

THE WHITE HOUSE
WASHINGTON

FEB 12 1997

MEMORANDUM TO ERSKINE BOWLES

FROM: John Hilley and Sally Katzen
SUBJECT: Regulatory Reform Developments

cc: Elena
Fit
Bruce -
FYI. To the extent the
recommendation says
anything, I agree with
it. The summary chart
of the Levin bill seems
overly generous to me.

Elena

Subsequent to your conversation with Senator Levin, you asked for a status report on regulatory reform legislation. This very divisive, contentious issue from last year is upon us again. There are different views as to substance and strategy.

BACKGROUND

104th Congress

As you recall, regulatory reform was an important component of the Republican agenda in the 104th Congress, with the House quickly passing comprehensive and extremely burdensome legislation as part of the Contract With America. There were more moderate versions of comprehensive reg reform legislation introduced in the Senate, with Democratic support, but action ultimately gravitated to an "extreme" Dole-sponsored bill that we were able to stop three times on cloture votes. By overreaching on this issue, the Republicans were tagged as anti-environment (anti-clean air and water) and anti-safety (dirty meat) by the mainstream media and the electorate. Both the Administration and Congressional Democrats benefited politically from their stand against extreme Republican reg reform initiatives.

Comprehensive vs. Statute-By-Statute Reform

Many Members, including a number of Democrats, believe that there should be legislation that imposes more discipline on agencies (particularly environmental, health, and safety agencies). We achieved notable bipartisan successes by proceeding statute-by-statute, program-by-program -- for example, the Food Quality Protection Act and the Safe Drinking Water Act at the end of the last Congress -- although Superfund and Clean Water Act reforms never got off the ground. The advantage of proceeding statute-by-statute is that the authorizing committee generally has a fuller understanding and appreciation of the complexities and nuances of the particular programs, and they can craft more tailored provisions. The other approach is so-called "comprehensive" legislation, which contains requirements applicable to all regulatory actions (or to all health, safety, and environmental regulatory activity). These proposals necessarily use a "one-size-fits-all" approach. Two such bills were enacted in the 104th Congress with Presidential support -- the Unfunded Mandates Reform Act and the Small

Business Regulatory Enforcement Fairness Act (SBREFA), which includes the Congressional review provisions.

The leading Democratic proponent of comprehensive legislation is Senator Levin, who has sponsored or supported a variety of regulatory reform bills since the early 1980s. Shortly after the 1996 election, he made clear his continuing interest in enacting comprehensive legislation to codify E.O. 12866, including specifically the requirement for cost-benefit analysis.

Recent Developments

Sen. Levin has drafted a bill that he believes is good government. His staff have shared language with the staff of Governmental Affairs Committee Chairman Thompson, and Thompson has indicated that the bill is "in the ballpark." Thompson has stated through a press release (among other means) that regulatory reform will be at the top of his committee's agenda and that he intends to hold hearings within the month. If Thompson were to sign on to the Levin bill (Sen. Glenn is also likely to be a co-sponsor), the legislation would almost certainly pass the Senate overwhelmingly. In addition, the House Republican leadership has signaled that they will wait for the Senate on comprehensive legislation and will accept whatever reg reform bill comes out of the Senate.

ADMINISTRATION POSITION

Very shortly, we will be asked for a public statement of where we stand as an Administration on this issue. No matter what we say, someone will be unhappy. Environmental, consumer, and labor groups believe that we won the reg reform battle last Congress and should just say "no." That may be an over simplification of our current predicament because taking such a stand would essentially lock us out of the negotiations on the Hill. If we are presented with a "fait accompli" it will likely contain some provisions that we would oppose, but, because of the dynamics of the bipartisan negotiations, we would be unable to muster the necessary votes to defeat or turn it back. On the other hand, the business community and those who have heard the President's statements in support of sensible reforms believe this is a litmus test for his credibility on good government. These groups have moderated their demands from last year. Some fear that if we accept the current proposal too quickly, the business community may push for more than the Levin bill. These views, and many points in between, are reflected among the members of the Cabinet.

SUBSTANCE

In the past, the substantive disagreements were exceedingly complex, often bordering on the arcane. Sen. Levin's bill endorses cost-benefit analysis and risk assessment with peer review, requires agency reconsideration of some existing rules, and generally codifies regulatory review under Executive Order 12866. He has sought to avoid the veto bait in earlier bills. We have attached a one-page "cheat-sheet" providing brief descriptions of the major substantive issues.

For present purposes, you may assume that the current Levin draft seeks to address our previously articulated concerns.

STRATEGY

The differences in views on the proper strategy are equally as great as the disagreements over substance. Many believe we must be part of the negotiations if a bipartisan bill moves, otherwise we will be irrelevant to the process. Others are concerned about the adverse reaction we will generate from our constituents if we give any support to the process, especially before we know for certain that Sen. Thompson is on board and that the Levin bill will be the vehicle. Either way, a regulatory reform measure will move in the Senate as it is a very high priority on the Republicans' agenda. Our challenge is to devise a strategy that strikes the balance between our acting early enough so that we are at the table if legislation moves, but not so soon that we cause a bill to move that would not have done so otherwise.

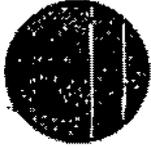
RECOMMENDATION

The regulatory agencies generally want us to say that the Levin effort is "premature and ill-advised." We believe we should adhere to our previous position that we do not think comprehensive regulatory reform is necessary, that the best way to proceed is statute-by-statute, program-by-program, and that there have been several new legislative initiatives (including Unfunded Mandates and SBREFA) that should be given a chance to shake out before we enact yet another statute. At the same time, we should say that we would be willing to work with anyone on sensible, bipartisan regulatory reform, and acknowledge our special respect for Sen. Levin. Furthermore, we must be sure that statements of Administration position are well coordinated with the relevant agencies and that Sen. Levin understands the basis for our position. If, however, the Senator goes off on his own, as is likely, we must have maintained close and positive relations so we can affect the outcome of the bill.

**COMPREHENSIVE REG REFORM
MAJOR SUBSTANTIVE ISSUES/CONCERNS**

| ISSUE/CONCERN/DOLE BILL | LEVIN BILL |
|--|---|
| <i>Decisional Criteria:</i> Agency precluded from promulgating any rule <u>unless</u> the agency satisfies a cost-benefit test (e.g., benefits justify costs; most cost-effective alternative, etc.) | Requires that agencies conduct cost-benefit analyses on all major rules and state <u>whether</u> the benefits justify the costs; requirements <u>not</u> a prerequisite to promulgating the rule |
| <i>Supermandate:</i> Amends <u>all</u> statutes to require that costs not only be considered, but be prerequisite (see decisional criteria above) | No such provision |
| <i>Judicial Review:</i> Courts involved in reviewing each step of a cost-benefit analysis and may remand a rule to the agency for any procedural defect | Recodifies existing ad law standard of review -- any analysis by the agency is part of the entire rulemaking record; court reviews final agency action against record as a whole |
| <i>Petition Process/Review of Existing Rules:</i> Burdensome petition processes to review existing rules would tie agencies in knots and waste scarce resources | Agencies to establish advisory committees to determine which of their rules they should reexamine |
| <i>Risk Assessment & Peer Review:</i> Very prescriptive and detailed requirements for risk assessments; conflict of interest concerns with regard to peer review | More general and less prescriptive requirements; protections against conflict of interest for peer review; still have several specific language problems |
| <i>Effective Date:</i> Effective date at or soon after enactment is <u>de facto</u> moratorium on all agency rulemaking | Bill does not take effect for 180 days after enactment and will <u>not</u> apply to any rulemaking for which a notice has been issued on or before that date |
| <i>Nunn-Coverdale Definition of "Major" Rule:</i> Expands the number of rules subject to the bill's cost-benefit and risk assessment requirements to include up to 150 agency actions that would adversely affect small business | No such provision. Instead, OMB director may designate annually up to 25 additional rules as "major" if they adversely affect the economy, State and local governments, public health or safety, etc. |
| <i>Changes to Delaney Clause/Toxic Release Inventory (TRI):</i> These are significant substantive, rather than process, issues | No such provisions |

| | |
|---|--|
| <i>Affirmative Defenses:</i> Bars penalties where a party "reasonably" relies on a rule inconsistent with the rule being enforced or on the party's "good faith" interpretation of the rule | No such provision. We will follow a separate bill in the House that addresses this issue |
| <i>Regulatory Accounting:</i> Burdensome and costly "make-work" requirement to calculate annually the costs and benefits of <u>all</u> major rules for 5-year period | No such provision. A less burdensome accounting requirement (imposed on OMB) passed as part of the Treasury-Postal appropriations bill |



OFFICE OF THE VICE PRESIDENT

WASHINGTON

July 7, 1993

MEMORANDUM FOR WHITE HOUSE SENIOR STAFF

FROM: JACK QUINN

RE: PROPOSED EXECUTIVE ORDER ON REGULATORY REVIEW

As many of you already know, when the President abolished the Competitiveness Council, he asked the Vice President to prepare recommendations for a new process of regulatory review. At the direction of the Vice President, I convened an informal Working Group -- comprised of representatives of the Office of Management and Budget/Office of Information and Regulatory Affairs, the National Economic Council, the Council of Economic Advisors, the Domestic Policy Council, the National Performance Review, the Administrative Conference of the United States, the Office on Environmental Policy, and the Office of the Vice President -- to organize a range of alternative approaches to this issue. In March, I reported on the progress of the Working Group to the President and Vice President and outlined a general framework for a new regulatory review process. The President and Vice President endorsed that general framework and directed the Working Group to flesh out proposed particulars of the new process.

The attached draft Executive Order on Regulatory Planning and Review is based on that framework and reflects the disparate perspectives and the ultimate agreement of our Working Group, as well as the views of the many representatives of the business community, public interest groups, and federal regulators with whom we met. The process we propose in this draft Order has three primary components: (1) regulatory planning and coordination; (2) OMB, Vice Presidential, and Presidential review; and (3) reconsideration of existing regulations that may have outlived their usefulness, but continue to burden the American economy.

The proposed process represents a clean break with the past. It differs in significant ways from the scheme developed during the Reagan/Bush Administrations:

- Our Executive Order enhances government accountability by, for example, clearly delineating the responsibilities of the various entities involved in the process, establishing tight time limits for OIRA and Presidential review, requiring OIRA to justify in writing its objections to a proposed regulatory action, mandating that OIRA and the agencies adhere to certain "sunshine" provisions, and requiring OIRA to maintain a publicly available log that reflects the status of each regulatory action under review.

- This proposed Order enlarges public involvement in the regulatory planning and review process by, for example, requiring agencies to seek the involvement of its customers before drafting a regulation and encouraging public comment at the agency planning stage and the use of consensual mechanisms for developing regulations.

- The draft requires agencies to consider factors that go beyond the traditional notions of costs and benefits, including public health and safety, the environment, the depletion of natural resources, issues of equity and fairness, and other "non-quantifiable" advantages and disadvantages.

- The draft Order attempts to limit the number of regulations that may be reviewed by OIRA, thus reducing delay in the review process. Specifically, under our proposed plan, OIRA may review only those regulations that are significant. (Under the current system, OMS is entitled to review all regulatory actions.)

- Our Executive Order includes specific guidelines for the review of not only new regulations, but of existing regulations as well.

- Under our proposed plan, Presidential and Vice Presidential involvement in the regulatory process is (1) explicit and (2) limited to providing leadership and guidance at the planning stage and, at the request of OIRA and agencies only, resolving conflicts that cannot be resolved by OIRA -- a dramatic departure from the Competitiveness Council's covert process which catered to the interests of affected private parties.

For your convenience, we have summarized (below) each provision of the draft Order.

THE PREAMBLE

The message that we attempt to convey in the Preamble of the draft Executive Order is a "putting people first," reformist message. This Preamble also attempts to exhibit our deference to the agencies and the limited role of OIRA and the White House in the rulemaking process.

SECTION 1: STATEMENT OF REGULATORY PHILOSOPHY & PRINCIPLES

Section 1 of the proposed Executive Order sets forth the Administration's regulatory philosophy: i.e., Agencies should regulate only when necessary and, when doing so, should adopt the most cost-effective approach, using a broad definition of costs and benefits so to include non-quantifiable factors, such as the impact on the economy, environment, and public health and safety.

This Section also details the Administration's "principles" applicable to the decision to regulate and to the design of regulations. Among other things, the principles include the following:

- In achieving regulatory goals, agencies shall seek to maximize the net benefits to society and use the most cost-effective approach, including considerations of administrability, enforceability, consistency, predictability, flexibility, equity, and fairness.

- Agencies shall tailor their regulatory actions to impose the least burden on individuals, businesses, and other entities, including small businesses and governmental entities.

- Regulations must be simple and easy to understand, with the goal of minimizing the potential for uncertainty and litigation.

SECTION 2: ORGANIZATION

Section 2 of the proposed Executive Order explicitly delineates the parameters of each entity's authority and responsibilities.

Part A establishes that federal agencies are responsible, in the first instance, for designing and issuing regulations that fulfill their statutory mandates and that are consistent with the Administration's priorities and the principles set forth in Section 1 of the proposed Executive Order.

Part B sets forth OIRA's role -- that is, to ensure that the agencies issue regulations that are consistent with the Administration's priorities and regulatory principles and the regulatory actions proposed or taken by other agencies.

In Part C, the President grants to the Vice President the authority and responsibility to oversee the development and presentation of regulatory policy, planning, and review recommendations to him and to otherwise ensure that the objectives of the Executive Order are met. In carrying out these functions, the Vice President shall be assisted by the "regulatory policy advisors," defined to include (1) the Director of OMB; (2) the Chair (or another member) of the Council of Economic Advisers; (3) the Assistant to the President for Economic Policy; (4) the Assistant to the President for Domestic Policy; (5) the Assistant to the President for National Security Affairs; (6) the Assistant to the President on Science and Technology; (7) the Deputy Assistant to the President and Director of the Office on Environmental Policy; (8) the Chief of Staff; (9) the Administrator of the OIRA, who shall coordinate communications relating to this Executive Order among the agencies, OMB, the other Advisors, and the Office of the Vice President; and (10) the Vice President's senior counsel, who shall serve as counsellor to the Advisors in connection with the activities relating to this Executive Order.

SECTION 3: DEFINITIONS

Section 3 is virtually identical to the definitions provision of the Reagan/Bush Executive Orders and the Carter Executive Order on regulatory review. The major distinction is the definition of the term "agency."

Under the draft Order, the term "agency" would include, for the first time, both executive branch and independent agencies and departments. (Both the Carter and Reagan/Bush Executive Orders were directed at executive branch agencies only.) Our approach would require independent agencies to adhere to the planning process, which we believe encourages good government by forcing agencies to plan ahead and to consider other agencies in their planning. Independent agencies are, however, explicitly exempted from executive review.

SECTION 4: THE PLANNING MECHANISM

In January 1985, Ronald Reagan issued Executive Order 12498, which established the current regulatory planning process. Under the current process, the head of each agency is required to submit to OMB a draft program of all of the major regulatory actions that it anticipates in the upcoming year. OMB then reviews the draft program to ensure that the planned regulatory actions of one agency do not conflict with those of another and to resolve any conflicts that may exist. After that review, the agency submits a final program, which is circulated to other agencies for their review and input. No regulatory action may be taken (except in emergency situations) unless the Director has approved the action, and the Director may return for

reconsideration any regulatory action that was not included in an agency's final program.

Without question, agency planning imposes discipline on the agencies and provides the Administration with the opportunity to identify problem regulations or groups of regulations at an early stage. It is for this reason that the Group proposes that we maintain this process insofar as it requires agencies to develop and submit for review an annual plan of anticipated regulatory actions.

In order to enhance and streamline the agency planning process, we propose several additional requirements at the planning stage. First, Section 4 requires the Administrator of OIRA to convene a working group -- comprised of the appropriate representatives of the Vice President, the regulatory policy advisors, and agencies -- to identify and discuss cross-cutting (substantive and procedural) regulatory issues. Second, this section requires the Vice President to convene an annual meeting of agency heads and policy advisors to discuss Administration priorities and goals in the upcoming year. Third, under our proposed scheme, an agency is required to submit only a final plan, and an agency may supplement its plan throughout the year. Fourth, the proposed Executive Order invites the public to participate in the planning process by submitting comments on the agencies' plans.

SECTION 5: EXISTING REGULATIONS

We have heard the complaints of the business community about regulations that conflict with each other or are duplicative, out-dated, or obsolete. The proposed Executive Order, therefore, requires agencies to submit to OIRA a program by which to review (periodically) existing regulations. The public is invited to contact an agency with suggestions. In addition, Section 5 provides that the Vice President may, in consultation with the Advisors, identify for the agencies problematic regulations and ask the affected agency to "undertake the appropriate procedures to modify or eliminate the regulation or group of regulations" or explain its decision not to do so.

SECTION 6: CENTRALIZED REVIEW OF REGULATIONS

Section 6 of the proposed Executive Order is the heart of the executive branch regulatory review process.

The current process for executive branch review is set forth in Executive Order 12291. That Order instructs agencies to prepare a regulatory impact analysis ("RIA") for all major rules. This analysis must contain a cost-benefit analysis, an identification of who shall bear the costs and receive the

benefits of the rule, and a description of the alternatives to the proposed rule.

The current system allows the Director of OMB to review the RIAs, as well as non-major rules, and make a determination as to whether any reason exists to intervene with the publication of the regulation. This determination must be made (generally) within sixty days. An agency may not publish a regulation unless it is notified otherwise by the Director of OMB.

The process agreed upon by the Working Group is both similar to and quite different from the current system. It is similar in that it requires agencies to submit for significant regulatory actions information that is similar to, although somewhat broader than, the RIAs currently required for major rules. Like the current process, the scheme outlined in the proposed Executive Order allows OIRA time to review the proposed regulatory action (generally, within sixty days) and grants to OIRA the authority to intervene with publication if it has problems with a proposed regulatory action.

Our process, however, differs significantly from the current scheme in several respects. First, the lines of responsibility and authority are clearly demarcated in the proposed Executive Order: Section 6 of the proposed Executive Order sets forth separately the responsibilities for the agencies and for OIRA.

Second, Part A of Section 6 encourages agencies to involve the public in the rulemaking process at an early stage and recommends the use of consensual mechanisms for rulemaking, such as negotiated rulemaking (commonly known as "reg neg").

Third, in order to limit the number of regulations to be reviewed by OIRA, this provision restricts OIRA review to significant rules only and allows OIRA to waive review of significant regulations -- a significant difference from the current process.

Fourth, at the end of the OIRA review process, OIRA is required to provide in writing the results of its review, including a written justification for the "rejection" of any proposed regulatory action. (This is dramatically different from the current system, which does not require OIRA to explain its decision in writing.)

Fifth, Section 6 contains a "sunshine provision" that requires OIRA to invite the agency head to all meetings concerning a regulation being proposed or contemplated by that agency, to make public all written communications between OIRA and the public, and to disclose the fact of a meeting regarding a particular regulation and the subject matter of that meeting. Most important, perhaps, is the fact that the proposed Executive

Order requires OIRA to maintain a publicly available log that tracks the status of a regulatory action, including if, and if so, when, Presidential consideration was sought for that regulatory action.

SECTION 7: RESOLUTION OF CONFLICTS AND INCONSISTENCIES

Section 7 sets forth the mechanism for dispute resolution. Essentially, either OIRA or the head of the agency issuing the regulation or an agency that has a substantial interest in the regulatory action may seek Presidential consideration. (Unlike the back-door process created by the Quayle Council, under our proposed process, affected private interests may not seek such consideration.) Through Section 7, the President designates the Vice President to review the problem and develop recommendations to the President, after consulting with the Advisors. The Vice President and the President will be allowed sixty days to conduct this review, at which time the President (or the Vice President acting on his behalf) must make a decision as to whether the agency should proceed.

SECTION 8: PUBLICATION

This provision instructs the agency not to publish a regulation submitted for review unless it has the approval of OIRA or, where Presidential consideration has been sought, the President (or the Vice President acting on his behalf).

SECTION 9: JUDICIAL REVIEW

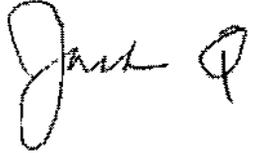
This provision makes clear that the Executive Order is not intended to interfere with any existing rights to judicial review or to create any new rights for review.

SECTION 10: REVOCATIONS

This provision revokes all of the Executive Orders that pertain to regulations that were issued during the Reagan/Bush Administrations. The Group believes that no reason exists to maintain these Orders in light of the fact that the positive aspects of these Orders have been incorporated into the proposed Executive Order.

* * *

In sum, the Regulatory Review Working Group believes that the process created by the proposed Executive Order will best serve the American people and the Administration. If you have any comments or suggestions regarding our proposed Order, please contact Kumiki Gibson or me at your earliest convenience; we plan to vet the proposed Order next week to key parties on the Hill and additional representatives of the business and public interest communities.

A handwritten signature in black ink, appearing to read "Jack P.", with a stylized flourish at the end.

Attachment

(JULY 1, 1993 DRAFT)

EXECUTIVE ORDER NO. _____

REGULATORY PLANNING AND REVIEW

The American people deserve a regulatory system that works for them, not against them: a regulatory system that advances their health, safety, and well-being and improves the performance of the economy without imposing unacceptable or unreasonable costs on society; regulatory policies that recognize that the private sector and private markets are the best engine for economic growth; and regulations that are sensible, understandable, consistent, and effective. We do not have such a regulatory system today.

With this Executive Order, the federal government begins a program to reform and make more efficient the regulatory process. The objective of this Order is to restore the integrity and legitimacy of regulatory review and oversight, for both new and existing regulations, and to make the process more open and accessible to the public. The regulatory process shall be conducted so as to best serve the American people, and with due regard for the discretion that has been entrusted to federal agency expertise and applicable law.

Accordingly, by the authority vested in me as President of the United States, it is hereby ordered as follows:

Section 1. *Statement of Regulatory Philosophy and Principles.*

A. *The Regulatory Philosophy.*

Federal agencies shall promulgate only such regulations as are required by law or made necessary by compelling public need, including consequential failures of the private markets. In deciding whether and how to regulate, agencies shall assess the costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall include quantified measures (to the fullest extent that these can be usefully estimated) plus qualitative measures that consider values that do not lend themselves to quantification. In choosing among alternative regulatory approaches, agencies shall select those approaches that maximize the net benefits, including potential economic, environmental, public health and safety, or other advantages, to the American people without imposing unjustifiable costs, burdens, or other disadvantages.

B. *The Principles of Regulation.*

1. The decision whether to regulate shall, to the extent permitted by law, be based on the following principles:

a. The agency shall assess the significance of the problem the regulation is intended to correct.

b. The agency shall examine whether existing regulations (or other law) have created, or contributed to, the problem that a new regulation is intended to correct and whether those regulations (or other law) can be modified to achieve the intended regulatory goal more effectively.

c. The agency shall assess both the costs and benefits of the intended regulation based on the best reasonably obtainable scientific, technical, and economical information and, recognizing that some costs and benefits are not easily quantifiable, make a judgment as to whether the benefits of the regulation outweigh its costs.

d. The agency shall choose the regulatory approach that maximizes the net benefits to society.

e. The agency shall assess the effects of federal regulations on and, as appropriate, harmonize such actions with related state and local governmental functions.

2. The design of each regulation shall, to the extent permitted by law, be based on the following principles:

a. Each agency shall identify and assess alternatives to direct regulation, such as designing ways of ensuring that those who are regulated internalize the costs of their actions; using marketable permits; or providing information upon which choices can be made by the public.

b. When feasible, each agency shall choose the regulatory approaches that reshape market incentives to encourage the desired behavior.

c. In considering a new regulation, the agency shall assess its impact in the context of existing regulations -- not only its own, but all relevant federal, state, and local regulations -- on individuals, families, small businesses, firms, industries, governments, and the economy as a whole, and seek to

enhance the effectiveness of each new regulatory action within that context.

d. Each agency shall avoid, to the extent possible, inconsistent, incompatible, or duplicative regulations.

e. Each agency shall tailor its regulatory actions to impose the least burden on individuals, businesses, and other entities (including small businesses and governmental entities).

f. Regulations shall be simple and easy to understand, with the goal of minimizing the potential for uncertainty and litigation.

g. Each agency shall assess enforcement costs and the possible consequences of non-compliance and design regulations so to minimize enforcement and compliance costs.

h. When there are reasonably reliable, enforceable measures of the end result desired by a regulation, the agency shall prefer performance standards to regulations that specify the manner of compliance.

i. In achieving regulatory goals, the agency shall seek to maximize the net benefits to society and use the most cost-effective approach, including considerations of administrability, enforceability, consistency, predictability, flexibility, equity, and fairness.

Section 2. Organization. An efficient regulatory planning and review process is vital to ensure that the federal government's regulatory system best serves the American people.

A. *The Agencies.* Federal agencies are the repositories of substantive expertise and experience. They are responsible for developing regulations and assuring that the regulations are consistent with applicable law, the Administration's priorities, and the principles set forth in this Executive Order.

B. *Office of Management and Budget.* Coordinated review of agency rulemaking is necessary to ensure that regulations are consistent with the Administration's priorities and the principles set forth in this Executive Order and that decisions made by one agency do not conflict with the policy or action taken or planned by another agency. The Office of Management and Budget ("OMB") shall carry out that function and, to the extent permitted by law, provide guidance to agencies and assist the President, the Vice President, and the regulatory policy advisors to the President in regulatory planning and in reviewing individual regulations, as provided by this Executive Order.

C. *The Vice President.* The Vice President shall oversee the development and presentation of regulatory policy, planning, and review recommendations to the President and otherwise ensure that the objectives of this Executive Order are realized. In fulfilling his responsibilities under this Executive Order, the Vice President shall be assisted by such regulatory policy advisors within the Executive Office of the President and by such agency officials and personnel as he may, from time to time, consult.

Section 3. Definitions. For purposes of this Executive Order:

A. "Advisors" refers to the regulatory policy advisors to the President, who include: (1) the Director of OMB; (2) the Chair (or another member) of the Council of Economic Advisers; (3) the Assistant to the President for Economic Policy; (4) the Assistant to the President for Domestic Policy; (5) the Assistant to the President for National Security Affairs; (6) the Assistant to the President on Science and Technology; (7) the Deputy Assistant to the President and Director of the Office on Environmental Policy; (8) the Chief of Staff; (9) the Administrator of the Office of Information and Regulatory Affairs ("OIRA"), who shall coordinate communications relating to this Executive Order among the agencies, OMB, the other Advisors, and the Office of the Vice President; and (10) the Vice President's senior counsel, who shall serve as counsellor to the Advisors in connection with the activities relating to this Executive Order.

B. "Agency" means any authority of the United States that is an "agency" under 44 U.S.C. § 3502(1).

C. "Director" means the Director of OMB.

D. "Regulation" or "rule" means an agency statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency. It does not, however, include:

1. Regulations issued in accordance with the formal rulemaking provisions of 5 U.S.C. §§ 556, 557;

2. Regulations that pertain to a military or foreign affairs function of the United States, other than procurement regulations and regulations involving the import or export of goods;

3. Regulations that are limited to agency organization, management, or personnel matters; or

4. Any other category of regulations exempted by OIRA.

E. "Regulatory action" means any action by an agency related to the development of a regulation or rule that ordinarily (under the agency's own rules and procedures or the Administrative Procedure Act) would be published in the Federal Register or otherwise promulgated to the public.

F. "Significant regulatory action" means any regulatory action that is likely to result in a rule that may --

1. Have an annual effect on the economy of \$100 million dollars or more or any other important effect on the economy, a sector of the economy, or state, local, or tribal governments;

2. Have an important effect on a large number of individuals or entities, the natural environment, or the depletion of natural resources;

3. Create a serious inconsistency or interfere with another action taken or planned by another agency;

4. Substantially alter the budgetary impact of entitlements, grants, or loan programs or the rights and

obligations of recipients thereof; or

5. Raise important legal or policy issues arising out of legal mandates, the Administration's priorities, or the principles set forth in this Executive Order.

Section 4. Planning Mechanism. In order to have a coherent regulatory program; to provide for coordination of regulations; to maximize consultation and the resolution of potential conflicts at an early stage; to involve the public in regulatory planning; and to ensure that new or revised regulations promote the Administration's priorities and the principles set forth in this Executive Order; these procedures shall be followed, to the extent permitted by law:

A. Within thirty days of the date of this Executive Order, the Administrator of OIRA shall convene a Regulatory Working Group, that shall consist of representatives of the heads of each agency that the Administrator determines to have significant domestic regulatory responsibility, the Advisors, and the Vice President. The Administrator of OIRA shall chair the Working Group. The Regulatory Working Group shall serve as a forum to assist agencies in identifying and analyzing regulatory issues (including methodologies and procedures) that affect more than one agency. The Working Group shall meet at least quarterly and may meet as a whole or in sub-groups of agencies with interest in particular issues or subject areas. To inform its discussions, the Working Group may commission analytical studies and reports by OIRA,

the Administrative Conference of the United States, or any other agency.

B. Early in each year's planning cycle, the Vice President will convene a meeting of the Advisors and the heads of agencies to develop a common understanding of priorities and to coordinate regulatory efforts to be accomplished in the upcoming year.

C. By April 1st of each year, each agency shall create a Regulatory Plan ("Plan") of significant regulatory actions that the agency expects to issue in proposed or final form in the next fiscal year or thereafter, including any review of existing significant regulations. The Plan shall be approved personally by the agency head and shall contain at a minimum:

1. A statement of the agency's regulatory objectives and priorities;

2. A summary of each planned significant regulatory action and the anticipated effects that it would have;

3. A summary of the legal basis for each such action, including whether any aspect of the action is mandatory;

4. A statement of the need for each such action and how it relates to the Administration's priorities and to the principles set forth in this Executive Order;

5. The agency's schedule for action, including a statement of any applicable statutory or judicial deadlines; and

6. The name, address, and telephone number of a person the public may contact for additional information about the planned regulatory action.

D. The agency shall forward its Plan to OIRA by April 1st of each year.

E. OIRA shall, by April 10th of each year, circulate all agency Plans to other affected agencies, the Advisors, and the Vice President.

F. If OIRA determines that a planned regulatory action of an agency is inconsistent with the Administration's priorities or the principles set forth in this Executive Order or is in conflict with the policy or action taken or planned by another agency, OIRA shall promptly notify, in writing, the affected agencies, the Advisors, and the Vice President.

G. An agency head who determines that a planned regulatory action of another agency conflicts with its own policy or action taken or planned shall promptly notify, in writing, the Administrator of OIRA, who shall forward that communication to the issuing agency, the Advisors, and the Vice President.

H. The Vice President, with the Advisors' assistance, may consult with the heads of agencies with respect to their Plans and, in appropriate instances, render recommendations as to the need for further consideration or inter-agency coordination.

I. OIRA shall cause to be published all submitted Plans, as may be modified by the head of the issuing agency, by June 30th of each year. In this publication, OIRA shall invite the public to comment on any aspect of any agency Plan, including whether any planned regulatory action might conflict with any other planned or existing regulation, impose any unintended consequences on the

public, or confer any unclaimed benefits on the public. The public shall be asked to send all such comments to the issuing agency, with a copy to OIRA.

Section 5. Existing Regulations. In order to reduce the regulatory burden on the American people, their families, their communities, and industries; to verify that regulations promulgated by the executive branch of the federal government are compatible with one another; and to ensure that all regulations are consistent with the Administration's priorities and the principles set forth in this Executive Order, within applicable law:

A. Within ninety days of the date of this Executive Order, each agency shall submit to OIRA a program (which shall include its schedule for further action with respect to specific regulations) under which the head of the agency will periodically and selectively review its existing significant regulations to determine whether any such regulations should be modified or eliminated so as to make the agency's regulatory program more effective, less burdensome, and in greater alignment with the Administration's priorities and the principles set forth in this Executive Order. The public should direct any comments regarding the review of existing regulations to the appropriate agencies.

B. Any significant regulation selected for review shall be designated in the agency's annual Plan. If the agency determines after review that modification or elimination is warranted, the agency shall initiate appropriate procedures to achieve such

modification or elimination.

C. The Vice President, in consultation with the Advisors, may identify other existing regulations, or groups of regulations, that are appropriate for review and reconsideration under this Executive Order. The relevant agency or agencies shall review any regulation, or group of regulations, so identified and (1) undertake the appropriate procedures to modify or eliminate the regulation, or group of regulations, or (2) explain to the Vice President the decision not to do so.

Section 6. *Centralized Review of Regulations.* The following guidelines shall apply to all regulatory actions, for both new and existing regulations, by agencies other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. § 3502(10), and those agencies specifically exempted by the Administrator of OIRA:

A. *Agency Responsibilities.* Each agency shall, consistent with its own rules and regulations, provide the public with meaningful participation in the regulatory process. To the extent feasible, each agency shall seek the involvement of those who are intended to benefit from and those expected to be burdened by any regulation, including, where appropriate, state and local elected officials, before issuing a Notice of Proposed Rulemaking. Each agency shall also afford the public a meaningful opportunity to comment on any proposed regulation, which in most cases should include a comment period of not less than sixty days. Each agency

is also directed to explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking. Finally, in addition to adhering to its own rules and procedures and to the requirements of the Administrative Procedure Act and other applicable law, each agency shall adhere to the following procedures:

1. On the first day of each month, each agency head shall send OIRA a brief description of --

a. each significant regulatory action that the agency intends within the next sixty days to submit to OIRA for review (as provided for in paragraphs 3 and 4 of this Section); and

b. each other regulatory action that the agency intends to publish in the Federal Register or otherwise promulgate to the public within the next sixty days.

2. OIRA may waive review of any action identified under paragraph 1(a) of this Section. In addition, OIRA may determine that an action under paragraph 1(b) of this Section may be a significant regulatory action. If within ten working days of an agency's submission, OIRA does not notify the agency of the need to submit for review an action identified in paragraph 1(b) of this Section, the agency need not submit this action to OIRA for review under this Order prior to its publication.

3. For each matter identified as, or determined by OIRA to be, a significant regulatory action, the issuing agency shall --

a. Provide to OIRA the text of the draft regulatory action, together with a reasonably detailed description of the need for the regulatory action and an explanation of how the regulatory action will meet that need; and

b. Provide to OIRA an assessment of the potential impact of the regulatory action, including an explanation of the manner in which --

(i) The regulatory action is consistent with a statutory mandate or otherwise promotes the Administration's priorities and the principles set forth in this Executive Order;

(ii) The regulatory action does not unduly interfere with state, local, and tribal governments in the exercise of their governmental functions;

(iii) The regulatory action does not violate any constitutional right, including, but not limited to, the freedom of expression and the right to privacy; and

(iv) If the regulatory action will affect private property, whether the effects of the action may require payment of just compensation under the Fifth Amendment of the United States Constitution, as interpreted by the United States Supreme Court.

4. For those matters identified as, or determined by OIRA to be, an economically significant regulatory action, as set forth in Section 3(F)(1), the agency shall also provide the following additional information to OIRA:

a. An assessment, including the underlying analysis, of benefits anticipated from the regulatory action (such as, but not limited to, the promotion of the efficient functioning of the economy and private markets, the enhancement of health and safety, the preservation of the natural environment, and the elimination or reduction of discrimination or bias) together with, wherever feasible, a quantification of those benefits;

b. An assessment, including the underlying analysis, of costs anticipated from the regulatory action (such as, but not limited to, the direct cost of the regulatory action, any adverse effects on the efficient functioning of the economy and private markets, health and safety, and the natural environment) together with, wherever feasible, a quantification of those costs; and

c. An assessment, including the underlying analysis, of potentially effective alternatives to the planned regulation, including reasonably viable non-regulatory action, and an explanation as to why the particular alternative was selected.

5. For those regulatory actions that are governed by a statutory or court-imposed deadline, the agency shall schedule rulemaking proceedings so as to permit sufficient time for OIRA to conduct its review, as outlined in paragraphs B(2) through (4) of

this Section. In emergency situations or when an agency is obligated by law to act more quickly than normal review procedures allow, the agency shall notify OIRA as soon as possible and, to the extent practicable, comply with paragraphs A(3) and (4) of this Section.

6. After the regulatory action has been published in the Federal Register or otherwise promulgated to the public, the agency shall identify and make available to the public the substantive changes between the draft submitted for review and the action subsequently announced in a clear and simple manner.

7. All information provided to the public by the agency shall be in plain, understandable English.

B. *OIRA Responsibilities.* OIRA shall provide meaningful guidance and oversight so as to ensure that each agency's regulatory actions are consistent with the Administration's priorities and the principles set forth in this Executive Order, and that they do not conflict with the policy or action of another agency. OIRA shall, to the extent permitted by law, adhere to the following guidelines:

1. OIRA may review actions identified by the agency or by OIRA as significant regulatory actions under paragraph A(2) of this Section.

2. OIRA shall waive review or notify the agency in writing of the results of its review within the following time periods:

a. For Notices of Inquiry, Advanced Notices of Proposed Rulemaking, or other preliminary regulatory actions prior to a Notice of Proposed Rulemaking, within ten working days after the date of submission of the draft action to OIRA;

b. For regulatory actions that do not include complex technical, scientific, or economic issues, within sixty calendar days after the date of submission of the information set forth in paragraphs A(3) and A(4) of this Section; or

c. For regulatory actions that involve complex technical, scientific, or economic issues, within ninety calendar days after the date of submission of the information set forth in paragraphs A(3) and A(4) of this Section.

d. The review process may be extended by no more than thirty calendar days upon the written approval of the Director.

3. For each regulatory action that OIRA returns to an agency for further consideration of some or all of its provisions, the OIRA Administrator shall provide the issuing agency a written explanation for such return. If the agency head disagrees with some or all of the bases for the return, the agency head shall so inform the OIRA Administrator in writing.

4. In order to ensure openness, accessibility, and accountability in the regulatory review process, OIRA shall be governed by the following disclosure requirements:

a. Only the Administrator of OIRA (or a designated subordinate) shall receive communications initiated by persons not employed by the executive branch of the federal government regarding the substance of a regulatory action under review;

b. All substantive communications between OIRA personnel and persons not employed by the executive branch of the federal government regarding a regulatory action under review shall be governed by the following guidelines:

(i) A representative from the issuing agency shall be invited to any meeting between OIRA personnel and such person(s);

(ii) OIRA shall forward to the issuing agency, within ten working days of receipt of the communication(s), all written communications, regardless of format, between OIRA and any person who is not employed by the executive branch of the federal government, and the dates and names of individuals involved in all substantive oral communications, including meetings and telephone conversations, between OIRA personnel and any such persons; and

(iii) OIRA shall publicly disclose relevant information about such communication(s), as set forth below in paragraph B(4)(c) of this Section.

c. OIRA shall maintain a publicly available log that shall contain, at a minimum, the following information

pertinent to regulatory actions under review:

(i) The status of all regulatory actions, including if (and if so, when) Vice Presidential and Presidential consideration was requested;

(ii) A notation of all written communications forwarded to an issuing agency under paragraph B(4)(b)(ii) of this Section; and

(iii) The dates and names of individuals involved in all substantive oral communications, including meetings and telephone conversations, between OIRA personnel and any person not employed by the executive branch of the federal government, and the subject matter discussed during such communications.

d. After the regulatory action has been published in the Federal Register or otherwise promulgated to the public, or after the agency has announced its decision not to publish or promulgate the regulatory action, OIRA shall make available to the public all documents exchanged between OIRA and agency heads concerning each draft regulatory action submitted for review.

6. All information provided to the public by OIRA shall be in plain, understandable English.

Section 7. Resolution of Conflicts and Inconsistencies. The rare disagreements or conflicts among agency heads or between OMB (or OIRA) and any agency that cannot be resolved by OIRA shall be resolved by the President or the Vice President, acting on behalf of the President. Such resolution shall be based upon

recommendations developed by the Vice President, after consultation with the Advisors (or other executive branch officials or personnel whose responsibilities to the President include the subject matter at issue). Vice Presidential and Presidential consideration of such disagreements may be initiated by the Director or his designee, by the head of the issuing agency, or by the head of an agency that has a significant interest in the regulatory action at issue. Such review shall not be undertaken at the request of private parties or their representatives. Vice Presidential and Presidential consideration shall be concluded within sixty days after review by the Vice President and Advisors has begun, at which time the President or the Vice President, acting on behalf of the President, shall notify the affected agency as to whether it may publish the regulatory action at issue.

Section 8. Publication. An agency shall not publish in the Federal Register or otherwise promulgate to the public any regulatory action that is subject to review under Section 6 of this Executive Order until (1) OIRA notifies the agency that it has waived its review of the action or has completed its review without any requests for further consideration or (2) the applicable time period in Section 6(B)(2) expires without OIRA having notified the agency that it is returning the regulation for further consideration under Section 6(B)(3), whichever occurs first. If the terms of the preceding sentence have not been satisfied and an agency nonetheless wants to publish or otherwise promulgate a

regulatory action, the head of that agency may request Presidential consideration through the Vice President. Upon receipt of this request, the Vice President shall notify OIRA and the Advisors. The guidelines and time period set forth in Section 7 shall apply to the publication of regulatory actions for which Presidential consideration has been sought.

Section 9. *Judicial Review.* Nothing in this Executive Order shall affect any otherwise available judicial review of agency action. This Executive Order, however, is intended only to improve the internal management of the federal government and is not intended to create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, or any person.

Section 10. *Revocations.* Executive Orders 12291, 12498, 12606, 12612, 12630, and 12778; all amendments to those Orders; and any exemptions from those Orders heretofore granted for any category of rule are revoked.

JAN 18 1995

*Regulatory Reform***Memorandum for the Vice President**

CC: Chief of Staff
Date: January 18, 1995
Through: Elaine Kamarck
From: NPR Staff
Subject: **Alternative to "How" Regulations Are Implemented**

Last week's meeting of the regulatory reform working group looked at customer service. In the meeting, we tried to emphasize two things.

First, much, if not most, of what bothers those being regulated is how we go about implementing existing regulations. The current approach is based on mistrust — like our systems for managing federal workers. And we keep score of regulatory success in terms of citations, fines, and civil filings.

Second, there is a great deal of experience to show that a trust-based, partnership approach produces compliance results that meet or beat those achieved with our current enforcement style. The partnership approach uses the same ideas as our customer service model. To demonstrate success with this approach among regulators, we talked about Customs-Miami, OSHA's consultation programs, EPA's 33/50 program, and the consultative approach taken in Sweden, Germany, France, the UK, and elsewhere.

We have outlined a program that seeks to make partnership the basic approach to how we implement regulations - in a real hurry. To get this new approach in place we think we need a blitz at four levels, completed by March 1, 1995.

- **Agency heads** - you and the President would talk to all of them at once in Room 450 with a basic message that we need to make a major change in a hurry or face loss of much of what has been built — "fear of extinction message". Added one-on-one time with the heads of EPA, OSHA and EPOC could help deal with their central role.
- **Washington Senior Staff** — we would put together an "SES to SES" session with the same message that the agency heads received.
- **Field Supervisors** — for the people that manage inspectors day-in and day-out, we would need a kickoff session and a continuing training program. Kickoff could be done with FEBs. We might line things up to focus on EPA/OSHA regions. We'd do a video, covering at least the Customs-Miami model, plus some session guidelines. We'd include customers in the first sessions to get the new approach started. We'd attend as many as we could, enlisting Lynn Gordon from Customs and others with the new experience to help.

- **Front-line Staff** — for the people in touch with customers, we'd do a national, two day stand-down of inspection activities, during which agencies would do retraining in the new approach. This would be modeled on the Navy's stand-down for safety training. Activities that deal with imminent, serious hazards to health, safety and property would be managed so that no added risk is created.

To support this, we think we need the following ingredients.

- **An Executive Order** — it would reject the current approach based on mistrust of the majority; explain that the new emphasis is on creating compliance and verifying it, not on enforcement; direct agencies to put the Miami model in place; set down the basic steps in that model (see Attachment 1); and set some deadlines for training and reporting on new performance measures. The level of detail would be like that of the customer service executive order.
- **New Agency Specific Mission Statements** — agencies would need to retool these. We can draft some examples.
- **Agency Specific Customer Service Standards** — customers need a basis for judging what to expect from agencies under the new approach. If we don't set some expectations, the customers will set their own.
- **New Agency Specific Performance Measures** — these will focus everyone on outcomes and customer satisfaction, dropping fines, citations and legal referrals.
- **Revised Budgets** — Revise current year spending so that more money is allocated to consultative efforts than to command and control efforts. Prepare plans to increase the consultative percentage in outyears.

We could add actions from the list at Attachment 2 to increase the impact of our program.

Alternatives to the Moratorium.

With the actions outlined here, we would address the big issue of how regulations are implemented, and be in position to point out that the moratorium proposal misses this central issue entirely. You and the President would have at least two choices.

- **Reject the Moratorium, and Announce Our Program:** The message would be that the moratorium is harmful and doesn't even address the biggest problem..
- **Seek a Delay in the Moratorium Based on Our Program:** The message would be let's try this new approach first, building on it to use partnership in dealing with our other regulatory issues.

Discussion of these ideas is scheduled first on the agenda for the January 19, 1995 meeting of your regulatory reform working group.

Attachment 1
Miami Model Actions

- Local agency management will hold regular meetings among federal agencies, state agencies, local agencies, regulated entities, and the affected public. Local organizations, like the Chamber of Commerce, will be engaged to facilitate this dialog.
- Information technology links will be set up to support doing business with the regulated entities.
- Agencies will judge the performance of field operations based on compliance, not on citations, fines or prosecutions. All agency management reports will be revised to track compliance and outcomes.
- Training and consultation will be provided to regulated entities so they know how to comply. Agencies would create manuals for self-assessment, clear enough so that regulated entities would know what to expect.
- Enforcement priority will be put on the worst problems and no time will be spent on other problems until the big issues are dealt with.
- Sunset dates will be set for all internal rules. Only rules specifically justified will be put back in place after the sunset date.

Attachment 2
Other Impact Actions

- Assign our high impact players to high impact positions. Hammer award winners and other managers who have demonstrated success with the partnership approach should be reassigned to top positions in agencies drawing the greatest fire.
- Arrange Vice Presidential visits to agencies to collect the worst in current operating rules and regulations. Agencies would team up with customers to identify rules, paperwork and regulations that upset customers and add little value. These teams would be given hammers for solutions that simplify or dispose of the offending items.
- Create an electronic, on-line "department of business." Here, in FedWorld for example, individual companies would find regulatory assistance, trade assistance, financial assistance, and a technical ombudsman to help them succeed.

WR - Hearings '95
February 2, 1995

House Subcommittee on Human Resources
Welfare Reform

Panel:

Congressman Jim McDermott, (D-Wash)

1. In '71 a minimum wage job's annual income was equal to the income at the poverty line and total welfare benefits were 20% below the poverty line.
2. In '93 a minimum wage job yielded an income 30% below the poverty line and people receiving welfare benefits were 45% below the poverty line.

Congressman Norman Y. Mineta, (D-Minn)

1. We shouldn't cut legal immigrants off from the safety net
2. HR 3500 would deny legal immigrants access to student loans and to immunization

Congressman Gary Franks, (R-Conn)

1. We ought to replace cash payments with debit cards w/ electronic transfer payments
2. Put picture of recipient on card
3. Drug dealers don't take credit
4. Small amounts of cash payments should be allowed for incidental expenses

Congressman Greg Ganske, (R-Iowa)

1. Illegitimacy breeds crime; some neighborhoods in Iowa have illegitimacy rates in excess of 60%
2. We need eliminate incentives of welfare; but we should maintain funding for family planning and birth control

Hildebran, Harvey, Chairman, Committee on Human Services Texas HR

1. We have to be careful with exactly how we allocate block grants

Panel:

Young, Penny, Legislative Director Concerned Women for America

-The current welfare system punishes children b/c of its warped incentives

Michelman, Kate, President, National Abortion and Reproductive Rights A. Lgue

-This plan will encourage abortion

Johnson, Cliff, Director Programs and Policy, Children's Defense Fund

-By trying to punish the adults, children will be the ones to suffer

Liederman, David, Executive Director, Child Welfare League of America

-Gov. Tommy Thompson claims great success; but while cutting welfare by 27%, he raised poverty by 10%

Ferrara, Peter, Senior Fellow, National Center for Policy Analysis

-Entitlements are what destroy the inner city; we must encourage responsible behavior and discourage irresponsible behavior

Panel:

Grubbs, Daryll W., President, Child Support Council

-We need to better promote paternity establishment

Spalter-Roth, Roberta, Director Research, Institute for Women's Policy

-70% of mothers on welfare have worked

Pearce, Diana, Director, Child Welfare League of America

-For Women, low wage jobs are chutes; Men low wage jobs are ladders

Fleming, Arthur, Chair, Save our Security Coalition

-The system doesn't need to be totally revamped

Johnson, Randy, Third Vice President, National Association of Counties

-Extend power to local level, w/ only broad national performance goals

Panel:

Tollet, Erica, Senior Public Policy Analyst, Nat. Black Child Devlpment. Inst.

- Children need to have their fathers present as role models

Austin, Ed, Mayor of Jacksonville, National League of Cities

- The current welfare state is a major contributor to moral decline

-Maintain a proper mix between total federal authority and unlimited state flexibility

Gaffeny, Robert, County Executive, Suffolk County, New York

- Our county's WORKS program dropped # of people on welfare by 20%

Farah, Robert, President, Food Research and Action Center

- Maintain support of School Breakfast Program--Hungry kids can't learn

Darling, Sharon, Founder and CEO, National Center for Family Literacy

- Better to focus legislation on Family as a whole; i.e. family literacy

Ford(D-Tenn)- There might be a racial slant on all this legislation

Panel:

Meikeljohn, Nanine, Legislative Specialist, American Federation of State, County, and Municipal Employees

- Welfare reform should center around providing good private sector jobs

Field, Ron, Senior Vice President for Public Policy, Family Service America

- Over 70% of people on AFDC get off within two years

Romero, Carol, Ph.D., Deputy Director for Research, National Commission for Employment Policy

- Instead of giving states power we should have only one federal brccroy.

Acres, Harold, United Way of America

- Charities can't provide good prevention progrms as well as emrgncy care

Ramirez de Ferrer, Miriam M.D., President, Puerto Rico Federation of Republican Women

- Block grants can work along with a set of guidelines

Panel:

Shonkoff, Jack, M. D., American Academy of Pediatrics

- 80% of children on SSI have severe disabilities; Don't overdo reform

Manes, Joseph, Director for Federal Relations, Bazelon Center for Mental Health law

-Despite grow in recent years only 11% of children in special education are on SSI

Schulzinger, Rhoda, Co-Chair of the Social Security Task Force, Consortium for Citizens with Disabilities

- W/o SSI, many families would be forced to institutionalize their kids

Panel:

Mcfate, Katherine, Associate Director for Research, Joint Center for Political And Economic Studies

- Blacks stay on welfare almost twice as long as whites on average

Perez, Sonia, Director of Poverty Project, National Council of La Raza

- Banning legal immigrants from the safety net is not fair

Honkola, Cheri, Executive Director, Pennsylvania Welfare Rights Union

-I was poor; I tried to find work; When I couldn't, I used welfare as a safety net

McCrery: We might have to look at holes in our proposal in cases such as yours (Honkola).

Panel:

Baker, David, Public Sector Division Director, Service Employees Int'l. Union

- publicly subsidized jobs would take jobs away from the private sector

Wolfe, Leslie, President, Center for Women's Policy Studies

- HR4 would decrease number of people on AFDC who go to college

Archambault, Charlee, JOBS Director for the Rosebud Sioux Tribe, Indian and Native American Employment and Training Coalition

- We need provide child care for those people enrolled in JOBS

Panel:

Cave, Pamela, Chantilly, Virginia

- We need better laws regarding child support so fathers pay their share

Loendorf, Karen Jappe, Helena, Montana

- In general, people on welfare want to work

Corder, Sandra, Falls Church, Virginia

- Deadbeat dads should be required to work

-I'd rather be on welfare than take a minimum wage job even if that job meant that I would live a little better.

February 3, 1995
Longworth 1100

Subcommittee on Human Resources
Committee on Ways and Means
and
Subcommittee on Early Childhood, Youth and Families
Committee on Economic and Educational Opportunities
Joint Hearing on Child Care and Child Welfare

Panel:

Bane, Mary Jo, Ph.D., Assistant Secretary for Children and Families, HHS

1. We must allow parents to pursue the health care they desire

2. We must account for the continuity of care

3. In 1992, 3 million children were involved in reports of child abuse
Kidoe? (ranking minority member) - We inspect taverns more frequently than we inspect child care facilities

Panel:

Besharov, Douglass J., Ph.D., Resident Scholar, American Enterprise Institute for Public Policy Research, Washington D.C.

1. There are agencies who hire full time child care money lobbyists

2. It is clear to me that block grant will be more efficient

3. That withstanding, don't cut back the successful Headstart program

Blank, Helen, Director of Child Care, Children's Defense Fund, Washington DC

-From new criminal background checks, we found that 5% of child care providers have criminal records

Davis, Tina, (Student at Montgomery College and parent currently receiving child care subsidy), Takoma Park MD

1. Child care subsidies actually help parents become self-sufficient

2. Child care providers are more likely to give care to people with federal vouchers

Shepard, Debbie, Director, WPA, Department of Family Resources

1. WPA provides child care subsidies so parents can continue to work

2. 2/3 of the parents don't need the money anymore after six months

Highsmith, Karen, Acting Director, Division of Family Development, New Jersey, Department of Human Services, Trenton, New Jersey

-Vouchers enable parents to select appropriate child care

Rep. Greenwood - Let's train a fraction of the women on workfare (say one in ten) to be child care workers so that they can take care of the others' kids

Panel:

Horn, Wade, Ph.D., Director National Fatherhood Initiative

-far too many resources are tied up in the federal bureaucracy

Bevan, Carol Statuto, Ph.D., Vice President for Research and Public Policy, National Council for Adoption

-Adoption needs to be emphasized more as a first resort

Murphy, Patrick, Public Guardian, Cook County, Illinois

1. I work with these children all the time; it's hard for me to watch them live without hope or a future

2. The solution is to demand more of these people, don't let them just receive handouts without working

Massinga, Ruth W., Chief Executive, The Casey Family Program, Seattle, WA

-Young people who get no support from their family, need to have the same opportunity as other children

- Bear Warya

February 6, 1995
Rayburne B318

Subcommittee on Human Resources
Committee on Ways and Means
Child Support Enforcement Provisions

Panel:

Kennelly, Barbara (Conn.)

-Interstate enforcement of child support would enhance compliance

Roukema, Marge (NJ)

1. Effective reform of interstate enforcement is welfare prevention
2. "If child support laws were better enforced, 40% of welfare families could cease to need benefits" -Columbia U. study
3. Mothers must help with paternity establishment

Hyde, Henry J. (Illinois)

-The reason that states don't enforce child support laws very well is because the subsequent welfare money comes from the fed. gov't

Johnson, Nancy (Conn.)

-HR785 would implement a state based system

Morella, Constance (Maryland)

1. Nat'l default rate on car payments: 3%; on child support: 39%
2. We need to centralize child support at the state level

Panel:

Ellwood, David, Ph.D., Assistant Secretary for Planning and Evaluation, HHS

1. The Pres. believes child support should be included on the bill
2. The current system is contradictory b/c in 57% of cases no paternity is ever established
3. Capping spending on child support enforcement is not a good policy
4. JOBS programs should be mandatory for non-custodial parents

Camp (Michigan) -HR785 doesn't deny benefits unless paternity claim disproved

Ellwood -If mothers do not cooperate with paternity establishment then benefits would be denied

-Non-custodial parents would not necessarily qualify for the earned income tax credit

Panel:

Haynes, Nita, Director, Child Support Project, American Bar Assoc. Wash. DC

-Employer New Hire Registry must be: Universal, Simple, Flexible, & Uniform

Smith, Marilyn Ray, Pres., Nat'l Child Support Enforcement Assoc., Cmburg MA

1. We must change culture to discourage out-of-wedlock births
2. People on welfare are less likely to comply w/ paternity estblshmnt

Hoffman, Richard "Casey", President, Child Support Enforcement, Austin, TX

-We need to prioritize cases, addressing the needy first, because backlog of cases is the number one reason for non-payment

Panel:

Adams, Mitchell, Commissioner of Revenue Commonwealth Massachusetts, Boston
-We should require that all new hires are reported directly to states

Dutkowiak, Wallace, Director, Office of Child Support, State of Michigan
Dep't of Social Services, Lansing, MI; representing Amer. Public Welfare As.
-To match up evaders w/ mothers, we need to establish both a national
registry of child support orders and a national registry of new hires

Williams, Robert G., President, Policy Studies, Inc., Denver, Colorado
1. Congress should authorize access to IRS documents for private
companies for child support claims
2. 30% of our AFDC mothers leave the rolls after paternity established

Maloney, Hugh, Attorney, Patterson & Maloney, Fort Lauderdale, Florida
1. Privatize the enforcement collection of back support
2. The new system should have some centrality, but the guidelines
should be broad regulations

Salam, Debra K., Director, Federal Compliance, American Society for
Payroll Management, Houston, Texas
1. Through a computer network, employers report new hires monthly
in Texas
2. I think that new hire reporting needs to be uniform on fedrl level

Panel:

Ebb, Nancy, Senior Staff Attorney, Children's Defense Fund, Washington DC
1. Block grants will not do well; programs need federal direction
2. We don't want to deny help to those mothers who are finalizing
the establishment of paternity

Steinberg, Murray, American Fathers Coalition, Richmond, Virginia
1. Nationally, divorced fathers only spend an average of four
days a month with their children
2. It was found that 90.2% of fathers pay child support when given
access to their children; but only 46% paid who had no such access .

Campbell, Nancy Duff, Co-President, National Woman's Law Center, Wash., D.C.
-We have tried privatization before the current system; It *failed*

Jansen, Geraldine, National President, The Association for Children
for Enforcement Support, Incorporated, Toledo, Ohio
1. ACES is the largest child support agency in the country
2. Current divorce & subsequent child support order processes come
from the 19th Century legal climate; It is time to change

Ewing, Cynthia, Senior Policy Analyst, Children's Rights Council,
Washington DC
1. Most child support awards are too high
2. Mothers often do not spend all the money on the children
3. Awards are often made without regard to the ability to pay

Bear Waga