

Updated Talking Points on Goodling Agreement
November 6, 1997

- This is a win-win agreement -- a genuine bipartisan victory for both sides of this debate.
- The agreement allows continued, timely development of new national tests in 4th grade reading and 8th grade math, as called for by the President in his State of the Union Address. As provided for by the Senate, control of test policies and development will be transferred to the National Assessment Governing Board (NAGB).
- At the same time, as Mr. Goodling has advocated, the National Academy of Sciences, in consultation with NGA, NCSL, and NAGB, will study how tests already developed by commercial publishers and states may be used to measure student performance against each other and against national standards. In addition, the Academy will study the Department of Education's test development activities to date.
- The Academy will be asked to make an interim report by June 15, with a final report submitted by Sept. 1. Further development of the national tests is not dependent on the findings of the NAS study. NAGB can go forward with test development activities leading up to pilot testing right now. Pilot testing is postponed until Sept. 1, but does not depend on the completion or findings of the National Academy study. We do expect, of course, that the NAS study will inform test planning and development. This timeline represents a delay, but it's one we can live with.
- The compromise provides for test development in FY 98, and pilot testing after September 1. It is silent on the subject of further congressional action.
- As a result of this compromise, we are now on the road to high national standards, and to measuring whether these standards are being met. We will finally have high expectations for all our students and real accountability for all our schools.

Questions and Answers on Agreement with Rep. Goodling on National Tests
November 6, 1997

Q: Published reports this morning indicate that the compromise over the test has fallen apart? Is that accurate?

A: No. As is common in these kinds of negotiations, sometimes the last mile is the hardest to walk and last night there were some difficult discussions. But things are on track today and we expect to have a final resolution of this matter shortly.

Q: Earlier the Administration had indicated the President would veto this bill if it required further authorization from Congress to move forward with testing. But some news reports suggest that this compromise basically kills the national test to clear the way for Fast Track. Has the President given up on a national test?

A: Absolutely not. The agreement allows us to proceed with development of the 4th and 8th grade national tests that the President has proposed. It also allows us to pilot test the items for these tests next fall. This is a delay, but it's one we can live with. At the same time, we will go forward with Mr. Goodling's excellent idea to have the National Academy of Sciences study ways to link state tests to each other and to NAEP, an existing national sample test, that reflects high national standards. Both aspects of the agreement make progress toward a single goal: ensuring that all students, across the country, are measured by the same high standards.

Q: Is further development of the national tests dependent on the findings of the National Academy of Sciences study? What is the timeline for this study?

A: The Academy will be asked to make an interim report by June 15, with a final report submitted by Sept. 1. Further development of the national tests is not contingent on the findings of the NAS study. NAGB can go forward with test development activities leading up to pilot testing right now. Pilot testing is postponed until Sept. 1, but does not depend on the completion or findings of the National Academy study. We do expect, of course, that the NAS study will inform test planning and development.

Q: Does the compromise require further authorization to move beyond the pilot testing stage?

A: The compromise provides for test development in FY 98, and pilot testing after September 1. It is silent on the subject of further congressional action.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

November 7, 1997

STATEMENT BY THE PRESIDENT ON EDUCATION STANDARDS

Legislation passed by the House of Representatives this evening provides an impressive victory for American education. It moves us down the road to high national standards and voluntary national tests in the basic skills, and it invests in providing our country with better schools and increased educational opportunities.

I am very pleased that we have reached an agreement on one of my top priorities for this year and for my Presidency: making sure that America's school children can master the basics and achieve higher academic standards. America's parents, teachers, and principals can now be sure that we are going to hold children's educational skills up to the same high standard whether they live in Michigan, Maine, or Montana.

The educational agenda I have established for the nation -- from high standards and testing to making a college education possible for every young American -- is designed to give our children the tools they need to succeed in a changing global economy. Today's agreement fulfills a critical part of that agenda, and I appreciate that politics indeed stopped at the schoolhouse door.

The Labor-HHS-Education Appropriations bill, which includes the agreement on national standards and tests, also helps meet our national commitment to expand educational opportunities for all students. It provides a \$1.5 billion increase in Pell grants to help an additional 210,000 young people attend college, and increases the maximum Pell grant to \$3,000, the highest level in history. Special education funding is increased by \$800 million, funding for technology for our schools is almost doubled, and there is \$7.4 billion to help our most disadvantaged students master the basic skills. Goals 2000 is funded at \$491 million, to continue to support school reform in every state, and funding for after-school programs is increased from \$1 million to \$40 million.

I am also pleased to see the House pass bipartisan charter school legislation to promote choice and accountability in the public schools and help achieve my goal of 3,000 charter schools.

different federal education programs. The House and Senate Committees on Appropriations want to work with the Department of Education and the General Accounting Office to determine the true paperwork and dollar cost to localities associated with application and record keeping of these various programs.

PROHIBITION ON VOLUNTARY NATIONAL TESTING

The House bill contained a prohibition on the use of federal funds for the development, planning or administration of any national program for testing in reading or mathematics. The provision exempts the National Assessment of Educational Progress and the Third International Math and Science Study.

The House bill also contained a provision prohibiting the administration of any national tests in 4th grade reading and 8th grade mathematics until the submission of ^a final _^ report by the National Academy of Sciences.

The Senate bill contained several provisions. The first required the Office of Educational Research and Improvement to submit to the Senate Appropriations Committee a spending plan for activities under the Education Research, Statistics, and Improvement account prior to obligation.

The second gives the National Assessment Governing Board exclusive authority over the policies, direction and guidelines for implementing voluntary national tests for 4th grade reading and 8th grade mathematics. The provision also required that any such tests be voluntary and that within 90 days of enactment the Board shall review ^{the} _^ contracts _^ for the national tests and, if necessary, modify or terminate and renegotiate any contracts. The provision lists the specific authorities of the board.

The third provision also expressly prohibited any State or local education agency from requiring any private, parochial school student or home-schooled student to take any national test without the written consent of the student.

The fourth provision of the Senate bill changed the composition of the National Assessment Governing Board to add one governor, two mayors, and two business representatives and make technical changes to the make-up and process for appointment to the Board.

The conference agreement includes a provision prohibiting the use of federal funds in this or any other Act to implement, administer or disseminate for the purpose of national testing any national test. The agreement permits the development, including field testing, of national tests and permits the continuation of both the National Assessment of Educational Progress (NAEP) and the Third International Math and Science Study (TIMSS).

As in the Senate bill, the agreement gives the National Assessment Governing Board authority over all policies, directions and guidelines for the development and implementation of the national test, including the ability to review and modify or cancel the national test development contract. The agreement also requires that the Board ensure that the content and standards for the test are the same as that for NAEP; exercise authority over any expert or advisory groups; ensure that the tests are linked to the NAEP to the maximum extent possible; develop test objectives, specifications and methodology; develop policies for test administration including guidelines for the inclusion of students with disabilities and students with limited English proficiency; develop policies for the

reporting of test results; have final authority over the appropriateness of all test items and ensure that all items selected for use are free from racial, cultural or gender bias.

The conferees agree that the composition of the National Assessment Governing Board, and any expert panels or advisory committees established by the Board should, ^{to} the maximum extent feasible, reflect the racial and ethnic composition of the population.

The agreement also provides that the National Assessment Governing Board hold public hearings within 120 days after the test development period. The conferees agree that such hearing^s are to be widely publicized and that the Board shall ensure that specific activities be undertaken to reach minority and disadvantaged populations. The materials produced should be effective in communicating with the broad and diverse spectrum of the populations affected by the proposed national tests.

The agreement also provides for the National Academy of Sciences (NAS) to study ^{of} the technical quality and validity of the tests and to recommend safeguards to ensure that national tests are not used in a discriminatory manner or used for promotion, tracking or graduation. The conferees further agree that if an authorization permitting the administration of national testing is enacted the National Assessment Governing Board should develop appropriate mechanisms to monitor and enforce this provision.

The agreement also provides that the NAS study, in consultation with the National Governors Association and the National Conference of State Legislatures shall conduct a feasibility study to determine if an equivalency scale can be developed to compare test scores from commercially available standardized tests.

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The agreement also makes changes in the membership of the National Assessment Governing Board and in the method of appointment of Board members as proposed by the Senate.

The agreement provides that if an authorization permitting the administration^{of a} national testing^{is} is enacted, the Federal Government cannot require a state or local education agency to participate; no school, local education agency or state can report, or be required to report the scores of students to any federal official; no school, local education agency or state may use the tests for promotion, tracking or graduation and no private, parochial or home[^] schooled student may be made to participate without the written consent of their parents or legal guardian. The conferees agree that if an authorization permitting national testing is enacted, parents, guardians, and students shall be appropriately informed about the content, purpose and use of tests.

Finally, the agreement makes clear that nothing in the Act can be construed to require a change in curriculum or the allocation of state or local resources as a condition of participation in the national testing program.

The conferees understand that the Administration will submit legislation for a^{school} revised[^] facility initiative.

The conferees understand that the Administration intends to develop a supplemental version of any national test based on the NAEP framework that could be administered by States and school districts in addition to the tests currently being developed, to ensure that in the development and application of the national tests, students shall be assessed in the language and form most likely to yield accurate

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information to determine student mastery of reading and mathematics skills, in the event that such a national testing program is authorized.

LIMITATION ON PENALTIES UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

The agreement deletes ~~without prejudice~~ Section 521 of the House bill limiting the penalties the Secretary of Education may impose on states not providing special education services to individuals 18 years or older who are incarcerated in adult state prisons.

ABORTION FUNDING RESTRICTION

Both the House and Senate bills contain a revised version of the Hyde amendment. This updated version clarifies the intent of that amendment, approved annually since 1976 by Congress. Since 1993 the Hyde amendment has prohibited federal funding of abortions in Medicaid and other programs governed by the Departments of Labor, Health and Human Services, and Education and Related Agencies appropriations bill, except when the relevant federal agency is notified that the pregnancy is due to rape or incest or that the mother's life would be endangered if the fetus were carried to term.

A technical clarification is deemed necessary because many states are now arranging for delivery of health benefits through managed care, using federal funds to help pay for premiums for health benefits packages instead of using them to reimburse for specific procedures after the fact. The words "managed care" in Subsections ⁵⁰⁹~~508~~(c) and

KEY ELEMENTS OF THE PRESIDENT'S PLAN FOR NATIONAL TESTS

CLINTON PLAN	HOUSE BILL	FINAL AGREEMENT
Authorizes development of first-ever voluntary national tests in 4th-grade reading and 8th-grade math	NO -- total ban on development of national tests	YES -- authorizes immediate development of national tests
Puts independent, bipartisan NAGB in charge of tests	NO	YES
Provides \$16 million in FY98 for test development	NO -- no money for national tests	YES -- \$16 million for tests in FY98
Can proceed with pilot testing, field testing, and test administration without further authorization from Congress	NO -- would have required Congressional authorization before proceeding	YES -- does not impose requirement for future authorization from Congress
Begin pilot testing in 1998 (scheduled for March)	NO -- prohibits pilot testing	YES -- begin pilot testing in October 1998 instead of March

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Initial implementation
in Spring 1999

NO -- prohibits
implementation

YES -- implementation
in Spring 2000

Voluntary National Tests Agreement Allows Test Development to Move Forward

As a result of the national testing provisions in the FY 1998 Labor-HHS-Education Appropriations Bill enacted November 7, 1997, work to develop voluntary national tests in 4th grade reading and 8th grade math will move forward under the direction of the bipartisan, independent National Assessment Governing Board (NAGB).

Tests to Be Developed by the National Assessment Governing Board). The legislation places the bipartisan, independent National Assessment Governing Board (NAGB) in complete control of further work in developing the voluntary national tests. NAGB will review and modify, if necessary, the contract to develop the tests. It will also review, modify if necessary, and approve the test specifications.

Under NAGB's Control, Work Will Proceed in Key Areas of Test Development. The test development contractor will:

Research the needs of students, parents and teachers. The test development contractor will conduct research on how to best present test questions and interview students, parents and teachers to gain understanding of and report test results for clarity and usefulness.

Write the test items. The test development contractor is responsible for writing test items according to specifications for the voluntary national tests approved by the National Assessment Governing Board.

Convene advisory committees. Advisory panels in reading and math will review test items and provide feedback on a range of issues such as test reporting, test use and accommodations. A technical advisory group will also be convened.

Plan the pilot tests. The purposes of the pilot tests are to try-out test items and collect item statistics. The first pilot tests are scheduled to occur in the fall of 1998. Prior to the pilot's administration, the contractor is responsible for identifying the sample of schools and students needed, recruiting schools to participate, and training staff to administer the pilot.

Prepare for the field tests. The purposes of the field tests are to collect data for equating the test forms and linking the voluntary national tests to the national standards of the National Assessment of Educational Progress (NAEP) and benchmarks from Third International Math and Science Study (TIMSS). The first field tests will be conducted in the Spring of 1999. In preparation for the field test, the contractor is responsible for organizing a nationally representative sample of students, recruiting schools, and planning studies for linking the voluntary national tests to NAEP and TIMSS.

Develop guidelines for accommodations, appropriate test use, and test reporting. Each of these guidelines will be created through a public input process and in accordance with nationally accepted standards.

Create informational materials. Brochures and a web site will be created by the contractor to inform state education agencies and local school districts, as well as parents, teachers and students about the voluntary national tests.

National Academy of Sciences to Conduct Research Studies. The National Academy of Sciences will study the feasibility of comparing student achievement on commercial and state tests with each other and with NAEP. The Academy will also study with the technical quality, validity, reliability, design and racial, cultural, or gender bias of test items. Finally, the Academy will recommend appropriate safeguards to ensure that tests are not used in a discriminatory or inappropriate manner.

November 7, 1997

**Questions and Answers on Agreement on National Tests
November 7, 1997**

- Q:** Earlier the Administration had indicated the President would veto this bill if it required further authorization from Congress to move forward with testing. But some suggest that this compromise basically kills the national test to clear the way for Fast Track. Has the President given up on a national test?
- A:** Absolutely not. The agreement allows us to proceed with development of the 4th and 8th grade national tests that the President has proposed. It also allows us to pilot test the items for these tests next fall. This is a delay of a few months, but it's one we can live with. At the same time, we will go forward with a National Academy of Sciences study of ways to link state tests to each other and to NAEP, an existing national sample test, that reflects high national standards. Both aspects of the agreement make progress toward a single goal: ensuring that all students, across the country, are measured by the same high standards.
- Q:** The legislation looks like a victory for test opponents. What did the Administration get out of this agreement?
- A:** This agreement is a solid victory for high standards. Under the compromise, the final appropriations bill drops the general prohibition on national tests contained in the House-passed bill, which the Administration threatened to veto, and allows us to proceed with development of the 4th grade reading and 8th grade math tests. The bill shifts control over test policies and development to the independent, bipartisan, National Assessment Governing Board (NAGB), as the Administration had proposed. It provides \$16 million dollars to support the testing plan. And it allows for pilot testing of test items to begin next fall. At the same time, the bill provides for a potentially valuable study of ways to link state tests to each other and to NAEP, an existing national sample test, that reflects high national standards. This agreement puts us on the road to high national standards, and to measuring whether these standards are being met. We will finally have high expectations for all our students and real accountability for all our schools.
- Q:** Is further development of the national tests dependent on the findings of the National Academy of Sciences study? What is the timeline for this study?
- A:** The Academy will be asked to make an interim report by June 15, 1998 with a final report submitted by Sept. 1. Further development of the national tests is not contingent on the findings of the NAS study. NAGB can go forward with test development activities leading up to pilot testing right now. Pilot testing is postponed until after September 30, but does not depend on the completion or findings of the National Academy study.

Q: Does the compromise require further authorization to move beyond the pilot testing stage?

A: The agreement allows for test development in FY 98, and pilot testing after September 30. It is silent on the subject of further congressional action.

Q: The national tests were opposed in the House by members of the Black and Hispanic Caucus. How does the agreement address their concerns?

A: The agreement provides for the National Academy of Sciences and NAGB to study test items to ensure that they are free from racial, cultural, or gender bias. In addition, the Academy will recommend safeguards to ensure that tests are not used in a discriminatory or inappropriate manner.

**Talking Points on Agreement on National Tests
November 7, 1997**

- This is a win-win agreement -- a genuine bipartisan victory for high standards.
- The agreement allows continued, timely development of new national tests in 4th grade reading and 8th grade math, as called for by the President in his State of the Union Address. As provided for by the Senate, control of test policies and development will be transferred to the National Assessment Governing Board (NAGB).
- At the same time, the National Academy of Sciences, in consultation with NGA, NCSL, and NAGB, will study how tests already developed by commercial publishers and states may be used to measure individual student performance against existing, challenging national content and performance standards, and against each other. In addition, the Academy will study the technical quality and other aspects of test item development, as well as issues of test bias and test use.
- The Academy will be asked to make an interim report by June 15, 1998 with a final report submitted by September 1. Further development of the national tests is not dependent on the findings of the NAS study. NAGB can go forward with test development activities leading up to pilot testing right now. Pilot testing is postponed until after September 30, 1998, but does not depend on the completion or findings of the National Academy study. This timeline represents a delay of a few months, but it's one we can live with.
- The agreement allows for test development in FY 98, and pilot testing after September 30. It drops the general prohibition on national tests that the Administration threatened to veto, and does not include any requirement for congressional authorization to proceed with national tests.
- As a result of this agreement, we are now on the road to high national standards, and to measuring whether these standards are being met. We will finally have high expectations for all our students and real accountability for all our schools.

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The educational agenda I have established for the nation -- from high standards and testing to making a college education possible for every young American -- is designed to give our children the tools they need to succeed in a changing global economy. Today's agreement fulfills a critical part of that agenda, and I appreciate that politics indeed stopped at the schoolhouse door.

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I am also pleased to see the House pass bipartisan charter school legislation to promote choice and accountability in the public schools and help achieve my goal of 3,000 charter schools.

Committee Summary

Draft

Agreement on National Testing Prohibition

Summary

November 7, 1997

Stop National Testing in FY 1998.

- No federal funds may be used to field test, pilot test, implement, administer or distribute in any way, any national tests in FY 1998. The only exceptions are the Third International Math and Science Study and the National Assessment of Educational Progress.

No Required Testing of Individuals or Mandated Participation of Private Schools, Home Schools or Parochial Schools.

- No student is required to take any national test in any subject or grade.
- No federal, state or local educational agency may require any private or parochial school student, or home-schooled individual, to take any pilot or field test without the written consent of the parents or legal guardians of the student or individual.

National Academy of Sciences (NAS) Studies

- NAS will conduct three studies and submit written reports to Congress and the White House on its findings.
- The first NAS study will determine whether an equivalency scale can be developed that would allow test scores from commercially available standardized tests, state assessments and the National Assessment of Educational Progress, to be compared with one another.
- The second NAS study will evaluate the technical quality, validity, reliability, design, and racial, cultural, or gender bias of test items already developed by the Department of Education.
- The third NAS study will recommend appropriate safeguards to ensure that tests are not used in a discriminatory or inappropriate manner.

Test Development Contract Moved Out of Department of Education.

- The test development contract previously entered into by the Department of Education will be transferred to the National Assessment Governing Board (NAGB).

Congress' Involvement in Testing.

- The House Committee on Education and the Workforce will hold reauthorization hearings on NAEP and NAGB in the spring of 1998, and the President will have an opportunity to have his testing proposal fully debated at that time. Congress will have the opportunity to work its will through the normal legislative process.

November 7, 1997, 1:40 p.m.

Section 305. (a) Notwithstanding any other provision of Federal law, no funds provided to the Department of Education or to an applicable program (as defined in section 400(c)(1) of the General Education Provisions Act (20 USC 1221(c)(1))), in this Act or in any other Act in fiscal year 1998, may be used to field test, pilot test, implement, administer or distribute in any way, any national tests.

(b) Exception.--- Subsection (a) shall not apply to the Third International Math and Science Study or the National Assessment of Educational Progress.

Section 306. (a) Study.---The National Academy of Sciences, in consultation with the National Governors Association, the National Conference of State Legislatures, the White House, the National Assessment Governing Board, and the Congress, shall conduct a feasibility study to determine if an equivalency scale can be developed that would allow test scores from commercially available standardized tests and State assessments to be compared with each other and the National Assessment of Educational Progress.

(b) Report of Findings to Congress. (1) The National Academy of Sciences shall submit a written report to the White House, the Committee on Education and the Workforce in the House of Representatives, the Committee on Labor and Human Resources in the Senate, and the Committees on Appropriations of the House of Representatives and the Senate not later than September 1, 1998.

(2) The National Academy of Sciences shall submit an interim report no later than June 15, 1998.

Section 307 (a). National Assessment Governing Board. Notwithstanding any other provision of law, the exclusive authority over all policies, direction, and guidelines for developing voluntary national tests pursuant to contract RJ97153001 previously entered into between the United States Department of Education and the American Institutes for Research and executed on August 15, 1997, shall be vested in the National Assessment Governing Board established under section 412 of the National Education Statistics Act of 1994 (20 USC 9011); *Provided*, That within 90 days after the date of enactment of this Act, the Board shall review the national test development contract in effect on the date of enactment of this Act, and modify the contract as the Board determines necessary and not inconsistent with this Act or applicable laws: *Provided further*, That if the contract cannot be modified to the extent determined necessary by the Board, the contract shall be terminated and the Board shall negotiate a new contract, under the Board's exclusive control, for the tests, not inconsistent with this Act or applicable laws.

(b) In carrying out its exclusive authority for developing voluntary national tests pursuant to contract RJ97153001, any subsequent contract related thereto, or any contract modification pursuant to subsection (a), the National Assessment Governing Board shall determine--

(1) the extent to which test items selected for use on the tests are free from racial, cultural or gender bias;

(2) whether the test development process and test items adequately assess student reading and mathematics comprehension in the form most

likely to yield accurate information regarding student achievement in reading and mathematics;

(3) whether the test development process and test items take into account the needs of disadvantaged, limited English proficient and disabled students; and

(4) whether the test development process takes into account how parents, guardians, and students will appropriately be informed about testing content, purpose and uses.

Section 308. Study. The National Academy of Sciences shall, not later than September 1, 1998, submit a written report to the Committee on Education and the Workforce in the House of Representatives, the Committee on Labor and Human Resources in the Senate, and the Committees on Appropriations in the House and Senate that evaluates all test items developed or funded by the Department of Education or any other agency of the Federal government pursuant to contract RJ97153001, any subsequent contract related thereto, or any contract modification by the National Assessment Governing Board pursuant to section 307 of this Act, for---

(A) the technical quality of any test items for 4th grade reading and 8th grade mathematics;

(B) the validity, reliability, and adequacy of developed test items;

(C) the validity of any developed design which links test results to student performance;

- (D) the degree to which any developed test items provide valid and useful information to the public;
- (E) whether the test items are free from racial, cultural, or gender bias;
- (F) whether the test items address the needs of disadvantaged, limited English proficient and disabled students; and,
- (G) whether the test items can be used for tracking, graduation or promotion of students.

Section 309(a). Study—The National Academy of Sciences shall conduct a study and make written recommendations on appropriate methods, practices, and safeguards to ensure that ---

- (1) existing and new tests that are used to assess student performance are not used in a discriminatory manner or inappropriately for student promotion, tracking or graduation; and
- (2) existing and new tests adequately assess student reading and mathematics comprehension in the form most likely to yield accurate information regarding student achievement of reading and mathematics skills.

(b) Report to Congress. The National Academy of Sciences shall submit a written report to the White House, the National Assessment Governing Board, the Committee on Education and the Workforce in the House of Representatives, the Committee on Labor and Human Resources in the Senate, and the Committees on Appropriations in the House and Senate not later than September 1, 1998.

Section 310. (a) The Federal Government shall not require any State or local educational agency or school to administer or implement any pilot or field test in any subject or grade, nor shall the Federal government require any student to take any national test in any subject or grade.

(b) Nothing in section 309(a) shall be construed as affecting the National Assessment of Educational Progress or the Third International Math and Science Study.

Section 311. No Federal, State or local educational agency may require any private or parochial school student, or home-schooled individual, to take any pilot or field test developed under this Act, contract RJ97153001, or any contract related thereto, without the written consent of the parents or legal guardians of the student or individual.

PROHIBITION ON VOLUNTARY NATIONAL TESTING

The House bill contained a prohibition on the use of federal funds for the development, planning or administration of any national program for testing in reading or mathematics. The provision exempts the National Assessment of Educational Progress and the Third International Math and Science Study.

The House bill also contained a provision prohibiting the administration of any national tests in 4th grade reading and 8th grade mathematics until the submission of a final report by the National Academy of Sciences.

The Senate bill contained several provisions. The first required the Office of Educational Research and Improvement to submit to the Senate Appropriations Committee a spending plan for activities under the Education Research, Statistics, and Improvement account prior to obligation.

The second gives the National Assessment Governing Board exclusive authority over the policies, direction and guidelines for implementing voluntary national tests for 4th grade reading and 8th grade mathematics. The provision also required that any such tests be voluntary and that within 90 days of enactment the Board shall review the contract for the national tests and, if necessary, modify or terminate and renegotiate any contracts.

The provision lists the specific authorities of the board.

The third provision also expressly prohibited any State or local educational agency from requiring any private, parochial school student or home-schooled student to take any national test without the written consent of the student.

The fourth provision of the Senate bill changed the composition of the National Assessment Governing Board to add one governor, two mayors, and two business representatives and make technical changes to the make-up and process for appointment to the Board.

The conferees and the Administration agree that it is important to have high, voluntary standards in the basic skills of reading and math, to measure whether students are meeting these standards, and to provide that information to students, parents and teachers. The Administration has proposed voluntary national tests in order to measure student achievement related to national standards. However, every state already administers a number of tests, and many are concerned that an additional, national, test would be an unnecessary burden.

To address this concern, the conference agreement (sec. 305-311) states that the National Academy of Sciences will be commissioned to conduct a study of the feasibility of equating existing state and commercially available tests with each other and with the National Assessment of Educational Progress. The purpose of this study is to determine whether it will be possible to use existing tests administered by states and local school districts to compare individual student performance with existing, challenging national content and performance standards. The purpose is also to determine if the same tests can be used to compare the performance of students in different states and communities, on different tests, to each other. The NAS shall submit a report on this study to the Congress no later than June 15, 1998, and a final report no later than September 1, 1998.

The NAS will conduct this study in consultation with the National Governors' Association (NGA), the National Conference of State Legislatures (NCSL), NAGB, the Congress and the White House. While the NAS study is being conducted, NAGB will have exclusive authority over contract RJ97153001, as stated in this Act, which will be based on the same content and performance standards as are used for NAEP, and which are linked to NAEP to the maximum extent possible.

The conference agreement further provides that the National Academy of Sciences shall submit a written report by September 1, 1998 to the Committee on Education and Workforce in the House of Representatives, the Committee on Labor and Human Resources in the Senate, and the House and Senate Appropriations Committees that evaluates the technical quality, validity and reliability of developed test items on national 4th grade reading and 8th grade mathematics tests; evaluates whether test items are free from racial, cultural or gender bias; evaluates whether the test items address the needs of disadvantaged, limited English proficient and disabled students; and evaluates whether the test items can be used for tracking, graduation or promotion of students.

The conferees intend that the National Assessment Governing Board shall hold public hearings on these test development activities and on the recommendations submitted by the National Academy of Sciences. The National Assessment Governing Board shall ensure that such hearings are widely publicized, and that activities conducted to publicize such hearings communicate effectively with the broad and diverse populations that may be affected by such tests.

The Administration and the authorizing Committees of the U.S. Congress will work together to incorporate the findings from the NAS study into the reauthorization of NAEP and NAGB. The conferees understand that the Administration agrees that, where it is feasible and practical to validly and reliably equate test scores and link performance levels on State assessments and commercially available standardized tests with the National Assessment of Education Progress, then these tests may serve the same purpose as the proposed national test. To the extent that NAS study demonstrates ways in which existing tests can be equated with each other and with NAEP, or ways in which existing tests can be modified in order to facilitate such equating, the Administration and the House Committee on Education and the Workforce intend to work together to implement these recommendations through the reauthorization of NAEP.

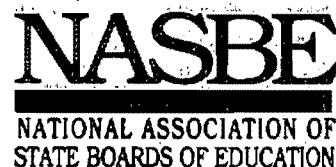
In order to inform future deliberations on the appropriate uses of tests measuring student academic performance and to prevent the misuse of such tests, particularly for minority and limited English proficient students, the conference agreement provides for a third study to be conducted by the National Academy of Sciences that makes recommendations on appropriate methods, practices, and safeguards to ensure that existing and new tests that may be used to measure student performance are not used in a discriminatory manner or inappropriately for tracking or other "high stakes" purposes. The NAS is also directed to report on ways to ensure that such tests adequately assess student reading and mathematics comprehension in the form most likely to yield accurate information regarding student achievement in reading and mathematics. The conference agreement provides that this NAS report shall be submitted to the White House, National Assessment Governing Board, the Committee on Education and the Workforce in the

House of Representatives and the Committee on Labor and Human Services in the Senate, and the Committees on Appropriations in the House of Representatives and Senate not later than September 1, 1998.

The conferees encourage the National Assessment Governing Board and the National Academy of Sciences, in convening any advisory committees or expert panels needed to carry out the requirements of this Act, to take into account racial, ethnic and gender diversity and balance.

The conference agreement further provides that the federal government shall not require any state, local educational agency or school district to administer or implement any pilot or field test in any subject or grade, or require any student to take any national test in any subject or grade. In addition, no federal, state or local educational agency may require any private or parochial school student, or home-schooled student, to take any pilot or field test developed under this Act without the written consent of the parents or legal guardians.

The Conferees understand that the Administration will submit legislation for a revised school facilities initiative.



November 18, 1997

President
Thomas Davis
Missouri

Past President
Patricia Hayes
Colorado

Secretary-Treasurer
Barbara Roberts Mason
Michigan

Northeastern Area Directors
Beverly Greenberg
Connecticut

James C. Dawson
New York

Southern Area Directors
Eliel Hall
Alabama

Adrienne Ottaviani
Maryland

Central Area Directors
Betty Preston
Missouri

Norma Cook
Indiana

Midwest Area Directors
Kevin Gilmore
Kansas

Emmalou Rodriguez
New Mexico

Pacific Area Directors
William Byron Darden
Arizona

Judith Stiegler
Oregon

Mr. Mike Cohen
Special Assistant to the President for Education
218 OEOB
Washington, DC 20501

Dear Mike:

On behalf of the National Association of State Boards of Education (NASBE), I would like to offer my congratulations to you on achieving an important victory by allowing continued development of the national assessments in the FY98 Labor/HHS/Education appropriations bill.

As you know, state boards of education have authority over state assessment policy. Because of your efforts, state boards will continue to have the opportunity to consider whether to participate in these voluntary national tests.

Again, much thanks for your work and leadership in this area. We look forward to working with you in the future as this issue is advanced in the coming year.

Sincerely,

Brenda Lilienthal Welburn
Executive Director

BLW:dg

1012 Cameron Street
Alexandria, Virginia 22314

703-684-4000
FAX 703-836-2313

Brenda Lilienthal Welburn

COMMITTEE ON EDUCATION
AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES
2181 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

Agreement on Federal Testing

Summary

Nov. 6, 1997

Stops National Testing in its Tracks. No funds provided to the department of Education may be used in fiscal year 1998 to implement, administer or distribute any national tests. No field test or pilot test will be permitted before the fall of 1998.

National Academy of Sciences Study. The National Academy of Sciences (NAS), in consultation with the National Governors Association, the National Conference of State Legislatures and the National Assessment Governing Board (NAGB) and The White House, will conduct a study to determine if an equivalency scale can be developed that would allow tests scores from commercially available standardized tests and State assessments to be compared with each other and the National Assessment of Education Progress (NAEP).

NAS would report its findings to the Committee on Education and the Workforce in the House and the Committee on Labor and Human Resources in the Senate. An interim report would be submitted by June 15, 1998 and the final report by fall 1998.

Congress takes the driver's seat on testing. The House Committee on Education and the Workforce will hold reauthorization hearings on NAEP and NAGB in the spring of 1998, and the President will have an opportunity to have his testing proposal fully debated at that time. Congress will have the opportunity to work its will through the normal legislative process.

Moves current testing activities out of the Department of Education. All testing activities currently under review by the Department of Education will be turned over to the National Assessment Governing Board. The National Academy of Sciences, would at the same time, study the Department of Education's test development activities that have taken place (up to the point of enactment of the appropriations' bill) and NAS will be asked to report to the Committee on Education and the Workforce in the House and the Labor and Human Resources Committee in the Senate.

No Required Private, Home School and Parochial School Participation. No Federal, State or local educational agency may require any private or parochial school student, or home-schooled individual, to take any pilot or field test developed without the written parental consent.

- June 1*
- No field [or pilot testing] implementation, administration, or dissemination of a national test until the National Academy of Sciences (NAS), in consultation with the National Governors Association (NGA), the National Conference of State Legislators (NCSL), and the National Assessment Governing Board (NAGB), completes a study on whether or not existing tests currently used in States can be compared with one another and/or with the National Assessment of Educational Progress (NAEP) test and reports its findings to the President and the authorizing Committees of Congress;

to provide national performance levels for individual students

- test development*
- All testing activities currently under review by the Department of Education will be turned over to NAGB. The NAS will, at the same time, study the Department of Education's test development activities that have taken place (up to the point of enactment of this legislation) and will be asked to report back to the President and the authorizing Committees of Congress;

Consult with NAGB Congress

- It is understood that if the NAS study determines that existing tests can be compared with one another, then efforts will be made to incorporate the concept of using existing tests into the NAEP/NAGB reauthorization;
- The House Committee on Education and the Workforce will agree to hold reauthorization hearings on NAEP/NAGB in the Spring of 1998, and the President will have an opportunity to have his testing proposal considered in the reauthorization process;
- Once the NAS completes its comparability study and reports to the President and Congress its findings, the Committee during reauthorization of NAEP/NAGB will consider allowing States to use existing funds through programs such as Title I, Title VI, and GOALS 2000 to adapt their testing systems to provide for comparability in a method consistent with the findings of the NAS study.

*1,2,3 - Del. Langer
3,4 - Rep. Langer*

*No pilot testing until NAS study
multi-let could*

Additions to Conference Agreement on National Testing

Pilot and Field Tests

1. Clarify that development activities include both pilot testing and field testing for the development of 4th grade reading and 8th grade math.
2. Define pilot testing to mean a preliminary process of determining the appropriateness of individual test items by trying them out with a diverse sample of students on a trial basis
3. Limit participation in pilot testing to no more than 1% of total number of 4th and 8th grade students or 1% of the total number of schools enrolling 4th and 8th graders.
4. Define field testing to mean a process of determining the appropriateness of individual test items that were modified during pilot testing, as well as the appropriateness of trial operational procedures, by trying them out with a scientifically drawn, nationally representative sample of students that will generate reliable national estimates of student achievement linked to NAEP performance levels.
5. Limit participation in pilot testing to no more than 2% of total number of 4th and 8th grade students or 2% of the total number of schools enrolling 4th and 8th graders.

Participation of Minority Students

6. Include language indicating that NAGB shall develop and implement the tests in such a way that shall ensure the equal participation of all children in those states and school districts that voluntarily participate in the testing program, if such a national testing program is authorized.
7. Include language indicating that ~~if an authorization permitting a national testing program is enacted and a state, local educational agency or school voluntarily participates in the national testing program, the state, local educational agency or school shall ensure that the tests adequately assess student reading and math comprehension in the language and form most likely to yield accurate information to determine student mastery of reading and math skills, if such a national testing program is authorized.~~

8. Include language indicating that the composition of the National Assessment Governing Board, and any expert panels or advisory committees established by the Board, should to the maximum extent feasible, reflect the racial and ethnic composition of the population.

9. Include language indicating that, with regard to the public hearings to be held by NAGB, that NAGB conduct outreach to effectively communicate with minority populations.

10. Include language requiring NAGB to develop mechanisms to enforce the prohibition on the use of national tests for promotion, tracking or graduation, if a national testing program is authorized.

11. Include language requiring NAGB to ensure that parents, guardians and students shall be appropriately informed about the content, purpose and use of the tests, if a national testing program is authorized.

MIKE —

TAKE A LOOK AT THIS — ESPECIALLY
THE LINKING STUDY AND THE LIMITS ON
IMPLEMENTATION. SOME ISSUES WE CAN TALK
ABOUT

U.S. DEPARTMENT OF EDUCATION
OFFICE OF THE DEPUTY SECRETARY
600 INDEPENDENCE AVENUE, S.W.
WASHINGTON, D.C. 20202-0500

DATE: _____

TO:

MIRE COHEN

ORGANIZATION:

DPC

PHONE:

456-5575

FAX:

456-5581

FROM:

DAVID STEVENSON

PHONE:

401-0593

FAX:

(202) 401-9027

TOTAL PAGES (including cover)

4

*And Link
Performance
Levels*

LINKING STUDIES

Sec. ____ (a) STUDY. With funds made available [where?] the National Academy of Sciences, in consultation with the National Assessment Governing Board, shall conduct a study to determine whether it is feasible and practical to validly and reliably equate test scores on State assessments and commercially available standardized tests with the National Assessment of Educational Progress or the voluntary national tests on 4th grade reading and 8th grade mathematics.

(b) REPORT. The National Academy of Sciences shall report the findings of its study under subsection (a) to the President, the Secretary of Education, the National Assessment Governing Board, and the Congress.

(c) LIMITS ON IMPLEMENTATION. If, at any time, the National Academy of Sciences determines that it is feasible and practical to validly and reliably equate to the National Assessment of Educational Progress or the voluntary national tests on 4th grade reading and 8th grade mathematics the test scores of at least 80 per cent of the nation's school children on State assessments in 4th grade reading and 8th grade mathematics and commercially available standardized tests in 4th grade reading and 8th grade mathematics, the President and the Secretary of Education shall not administer any such voluntary national test in the absence of specific statutory authority to do so, but may continue to use such voluntary national tests for equating studies of State assessments and commercially available standardized tests.

DELAYED IMPLEMENTATION

Sec. ____ No voluntary national test in 4th grade reading or 8th grade mathematics may be administered before January 1, 2000.

FUNDS FOR TEST ADMINISTRATION

Sec. ____ States and local educational agencies may use funds available to them under title VI of the Elementary and Secondary Education Act of 1965, in accordance with the requirements of that title, to administer voluntary national tests in 4th grade reading and 8th grade mathematics as well as their own State assessments.

PROHIBITION ON ADDITIONAL NATIONAL TESTS

Sec. ____ No officer or agency of the United States shall develop or administer a voluntary national test of student achievement other than such tests in 4th grade reading and 8th grade mathematics.

ACHIEVE

Sec. ____ With funds available [where?], the Secretary of Education shall enter into a contract with ACHIEVE for the purpose of reporting to the President, the Secretary of Education, and the Congress on the desirability and feasibility of voluntary national tests in 4th grade reading and 8th grade mathematics.

THE WHITE HOUSE
WASHINGTON

November 3, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
MIKE COHEN

SUBJECT: Negotiating Options for National Testing

We will be working to negotiate a final compromise on national tests over the next several days. Our objective is to include in the Labor/HHS Appropriations bill a provision that would:

- enable test development and field testing to proceed under NAGB's control;
- authorize studies that would determine the feasibility of linking state and commercial tests to each other, to NAEP and to the national tests;
- if possible, permit test implementation to proceed without additional, specific authorization.

In order to accomplish this, we have identified a number of compromises we are prepared to propose. These are:

1. Cap participation in the 1999 tests at 50% of the nation's fourth and eighth grade students. Alternatively, postpone full implementation until 2000.
2. Give up to \$16 million from Goals 2000 to NAGB to develop an equivalency scale for any state that wants to compare its existing tests to other states' tests, NAEP, and the national tests; authorize states to use Chapter 2 block grant funds to administer their own tests and/or the national tests.
3. Announce conservative appointments to NAGB, including Gov. Engler, Diane Ravitch, John Saxton (a conservative math expert), and possibly Bill Bennett. Make John Engler the chair of NAGB.
4. Prohibit the development of national tests in grade levels and subject areas other than 4th grade reading and 8th grade math.

If additional proposals are necessary, we are prepared to offer the following:

1. Direct ACHIEVE (an independent, bipartisan group of CEO's and governors) to report to

Congress on the desirability and feasibility of national tests, and give Congress 90 days to review the report prior to implementation.

2. Direct the National Academy of Sciences to study the feasibility of linking state and commercial tests to each other and NAEP, with NAGB to review the study. Prohibit implementation of national tests without specific authorization if and only if the NAS and NAGB find that tests given to a majority of the nation's school children can be linked to NAEP. (We doubt that many tests can be linked in this way, but if we are wrong, we will have made progress toward a system of national standards and assessments by a different route!)

3. Cap participation in the test at 50% of the nation's fourth and eighth grade students indefinitely unless and until Congress specifically authorizes the tests.

4. Cap participation in the 1999 test at 50% of the nation's fourth and eighth grade students, and agree that Congress must specifically authorize the tests beyond 1999.

5. Require that NAGB take a fresh start at test development, rather than use the test specifications that have already been prepared, and the test development contract already awarded by the Education Department.

Staff Draft
November 5, 1997, 5:15 p.m.

Section 524. (a) Notwithstanding any other provision of Federal law, funds provided to the Department of Education or to an applicable program (as defined in section 400(c)(1) of the General Education Provisions Act (20 USC 1221(c)(1))), in this Act or ~~in any other Act with respect to any fiscal year~~ ¹⁹⁹⁷, shall not be used to field test or pilot test any national tests, until the feasibility study (described in section 525 of this Act) is submitted to the Committee on Education and the Workforce in the House of Representatives and the Committee on Labor and Human Resources in the Senate.

~~(b) Notwithstanding any other provision of Federal law, funds provided to the Department of Education or to an applicable program (as defined in section 400(c)(1) of the General Education Provisions Act (20 USC 1221(c)(1))), in this Act or in any other Act with respect to any fiscal year, shall not be used to implement, administer or distribute in any way, any national tests that are not specifically and explicitly provided for in current or future authorizing legislation enacted into law.~~

~~(c) Exception. -- Subsection (b) shall not apply to the Third-International Math and Science Study.~~

Section 525. (a) **Study**—The National Academy of Sciences, in consultation with the National Governor's Association, the National Conference of State Legislatures, the White House, the National Assessment Governing Board, and the Congress, shall, conduct a feasibility study to determine if an equivalency scale can be developed that

would allow test scores from commercially available standardized tests and State

assessments to be compared ^{with} ~~to~~ each other and ^{with} ~~to~~ the Natl. Assessment of ^{Education} Progress.

(b) Report of Findings to Congress. The National Academy of Sciences shall submit a written report of its findings to the Committee on Education and the Workforce in the House of Representatives and the Committee on Labor and Human Resources in the Senate not later than ^{June 1} ~~September 30~~, 1998.

Section 526. National Assessment Governing Board. Notwithstanding any other provision of law, the National Assessment Governing Board established under section 412 of the National Education Statistics Act of 1994 (20 USC 9011) (hereafter in this section referred to as the "Board") shall hereafter have exclusive authority over all policies, direction, and guidelines for developing voluntary national tests, except as otherwise indicated. *Insert attached (A)*

Section 527. Study. The National Academy of Sciences shall, not later than ^{June 1} ~~September 30~~, 1998, submit a written report to the Committee on Education and the Workforce in the House of Representatives, the Committee on Labor and Human Resources in the Senate, and the Committees on Appropriations in the House and Senate that, ---

- (1) evaluates all test items developed or funded by the Department of Education or any other agency of the Federal government, in so far as such test items have been developed prior to enactment of this Act, for---

(A) the technical quality of any test items for 4th grade reading and 8th grade mathematics;

(B) the validity, reliability, and adequacy of developed tests items;

(C) the validity of any developed design which links test results to student performance;

(D) the degree to which any developed test items provide valid and useful information to the public;

(E) whether the test items are free from racial, cultural, or gender bias; and

(2) recommends appropriate safeguards ^{and enforcement mechanism.} to ensure that such tests are not used in a

discriminatory manner, and recommends safeguards to ensure that such tests shall

not be used for tracking ^{graduation and} of students ^{promotion}, and to ensure that such tests ~~adequately assess student promotion, tracking, or graduation, and to ensure that such tests adequately assess student reading and mathematics comprehension in the form most likely to yield accurate~~

Section 528. (a) The Federal Government shall not require any State or local educational agency or school to administer or implement any national test in any subject ^{information regarding student mastery of reading & mathematics.} or grade, nor shall the Federal government require any student to take any national test in any subject or grade.

528

(b) Nothing in section 4(a) shall be construed as affecting the National

Assessment of Educational Progress or the Third International Math and Science Study.

Section 528.

(4) No State or local educational agency may require any private or parochial school student, or

home-schooled individual, to take any test developed under this Act without the written consent of the parents or legal guardians of the student or individual.

CONFERENCE PROPOSAL FOR 2264 (Labor, HHS)

1 SEC. 524. None of the funds appropriated in this or
2 any other Act shall be used to implement, administer, or
3 disseminate for the purpose of national testing, national
4 tests, unless specifically authorized in statute: *Provided*,
5 That funds may be used for development activities (includ-
6 ing field-testing) that precede the implementation or ad-
7 ministration of such tests or to carry out the National As-
8 sessment of Educational Progress or the Third Inter-
9 national Math and Science Study (TIMSS).

10 SEC. 525. (a)(1) Notwithstanding any other provision
11 of law, the National Assessment Governing Board estab-
12 lished under section 412 of the National Education Statis-
13 tics Act of 1994 (20 U.S.C. 9011) (hereafter in this sec-
14 tion referred to as the "Board") shall hereafter have ex-
15 clusive authority over all policies, direction, and guidelines
16 for establishing and implementing voluntary national
17 tests: *Provided*, That within 90 days after the date of en-
18 actment of this Act, the Board shall review the national
19 test development contract in effect on the date of enact-
20 ment of this Act, and modify the contract as the Board
21 determines necessary: *Provided further*, That if the con-
22 tract cannot be modified to the extent determined nec-
23 essary by the Board, the contract shall be terminated and

(A)

Not inconsistent
with this Act

not inconsistent
with this Act
provided that there must be
a

1 the Board shall negotiate a new contract, under the
2 Board's exclusive control, for the tests.

3 (2) In exercising the Board's responsibilities under
4 paragraph (1) regarding the national tests, and notwith-
5 standing any action undertaken by the Department of
6 Education or a person contracting with or providing serv-
7 ices for the Department regarding the planning, or the
8 development of specifications, for the tests, the Board
9 shall—

10 (A) ensure that the content and standards for
11 the tests are the same as the content and standards
12 for the National Assessment;

13 (B) exercise exclusive authority over any expert
14 panel or advisory committee that will be or is estab-
15 lished with respect to the tests;

16 (C) ensure that the tests are linked to the Na-
17 tional Assessment to the maximum degree possible;

18 (D) develop test objectives, test specifications,
19 and test methodology;

20 (E) develop policies for test administration, in-
21 cluding guidelines for inclusion of, and accommoda-
22 tions for, students with disabilities and students
23 with limited English proficiency;

ensure that reading and mathematics tests are developed in such a way as to assess student reading and math comprehension in the form most likely to yield accurate information regarding student mastery of reading and mathematics skills; and

1 (F) develop policies for reporting test results,
2 including the use of standards or performance levels,
3 and for test use;

4 (G) have final authority over the appropriate-
5 ness of all test items;

6 (H) ensure that all items selected for use on the
7 tests are free from racial, cultural, or gender bias;
8 and

9 (I) take such actions and make such policies as
10 the Board determines necessary. (J)

11 (3) The National Assessment Governing Board shall
12 hold public hearings at which interested parties may com-
13 ment on the testing program within 120 days after the
14 end of the test development period. *and to add **
NAGB shall conduct

15 (b)(1) The National Academy of Sciences shall, not
16 later than September 30, 1998, submit a report to the
17 Board, the Secretary of Education, and Congress that—

18 (A) evaluates—

19 (i) the technical quality of the national
20 tests;

21 (ii) the validity, reliability, and adequacy of
22 the administration of the field tests;

23 (iii) the validity of the design for linking
24 test results to student performance; and

ensure that the tests are developed in such a way as to provide for the equal participation of all children taking the tests. The Board shall ensure that such hearings are widely publicized, and that activities conducted to publicize such hearings communicate effectively with the broad and diverse populations that may be affected by national tests.

'97 NOV 8 PM4:5

THE WHITE HOUSE
WASHINGTON

THE PRESIDENT HAS SEEN
11-9-97

November 8, 1997

Copied
Reed
Kagan
COS

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. **Immigration -- Central Americans/Haitians:** House and Senate Republicans have concluded their negotiations over the legislative package intended to provide relief to certain Central Americans. The final package (to be incorporated in the D.C. appropriations bill) provides amnesty to Nicaraguans and Cubans, while ensuring application of the old immigration law's standards to Guatemalans, Salvadorans, and nationals of former Soviet bloc countries. Notwithstanding our best efforts, the bill provides no relief to Haitians. The bill also cuts in half unskilled worker visas (from 10,000 to 5,000 annually), and reduces diversity visas by 5,000 as well (from 50,000 to 45,000 annually).

Because this package provides no relief to Haitians, Senator Moseley-Braun yesterday threatened to put a hold on the D.C. appropriations bill unless the Administration agrees to suspend the deportation of certain Haitians pending Congress's reconsideration of this issue next year. We quickly convened meetings involving the Departments of State and Justice, NSC, the Office of Legislative Affairs, the Office of Public Liaison, and others to discuss our options. We decided to ask Sen. Moseley-Braun and Rep. Conyers to seek commitments from the House and Senate leadership to consider Haitian legislation by a date certain. (In the Senate, Sens. Mack and Abraham appear to be on board this proposal.) With such commitments in place, the Attorney General could and would announce a decision to exercise prosecutorial discretion to suspend the deportations of individuals covered by the bill until Congress has had an opportunity to pass it.

If we cannot get commitments (or, at a minimum, informal assurances) from the Republican leadership to consider the Haitian issue next session, the Attorney General probably would not be able to exercise her prosecutorial discretion in this manner. In that event, you could decide to issue a Deferred Enforced Departure (DED) order to grant temporary relief to Haitians, as you said you would do to protect Central Americans in the absence of legislative action. The NSC might well recommend such an action on the basis of foreign policy considerations, though the Justice Department currently has some concerns about it. Everyone agrees, however, that we should not take this step without careful consideration and preparation -- i.e., we should not take it within 24 hours of a Senator's threat to hold an appropriations bill. Thus, if the AG cannot invoke her discretionary authority, we will attempt to convince Sen. Moseley-Braun that we share her objectives, that we are carefully considering ways of providing administrative relief to Haitians, and that she should drop her hold of the D.C. appropriations bill and allow this consideration to proceed.

11-9-97

2. Immigration -- INS Reorganization: The House Judiciary Subcommittee on Immigration held a hearing yesterday on the Commission on Immigration Reform's proposal to disband the INS and reallocate its functions among the Departments of Justice, State, and Labor. The subcommittee did not invite witnesses from the Administration, but Bruce sent a letter to the Chair and Ranking Member (Rep. Lamar Smith and Rep. Watt) informing them of the Administration's intent to review the Commission's recommendations and work with the subcommittee to improve the management and administration of the nation's immigration system.

3. Education -- National Testing: The House passed on Friday the Labor-HHS Appropriations Bill, which included a compromise on national testing that we worked out with Rep. Goodling. The compromise language allows test development to proceed under NAGB's control with the \$16 million we asked for in our FY 1998 budget, but delays pilot testing until October 1998. The final legislation also directs the National Academy of Science to study (1) the feasibility of linking existing state and commercially available tests to each other and NAEP; (2) the technical quality of the national test items now under development; and (3) a set of issues, of concern to the Black and Hispanic Caucuses, regarding the use and misuse of test results. We were able to ward off any requirement for future congressional authorization to proceed with implementation of the national tests. We will have a repeat of this battle a month before the 1998 elections. Assuming we prevail, pilot testing will begin in the fall of 1998, field testing will commence in the spring of 1999, and the tests will be ready for full implementation in the spring of 2000. The attached chart shows how the final compromise solution compares to both our original plan and the House-passed Goodling Amendment.

4. Education -- Charter Schools: The House also passed on Friday charter schools legislation that you previously had endorsed. The bill provides incentives to states to issue more charters, to give charter schools greater autonomy while ensuring that performance goals are met, and to allocate to charter schools their fair share of state funding. Earlier in the week, the Department of Education sponsored a national charter schools conference that drew over 800 participants, including charter schools operators and teachers. The conference gave participants the opportunity to become familiar with Education Department resources, to share lessons and strategies with each other, and to provide advice to the Education Department on the implementation of the charter schools program.

5. Education -- Vouchers/Coverdell: The House defeated a bill last week to permit local school districts to use Chapter 2 block grant funds for vouchers for low income students. The vote was 228 to 191, with 35 Republicans voting against the bill. In the Senate, proponents of the Coverdell proposal to permit tax-free IRA's for K-12 education again failed to end a filibuster. The vote was 56-44.

6. Health -- Quality Commission Update: We have tentatively scheduled an event on November 20 in which you will accept the Quality Commission's Consumer Bill of Rights and announce support for federal legislation (though not necessarily an Administration bill) to enforce certain consumer protections. We are also working with HHS on executive actions to apply the

11-1-97

Commission's recommendations to federal government programs. As you know, the consumer protection issue has received much attention recently because of statements from Republican leaders (Lott, Nickles, Arney) urging the business and insurance communities to oppose Federal legislation in this area. Sen. Lott supposedly has told businesses to "get off your butts and get out your wallets" and Rep. Arney has labeled any effort in this area "Clinton II." These statements are not playing well with the press or public. (Indeed, the 85 Republicans who have joined legislation by Rep Norwood (R-GA) going far beyond what the Quality Commission will recommend may have their doubts about these statements.) But the concern of the business community about premium increases is growing, and we will have to position ourselves carefully on this issue.

*Children's Health
Initiative
to
reduce
costs
to
families*

7. Health -- Children's Health Outreach Initiative: As you know, three million children are now eligible for but not enrolled in Medicaid. Many more children will be eligible for but not enrolled in the new children's health insurance program (CHIP). We have been meeting with HHS, NEC, and the First Lady's office to develop ideas for a major children's health outreach initiative. Policy options could include: simplifying Medicaid eligibility rules; distributing a model single application form for both programs; taking off restrictions on certain funds so that states can use them for outreach; and making it easier to enroll children in these programs at schools and child care referral centers. We are also considering other private sector outreach initiatives, such as having businesses that market health plans to parents promote enrollment. Finally, we hope to form a public/private steering committee that would continue to develop and encourage innovative outreach efforts. This committee could include representatives from HHS, NGA, Americorps, America's Promise, prominent non-profit foundations, provider groups, and children's advocacy groups. If you and/or the First Lady are interested, we could design an event to announce this initiative.

8. Crime -- Brady Bill: The Department of Justice expects to sign a memorandum of understanding (MOU) next week between the Attorney General, the Ohio Attorney General, and the Franklin County Sheriff (OH) to ensure that all handgun purchasers in Ohio are subject to background checks. Since the Supreme Court's decision in Prinze, the Ohio Bureau of Criminal Identification and Investigation (BCI&I) has conducted background checks only on consenting purchasers. Under the proposed MOU, the Franklin County Sheriff will conduct background checks on any non-consenting purchasers. Arkansas is now the only state in the country not conducting background checks on all purchasers.

9. Crime -- Stalking Report: The Attorney General may release a report next week showing that an estimated 1.4 million women are the victims of stalkers each year, and that as many as 1 out of 12 women will be stalked during the course of their lives. The Justice Department simultaneously will release a manual of "best practices" for prosecutors to address the stalking problem.

10. Race -- Equal Employment Opportunity Commission Reforms: You recently asked about how to improve the performance of the EEOC and obtain additional resources for it. As you know, the EEOC has come under attack from all sides for inefficiency and delay in resolving cases. At the same time, Congress has denied the Administration's requests for additional funding to cope

11-9-97

with expanded case filings (from 62,135 in FY 1990 to a projected 80,000 in FY 1997), choosing to provide marginal or no increases in resources.

For the last several months the DPC has led a review (also involving OMB, PIR, NEC, OPL, and the Counsel's office) of the primary federal offices involved in civil rights enforcement. Our goal is to propose a coordinated package of reforms for the EEOC and the civil rights offices at DOJ, HUD, HHS, Education, and DOL. With respect to the EEOC in particular, our review has suggested several ways to improve the performance of the agency. The most important, favored by employers and civil rights advocates alike, is a swift expansion of the EEOC's mediation program. Along with other changes at the Commission, including the improved use of technology and additional staffing, this reform could substantially increase the average speed of resolving complaints and reduce the EEOC's current backlog. We are working closely with OMB to determine the most appropriate level of resources to devote to this effort.

→ This is
a significant
part of it!

KEY ELEMENTS OF THE PRESIDENT'S PLAN FOR NATIONAL TESTS

CLINTON PLAN	HOUSE BILL	FINAL AGREEMENT
Authorizes development of first-ever voluntary national tests in 4th-grade reading and 8th-grade math	NO -- total ban on development of national tests	YES -- authorizes immediate development of national tests
Puts independent, bipartisan NACB in charge of tests	NO	YES
Provides \$16 million in FY98 for test development	NO -- no money for national tests	YES -- \$16 million for tests in FY98
Can proceed with pilot testing, field testing, and test administration without further authorization from Congress	NO -- would have required Congressional authorization before proceeding	YES -- does not impose requirement for future authorization from Congress
Begin pilot testing in 1998 (scheduled for March)	NO -- prohibits pilot testing	YES -- begin pilot testing in October 1998 instead of March

Date: 11/05/97 Time: 17:36

NAdministration, House Republicans agree on testing

WASHINGTON (AP) Standardized reading and math tests will be given to American schoolchildren under a tentative agreement reached Wednesday by President Clinton and congressional Republicans. But the tests may not be the ones Clinton wanted.

Clinton agreed with House Republican leaders on a compromise that would delay test availability until 2000. But he cautioned that more work would be needed to make the deal final. And the chief House negotiator, Rep. Bill Goodling, R-Pa., said a number of details remained to be worked out.

Clinton said the agreement should accomplish his goal of ensuring that fourth-graders are tested in reading and eighth-graders in math using identifiable national standards.

"My concern was to have some sort of clearly accepted standard of excellence that all our children would be expected to meet in reading and math," Clinton told reporters after meeting at the White House with Goodling, chairman of the House Education and Workforce Committee.

Under the agreement, the government may continue limited development of the voluntary national tests it wanted to give starting in 1999. However, no field trials of the new tests would be allowed.

Instead, the independent National Academy of Sciences would conduct a study to determine whether existing state tests and widely used commercial tests can be adapted and compared for the same purpose.

Clinton said that should ease Goodling's concern that the tests would needlessly duplicate existing measures that have identified which students and schools have troubles. The millions of dollars spent on testing should be spent on training teachers and other activities, he says.

"We've basically gotten all the information we need," Goodling said. "We know that we have problems, and we know where the problems are. Ours has to be an effort to try to solve those problems."

The administration says there are no assurances that state standards are as rigorous as the proposed national ones. Also, many of the existing commercial tests rate students against a moving average score instead of a fixed standard.

The study should take six months. It would have to be complete before the administration could implement its tests if existing ones cannot be adapted. But no congressional authority would be needed.

The testing proposal, the lead item on Clinton's education agenda, met fierce opposition in the House and had a growing core of opponents in the Senate.

But key conservatives, who argued that national tests would lead to a national curriculum written by a national school board, had a mixed reaction.

"Basically this stops national testing dead in the water for this year," said Rep. Lindsey Graham, R-S.C., who had led a rebellion against a previous agreement.

The agreement "may represent progress" said Sen. John Ashcroft, R-Mo., but he wants to read the fine print. "Senators should not pack their bags for recess yet," he said. "I do not intend to sacrifice the next generation's education for a few days more of rest."

The black and Hispanic caucuses in the House opposed the tests on grounds they could be used to discriminate. Goodling said the issue of bias would be addressed in the National Academy of Sciences review of individual tests.

Part of the agreement puts control of the test development in the National Assessment Governing Board, a bipartisan group created by Congress.

Senate Democrats were cautious but supportive. Many of the elements were proposed by Sen. Jeff Bingaman, D-N.M., an administration ally on testing. Bingaman said the deal should satisfy everyone as long as the study is not used to delay or obstruct the voluntary tests.

"If all sides stick to this compromise, it will be a tremendous victory for parents, teachers, students and all those who care about the quality of education in this country," he said.

An agreement, if accepted on the Hill, removes the only obstacle to passing an \$80.2 billion spending bill for the Education, Labor and Health and Human Services departments.

More than a month late, the bill includes spending increases for medical research, education aid, including Pell Grants for college students and Head Start.

Clinton was eager to deal, Republican aides said, as he tried to get support for legislation that would enhance his power to negotiate free-trade agreements.

APNP-11-05-97 1739EST

November 4, 1997

MEETING WITH REPRESENTATIVE WILLIAM GOODLING (R-PA)

DATE:	Wednesday, November 5, 1997
LOCATION:	Oval Office
TIME:	9:40am - 10:10am
FROM:	John Hilley Bruce Reed

I. PURPOSE

To discuss the national education test

II. BACKGROUND

The formal conference on the Labor/HHS appropriations bill concluded on Wednesday, October 29. While the Administration's top funding priorities for the bill were resolved satisfactorily, the conference agreed to a compromise on national testing sponsored by Congressman Obey, that was not acceptable to either the Administration or Chairman Goodling. The "Obey compromise" would have permitted further development of the test but required that administration of the test be subject to future authorization. Over thirty-four Senators (a sufficient number to sustain a veto) wrote you indicating that they would vote to support your veto of this legislation. To date, the conference report has not been filed and the next steps are unclear.

Goodling Views

As you know, Congressman Goodling has been a fierce opponent of your national education test initiative. He believes that the test will result in unfair comparisons between school districts and states, is a precursor to a national curriculum, and is a waste of federal resources which could be more profitably spent on other education objectives. However, in attempt to work with the Republican leadership, Goodling has proposed a number of "compromises", the latest of which would ban development, implementation, field test, pilot test and distribution of the national test unless future authorizing legislation is enacted into law. Two studies by the National Academy of Sciences to evaluate alternative tests and the national test (although it is banned by the Goodling proposal) would also be proposed.

Proposal to Goodling:

We propose to resolve our differences with Goodling by: (1) postponing a final resolution on the issue of the implementation of national tests for another two years; (2) allowing the development and field testing of the tests to proceed over the next two years (a one-year delay in our original plan); and, (3) simultaneous with national test development, commissioning the National Academy of Sciences and the National Assessment Governing Board to conduct a series of studies to determine which, if any, state or commercially available tests could be equated to the national tests in a valid and reliable manner. (This approach builds on an approach initially proposed by Mr. Goodling.)

In effect, both approaches would proceed in the "development" phase over the next two years. There would then be adequate information to determine whether a single national test is required in order to measure student performance against national standards, if existing tests can perform that function adequately, or if a combination of both approaches is needed.

We anticipate that we will be in a stronger position to gain support for implementation of our national tests at the end of the two year period, as a result of NAGB's bipartisan leadership, and the completion of development and field testing. In addition, we believe strongly that the studies of other tests will show that very few commercially produced or state-developed tests can appropriately be equated with national standards, though the opportunity to do so may provide an incentive for commercial test publishers to modify their tests.

More specifically, under this approach, work on the national tests would proceed as follows:

- NAGB would be in charge of test development, as in the Senate-passed bill
- Pilot testing of test questions would occur in the Spring of 1998, involving a national sample of approximately 600 schools and 46,000 students
- Field testing of the tests, including administration and scoring procedures, would occur in Spring 1999, involving a national sample of approximately 1,400 schools and 100,000 students
- It would be possible in the Spring of 1999 to also administer the national tests to the 7 states and 15 school districts that have already signed up for the test, as a trial administration.
- The first nationwide implementation of the tests would occur in Spring, 2000.

At the same time, feasibility studies would be conducted by the National Academy of Sciences and the National Assessment Governing Board to determine if specific tests could be equated to the national test in a reliable and valid fashion. Tests that can be equated to the national tests would be able to provide individual student scores in terms of the national test achievement levels (e.g., basic, proficient, or advanced). This process would work as follows:

- NAS and NAGB would determine the procedure for conducting the equating studies.
- Interested states or commercial test publisher would volunteer to participate in equating studies
- The studies would be conducted during 1998 and 1999
- NAGB would review the results of the studies and determine which tests could appropriately be equated to the national tests.

III. PARTICIPANTS

Pre-Brief

President
Erskine Bowles
John Hilley
Bruce Reed
Mike Cohen
Barbara Chow
Andy Blocker

Meeting

President
Rep. William Goodling
Erskine Bowles
John Hilley
Bruce Reed

IV. PRESS PLAN

Closed Press.

V. SEQUENCE OF EVENTS

As Usual.

VI. REMARKS

None.

Elena:

Attached is the summary from Goodling's staff regarding the basic agreement reached with Hilley. I've shared this with Bruce, and discussed it with him and with Vic Klatt on Goodling's staff. A couple of points to keep in mind at the morning meeting:

1. This basically tracks John's summary of the agreement to Bruce--there are no real surprises. More specifically, fyi:

-- The first bullet is more favorable to us than expected-- it reads as though we can proceed with administration and implementation as well as field testing once NAS provides its report. I hope they don't catch their mistake, though I fear they might.

-- Only the first two bullets need to be drafted into legislative language--the other 3 are "understandings". I offered to have them drafted, but Goodling's staff wants to take care of that themselves.

2. Goodling's staff agreed that we are working toward having this shaped up enough for Goodling and POTUS to ratify when they meet, rather than have them continue to negotiate over it. However, Goodling will need to sell his side in both houses on this, and will probably not have this job done by the time he meets with POTUS.

3. This is not ready to be leaked yet, and may or may not be ready for announcement at the conclusion of the POTUS/Goodling meeting.

-- Goodling will have to sell this to a number of key people on his side of the battle, in both the House and Senate. His staff is concerned that this not leak out until he's had a chance to do that (I think they are right on this), and it's not clear if all of the necessary vetting will be completed by the time of the meeting.

-- Bruce and I discussed the merits of pushing Goodling to a joint announcement after the meeting, to lock this in. We agreed we need to play this by ear for a while this morning.

4. We also need to give our side--especially Bingaman, Kennedy, Dorgan and Obey -- a heads up on this. I'll work with Barbara Chow to get this done.

5. Despite the uncertainty over the timing of a testing announcement, it is still worth figuring out a quick way to get POTUS in the news on education today, because, (1) I can't

believe this news won't break sometime today unless it falls apart; (2) the agreement on tests will be big news; (3) the labor-HHS bill is a great education spending bill that we ought to take credit for; (4) it builds on Tuesday's wins for us when the Senate again blocked a vote on Coverdell and the House defeated a voucher provision--and may have voted for a charter schools bill as well. (I'm not sure if they are voting on charters late Tuesday--will need to check in a.m. for more details on this last point).

Note--I've also attached a Q&A in case its needed this morning, and a first cut at the claims we can make when it is time to declare victory.

Mike

P.S. - page me if you need me

Q. & A. for Wednesday morning, prior to Goodling meeting:

Q. The President will be meeting with Bill Goodling later today. Has the Administration reached a deal with Mr. Goodling or the Republican leadership on national tests?

A. The President remains firmly committed to ensuring that any Labor-HHS appropriations bill he signs will enable work on the development of national tests in 4th grade reading and 8th grade math to proceed, and will not prohibit the implementation of the tests once they are developed.

In order to accomplish this, the President is always willing to sit down with opponents of his testing proposals and find ways to address their concerns. That is what he will be doing with Mr. Goodling this morning.

There are a number of potential compromise proposals being floated by various Members of Congress, none of which have been agreed to yet. There is no deal that has been reached. However, both Mr. Goodling and the President have ideas of how we can move forward. That is what they will discuss, and we hope after discussion we can find ways of bridging our differences.

Preliminary Talking Points for Potential Announcement of Testing Agreement:

For the first time in American history:

- o There will be national tests established in 4th grade English reading and 8th grade math, measuring individual student performance against widely accepted national standards.
- o An independent, bipartisan board (the National Assessment Governing Board) will be in charge of overseeing the development and administration of the national tests, ensuring that these tests will be national, not federal.
- o Congress has provided bipartisan support for the development of national tests tied to national standards.

Bruce:

I just got the attached from Vic. Here are a few key points:

1. The first bullet is better than we thought, in all respects except one. The good news is that the first sentence reads as though we would be clear to administer and implement once the NAS report is completed--a huge victory. The down side is that they ban pilot testing in addition to field testing before the NAS study is completed. This is a small glitch; I've already checked ED's new timetable and talked to Smith, and I think if we need to we can push back on pilot testing until the Fall of 1998 instead of the Spring. It's worth doing if we can read the overall approach as favorably as I do.

2. This is still not clear as to whether they are accepting the Senate NAGB provisions. We want them to, basically without change. (though if we are going to easily add a few more conservatives, we probably want to put back the curriculum experts the Senate took out, in order to provide a spot for E.D. Hirsch or the conservative math guy. I'd like to figure out a way to raise this without complicating the whole deal, though if we need to let it slide we should.

3. I assume that the third and fourth bullets are not in legislation, though I suspect they will be in Goodling's talking points. Do you think we can get the President to get Goodling to reporting out a bill with a clean testing authorization so we can fight it out on the floor, rather than seeing it killed in committee? Or is that giving away too much ground in light of my reading of one above?

4. I wish I understood what we are going to allow states to use federal \$ for in the last bullet. I think we might want to take a "no strings" approach and simply make clear that states can use any of the funds in these programs for state or national tests, regardless of what NAS says. However, this is not exactly a big point.

Vic will be reachable for a while tonight, and I'm willing to call him if we want to clarify any of this with him. If you want to discuss this tonight, please have signal page me with a call holding message. I'll be up for quite some time, though the rest of the family would prefer not to hear the phone ring as they nod off.

Mike

FAX COVER SHEET

Office of Senator Jeff Bingaman
703 Hart Senate Office Building Washington, D.C. 20510

TO:
OFFICE:

FROM:
OFFICE:

ALEXANDER
Office of Senator Jeff Bingaman
United States Senate
Washington, DC 20510

PAGES: , total (including cover sheet)

Comments...

THE TESTING
LETTER - 37
AS OF NOW.

Sending to fax number: () -

United States Senate

WASHINGTON, DC 20510

October 30, 1998

The Honorable William Jefferson Clinton
President
The White House
Washington, D.C.

Dear Mr. President:

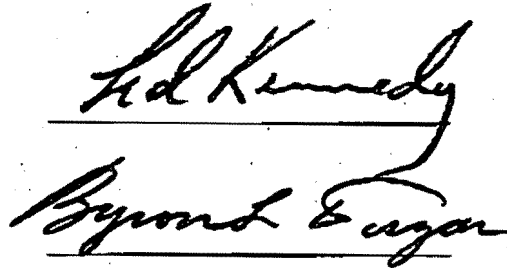
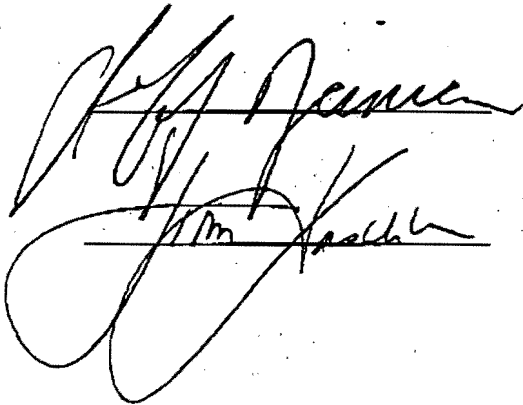
We the undersigned are writing in opposition to the so-called 'compromise' on national testing, which would effectively block the implementation of voluntary 4th grade reading and 8th grade math tests that several states and school districts have already indicated their intention to use when they become available.

We believe that voluntary national tests using rigorous academic standards should be readied and states and local school districts should be allowed to make their own decisions about whether or not to use them. For the first time in our nation's history, a voluntary national testing program would allow parents around the nation to compare the academic performance of their children, their neighborhood schools, and their local district with any other place in the nation, using world-class standards.

However, the proposal now being considered would prevent states and districts from choosing to use voluntary national tests, because it bans any implementation of voluntary national tests without specific Congressional authorization. In contrast to the Senate-passed compromise, which ensured that the tests were entirely voluntary and transferred authority to develop and implement the new tests to the independent and bipartisan National Assessment Governing Board, this proposal puts the fate of the voluntary national tests in the hands of its sworn opponents.

Because we support letting states and districts make the choice about whether or not to use voluntary national tests, we would support your decision to veto the Labor-HHS-Education appropriations conference report if it included this provision.

Sincerely,



Tom Kelly
Ken Can

Ron Wyzlen

Carol Morley Brown

Barbara M. M. M. M.

Jay Relyea

Dwight Ford

Carl Linn

John Glenn

John Reed

Dele Bumpers

Bob Kerrey

Jeffrey Keith

Don Durkin

Paul Barber

Clifford Smith

Robert M. M.

Robert M. M.

Max Cleland

W. M. M.

Patrick Leahy

TZL

Tom Johnson

J. Kilmer

Wm. J. Fortson

Frank R. Lautenberg

Max Baucus

Daniel K. Akaka

R. Durbin

Chuck Robb

Dianne Feinstein

Bob Casey

Johnny
