395-6418

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE GENERAL COUNSEL

Division of Legislative Counsel
(Telephone # - 401-2670)

Telefax Transmittal Sheet
(Telefax # - 401-3769)

TO: Connie Bowers / Janet Forsgren

FROM: Jack Kristy

DATE/TIME: 4/27

PAGES SENT (including transmittal) 11

COMMENTS:

Last ED comments on National Service bill and section-by-section.

400 MARYLAND AVE. S.W. WASHINGTON, D.C. 20202-2110

103D CONGRESS
1ST SESSION

S. ____

IN THE SENATE OF THE UNITED STATES

______________ introduced the following bill; which was read twice and referred to the Committee on ______________

A BILL

To amend the National and Community Service Act of 1990 to establish a Corporation for National Service, enhance opportunities for national service, ~~and~~ provide national service educational awards to persons participating in such service, and for other purposes. establish a FDSCP

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Service Trust Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

"SEC. 148. DISBURSEMENT OF NATIONAL SERVICE EDUCATIONAL AWARDS.

ED's part provides for Trust to pay interest during forbearance while borrower is providing service yet that is not mentioned here. Shouldn't it be specifically authorized by this statute?

"(a) In General.—Amounts in the Trust shall be available—

"(1) to repay student loans in accordance with subsection (b);

"(2) to pay all or part of the cost of attendance at an institution of higher education in accordance with subsection (c); and

"(3) to pay expenses incurred in participating in an apprenticeship program in accordance with subsection (d).

"(b) Use of Educational Award to Repay Outstanding Student Loans.—

"(1) Application by Eligible Individuals.—An eligible individual under section 146 who desires to apply his or her national service educational award to the repayment of qualified student loans shall submit, on a form prescribed by the Corporation, an application to the Corporation that—

"(A) identifies, or permits the Corporation to identify readily, the holder or holders of such loans;

"(B) indicates, or permits the Corporation to determine readily, the amounts of principal and interest outstanding on the loans; and cational award that may be disbursed under this subsection for any period of enrollment shall not exceed the difference between—

"(A) the eligible individual's cost of attendance for such period of enrollment, determined in accordance with section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll); and

"(B) the sum of (i) the student's estimated financial assistance for such period ~~pursuant to~~ for purposes of ~~part A~~ of title IV of such Act (~~20 U.S.C. 1070 et seq.);~~ and (ii) the student's veterans' education benefits, determined in accordance with section 480(c) of such Act (20 U.S.C. 1087vv(c)).

Est. Fin. Assistance is not defined in HEA. It is defined for FFEL purposes in 34 CFR §682.200 (12/18/92) Fed. Reg.

"(7) [Other to be supplied].—

"(d) USE OF EDUCATIONAL AWARD TO PARTICIPATE IN APPRENTICESHIP PROGRAMS.—The Corporation shall by regulation provide for the payment of national service educational awards to permit eligible individuals to participate in recognized and approved apprenticeship programs. Such regulations shall—

(1) [conditions for regulations to be supplied on basis of labor initiatives].

"(e) GENERAL ADMINISTRATIVE PROVISIONS.—

"(5) INELIGIBILITY OF NATIONAL SERVICE EDUCATIONAL AWARD RECIPIENTS.—No student borrower ~~who~~ may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12751 et seq.).". [Note: assumes prevention of double benefit for service will occur at time of service, not at time of loan repayment. How will this be implemented and coordinated between Corporation and Sec. of Ed.?]

I wouldn't worry about it since unless Cong ~~significantly~~ significantly changes (& funds) §428J no one will get benefits under that section. Also, that section only provides forgiveness for last 2 yrs of undergraduate education. Do you want to bar them from getting any additional benefits under this law as a supplement?

(5) IMPACT ON ELIGIBILITY FOR PERKINS LOAN FORGIVENESS.—Section 465(a) of the Higher Education Act of 1965 (20 U.S.C. 1087ee(a)) is amended by adding at the end the following new paragraph:

"(6) No borrower ~~who~~ may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12751 et seq.).". [Note: assumes prevention of double benefit for service will occur at time of service, not at time of loan repayment. How will this be implemented and coordinated between the Corporation and the college to whom the loan is repaid?]

"(10) INDIAN LANDS.—The term 'Indian lands' means any real property owned by an Indian tribe, any real property held in trust by the United States for an Indian or Indian tribe, and any real property held by an Indian or Indian tribe that is subject to restrictions on alienation imposed by the United States.

"(11) INDIAN TRIBE.—The term 'Indian tribe' means an Indian tribe, band, nation, or other organized group or community, including any Native village, Regional Corporation, or Village Corporation, as defined in subsection (c), (g), or (j), respectively, of section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602 (c), (g), or (j)), that is recognized as eligible for the special programs and services provided by the United States under Federal law to Indians because of their status as Indians.

"(12) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

§148(g) p. 61 uses a different definition of IHE—DO they want to be consistent

"(13) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the same meaning given such term in section 1471(12) of the Ele-

Illustrative Comments

** In general, the section by section needs to be expanded — to explain clearly and in greater detail what the bill would provide and how current law would be changed — and why!

NATIONAL SERVICE TRUST ACT OF 1993

SUMMARY

The National Service Trust Act of 1993 has five titles.

Title I contains programs: the new national service program offering educational awards in return for service; amendments to service programs for school-age youth and students in institutions of higher education; and an investment fund to promote quality and innovation in programming. Title I amends the National and Community Service Act of 1990 ("NCSA").

? Sounds like computers.

Title II establishes the organizational framework for these programs: State Commissions on National Service and a federal Corporation for National Service. Title II also amends the NCSA.

Title III replaces the guaranteed student loan program with a federal direct student loan program, makes available flexible repayment of loans to all borrowers, and simplifies the student loan system while expanding access. Title III contains amendments to loans to the Higher Education Act of 1965 ("HEA").

Title IV reauthorizes the NCSA and the Domestic Volunteer Service Act of 1973 ("DVSA"), amends DVSA, and authorizes appropriations for titles I and II of the Act.

Title V contains the technical and conforming amendments.

* Since this bill has not yet been enacted, it is more appropriate to use the subjunctive, i.e. to describe what the bill would do.

SECTION-BY-SECTION SUMMARY

Section 1. Short title~~, and~~ table of contents.

The short title of the bill is the National Service Trust Act of 1993.

Explain briefly what programs you are removing from the NCSA

TITLE I -- PROGRAMS

Subtitle C -- National Service Program

Section 101. Federal investment in support of national service.

Section 101 of the bill would replace~~s~~ Subtitle C of title I of the NCSA with a new National Service Program, as follows:

~~PART I -- INVESTMENT IN NATIONAL SERVICE~~

Proposed part I of Subtitle C of title I of the NCSA would...

Section 121. ~~Authority to provide assistance to national service programs.~~ Proposed section 121 of the NCSA would...

* It is difficult to distinguish sections of the bill from proposed sections of the NCSA. Please make this clear throughout the section-by-section.

The Corporation for National Service ("Corporation") is authorized to provide assistance to national service programs and to provide educational awards to participants in approved programs. Organizations eligible to apply for such assistance include nonprofit organizations, institutions of higher education, school districts, local governments, States and Federal agencies.

Programs may not use more than 5 percent of their program assistance for administrative costs.

Section 122. Types of national service programs eligible for program assistance.

A variety of national service programs will be Proposed eligible to receive funding. All programs must provide opportunities to perform full- or part-time service that meets unmet human, educational, environmental, or public safety needs. Section 122 of the NCSA lists a number of examples of qualified programs, to which the Corporation may add others: (1) diverse community corps; (2) youth corps; (3) service-learning programs; (4) specialized services programs; (5) individualized placement programs with regular group activities; (6) campus-based programs; (7) preprofessional programs with summer training while in college; (8) professional corps; (9) youthbuild programs; (10) national service entrepreneurship programs; and (11) intergenerational programs.

In consultation with experts in the fields, the Corporation will establish different quality criteria for different types of programs. The Corporation's criteria will apply to all grants made under the Act, including grants by States and other programs operating subgranting programs.
which Act? the NCSA?

The Corporation will also establish priorities to focus national service programs on meeting particular unmet human, educational, environmental, or public safety needs. The Corporation will provide notice of these priorities and changes as they are made. These priorities will be applied in funding decisions made by the Corporation, States, or other subgranting programs.

Section 123. Types of national service positions eligible for approval for national service educational awards.

All participants in programs that receive operating assistance will be eligible to receive educational awards. In addition, participants in certain other service programs will be eligible for educational awards. The following categories, to which the Corporation may add others, will be eligible to receive educational awards: (1) positions as participants in programs receiving assistance under proposed Section 121 of the NCSA; (2) positions in approved national service programs not receiving federal operating assistance; (3) positions as VISTA volunteers; (4) positions as service-learning coordinators in programs receiving assistance under the Serve-America program; (5) positions in the Civilian Conservation Corps; (6) positions on the staff of approved national service programs; (7) certain positions as employees in jobs meeting unmet needs, that are unlikely to be filled in the next 6 months, and are located in economically disadvantaged areas. and

Section 124. Types of program assistance.

The Corporation is authorized to make several kinds of grants: planning grants for up to one year; operational assistance, and replication assistance. Operation and replication assistance may be for three years and is renewable. States and other organizations operating grant programs may provide the same types of assistance through sub-grants.

Section 125. Training and technical assistance.

The Corporation is authorized to provide training and technical assistance, either directly, or by grant or contract. Training programs will help national service programs meet unmet needs, develop leaders, instill an ethic of civic responsibility in participants, improve management and budgetary skills, and enhance the training of participants. Technical assistance will help applicants develop programs and apply for assistance.

Section 126. Other special assistance.

The Corporation may also provide assistance to states in order to establish State commissions, to corps and other national service programs in order to provide disaster relief, and to high-quality model programs as challenge grants, which would offer $1 of assistance for every $1 raised from private sources. Funding for these purposes would be subject to a limited? by time? #? authorization of appropriations.

Note: Some section headings are capitalized while others are not. Please make consistent.

PART II -- APPLICATION AND APPROVAL PROCESS

Section 129. Provision of Assistance and Approved National Service Positions by Competitive and Other Means.

National service programs must apply to the Corporation through State Commissions on National Service ("State Commissions") or directly. The Corporation may only distribute such funds as are available in each fiscal year. Funds allocated for educational awards will be maintained in a separate National Service Trust and will not be available for program expenses.

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

DRAFT

Dear Colleague:

timing?

President Clinton will soon send a bill to Congress on national service and student loan reform. Many of you have been hearing misleading reports of these proposals, put out by organizations with a major financial stake in the status quo. I write to you today to clarify the student loan portion of this bill.

Our primary objective in revamping the student loan system is to serve students better. A new streamlined system will simplify the administrative tasks of educational institutions, make the system easier to understand, provide students with greater choice in repayment plans and lower costs to taxpayers and students.

Make no mistake about four central principles of our proposal:

- No school will be required to originate loans if ~~they do~~ it does not want to.
- Those schools that choose to originate loans will receive a fee for administrative costs.
- Correct? Access to student loan capital will continue to be an entitlement.
- There will be no gaps in access to capital for any eligible student or parent. ~~and all the capital will be Federal.~~

President Clinton is deeply committed to increasing educational opportunity by providing young people with the chance to serve their country and their communities. In return for their commitment, he intends to help them meet the costs of a college education or job training. The national service program will provide educational benefits in return for national service performed before, during and after college. The Department of Education will implement a direct student loan program that will provide all students with a range of flexible repayment options, including income contingent repayment. Under this program, students who choose to take low-paying community service jobs, whether part of the national service program or not, will be able to repay their loans as a small percentage of their income so that they will not be overburdened by debt.

The major savings from direct lending derives from using Federal borrowing for student loans rather than private capital guaranteed by the Federal government. The cost estimates include a significant allowance for administrative costs to the Department of Education and educational institutions. Eligible schools would originate loans if they chose to do so, and they would receive a small fee from the Department of Education to help cover additional costs. Nonetheless, I understand that not every institution would want to originate loans, and in these cases, an alternative originator will be available at no cost to the institution. We are confident that a new system will prove easier to use, more efficient for institutions and students, and much less costly than the current student loan structure.

Please take the time to read the enclosed background material which addresses many of the specific issues raised by the opponents of direct lending. If you would like a full copy of the Administration's bill and the section-by-section analysis, we will be glad to send you one. If I can be of further assistance, please contact my office at (202)401-3000.

We look forward to your support of this plan to serve students, families, and schools better.

Sincerely yours,

Richard W. Riley

10H6D12D

3BE X E C U T I V E   O F F I C E   O F   T H E   P R E S I D E N T0B

27-Apr-1993 05:32pm

3B TO:0B Christopher J. Mustain

3BFROM:0B Steven H. Semenuk

3B 0B Office of Mgmt and Budget, OIRA

3BSUBJECT:0B DNational Service Legislation@

Comments form Steve Semenuk and Dan Chenok on the draft National Service Legislation:

1) p.1 of President's letter, paragraph 4 indicates that the bill will effect the change to direct student loan program. Where in the bill is this change proposed?

2) p.2 of the letter, paragraph 3 leads one to believe that IRS is not part of the Treasury Department.

3) p.30 of the bill draft. (c)(2) More specificity on the extent of consultation would be helpful. As drafted, this could cause and overly burdensome consultation requirement.

4) p.54 and p.57 (b)(1) and (c)(1). Replace "on a form" with "in a manner." The legislation should not lock the Corporation into requiring a new form. It might be possible to collect this information on a slightly revised version of existing forms.

5) p.60 (d) Why are apprenticeship programs the only acceptable form of work-based learning? Apprenticeship programs are often oriented only toward manual skills. What about programs that teach the use of computers on the job, etc? Please keep us informed about any changes to this section.

LRM #D-172

RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

If your response to this request for views is simple (e.g., concur/no comment) we prefer that you respond by faxing us this response sheet. If the response is simple and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a secretary.

You may also respond by (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); (2) sending us a memo or letter; or (3) if you are an OASIS user in the Executive Office of the President, sending an E-mail message. Please include the LRM number shown above, and the subject shown below.

TO: Chris MUSTAIN
Office of Management and Budget
Fax Number: (202) 395-6148
Analyst/Attorney's Direct Number: (202) 395-3923
Branch-Wide Line (to reach secretary): (202) 395-7362

FROM: April 27, 1993 (Date)
William R. Ratchford Marcia K. Smart
Associate Administrator (Name)
for
Office of Congressional Affairs
General Services Administration (Agency)
501-0563 (Telephone)

SUBJECT: ONS Draft Bill National Service Trust Act of 1993

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No objection

_____ No comment

_____ See proposed edits on pages _____

X Other: See attachment for comments.

_____ FAX RETURN of _____ pages, attached to this response sheet

Attachment

GSA submits the following comments to the bill:

p. 128 We are commenting only on Title II -- "Organizations", Sections 201 nd 202 (old Sections 178, 192, and 195). We defer to ONS and OMB on the remainder of the bill.

The State Commissions on National Service (Section 178) established by states with members appointed by their respective governors, would not be subject to the Federal Advisory Committee Act (FACA) as amended, and GSA's related regulations.

p. 135 The Corporation for National Service is a government corporation in the Executive Branch, headed by a collegial body, the Board of Directors (Section 192). This board also would not be subject to FACA, and GSA's related regulations.

p. 156 Section 195(e) gives the Chairperson of the Board of Directors strong, but discretionary ("may establish") authority to establish "advisory committees in the Corporation to advise the Board," which would appear to be subject to FACA.

Consistent with the policy established by Executive Order 12838 of February 10, 1993, GSA objects to the authorization of new advisory committees pending completion of the review of all advisory committees required by OMB Bulletin 93-10, issued April 9, 1993.

Section 202 of ONS Draft Bill No. 20, entitled "National Service Trust Act of 1993," establishes a Corporation for National Service. Section 192 establishes a Board of Directors for the Corporation. Section 192A(d) of the draft bill provides:

> "(d) Expenses -- While away from their homes or regular places of business on the business of the Board, members of such Board may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

Necessary travel expense of employees are authorized throughout Subchapter I of Chapter 57, Title 5, United States Code. GSA, therefore, recommends that Section 192A(d) of the draft bill be revised to read:

p. 139
> "(d) Expenses -- While away from their homes or regular places of business on the business of the Board, members of such Board may be allowed travel expenses in accordance with the provisions of subchapter I of chapter 57 of title 5, United States Code."

GSA further notes that the draft bill uses the language "may be allowed" which makes these payments discretionary. GSA recommends the language be changed to "shall receive payment for" so the Board will not have to establish rules determining when the Corporation should pay the member's travel expenses. This change will ensure that Board members receive payment in all instances for the same necessary travel expenses that are authorized for Federal employees.

UNITED STATES DEPARTMENT OF COMMERCE
Office of the General Counsel
Washington, D.C. 20230

April 27, 1993

MEMORANDUM FOR CHRIS MUSTAIN
OMB
(395-3923)

FROM Ken Clark
Department of Commerce

SUBJECT "Copyright" provision of ONS Draft "National Service Trust Act of 1993" (LRM D-172)

The Patent and Trademark Office (PTO) of this Department advises that Section 470 of the draft bill, entitled "Copyright Protection," is seriously flawed. Following is my understanding of the problems they find with the provision. **For more specific and authoritative advice, please contact either Lee Skillington or Dieter Hoinkes of the Patent and Trademark Office at (703) 305-9300.**

First, I am advised that copyright protection is not appropriate, or available, for the type of logos, phases and acronyms cited in the provision, since these clearly are not "original works of authorship." In any case, the "ownership" legal status accorded by the draft provision to the cited logos, phrases, etc., is not consistent with the copyright concept.

Trademark protection might be a possibility. However, numerous of these acronyms are already subject to trademark protection. For example, a quick search of PTO records this morning indicated that the acronym "RSVP" is the subject of at least 59 applications and/or registrations, and "VISTA" shows up in 354 different PTO documents which are either registrations or applications. Applications or regristrations also exist for "SCP" and "FGP." (We do not know whether these registrations or applications involve the same field of service contemplated by this statute.)

I am advised that it might also be possible to use title 36 of the United States Code, which is directed toward the establishment, incorporation, and name protection of patriotic societies.

Other approaches might also be available. At any rate, the present draft of section 470 fails to accord protections under any of the existing mechanisms. PTO would be pleased to advise regarding the best approach, provided they are informed of the purpose of the intended protections.

__0__ page(s) follow.

Transmitted to: 395-6148

April 27, 1993

NOTE TO: CHRIS MUSTAIN

FROM: ERIK JOHNSON

RE: NATIONAL SERVICE TRUST ACT OF 1993

Section 140 (c) of the draft bill would require the Corporation, or a grant recipient, to provide an amount of money that would cover 85% of the cost of a basic health care policy for each full-time participant in the program who does not otherwise have access to health insurance. Moreover, the Corporation would establish the contents of the basic package.

There are several considerations on this provision:

- We assume that if health care reform legislation requires a standard benefit package to be offered to all purchasers of health care insurance that a "basic package" would be identical to that established under health care reform.

- If an organization for which an individual works, e.g., a police department, offers a health insurance benefit package that differs from that prescribed by the Corporation, we believe that the language should allow for that package to be substituted for the Corporation-specified package.

- This provision may encourage individuals who have purchased health insurance to drop their coverage in favor of Corporation-subsidized health insurance. The legislation could incorporate mechanisms that would prohibit individuals from dropping existing coverage in favor of Federally-subsidized coverage.

cc. Victor Zafra

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

ROUTE SLIP

TO JACK LEW	Take necessary action
	Approval or signature
	Comment
	Prepare reply
	Discuss with me
	For your information
	See remarks below xxx

FROM Pamela B. VanWie, Labor Branch **DATE** April 28, 1993

PBW

REMARKS

I am sure you are tired of reading comments by now. However, here are some more that came through our General Counsel's office that I wanted to raise with you.

Page 23 (g) (1) The wording in the last half of the last sentence is not clear. I guess it could be interpreted to allow the Corporation to allocate more positions than there is money in the trust. Is this the intent of the language? I don't think so but the GC's office thought it might clear up the wiggle room if the last half of the last sentence was taken out.

Page 49 (b) Investment of the Trust. There are still some concerns about having a straight appropriation account earn interest. Apparently, this typically is not done. They are concerned that the President might not want to propose something like this in his legislation. However, everyone agrees that the President and Congress can make a law anyway they like

Page 49 (b) the Bold Bracketed portion of the paragraph also raised some concerns. The reading is that this phrase would allow the Corporation to invest the gifts and bequests as they wish. This might not be a good idea since the remainder of the funds are to be invested by the Secretary of the Treasury as he sees fit. I guess we hope the bold brackets suggest pulling the language from the paragraph.

Call me if you have any questions or need any more clarification on these comments. Thanks and Good Luck.

COMMENTS ON THE NATIONAL SERVICE LEGISLATION

p. 6 L.7 — Should "to" be "too" or dropped from the sentence?

p. 9 L 9 — (B) should be (C)

p. 13 L 8 — Read in conjuction with section 424(a) [p. 179], we are unclear if VISTA volunteers would receive the educational award in place of or in additon to the VISTA readjustment (post service) allowance.

p. 19-20 — Section 129 (a) (4) Failure to Apply. If a State fails to apply for assistance, how will the Corporation go about making grants to other organizations within the State? Will the Corporation solicit grant applications or increase amounts to already existing organizations? We assume the latter, but could not tell by the language.

p. 20-21 — Section 129 (b) is unclear. Here is how we read it: Only if the total number of national service positions that will be available (that will be funded) is 2 times greater than the number of VISTA and CCC positions will the VISTA and CCC positions receive the educational award. Is this what was intended? If possible, you may want to change the wording to make it more clear.

p. 21 L 8 — While we understand the intent of this section, Administrations try not to restrict their flexibility by setting floors on activities. If one is necessary, we recommend it be low so that the program retains as much flexibility as possible in using its resources.

p. 24 L 1 — Can the Federal government ask sponsors to contribute the deposit for the educational award to the trust? How much and when are they asked to contribute it?

p. 38 L 18 — Insert "to" in between respect and assistance.

p. 43 L 13 — This paragraph discusses what would be called a hardship release from the program. However, the bill does not address the release of those participants that are not complying with the rules and regulations of the program. Do you want to add a section that states something like those released "for cause" would not be eligible for the benefit? See also section 147 (b) for the same qualifier.

p. 46 L 6 — Program organizations are being asked to fund 15% of a participants health benefit while the Corporation pays 85%. ACTION currently pays for all of the VISTA health benefit. Was this intetional or an oversight?

p. 46 L 12 — This language guarantees child care for welfare recipients. If it is important to make sure that non-welfare single parents are not excluded because of child care costs, language permitting the use of the funds for this purpose would be preferable to the guarantee in the current draft.

p. 53 Section 147 (c) and (d) exclude the education award from taxation and from determining eligibility for Federal means-tested programs. We understand the purpose, but are exploring whether this has PAYGO consequences. Also, will these provisions throw this bill into the tax and agriculture committees? You will know best, but we assume you do not want multi-committee referrals. (See also page 62 provisions)

p. 57 L 15 Is this SLC style? We would write out "one" rather than "1". Also the same on page 59, line 5 and page 148, line 2.

p 114 L9 We understand why this provision is in the bill, but believe the Corporation should not fund uniforms for programs. The development and dissemination of training and other materials can be funded by Corporation funds but why shouldn't uniforms come from the funds raised by the program? While we are sure you've considered this, we wonder if the public might not consider uniforms a frivolous expense.

p 136 L 22 This is a dicey problem for the Corporation. This section states that an individual who (whose organization) received financial assistance to carry out activities under this Act during a period shall not be eligible to be appointed to the Board during such period. However, the next sentence continues to say that an individual who is an applicant for such financial assistance may be appointed to the Board but shall not participate in any decision involving such assistance. What if the individual's organization, who is appointed to the Board, then receives financial assistance, is the individual required to relenquish his place on the board in line with the first sentence? While we assume not from the draft language, there is nonetheless a strong potential for charges of (or perceptions of) conflicts of interest. Chinese walls are not possible in this situation and revisions may not be sufficient. Can there be stronger safeguards built in? If we had a good suggestion we would provide it.

deleted

p 137 L5 For smooth transition reasons we understand the purpose of this provision. However, the Corporation is going to be a brand new organization. Why shouldn't it have a brand new Board that does not have any preconceived notions about how things work? Some members should be required rather than having all members of the new Board be members from the CNCS.

p 150 L 1 The use of the word term is confusing. On page 149, line 15, a term (eventhough "initial) is specified to be 5 years. On page 150, line 7, it states that no such employee shall be appointed for a total of more than 7 years. Are the additional terms one year terms? We assume so, but do not find the explanation in the draft.

p 151 L 7 See Ray Kogut's comments

p 155 L 13 We believe there may be a conflict of interest problem with the representative designated under this subsection serving as voting member of the State Commission. Perhaps the representative should serve as an ex-officio member.

p 156 L 8 In accordance with the guidance we have received for implementing E.O. 12838, "Termination and Limitation of Federal Advisory Committees", we recommend deleting this section. Additional advisory committees are not necessary if the Corporation already has an 11 member board.

p 161 L 23 OPM should be listed in place of DOL. (OPM usually has a contractor that they recommend.) The section by section analysis states that, "Job search assistance will be provided for any personnel from ACTION or the Commission who do not become employees of the Corporation. The bill language states on page 162 that assistance will be provided to the employees of ACTION who are not transferred to the Corporation. These need to be consistent. The bill language should be changed to reflect what is in the section by section if that is what was intended..

p 172 L 15 Institutionally, we usually do not support advance funding provisions. The Commission and ACTION have worked out their grant cycles without advance funding. We recommend a regular appropriation but if something else is needed, we suggest Forward Funding like that used in the JTPA and education programs. Resources are made available for obligation in July of the fiscal year providing the planning cushion and better coordination with the school year cycle. Forward Funding makes it easier to work on a grant year/program year basis.

p 177 L 6 Vista should be capitalized to read "VISTA".

p 179 Section 424. These provisions drive up the cost of VISTA and are not accounted for in the budget. They will reduce levels of participation. See also page 186, section 445, Stipends for Older American Volunteers.

p 190 L 14 This is a new provision in the DVSA. We assume this has been well vetted since we would expect labor organizations to be concerned with RSVP, SCP and FGP services being offered to profit-making organizations at cost.

p 198 L 20 We have no objections to the intent of this provision but believe there are third party organizations that are currently studying the impact of volunteerism on individuals, organizations and communities that could do this work. Why set up a bureaucracy when there could be contracting?

p 199 L 6 See Ray Kogut's comments

p 209 L 24 We thought this section was repelaed earlier in the bill. If so, no authorization is needed.

p 211 L 4 As noted elsewhere, Adminstrations usually do not like to set floors of activity. Hence we believe floors should not be set for the VISTA volunteers. This was always a problem for ACTION in the past. The Corporation should see how many VISTA volunteers it can fund and how many VISTA volunteers can be recruited.

p 213 L 23 Throughout Title V the terms Chairperson and Executive Director are used. In the previous sections of the legislation the head of the Corporation is usually referred to as the Chairperson. All references to the Chairperson and Executive Director of the Corporation should be changed to list only "Chairperson".

LRM #D-172

RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

If your response to this request for views is simple (e.g., concur/no comment) we prefer that you respond by faxing us this response sheet. If the response is simple and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a secretary.

You may also respond by (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); (2) sending us a memo or letter; or (3) if you are an OASIS user in the Executive Office of the President, sending an E-mail message. Please include the LRM number shown above, and the subject shown below.

TO: Chris MUSTAIN
Office of Management and Budget
Fax Number: (202) 395-6148
Analyst/Attorney's Direct Number: (202) 395-3923
Branch-Wide Line (to reach secretary): (202) 395-7362

FROM: April 27, 1993 (Date)
Karen Dorsey (Name)
Treasury (Agency)
622-1192 (Telephone)

SUBJECT: ONS Draft Bill National Service Trust Act of 1993

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No objection

_____ No comment

_____ See proposed edits on pages _____

_____ Other: _____

__x__ FAX RETURN of 1 pages, attached to this response sheet

TREASURY COMMENTS ON ONS DRAFT BILL
NATIONAL SERVICE TRUST ACT OF 1993

Comments from the Office of Tax Policy:

The draft National Service Bill would provide that national service educational awards are not included in gross income (p. 53, lines 13-18). It does not, however, appear to amend the Internal Revenue Code to provide for this rule, thereby creating an "off-code" tax rule. Unless there are strong reasons for creating an off-code rule, we would prefer to amend the Internal Revenue Code to exclude national service educational awards, especially given the large number of people this rule would effect.

When adding this rule to the tax law, we would not recommend amending section 61, (as potentially implied by the bill which states that the awards are not income for purposes of section 61). Section 61 generally provides a comprehensive definition of income while sections 101 through 137 provide specific exemptions from gross income. The exemption for national service awards best fits into the portion of the Code listing specific exemptions from gross income. In particular, section 117 provides an exclusion for certain scholarships and an exclusion for national service educational awards could easily be added to this section.

In addition, the bill does not appear to exclude national service awards from employment taxes. If ONS does not want employment taxes paid on the national service educational awards, these sections of the Code will have to be amended.

Comments from the Office of Government Financing:

We object to the authority to invest amounts that are appropriated (see page 48, lines 24, 25, and 26, and also page 49, lines 2-14, as well as any other references to investment authority or interest earned thereon). An appropriation is not a sum of cash; it is a ceiling that is available for expenditure. In this case there are no receipts from the public to be invested like in a normal trust fund. Therefore, it is a backdoor method of providing additional amounts outside of the normal appropriations process.

MEMORANDUM

TO: Jack Lew, General Counsel
Office of National Service, White House

FROM: Bernadette Chi, CalServe Regional Coordinator
California Department of Education and
Member, Young People for National Service

SUBJECT: Response to the Clinton National Service Proposal

DATE: March 15, 1993

As an intern with the former Office of National Service (Fall, 1989), I am very happy to offer my response and the input of a diverse group of high-school and college-aged young people in Los Angeles to the National Service Proposal. I received this information from the Alliance for Service-Learning in Educational Reform, and hope that it is not too late to be considered. I will follow the format that was given in the proposal, and offer specific suggestions.

Types of Placements:

- o Placements should be developed through existing organizations and at the local level. For entrepreneurial efforts, they should be coordinated with existing community-based organizations to ensure sustainability and continuing support at the local level for this national program.

Selection of Participants:

- o The age range for participants was not disclosed. We suggest that the range include ages 16 to 30 to reach non-college bound youth (who may not have other opportunities to serve their communities and need to be reached early) and to include non-traditional returning students (they are increasing in number on California campuses) and graduate students (where most loans are accrued).
- o The national system that will coordinate, place, and support the thousands of participants should not create a huge bureaucracy at the federal level. Such support and coordination in necessary, but regional or even state offices with clearinghouses should be responsible for the follow-up and support with local efforts primarily responsible for the day-to-day supervision, training needs, and peer support.
- o What about housing needs? Local training, identification of local resources, supervisor training, and peer support? After speaking with several VISTA volunteers, local training, clear supervision, and peer support were critical to the success of their placements and to their individual growth.

Benefits:

- o Will these benefits be taxable? Is it a total of $20,000 loan forgiveness for two years of national service? The post-service benefit should be also be valid at trade and vocational schools.

Leveraging Nonfederal Matches:

- o Local, in-kind matches should be included.

Federal Role:

o Again, how will the coordination take place without creating another unresponsive bureaucracy? As an employee of a state agency, I would strong suggest some public-private ventures that allow for some accountability measures with the flexibility of non-profit, private programs. The program must meet local needs and have strong local influence. Training needs to be emphasized at the local level as well, both for participants as well as host organizations and supervisors. Without such orientation and training, placements will be difficult and unfulfilling.

o VISTA should continue to place older Americans, but should channel younger participants to the National Service program. How will this program operate with the Commission on National and Community Service? Will the White House operate the program? What is the role of ACTION? Coordination must take place at the very top with clear roles for the many federal, national organizations that currently exist.

State Role:

o To inform and educate the states, the national service program should require that the State designate a viable state agency to coordinate information, resources, and initiatives at the state level. An advisory committee or commission should include youth members.

Income Contingent Loan Repayment:

o The young people in the group strongly supported such options for loan repayment. The main question: will the interest that is accrued over a longer repayment period (for lower paying jobs) counteract the reduction in disincentive that this loan repayment program proposes? Because the interest accrued over a longer period is higher in amount, young people may still opt for higher paying jobs to avoid it.

Final recommendation

o We strongly recommend that several young people assist in the design and administration of the actual program. If we want this program to reach diverse young people and truly empower them as leaders, give them some access to leadership at the top. If you need suggestions on young people in California or in the Washington D.C. area, please let me know.

If there is anything else I can do to assist you in developing a quality national service program, please contact me at 213/487-5590, c/o Constitutional Rights Foundation, 601 South Kingsley Drive, Los Angeles, CA 90005. I would love to participate! (And I have the college loans to prove it.) I have seen that young people want to participate in positive ways to their communities. We just need to give them the opportunity. Thank you for your consideration.

cc: Susan Stroud