaled-down version of Bush's plan to establish innovative new schools.

Plan Not Dead

However, private school choice is the staple of the White House's education reform strategy, and an Education Department official said Friday the White House will try to re-introduce the plan later this year.

The official indicated that ED will bring up the issue in a conference committee to resolve differences between S. 2 and the House reform bill, H.R. 3320. The House has yet to pass its \$700 million reform bill, which would allow states to use federal money for private school choice (ED, Oct. 18, 1991).

"We came closer than we expected, to be honest," the official said. "We have momentum on this, and we're certainly not going to give up."

Sen. Edward Kennedy, D-Mass., the prime author of S. 2, said the choice amendment, sponsored by Sen. Orrin Hatch, R-Utah, was an attack on public schools.

More.....

"We are not prepared to abandon them," Kennedy said on the Senate floor. "We are not going to privatize every school district in this country."

While senators rejected the private school choice projects, S. 2 would allow districts to spend part of their federal reform money on public school choice plans. Parents could send their children to any public school in a district.

Alexander Cites 'Protectionism'

Alexander chided Kennedy for trying to maintain the status quo in American education.

"The cries I heard yesterday were the cries of monopolists and of protectionism," Alexander said at a speech Friday before the American Council on Education. "We are not in the school protection business."

In an interview after the speech, Alexander predicted that lawmakers eventually will accept Bush's private school choice plan.

"The amendment got further than it ever has," he said. "It's usually bottled up somewhere. Senator Kennedy's argument eventually will go into ashes."

The Democrats' rejection of the Hatch amendment heats up the battle for the education spotlight in this election year.

While ED officials said they are pleased with some portions of S. 2, Alexander said he will recommend a Bush veto unless the bill includes a private school choice provision.

Six Republicans voted against the amendment: Sens. John Chafee of Rhode Island, Mark Hatfield of Oregon, Arlen Specter of Pennsylvania, James Jeffords of Vermont, William Cohen of Maine and Conrad Burns of Montana.

Three Democrats backed the amendment: Bill Bradley of New Jersey, John Breaux of Louisiana and Joseph Lieberman of Connecticut.

More Amendments To Come

On Friday, the Senate began debating additional amendments expected to be considered before Tuesday's final vote.

Sen. Pete Domenici, R-N.M., will offer another amendment to apply school choice "across-the-board" to public and private schools. And Sen. John Seymour, R-Calif., is expected to ask that S. 2 include a provision mandating parental involvement in choice programs.

More...

Sen. Robert Dole, R-Kansas, also plans to introduce a private school choice amendment, but details were not available late Friday.

The Senate agreed to consider some other amendments to S. 2, including a proposal by Sen. Kent Conrad, D-N.D., that would

allow states to use their reform money on programs that integrate vocational and academic education.

"We must provide options to the academic-based curriculum for students who are not going on to college," Conrad said in a statement. --Dave Harrison

MEMORANDUM

UNITED STATES DEPARTMENT OF EDUCATION
Secretary's Regional Representative
10220 N. Executive Hills Boulevard
9th Floor
Kansas City, Missouri 64153
(816) 891-7972

TO : Bill Burrow
Office of the Vice President

DATE: January 27, 1992

FROM : Cynthia Harris Hillman *Cynthia Hillman*

SUBJECT: St. Louis Desegregation Information

The St. Louis Desegregation Plan centers on two main parts. First, magnet schools located in the St. Louis Public Schools are designed to attract both inner-city and suburban students. Second, a voluntary transfer program enables inner-city students to transfer to suburban school districts of their choice.

By contrast, the Kansas City Desegregation Plan relies primarily on magnet schools and large capital improvements to upgrade the Kansas City schools. Suburban students can enroll in Kansas City's magnet schools. U.S. District Judge Russell G. Clark has encouraged, but not ordered, suburban districts to take Kansas City transfer students.

The voluntary transfer program began in 1981 with the St. Louis Public Schools and five suburban districts. By 1983, eleven additional suburban districts joined in the agreement to settle a segregation lawsuit against the St. Louis Public Schools.

In St. Louis this school year 14,339 students are involved -- 13,424 black city students going to St. Louis suburban schools and 915 white suburban students transferring to city magnet schools. Ten years ago, just 458 students participated.

Enrollment has grown each year, but has yet to reach the court-approved goal of 15,000 city-to-suburban students and 1,640 suburban-to-city.

The State of Missouri is a defendant in both desegregation plans. Missouri has spent in excess of \$750 million so far in the St. Louis effort. Missouri paid \$473 million to the Kansas City effort through last year and is expected to spend an estimated \$188 million more this school year.

In the fall of 1991, Missouri Attorney General William Webster asked the court to declare the St. Louis School District as "unitary" -- in other words, to declare that traces of a dual system have been eliminated and that court control can end. The state offered a plan to phase out its financial support of desegregation.

Page 2 - Mr. Bill Burrow

The School Board, the U.S. Justice Department and other parties in the case say, the state's proposal is premature because major court-ordered goals of the desegregation program have yet to be met. They charge the state is trying to skirt its financial responsibility.

EDUCATION BILL

- o There will be no action on the Senate education bill until Congress returns. There is a senior advisors veto threat on the Kennedy's S. 2 bill -- the substitute for the President's AMERICA 2000 bill.
- o House version passed out of committee a block grant proposal - that at least acknowledges private school choice - no action is expected before the new year.
- o Because s.2 contains none of the President's AMERICA 2000 initiatives, fails to do enough to promote true, lasting school based education reform. Secretary of Education Lamar Alexander will recommend to the President that he disapproves the bill.
- o S.2 fails to allow private schools to participate in any choice program. This means that parents -- especially low-income parents -- will continue to be denied the opportunity to participate in true choice programs.
- o Since the President's AMERICA 2000 bill was sent to the Congress on May 22 of this year, the Administration, along with Senate Republicans have made a number of attempts to work out a bipartisan bill. After extensive meetings and negotiations, S.2 includes none of the President's proposals and promises little in the way of real, lasting education reform.
- o While the Congress has yet to act on the President's legislative initiative, the country is moving forward to carry-out AMERICA 2000 activities. Already, 31 States and hundreds of communities have announced, or will soon announce, their participation in AMERICA 2000. Numerous Governors, educators, businessmen and women, and other concerned citizens, Republicans and Democrats, are working to carry-out this far-reaching reform strategy.
- o S.2 creates another National Education Goals panel that would compete with the existing panel created by the nation's governors and President Bush.
- o The Senate bill sets funding goals for a number of existing education programs that are unrealistic and would unfairly raise the expectations of the American education community. America 2000 \$697 million, Senate Democrats \$850 million.
- o As drafted, S.2 authorizes activities so broadly defined as to constitute general aid, covering virtually any activity, including bureaucratic

"restructuring" that may never be of any real educational benefit. Instead, the bill should be limited to a more focused and specific list of the allowable reform activities like those in AMERICA 2000.

File: edbilbb

UNITED STATES
DEPARTMENT OF EDUCATION



NEWS

FOR RELEASE
December 4, 1991

Contact: Etta S. Fielek
(202) 401-3020

**STATEMENT BY U.S. SECRETARY OF EDUCATION LAMAR ALEXANDER
REGARDING SCHOLARSHIPS FOR MINORITY STUDENTS**

For seven months the Department of Education has reviewed in public this question: can colleges make special efforts to grant scholarships to minority students without violating Federal anti-discrimination laws?

The answer is yes. A college president with a warm heart, some common sense and a minimum amount of good legal advice can provide minority students with financial aid and may use financial aid to create campus diversity without violating Federal laws. Some race-exclusive scholarships are legal, and in other cases, race may be a positive factor in awarding scholarships.

Our review found that:

1. There are literally millions of scholarships available for disadvantaged minority Americans -- as well as other disadvantaged Americans.
2. There are relatively few race-exclusive scholarships, those for which only persons of designated races may apply. An American Council on Education survey found that 96 percent of the 1.3 million minority students in four-year colleges do not have a race-exclusive scholarship. Most minority students with scholarships have received those scholarships because they are disadvantaged in some way, because a college wants to create diversity within its student population, because of merit or for some other reason that does not include race as a condition (although it may include race as one factor).
3. Even race-exclusive scholarships can be legal -- when used to remedy proven discrimination, when Congress specifically creates them, or generally when a private donor gives the money.
4. Congress would appear to have prohibited other kinds of race-exclusive scholarships. Title VI of the Civil Rights Act of 1964 says: "No person . . . shall on the ground of race, color, or national origin. . . be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

-MORE-

5. Not one student who now has a scholarship will lose that scholarship as a result of this review.
6. For the longer term, it is hard to imagine any student eligible for a legally questionable race-exclusive scholarship who would not be eligible for some other scholarship that is clearly permissible under Federal law -- for example, scholarships based upon disadvantage, upon merit, upon an effort to create campus diversity, or some clearly legal race-exclusive scholarship.
7. In order to create the maximum amount of certainty in its program of student financial aid, a college may therefore wish to limit any race-exclusive financial aid to the kind specifically approved in this statement.
8. There will be a four-year "transition period" for colleges who may wish to adjust their financial aid programs so as not to run afoul of the provisions of Title VI. The Department will offer technical advice.

###

BANKING LEGISLATION

Banking Legislation

- o A stripped-down banking reform bill was approved by Congress on the day before Thanksgiving. Among other things, it will:
 - o Provide a \$70 billion line of credit for the Bank Insurance Fund;
 - o Bar regulators from reimbursing for uninsured accounts -- such as those over \$100,000; and
 - o Stiffen bank supervision.

Also, a proposal to extend the statute of limitations for securities fraud claims was deleted from the bill. For cases already filed, however, the bill would restore the longer limitations periods in effect before a Supreme Court decision in June. The Democrats also agreed to hearings on litigation reforms next year. Council staff was heavily involved in this issue.

S&L bill. Congress also approved a bill to provide an additional \$25 billion for the S&L cleanup. These funds are expected to last until April, when another S&L funding bill will be required.

The Narrowing of the Banking Legislation

	Refinancing the insurance fund	Expanding into other states	Securities and insurance business	Industrial ownership of banks	Regulatory restructuring
FEBRUARY: Introduced by the Bush Administration	\$70 billion of increased borrowing allowed.	Interstate banking and interstate branches would be allowed.	Affiliations would be allowed.	Allowed for well-capitalized banks.	Four agencies would be merged into two.
JUNE 28: House Banking Committee	\$30 billion of increased borrowing, plus a sum linked to the failed banks' assets.	Similar to the Administration plan.	Securities affiliations would be allowed. Insurance affiliations allowed indirectly.	Similar to the Administration plan.	
AUG. 2: Senate Banking Committee	Similar to the Administration plan.	Similar to the Administration plan.	Securities affiliations would be allowed; insurance affiliations tightly restricted.		
WEEK OF OCT. 21: Gonzalez-Dingell compromise	\$30 billion increase plus a sum linked to assets.	Similar to the Administration plan.	Affiliations allowed with tighter restrictions.		



The compromise forged by Henry B. Gonzalez, left, and John D. Dingell was rejected by the House.

NOV. 4: HOUSE REJECTS COMPROMISE

WEEK OF NOV. 11: New banking bill in House	\$30 billion increase plus a sum linked to assets.	Limited expansion passed as an amendment.
---	--	---

NOV. 14: HOUSE REJECTS NEW BANKING BILL

NOV. 21: Bill passed in the Senate	\$70 billion of increased borrowing.	Limited expansion allowed.
---	--------------------------------------	----------------------------

Stripped-down bill passed in the House	\$30 billion increase plus a sum linked to assets.
--	--



"The House has twice rejected a similar bill," said Edward L. Yingling, senior lobbyist for the American Bankers Association, "so I think it will be a tough conference."

N.Y.T.
11/25/91

TRANSPORTATION



U.S. Department of
Transportation

News:

Office of the Assistant Secretary for Public Affairs
Washington, D.C. 20590

Contact: Marion C. Blakey
Tele.: (202) 366-4570

**STATEMENT BY SECRETARY OF TRANSPORTATION
SAMUEL K. SKINNER
SURFACE TRANSPORTATION REAUTHORIZATION BILL
NOVEMBER 26, 1991**

Today, the House and Senate conferees have reached a compromise on the surface transportation bill.

This agreement represents a constructive compromise, and I will recommend to the President that he sign the bill. It is a victory for the nation, its citizens and the President -- as 12 out of 16 elements of the Administration's original bill set forth last February, have been included in the compromise legislation.

The bill embodies the accomplishment of one of the President's top two domestic agenda items: renewal of our surface transportation programs to address changing needs. It will create jobs, reduce congestion, and rebuild our infrastructure.

The bill will give a tremendous boost nationally, to road construction and related industry jobs. This fiscal year, it will support 660,000 construction-related jobs and create a projected four million jobs over the life of the bill.

Most important, it will create and adequately maintain a National Highway System, to pick up where the Interstate program leaves off. The 155,000 mile NHS will carry 75 percent of the value of regional goods while representing only 4 percent of all our highway miles.

It will help maintain mobility and reduce congestion. It will help state and local government's comply with the requirements of the Clean Air Act. Finally, it will ensure America's ability to compete in the global market place of the 21st century.

Overall, the bill retains much of the vision and direction that were engendered by the President's National Transportation Policy, as it maintains and expands the nation's transportation system; fosters a sound financial base for transportation; keeps the industry strong and competitive; and promotes safety, protects the environment, and improves our quality of life.

Although this piece of legislation was long overdue, Congressional leaders from both parties deserve credit for passing a win-win compromise.

<u>ADMINISTRATION PROPOSAL</u>	<u>ADOPTED?</u>
1. National Highway System	YES
2. Increased spending for surface transportation infrastructure	YES
3. Increased funding for Bridge Program	YES
4. Remove the restriction on Federal aid for toll roads and provide new incentives for private sector investment	YES
5. Increased investment by state and local governments through higher match rates for transportation projects	NO
6. Increased spending for highway safety	YES
7. Greater flexibility to state and local governments	YES
8. Consolidated Urban and Rural Program	YES
9. Shift in federal support for mass transit from operating subsidies to more capital investment	NO
10. Ensure cost-effective new transit projects	NO
11. Permit cities with air quality problems to impose rush hour fees on drivers on experimental basis	YES
12. An aggressive effort to remove drunk drivers from highways and promote increased safety belt use.	YES
13. New requirements for modern management systems and performance-based accountability	YES
14. Eliminate duplicative and costly state regulations of interstate motor carriers	YES/NO
15. Encourage new technologies (e.g., Intelligent Vehicle Highway Systems, or IVHS)	YES
16. Full funding of UMTA and NHTSA programs from Highway Trust Fund	NO
17. Increased and flexible funding for research and proposes a new expanded partnership with the transit community	YES

PROPOSED SURFACE TRANSPORTATION PROGRAM FUNDING LEVELS
(Annual Average in Billions of Dollars)

	ADMINISTRATION		CONFERENCE BILL	
	<u>Total</u>	<u>NHS</u>	<u>Total</u>	<u>NHS</u>
National Highway System (including Interstate Maintenance)	8.7	(8.7)	6.3	(6.3)
Bridge Program (Discretionary)	2.1	(1.1) (.3)	2.7	(1.3) ?
Flexible Program (Surface Transportation Program)	4.4	(*)	3.8	(**)
Interstate Construction and Interstate Transfer	1.4	(.1)	1.4	(.1)
Special Projects	--		1.1	(.7)
Congestion Mitigation/Air Quality	--		1.0	(**)
Reimbursement	--		.7	(.4)
Minimum Allocation and Guarantees	--		1.7	(1.0)
Federal Lands	.26		?	
Safety Programs (Including Motor Carrier Safety)	.4		?	
Emergency Relief and Other Miscellaneous Programs	.54		?	
 ANNUAL HIGHWAY TOTAL	 17.8	 (9.9)	 19.8	 (9.8)
 ANNUAL TRANSIT TOTAL	 3.2		 5.25	
 GRAND TOTAL	 21.0		 25.05	

* Not available for the National Highway System

** Any or all of these funds could be spent on the National Highway System

US DOT
11/26/91
4:00 PM

11/26/91
11:52 AM

TECHNICAL ASSISTANCE FOR CONFERENCE COMMITTEE

STATES	APPROX/ALLO FY 1987-1991	CONFERENCE REPORT
ALABAMA	1,440,378,000	2,066,746,881
ALASKA	- 782,808,000	1,375,540,893
ARIZONA	887,020,000	1,111,643,744
ARKANSAS	724,292,000	1,111,643,744
CALIFORNIA	5,753,333,000	10,111,643,744
COLORADO	1,170,093,000	1,111,643,744
CONNECTICUT	1,952,938,000	2,000,000,000
DELAWARE	253,066,000	444,477,000
DC	482,496,000	444,477,000
FLORIDA	2,471,338,000	4,444,477,000
GEORGIA	1,865,938,000	3,444,477,000
HAWAII	900,774,000	1,111,643,744
IDAHO	1,440,000,000	1,111,643,744
ILLINOIS	2,440,000,000	4,444,477,000
INDIANA	1,111,643,744	1,111,643,744
IOWA	2,440,000,000	4,444,477,000
KANSAS	2,440,000,000	4,444,477,000
KENTUCKY	1,111,643,744	1,111,643,744
LOUISIANA	1,111,643,744	1,111,643,744
MAINE	1,111,643,744	1,111,643,744
MARYLAND	1,111,643,744	1,111,643,744
MASSACHUSETTS	1,111,643,744	1,111,643,744
MICHIGAN	1,111,643,744	1,111,643,744
MINNESOTA	1,111,643,744	1,111,643,744
MISSISSIPPI	1,111,643,744	1,111,643,744
MISSOURI	1,111,643,744	1,111,643,744
MONTANA	1,111,643,744	1,111,643,744
NEBRASKA	1,111,643,744	1,111,643,744
NEVADA	1,111,643,744	1,111,643,744
NEW HAMPSHIRE	1,111,643,744	1,111,643,744
NEW JERSEY	2,000,000,000	4,444,477,000
NEW MEXICO	1,111,643,744	1,111,643,744
NEW YORK	3,444,477,000	4,444,477,000
NORTH CAROLINA	1,111,643,744	1,111,643,744
NORTH DAKOTA	1,111,643,744	1,111,643,744
OHIO	2,000,000,000	4,444,477,000
OKLAHOMA	1,111,643,744	1,111,643,744
OREGON	1,111,643,744	1,111,643,744
PENNSYLVANIA	3,444,477,000	4,444,477,000
RHODE ISLAND	1,111,643,744	1,111,643,744
SOUTH CAROLINA	1,111,643,744	1,111,643,744
SOUTH DAKOTA	1,111,643,744	1,111,643,744
TENNESSEE	1,111,643,744	1,111,643,744
TEXAS	4,444,477,000	4,444,477,000
UTAH	1,111,643,744	1,111,643,744
VERMONT	1,111,643,744	1,111,643,744
VIRGINIA	1,111,643,744	1,111,643,744
WASHINGTON	1,111,643,744	1,111,643,744
WEST VIRGINIA	1,111,643,744	1,111,643,744
WISCONSIN	1,111,643,744	1,111,643,744
WYOMING	1,111,643,744	1,111,643,744
AM. SAMOA	0	0
GUAM	0	0
PUERTO RICO	319,818,000	506,252,057
VIRGIN IS.	0	0
N. MARIANAS	0	0
TOTAL	68,901,556,000	114,784,750,138

REGULATORY REVIEW

S.1942

- o Sen. Glenn's Committee has reported out legislation that is a political power-grab from the Executive branch. It's an attempt to smother the Competitiveness Council in red tape, so that it cannot be effective in stopping excessive government regulation.
- o The Department of Justice has written the attached letter voicing the serious Constitutional problems with the legislation.
- o This legislation could require the President to release his own handwritten notes. If it were applied to Congress, Members and their staffs would have to log every meeting with Constituents, their private advice on why to vote a particular way, and their phone calls.
- o Anyone who votes for this amendment is voting against regulatory review at the very time when our nation's economy needs it the most. The legislation will effectively drive a wedge between the Executive Office of the President and the Federal regulators.
 - Recent estimates of the cost of regulation to the economy place it at between \$300 billion and \$500 billion per year.
- o The requirements placed on the Council on Competitiveness would effectively shut it down -- Literally, regulate it out of existence. This is exactly what the bill's proponents want.

BILL SUMPTON, ARKANSAS, CHAIRMAN
 JOHN GEORGIA
 WAE SAUCUS, MONTANA
 CARL E. H. MICHIGAN
 ALAN J. D. SCH. L. IOWA
 TOM MARRIN, IOWA
 JOHN F. KIRBY, MASSACHUSETTS
 BARBARA A. MICHUEK, MARYLAND
 JOSEPH L. ESTERMAN, CONNECTICUT
 PAUL DAVID WILSON, MINNESOTA
 HARRIS WOODWARD, PENNSYLVANIA
 ROBERT W. GASTEN, JR., WISCONSIN
 LARRY FRIEDMAN, SOUTH DAKOTA
 MARLENE WOODARD, WYOMING
 CHRISTOPHER S. GORD, VIRGINIA
 CONRAD BURNS, MONTANA
 TED STIVERS, ALABAMA
 CONRAD MACE, FLORIDA
 JOHN SETTER, CALIFORNIA
 JOHN W. BALL, II, STAFF DIRECTOR
 CECILY V. CONDA, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON SMALL BUSINESS

WASHINGTON, DC 20510-6380

November 20, 1991

To the Editor
 New York Times
 229 West 43rd Street
 New York, NY 10036

Dear Sir:

Regarding Christine Triano and Nancy Watzam's editorial ("Quayle's Hush-Hush Council") in today's Times: The fact that the Council on Competitiveness has been taking some heavy hits from liberal interest groups like OMB Watch and Public Citizen is a sure sign of its effectiveness. Vice President Quayle is taking on the sacred cows of the Federal bureaucracy and, in many cases, prevailing.

These liberal interest groups want to tell the American people how to live their lives and how to run their businesses. In order to advance their "Big Government" agenda, they want to drive a wedge between the Executive office of the President and the Federal regulators. They complain that the Competitiveness Council is a kind of "secret government" that interferes with the real experts, who reside in the Federal agencies.

This is nonsense. The Council is a completely democratic -- small "d" democratic -- response to an important national problem. America simply cannot remain competitive if it is saddled with an enormous -- and growing -- regulatory burden which is costing the U.S. economy \$300 to \$400 billion annually.

These liberal groups and their allies in Congress are pushing legislation that would weaken the President's ability to oversee -- and control -- the development of costly new regulations.

This bill (S.1942) would require greater public disclosure of the regulatory-review process. Every memo, every letter, every communication would be subject to outside political pressure. Clearly this is no way to run an office -- any office. The time for public debate is when Administration officials have a public work product on the table; to force them to disclose every step in the formation of the work product would inhibit the freedom of discussion at the policy planning stage.

This whole system would place more constraints on the President than it would on the agencies that report to the President. As a consequence, this bill would virtually open the floodgates to new regulations.

And that's not all -- it's unconstitutional. Our constitutional system gives the President the right of Executive privilege in managing the executive branch. Without Executive privilege, the President would not be accountable for the actions of his own Government.

And if we let the special interests dominate the executive branch as well as Congress, America's battle for competitiveness is as good as lost.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. W. Kasten, Jr.", written in a cursive, stylized script.

Robert W. Kasten, Jr.
Ranking Member

RWK/cvc



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

November 23, 1991

Honorable John Glenn
Chairman
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This letter presents the views of the Department of Justice on S. 1942, the "Regulatory Review Sunshine Act of 1991." Many of the provisions in S. 1942 are objectionable as a matter of policy, as the Office of Management and Budget ("OMB") explained in its testimony on the bill. As a legal matter, the Department of Justice believes that S. 1942 would, in several respects, encroach upon the President's constitutional authority to protect the confidentiality of deliberations within the Executive Branch. Accordingly, the President's senior advisors would recommend disapproval of this bill.

The Department of Justice expressed similar objections to an earlier but narrower version of this legislation introduced during the 101st Congress -- S. 1741, the "Federal Information Resources Management Act of 1989" -- that contained provisions analogous to those presently under consideration. See Letter from Bruce C. Navarro, Acting Assistant Attorney General, Office of Legislative Affairs, to Chairman John Glenn (Feb. 20, 1990) ("DOJ Letter"). We strongly objected to the legislation in the 101st Congress on the ground that it would "requir[e] Executive branch deliberations over regulations to take place in a fish-bowl." DOJ Letter at 2. As we detail below, S. 1942 would constitute an even greater intrusion upon Executive deliberations.

In his capacity as unitary executive under Article II of the Constitution, the President has the obligation to "take Care that the Laws be faithfully executed." U.S. Const., Art. II, § 3. Consequently, the President has the constitutional authority to "supervise and guide" Executive Branch officials in "their construction of the statutes under which they act in order to secure that unitary and uniform execution of the laws which Article II of the Constitution evidently contemplated in vesting general executive power in the President alone." Myers v. United States, 272 U.S. 52, 135 (1926). The President has chosen to

exercise his supervisory control over the Executive Branch regulatory process through, among other means, delegation of his constitutional power to OMB pursuant to Executive Orders Nos. 12,291 and 12,496.

The Constitution further empowers the President to protect the confidentiality of deliberations within the Executive Branch. See United States v. Nixon, 418 U.S. 683, 708 (1974); Nixon v. Administrator of General Services, 433 U.S. 425, 446-55 (1977). The Supreme Court has recognized that the deliberative process privilege is "fundamental to the operation of Government and inextricably rooted in the separation of powers under the Constitution." United States v. Nixon, 418 U.S. at 708. In the Court's words, the deliberative process privilege protects "the public interest in candid, objective, and even blunt or harsh opinions in Presidential decisionmaking." *Id.* In particular, the Court has noted

the valid need for protection of communications between high Government officials and those who advise and assist them in the performance of their manifold duties; the importance of this confidentiality is too plain to require further discussion. Human experience teaches that those who expect public dissemination of their remarks may well temper candor with a concern for appearances and for their own interests to the detriment of the decisionmaking process.

Id. at 708.

As we observed in our previous letter:

The types of materials that constitute deliberative process communications are well established. They are the confidential internal advice, analysis, and recommendations used by the agency in determining its course based on the facts of record. They include analyses of these facts, legal and policy arguments, and factual data that cannot be reasonably segregated from deliberative material. They do not include oral or written factual data which can be reasonably segregated from deliberative material.

DOJ Letter at 3.

As we have recognized, "current requirements of the Paperwork Reduction Act potentially interfere to some extent with Executive Branch deliberations" by, for instance, requiring disclosure of written communications between OMB and any agency concerning proposals for the collection of information. *Id.* at 4 (citing 44 U.S.C. § 3507(h)). We added that such requirements in existing law are "in tension with" the President's constitutional

authority. Id. S. 1942, however, would significantly expand the situations in which disagreements between OMB and an agency would be publicized.

Unlike the Paperwork Reduction Act, which applies only to OMB review of proposals involving information collection, S. 1942 would apply to review by "any agency or other establishment in the executive branch" of "any activity involving rulemaking" within the meaning of the Administrative Procedure Act. § 2(2), (3) & (5) (emphases added).¹ With respect to this all-encompassing category of review activities, the bill would require disclosure of "all written communications, regardless of format, including drafts of all proposals and associated analyses, between the reviewing entity and the rulemaking agency." § 3(a)(1). The reviewing entity would be required to provide the agency with "a written explanation of any significant review action . . . concerning an agency rulemaking activity," § 4(c), which the rulemaking agency then would be required to place in the record, § 5(b). The term "review action," moreover, would be defined broadly to encompass "any action, including but not limited to a recommendation or direction, regarding an agency rulemaking activity taken by a reviewing entity." § 2(4) (emphasis added). The bill also would require disclosure of "summar[ies] . . . of all oral communications relating to the substance of an agency rulemaking activity, including meetings, between the reviewing entity and the rulemaking agency . . ." § 3(a)(3).

The foregoing provisions clearly would require disclosure of predecisional policy judgments made by the reviewing entity and the rulemaking agency. For instance, disclosure of "drafts of all proposals and associated analyses" -- and the attendant disclosure of any differences among such drafts -- would reveal policy positions taken by the agency before a final decision has been reached. Further, the requirements for disclosure of "all written materials, regardless of format" and "summar[ies] . . . of all oral communications" provide no basis for the protection of policy views expressed by the agency or the reviewing entity during the review process.

¹ Even the legislation from the 101st Congress would have remained confined to review activities of OMB. See S. 1742, 101st Cong., 1st Sess. § 104 (1989).

² That section 8 of S. 1942 would exempt from the bill "[o]ral communications with the President, the Vice President, the Administrator of the Environmental Protection Agency, the Director of the Office of Management and Budget, and the heads of the executive departments" does not lessen the force of our constitutional objections. First, by its terms, the exception does not preserve the President's constitutional authority to

Further statutory infringements upon the confidentiality of the interagency deliberative process would damage the separation of powers established by the Constitution. Such damage is particularly acute with respect to the review process conducted by OMB pursuant to Executive Orders Nos. 12,291 and 12,498, given that OMB exercises thereunder the President's constitutional supervisory authority. Moreover, as we have noted, S. 1942 would reach not only review under the present Executive Orders but also -- so its broad terms would suggest -- any conceivable mechanism by which the President, through the entities within his Executive Office, might exercise his constitutional authority to supervise rulemaking by his subordinates. To adopt the sweeping disclosure requirements proposed here would gravely compromise what the Supreme Court has termed the "necessity for protection of the public interest in candid, objective, and even blunt or harsh opinions" United States v. Nixon, 418 U.S. at 705.

Accordingly, the Department of Justice strongly opposes S. 1942. The Office of Management and Budget has advised this Department that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program, and that enactment of S. 1942 would not be in accord with the program of the President.

Sincerely,

W. Lee Rawls

W. Lee Rawls
Assistant Attorney General

protect deliberative material in written, rather than oral, form. Second, the Supreme Court's exposition of the deliberative process privilege is not limited merely to the President himself and selected senior officials of his Administration; rather, the Court's acknowledgement of the need for frank exchanges of policy views extends to deliberations involving other officials as well. See United States v. Nixon, 418 U.S. at 705 (referring to the confidentiality of deliberations involving "high Government officials and those who advise and assist them in the performance of their manifold duties"). Third, the exception in section 8 would not extend to other components of the Executive Office of the President -- other than OMB -- that the President may wish to involve in the regulatory review process.