

Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Welfare to Work (4 pages)	ca. July, 2005	P5

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Cynthia Rice (Subject Files)
OA/Box Number: 15427

FOLDER TITLE:

Budget-1998-Conference-VIP Documents-Administrative Position-Summary

rx5

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Bruce Reed

7/24

(1)

Meeting Sandy Levin hour and a half
Deborah, Eric

- Non-citizens - ~~non-citizens~~ hold firm

- Agency/formula

They have no problem

DOL - formula

HHS - competitive

better 75/25

90/10

- SSI MOE

Take hard line possible by

- Pennington

- ~~Pennington~~ ^{thinks} Byrd ~~at~~
→ get so

Vo Ed → Compromise?
Title XX → give it to them

Privatization - take hard line
? - substitute demo
→ Elena + adre Polista

FLSA

- Opens EITC, FICA, ^{FUTA} fall back
 - Think could sell that to sensible people
 - But drop work time as allowable use
 - Strike FLSA exemption
 - Some program improvement
-

Don't want
to spend
advertising
with the

Q = is someone in subsidized private
sector job - do they get FICA + EITC
→ call Chiles → want to sell
→ call Richard Schwartz to Gene

2

Disproportionate

→ Across the board first

→ Grievance

→ Expand

- partial
- promotional opp
- impairment of contracts

Diana

- Generally state sets standards
to employer, employer complies
pays EITC / FICA

- Old law required treaties as
"camp for all purposes"
- New law doesn't

WELFARE TO WORK
PROGRAM ADMINISTRATION - FEDERAL

CONFERENCE PROVISIONS

- HHS

ADMINISTRATION POSITION

- DOL

PROBLEMS WITH CONFERENCE PROVISION

- DOL JTPA job training system already in place nationwide, guided by business-led Private Industry Councils (PICs). HHS has no such infrastructure or local business and industry ties.

FALLBACK POSITION

- DOL, consulting with HHS and HUD on competitive grants (as in both House provisions).
- Split responsibility -- one agency administers the competitive grants, the other the formula grants. (A rumored Republican offer that never materialized.)

WELFARE TO WORK
FLSA/MINIMUM WAGE

CONFERENCE PROVISIONS

- Participants engaged in work experience and community service programs (workfare) are not considered to be receiving compensation for work performed and are not entitled to a salary or work or training expenses. Thus, no coverage of FLSA or other workplace laws.

ADMINISTRATION POSITION

- Opposed.

PROBLEMS WITH CONFERENCE PROVISION

- Modifies current law with respect to applying the minimum wage and worker protections to working welfare recipients. Working welfare recipients should be treated like other workers with regard to employment status. The FLSA and other employment laws not would apply contrary to DOL's May guidelines.

FALLBACK POSITION

1. Strike sections 5004 and 5005.
2. Treat as employees for all purposes except for FICA, FUTA, and EITC.
3. Same as above, but apply the House maximum hours (minimum wage) provisions. All other employment laws continue to apply. An enforcement mechanism for the maximum hours (minimum wage) may be needed.

MAY
FICA
FUTA
EITC

OSHA

TANF TRANSFERS TO TITLE XX

CONFERENCE PROVISIONS

- The welfare reform bill allowed States to transfer up to 10% of their TANF block grant amounts to the Title XX Social Services Block Grant, but included language requiring transfers to Title XX to be made in proportion to other State transfers from TANF to the child care block grant (i.e., in order to transfer one dollar to Title XX, States must also transfer two dollars to child care). The Conference Agreement would make it easier for States to divert TANF funds away from welfare-to-work efforts to other Title XX social service activities by removing the requirement that transfers to Title XX be made in proportion to transfers to child care.

ADMINISTRATION POSITION



- The Administration opposes this provision in the Conference bill and urges the Conferees to drop it from consideration. (In the welfare reform debate, the Administration opposed transfers to Title XX.)

PROBLEMS WITH CONFERENCE PROVISION

- This provision would allow States to use funds on people who are not as disadvantaged as TANF recipients, and could allow States to more easily weaken the effective TANF MOE requirements.

FALLBACK POSITION

- None. Continue to oppose.

VOCATIONAL EDUCATION IN TANF

CONFERENCE PROVISIONS

- The welfare reform bill placed a 20% cap on the number of individuals who could meet the TANF work participation rates through participation in vocational education activities or, for teen parents, attendance in secondary school. The language is vague, however, and can be interpreted as applying the 20% cap to the entire caseload (a very broad base) rather than to those required to work (a narrower base). The Conference Agreement adopts the narrower base against which the cap on vocational education applies, and raises the cap to 25%. The Agreement does not exempt teen parents from the cap.

ADMINISTRATION POSITION

- Drop the provision.

PROBLEMS WITH CONFERENCE PROVISION

- The Administration has urged dropping this provision because it does not want to reopen TANF and does not want to appear to weaken the work requirements.

FALLBACK POSITION

- Exclude teen parents from the cap. (If teen parents are not exempt from the cap, they alone could fill the vocational education slots under the work requirement in the early years of TANF.)

WELFARE TO WORK NONDISPLACEMENT AND GRIEVANCE PROCEDURE

CONFERENCE PROVISIONS

- Nondisplacement. Participants in welfare to work activities and TANF may fill a vacant employment position in order to engage in a work activity, except when another individual is on layoff from the same or substantially equivalent job or if the employer has caused an involuntary reduction in the workforce with the intention of filling the vacancy with the participant.

Grievance Procedure. States must establish grievance procedures for employees alleging nondisplacement violations, and for TANF and welfare to work participants who allege violation of provisions regarding nondisplacement, health and safety standards or gender discrimination. The procedure must include an opportunity for a hearing. States may continue sanctions during grievance procedure.

ADMINISTRATION POSITION

- Nondisplacement. Senate provision which in addition to the conference provisions prohibits 1) displacement that reduces wages, hours, or benefits, or 2) impairs promotional opportunities for current employees. Apply to welfare to work and TANF.

Grievance Procedure. A procedure with deadlines for hearings (as in Senate), and an appeal process to a neutral, non-Federal third party.

PROBLEMS WITH CONFERENCE PROVISION

- Nondisplacement. No prohibition or reduction of hours could allow substituting lower cost welfare to work participants for current employees.

Grievance Procedure. No deadlines so grievance procedure could be abused. Need for a 3rd party review.

FALLBACK POSITION

- Nondisplacement. Top priority is language prohibiting reducing hours, wages, or benefits (see Senate). Promotional impairment is second order.

Grievance. Right to appeal an adverse decision or if a decision not issued in 60 days (see Senate). Appeal to a State agency selected by the Governor (e.g. State Labor Department, the State's EEO agency) or to an impartial tribunal already in place (e.g. those that hear appeals for claims under State UI laws).

WELFARE TO WORK PERFORMANCE BONUS

CONFERENCE PROVISIONS

- \$100 million of FY 1999 funds reserved to be awarded in FY 2001. Allocated by formula based on job placement, retention, and earnings increases; formula negotiated with NGA and APWA. (This is a modification and improvement of the Senate provision.)

ADMINISTRATION POSITION

- Require Governors to: 1) use at least ½ of their 15% State setaside of formula funds and 2) require the Secretary to reserve up to 7.5% of competitive funds for bonuses. Bonuses to top 20% of service delivery areas in a State tied to placement in long term unsubsidized employment. Totals \$225 million.

PROBLEMS WITH CONFERENCE PROVISION

- Bonus amount (\$100 million) is small. While success is tied to duration of placement and earnings, no guarantee that reward will be for long term placements or only for the top performers.

FALLBACK POSITION

- Conference acceptable if amended to increase the bonus amount, limit it to the top performers, ensure that measures for judging are tied to long-term unsubsidized employment (9-months).

Performance Bonuses Amendment

Governors' performance bonus awards

In section 403(a)(5)(A) of the Social Security Act [as proposed to be added by section 9001/5001], strike subparagraph (A) (vi) (III) and insert the following:

"(III) RESERVATION OF FUNDS FOR PERFORMANCE BONUSES AND SPECIAL PROJECTS.— The Governor of a State shall reserve not more than 15 percent of the total amount allotted to the State under subparagraph (A) (iii) in each fiscal year (plus any amount required to be distributed under this subclause by reason of subclause (II)) for performance bonuses under subclause (IV) and for special projects under subclause (V).

"(IV) PERFORMANCE BONUSES FOR MOVING INDIVIDUALS INTO UNSUBSIDIZED JOBS.—

"(aa) IN GENERAL.— Of the amounts reserved by the Governor under subclause (III), not less than 50 percent in each fiscal year shall be reserved for awarding performance bonuses to service delivery areas in fiscal years 1999, 2000, and 2001. The performance criteria shall be based on the performance of such areas, attributable to the use of funds under this paragraph, in moving required beneficiaries into unsubsidized employment lasting at least 9 months, and may also include earnings of the required beneficiaries. Such criteria shall take into account the economic circumstances of each area. A service delivery area receiving a performance grant may use the funds made available pursuant to such grant to carry out any of the allowable activities authorized under subparagraph (C)(i).

"(bb) HIGHEST PERFORMING AREAS.— Performance awards under this subclause shall be made to the highest performing 20 percent of the service delivery areas in the State. The amounts awarded shall reflect the relative success of service delivery areas in meeting or exceeding the performance criteria. In States with 4 or fewer service delivery areas, the highest performing area shall be awarded the bonus funds. No service delivery area receiving a bonus award shall be subject to any requirement that such area match the funds awarded under this subclause.

"(V) PROJECTS TO HELP LONG-TERM RECIPIENTS OF ASSISTANCE ENTER THE WORKFORCE.— Of the amount reserved by the Governor under subclause (III), not more than 50 percent of the total amount may be used for projects that appear likely to help long-term recipients of assistance under the State program funded under this part (whether in effect before or after the amendments made by section 103(g) of the Personal Responsibility and Work Opportunity Reconciliation Act first applied to the State) enter the workforce.

Secretary's performance bonus awards for competitive grant activities

In section 403(a)(5)(B) of the Social Security Act [as proposed to be added by section 9001(a)] redesignate clauses (iv) and (v) as clauses (v) and (vi), respectively, and insert after clause (iii) the following:

“(iv) PERFORMANCE BONUSES.—

“(I) Of the amounts available under clause (vi), the Secretary shall reserve not more than 7.5 percent in each fiscal year to award performance bonuses to grantees under this subparagraph in fiscal years 1999, 2000, and 2001.

“(J) AWARD CRITERIA.— The Secretary shall award funds available under subclause (I) to grantees under this subparagraph that meet or exceed performance criteria identified by the Secretary for moving required beneficiaries into unsubsidized employment lasting at least 9 months. Such criteria may include factors such as the earnings of the required beneficiaries and the economic circumstances of the areas served by the grantees.

State plan provision for performance goals.

In the House-passed bill [Committee Print HR 2015 EH], page 717, on line 20, strike “and”; and between lines 20 and 21, insert the following new subclause (and redesignate the succeeding subparagraph accordingly):

“(dd) set forth performance goals for moving recipients participating in activities funded under this paragraph into unsubsidized employment lasting not less than 9 months; and

WELFARE TO WORK
PROGRAM ADMINISTRATION - STATE/LOCAL

CONFERENCE PROVISIONS

- State TANF Agency. Formula grants administered by State TANF agency (or another designated by the Governor); competitive grants by PICs or political subdivisions which apply and are approved by the TANF agency.

ADMINISTRATION POSITION

- The PICs for an SDA have sole authority to expend funds, either formula or competitive.

PROBLEMS WITH CONFERENCE PROVISION

- PICs and SDAs are part of a nationwide job training system with ties to the business/industry community. They are in the best position to train and place the target group for available jobs in the private sector. The TANF agencies have no such infrastructure or ties to the business community.

FALLBACK POSITION

- A combination of House provisions. The PICs for an SDA have sole authority for formula grants after consulting with local elected officials (E & W provision); PICs and political subdivisions eligible for competitive grants after consultation with State TANF agency (W & M provision).
- Same as above except that formula grant consultation is with State TANF agency (W & M provision).

WELFARE TO WORK SANCTIONS (NICKLES AMENDMENT)

CONFERENCE PROVISIONS

- Notwithstanding minimum wage requirements, States retain the ability to sanction a family for noncompliance with program rules.

ADMINISTRATION POSITION

- Opposes as drafted.

PROBLEMS WITH CONFERENCE PROVISION

- Without a commensurate reduction in hours worked, provision would result in the sanctioned individual being compensated at less than the equivalent of the State or Federal minimum wage. Nevertheless, opposing a sanction for non-performance weakens the work incentive. Administration is exploring alternative formulations.

FALLBACK POSITION

- 1. State can sanction but recipients must receive minimum wage. [FLSA permits recipients who are not employees of States to voluntarily agree to deductions of sanctions, as in paragraph 2. Preserves current law.]
- 2. Sanction that cuts into the minimum wage may be done through fines, with a choice of options for payment, including voluntary deductions from pay.
- 3. Sanction (the equivalent of garnishment or a deduction) must be after TANF procedures conducted. Procedures may not be before the agency employing participant.
- 4. State can sanction through fines (as in paragraph 2) with protections for requirement that TANF procedures not be before the agency employing participant.

WELFARE TO WORK:
WORKFARE/COMMUNITY WORK EXPERIENCE AS "ALLOWABLE USES"

CONFERENCE PROVISIONS

- Per the July 21 "Conference Status" document, under "Uses of Funds", an authority is added, to the effect that "States can spend funds on community service and work experience programs." This authority makes clear that workfare is an allowable activity. NOTE: "Uses of Funds" is not on the July 23 "Balanced Budget Act of 1997" document.

ADMINISTRATION POSITION

- Opposed. The Administration notes that authority in both bills for "job creation through public or private wage subsidies" is sufficiently broad that Governors and Mayors could "likely" use these funds for costs of administering workfare programs.

PROBLEMS WITH CONFERENCE PROVISION

- The Conference position could lead to excessive use of funds for workfare (already unconstrained under TANF), at the expense of strategies more likely to help individuals move into lasting unsubsidized employment. Workfare can be a useful strategy for some individuals, but only if connected to a plan for ultimate placement in unsubsidized work.
- Hill Democrats are especially concerned about this.

FALLBACK POSITION

- This additional language would substantially mitigate the potential negative effects of the Conference position:

1. Add to the requirements for applicant (State, Mayor, competitive) plan:

"The plan shall set forth performance goals for moving recipients participating in activities funded under this [program] into unsubsidized employment lasting at least 9 months."

2. Modify the "Allowable Activities" introductory paragraph to read as follows:

"ALLOWABLE ACTIVITIES. -- An entity to which funds are provided under this paragraph *shall* [may] use the funds to move into *lasting unsubsidized employment* [the workforce] recipients of assistance under *the Welfare to Work program* [the program funded under this part of the State in which the entity is located] and the noncustodial parent of any minor who is such a recipient, by means of any of the following:"

IMMIGRANT BENEFIT RESTORATION

CONFERENCE PROVISIONS

- Contrary to the agreement, the Conference Agreement retains the House's grandfathering policy for all persons on SSI rolls instead of the disabled exemption for all in country prior to August 23, 1996. Conference does include the budget agreement's refugee and asylee policy extending the exemption from 5 to 7 years.

ADMINISTRATION POSITION

- On June 20, the President wrote Reps. Kasich and Spratt regarding the absence of a full disability exemption: "it is essential that the legislation presented to me include these provisions. I will be unable to sign the legislation that does not." He also expressed strong interest in assisting both disabled and elderly, "...if budgetary resources permit, my clear preference would be to assist both disabled and elderly legal immigrants..."

PROBLEMS WITH CONFERENCE PROVISION

- The Conference Agreement fails to fully restore SSI and Medicaid benefits for all legal immigrants who are or become disabled and who entered the U.S. prior to August 23, 1996.
- It does not include Senate provisions that would restore Medicaid coverage for future immigrant children. The Senate's original intent was to exempt children from both the 5 year ban and deeming. It also does not provide SSI and Medicaid to immigrants who are too disabled to satisfy the requirements to naturalize. In a July 2 letter, the Director said the Administration would support these provisions if resources are available. These two provisions cost \$300 million over 5 years.

FALLBACK POSITION

- The Administration could 1) agree to the Conference decision not to include the Senate exemption for those too disabled to naturalize and 2) propose that the Medicaid for immigrant children policy be at a State's option (the State option policy was in an earlier Senate offer). The State option would need to exempt children from both the ban and deeming.

SUMMARY OF BENEFITS FOR IMMIGRANTS SCORING

5 Year Costs in Billions

	<u>Total</u>	<u>Difference from Agreement</u>
Budget Agreement	9.7	
House --Full Grandfathering (with refugee/asylee policy)	9.0	-0.7
Senate --Full grandfather & refugee/asylee plus		
1) disability exemption		
2) State option to exempt future immigrant children from the 5-year ban on Medicaid (see note 1)		
3) Provide SSI and Medicaid to immigrants who are too disabled to satisfy the requirements to naturalize (see note 2)		
Total	11.7	+2.0
Budget Agreement and Full Grandfathering	11.4	+1.7
 <u>Partial Grandfather options starting in FY 1996:</u>		
Budget Agreement and 1 year grandfather	10.1	+0.4
Budget Agreement with 18 month grandfather	10.3	+0.6
Budget Agreement and 2 year grandfather	10.5	+0.8

Note 1: The Senate Children's policy was in the President's budget but not in the budget agreement. The \$0.25 billion estimate assumes that immigrant children will be exempted from the five year ban and deeming requirements. The Senate language, however, only exempts children from the five year ban.

Note 2: Costs \$41 million over 5 years. Most of the costs of this provision appear after FY 2002 since this provision helps immigrants who have entered after August 23, 1996 and immigrants are generally not eligible to naturalize during their first five years.

ACTION BEFORE RECESS TO ENSURE OCTOBER 1 SSI BENEFITS FOR LEGAL IMMIGRANTS

CONFERENCE PROVISIONS

- Immigrants currently receiving benefits retain eligibility.

ADMINISTRATION POSITION

- Support

PROBLEMS WITH CONFERENCE PROVISION

- If reconciliation is not completed before the August recess, by September 5 SSA would be required to notify legal immigrants now receiving SSI benefits and eligible to receive benefits under the Conference agreement that their payments could be interrupted. If reconciliation is not resolved by September 19th, October 1st benefits could not be provided.
- The Disaster Supplemental extended eligibility for SSI benefits from August 1997 to the end of September 1997 for those legal immigrants currently on the rolls. Under current law, as many as 500,000 individuals would not be eligible for SSI benefit payments dated October 1, 1997. Action before the August recess is needed because of the logistics of: (a) when notices of benefit termination must be sent and (b) when the system can be programmed to reverse the instruction to terminate benefits and still have payments sent dated October 1st.

FALLBACK POSITION

- If completion of reconciliation is unlikely before the August recess, legislation should be proposed to extend benefits for legal immigrants currently on the rolls through October 31, 1997. CBO estimated the cost of the one-month extension in the Disaster Supplemental bill for SSI and Medicaid at \$240 million for one month's worth of benefit payments. We would expect the cost of the recommended extension would be about the same. SSA has discussed the issue with House majority staff, who expressed a willingness to seek a solution.

Language attached.

EXTENSION OF SSI REDETERMINATION PROVISIONS

SEC. _____. (a) Section 402(a)(2)(D)(I) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(D)(I)) is amended --

(1) in subclause (I), by striking "September 30, 1997," and inserting "October 31, 1997,"; and

(2) in subclause (III), by striking "September 30, 1997," and inserting "October 31, 1997,".

(b) The amendment made by subsection (a) shall be effective as if included in the enactment of section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

PRIVATIZATION

CONFERENCE PROVISION

- **Allows privatization of State welfare, Food Stamps, and Medicaid functions nationwide. To circumvent the Byrd rule, requires Federal payments of \$5 million to States that choose to privatize.**

ADMINISTRATION POSITION

- **The Administration strongly opposes the provision.**

PROBLEMS WITH CONFERENCE PROVISIONS

- **The Administration believes that changes to current law would not be in the best interest of program beneficiaries.**
- **The cost of the \$5 million payment to States takes funding away from other priorities.**

POSSIBLE FALLBACK OPTIONS

- **None. Continue to oppose.**

SSI STATE SUPPLEMENTS MAINTENANCE-OF-EFFORT REQUIREMENT

CONFERENCE PROVISION

- The Conference Agreement eliminates “maintenance of effort” requirement that prevents states from lowering or eliminating State supplemental SSI payments. We understand that the Conferees are also considering language that would limit the reduction of State supplements to 10% per year for States whose benefit payments are Federally administered, with no such limitation on states that administer their supplements.

ADMINISTRATION POSITION

- Strongly opposes.

PROBLEMS WITH CONFERENCE PROVISION

- The repeal of the MOE would let States significantly cut, or even eliminate, benefits to nearly 2.8 million poor elderly, disabled, and blind persons. Some states could be expected to reduce state supplementary payments simultaneously with increases in the Federal SSI COLA. About 380,000 individuals nationwide receive SSI state supplementary payments, but no Federal SSI benefits. For these individuals, a reduction in the SSI state supplementary payments may result in loss of Medicaid eligibility because of the loss of SSI eligibility.
- Most of the individuals who could be affected live below the poverty line; they would be pushed deeper into poverty if these state SSI supplementary benefits are reduced. 60% of those receiving SSI state supplementary payments are women and 37% are over age 65.
- A similar provision was removed from last year’s welfare reform bill via the Byrd Rule. The Congressional Record clearly shows that the Byrd Rule decision was based upon the budget effects being merely incidental. Consequently even if CBO decides the provision has small budget effects, it should still be subject to the Byrd Rule.

FALLBACK POSITION

- We recommend no fall back position.
- Uniform limitation on the reductions (e.g. no more than a 5% one-time reduction for all states whether or not Federally administered) could be a compromise position.

SSI USER FEE

CONFERENCE PROVISIONS

- The tentative Conference Agreement includes language to authorize an increase to the fee States pay when they enter into agreements to have SSA administer State supplemental payments (i.e., State payments that are supplemental to the Federal SSI payment). The language makes the funds from the increase in the fee available to SSA for administrative expenses, subject to appropriations action.

ADMINISTRATION POSITION

- The Administration supports action in the reconciliation/appropriations process that will provide for (1) permanent authorization of an increase to existing fees to offset SSA-related spending and (2) an appropriation for FY 1998 from these fees for SSA administrative expenses.

PROBLEMS WITH CONFERENCE PROVISION

- The Senate Labor/HHS/Ed appropriations subcommittee and the House appropriations committee have both included authorizing language in their appropriations bills. Both the reconciliation bill and the appropriations bill now give credit for the revenue. With no change in the reconciliation bill language, the appropriations committees may balk at providing the funding if they are ultimately scored for the spending and not credited for the revenue.

FALLBACK POSITION

There are two alternatives.

- (1) A language change in the reconciliation bill, which would direct the scoring to give credit for the revenue to the appropriations bill rather than the reconciliation bill. Language follows:

The amounts of the administration fees authorized by this section to be charged and credited to a special fund established in the Treasury of the United States for state supplementary payment fees shall not be scored as receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985; such amounts shall be credited as a discretionary offset to discretionary spending to the extent they are made available for expenditure in appropriations Acts, not getting credit for the revenue.

(2) Strip the authorization language from the reconciliation bill and include both the permanent authorization and the appropriation in the appropriations bill.

UNEMPLOYMENT INSURANCE INTEGRITY

CONFERENCE PROVISIONS

- The Conference Agreement includes a provision to authorize discretionary spending on unemployment insurance (UI) integrity activities in 1998-2002, which will yield mandatory outlay savings. The Conference Agreement lacks any budget process reforms that would assure that the appropriators provide the funds authorized.

ADMINISTRATION POSITION

- Supports the authorization of UI integrity spending, but seeks additional budget process reforms to assure that the appropriators provide the discretionary funds necessary to achieve the mandatory savings.

PROBLEMS WITH CONFERENCE PROVISION

- The Conference provision merely authorizes additional discretionary spending; the Agreement lacks any mechanism to assure that the appropriators provide the necessary funds. At this time, the House appropriations committee and the Senate appropriations subcommittee have not provided the funds to achieve these savings. Thus, the \$763 million in mandatory outlay savings over five years that were assumed in the Budget Agreement will not be achieved. The Administration has sought budget process reforms for 1998-2002 to provide the necessary incentive to the appropriators. The President's Budget had proposed an increase in the discretionary caps to accommodate this spending. Later, the Administration proposed a budget process reform to create a UI integrity reserve fund that would "fence off" the funds authorized for UI integrity and make them unavailable for other purposes.

FALLBACK POSITION

- Delay the budget process reforms to take effect in 1999-2002. This would provide the appropriators another year to come up with the necessary funds. However, this delay would reduce the expected five-year savings to \$598 million as well as making a small reduction in the savings for 2002.
- Drop our request for budget process reforms for UI integrity.

PENNINGTON PROVISION

CONFERENCE PROVISIONS

- The Conference Agreement includes a provision that clarifies that a State has authority over what base period to use in establishing eligibility for unemployment benefits. This is often referred to as the "Pennington provision" because it overturns the court decision in Pennington v. Doherty that required Illinois to create an alternative base period to expand the number of individuals eligible for unemployment benefits..

ADMINISTRATION POSITION

- The Administration has been neutral on this provision.

PROBLEMS WITH CONFERENCE PROVISION

- This provision had been dropped from the Senate reconciliation bill as a Byrd rule violation. While CBO believes that this provision would reduce the deficit, CBO does not show scorable savings for this provision because its baseline was set before Illinois' appeal of the initial court decision was decided. According to DOL, organized labor objects to this provision and would like the Administration to remain at least neutral if it does not specifically object.

FALLBACK POSITION

- On a programmatic basis, this provision is not objectionable. Continue neutrality.

DELAY OF OCTOBER 2000 SSI PAYMENT

CONFERENCE PROVISIONS

- We understand there is an effort to include language to delay the Supplemental Security Income payment for the month of October 2000, which by law would be made on September 29, 2000, in order to have twelve months worth of outlays in both FY 2000 and FY 2001, instead of 13 months in 2000 and 11 months in 2001.

ADMINISTRATION POSITION

- Oppose.

PROBLEMS WITH CONFERENCE PROVISION

- Delaying SSI payments beyond the current statutory date would cause undue hardship to millions of SSI recipients, as well as alarm (despite whatever notices SSA might send) about whether their checks had been lost, misdirected, or stolen. Receipt of payments would be effectively delayed by at least three days (from Friday, September 29 to Monday, October 2).

FALLBACK POSITION

- Include language that directs CBO and OMB to score the outlays for the October 2000 SSI payments as if they occurred in October 2000. Payments would be made on September 29, 2000.

Rough draft language:

Outlays for benefits payments under title XVI of the Social Security Act for October 2000 shall be scored under the Balanced Budget and Emergency Deficit Control Act of 1985 by the Congressional Budget Office and the Office of Management and Budget as though the delivery date were the second day of such month, without regard to the actual delivery date.

WELFARE ADMINISTRATIVE COST ALLOCATION

CONFERENCE PROVISIONS

- No provision.
- Under current law, States may take action to increase Federal costs dramatically by changing their welfare cost allocation plans to shift State administrative costs from the capped TANF grant to matched, open-ended funding streams in Food Stamps and Medicaid. Proposals were introduced but not adopted in the Senate Finance and House Agriculture Committees to limit the extent of such cost shifting. The Finance Committee proposal would save \$3.3 billion over five years and \$650 million in 2002.

ADMINISTRATION POSITION

- The Administration supports a statutory change that would maintain TANF as the "primary program" for cost allocation purposes and limit the degree of cost shifting from TANF to other programs, thereby saving \$3.3 billion against CBO's baseline.

PROBLEMS WITH CONFERENCE PROVISION

- No provision.

FALLBACK POSITION

- Language similar to the Chafee/Rockefeller proposal to lock in current cost allocation plans (see attached).

Rockefeller/Chafee Amendment on Cost Allocation with HHS Edits
(deletions in strikeout, additions in bold)

Section 408(a) of the Social Security Act (42, U.S.C. 608 (a)) is amended by adding at the end the following:

“(12) DESIGNATION OF GRANTS UNDER THIS PART AS PRIMARY PROGRAM IN ALLOCATING ADMINISTRATIVE COSTS. Notwithstanding any other provision of law or regulation, the state shall designate the program funded under this part as the primary program for the purpose of allocating costs incurred in serving households eligible or applying for benefits under the state program funded under this part and any other Federal means tested benefits. The Secretary shall issue regulations to require that such administrative costs be allocated to the program funded under this part in the same manner as such costs were allocated by State agencies which had designated Part A of the Title IV (42 U.S.C. 601 et seq.) as the primary program for the purpose of allocating administrative costs prior to August 22, 1996.”

Section 409(a) of the Social Security Act(42, U.S.C. 609 (a)) is amended by adding at the end the following:

“(13) FAILURE TO ALLOCATE ADMINISTRATIVE COSTS TO GRANTS PROVIDED UNDER THIS PART.--If the Secretary determines that the state has not allocated administrative costs in accordance with section 408(a)(12), the Secretary shall reduce the grant payable to the state under section 403(a)(1) for a fiscal year by the amount of administrative expenses that the state allocated to the program funded under this part in the preceding year less than the amount the Secretary determines should have been allocated to the program funded under this part.”

RECONCILIATION POSITIONS: HUMAN RESOURCES

Welfare to Work

- Distribution of Funds
- Program Administration - Federal
- Fair Labor Standards Act/Minimum Wage
- TANF Transfers to Title XX
- Vocational Education Counted as Work Under TANF Work Requirements
- Welfare to Work Nondisplacement and Grievance Procedure
- Performance Bonus
- WTW Program Administration - State and Local
- Sanctions (Nickles Amendment)

Uses of Funds - Workfare [not on 7/23 document]

Immigrants

- Immigrant Eligibility for SSI and Medicaid
- Summary of Benefit for Immigrants Scoring
- Action Before Recess to Ensure October 1 SSI Benefits for Legal Immigrants [not on 7/23 document]

Welfare Privatization

Other Issues

- SSI State Supplements
- SSI User Fee
- UI Integrity
- Pennington

Other Issues not on 7/23 document

- Delay of October 2000 SSI Payment
- Cost Allocation

WELFARE TO WORK DISTRIBUTION OF FUNDS

CONFERENCE PROVISIONS

- The Conference proposal contains a 90/10 formula/competitive split.
 - 90% formula funds are distributed to States on the basis of poverty levels and TANF caseloads; include a small-State minimum of 0.25%; are distributed within States based on poverty levels, long-term TANF caseloads (optional), and unemployment (optional); and presume TANF agencies will administer but give the Governor an option for PICs or other agencies to administer.
 - 10% competitive funds are available to PICs and other political subdivisions of a State; provide no set-asides for rural areas or poor cities; and provide no role for non-profit entities, including community development corporations.

ADMINISTRATION POSITION

- The Administration opposes the Conference proposal because it does not give cities and mayors sufficient authority to administer the program. The Administration favors the Ways and Means provisions which included a 50/50 split and gave PICs responsibility for administering the program --targeting resources more effectively to cities.

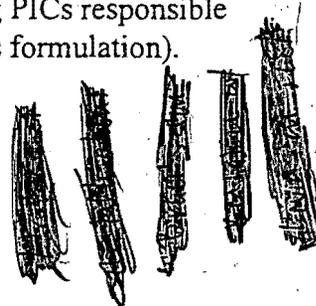
PROBLEMS WITH CONFERENCE PROVISION

- Does not adequately place resources in the hands of mayors to administer the program (allows Governor to decide if TANF agency or other agency is to run the program).

FALLBACK POSITION

- Ways and Means bill: 50/50 split with 65% of competitive funds targeted to the poorest cities and PICs responsible for program administration.
- Existing 90/10 split with the strong focus on cities by making PICs responsible for program administration (mayors are comfortable with this formulation).

75/25
80/20





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

July 2, 1997

The Honorable John R. Kasich
Chairman
Committee on the Budget
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

As the Conferees begin to consider this year's budget reconciliation bill, I am writing to transmit the Administration's views on the House and Senate versions of the spending bill on reconciliation, H.R. 2015. The Administration will separately transmit its views on the tax provisions.

We are pleased that the House and Senate adopted many provisions that are consistent with the Bipartisan Budget Agreement, reflecting the continuing bipartisan cooperation that we will need to fully implement the agreement and balance the budget. In several areas, however, the House and Senate bills violate the agreement. In other areas outside the scope of the agreement, we have very strong concerns about the reported provisions. We have raised a number of these issues in letters to you and to the authorizing committee chairmen and ranking members throughout House and Senate consideration of the separate reconciliation spending bills.

On the pages that follow, we have outlined noteworthy provisions of the House and Senate bills with which we agree, others that we believe violate the budget agreement, and still others about which we have concerns.

We expect and will insist that the final budget legislation conform to the budget agreement. In addition, we look forward to working with you to craft a final conference report that is free of objectionable provisions, resolves the other major policy differences between us, and balances the budget by 2002 in a way that we can all be proud of. We hope to meet that goal before the August recess.

We look forward to working with you.

Sincerely,



Franklin D. Raines
Director

Enclosure

cc: Senate Conferees
House Committee Chairmen and Ranking Members

Identical letter sent to Honorable Pete V. Domenici,
Honorable John M. Spratt Jr., and Honorable Frank R. Lautenberg

THE ADMINISTRATION'S DETAILED VIEWS:**THE HOUSE AND SENATE RECONCILIATION BILLS ON SPENDING****Medicare**

We applaud the House and Senate for reporting bills that largely conform to the underlying principles of the budget agreement. Both bills achieve the necessary level of Medicare savings — although we still await final scoring of the Senate provisions from the Congressional Budget Office (CBO) — and would extend the life of the Hospital Insurance Trust Fund by at least 10 years; provide structural reforms that will give beneficiaries more informed choices among competing health plans; establish prospective payment systems for home health agencies, skilled nursing facilities, and hospital outpatient departments; incorporate prudent purchasing reforms; and provide the funds to establish a wide array of cost-effective preventive benefits, including mammography and colorectal screening. We look forward to working with your staffs on the many technical issues related to ensuring that these provisions are implemented correctly.

We are pleased that the Senate has included provisions in its bill to require managed care and fee-for-service demonstrations of Medicare reimbursement to the Departments of Defense (DOD) and Veterans Affairs — a concept known as Medicare subvention. We are encouraged that these provisions are similar to our own Medicare subvention legislation, which we transmitted to Congress on February 7, 1997. We look forward to working with the Conferees to develop a bill that addresses Administration concerns about the fee-for-service and payment rate components of the DOD demonstration.

Notwithstanding these achievements, both the House Ways and Means and Senate bills contain a provision that we believe is inconsistent with the budget agreement. During our negotiations over the agreement, we discussed at great length the reallocation of home health expenditures to Medicare Part B. All sides clearly understood that the reallocation would be immediate. Both bills, however, phase in the reallocation, which costs two years of solvency in the Part A trust fund -- two years that we can ill afford to lose. We urge the Conferees to incorporate the provisions in the House Commerce Committee title of the House bill, reallocating home health spending consistent with the budget agreement.

The Administration has significant concerns with other provisions of the two bills, concerns that we urge the Conferees to address.

Beneficiary Contributions to a Balanced Budget. We worked very hard during the budget negotiations to set a beneficiary contribution to a balanced budget that was fair and equitable – applying the Part B premium, over several years, to the home health reallocation and maintaining the Part B premium equal to 25 percent of program costs. Other provisions of the Senate bill, however, would go beyond the budget agreement and introduce new, inadequately developed proposals.

- *Raising the Medicare Eligibility Age.* The Senate bill raises the eligibility age for Medicare from 65 to 67 over a period of years. Raising the eligibility age is not necessary to balance the budget, and consideration of this policy should be part of a bipartisan process to address the long-term financing challenges facing Medicare. Moreover, early retirees between 65 and 67 may not be able to obtain affordable insurance in the private market. The Administration is concerned about the potential loss of coverage for any American, and we urge the Conferees to drop the provision as part of this bill.
- *Imposing Home Health Copayments.* The Senate bill would impose a Part B home health copayment of \$5 per visit, capped at an amount equal to the annual hospital deductible. Most home health users who lack Medigap or Medicaid protections are poor and will face financial burdens that may result in reduced access to needed care. Those beneficiaries who have Medigap or Medicaid will have no real incentive to reduce utilization. We do not need to impose a home health copay to balance the budget, and any further consideration of this policy should be part of a bipartisan process to address the long-term financing challenges facing Medicare. We urge the Conferees to drop this provision as part of this bill.
- *Income-relating the Part B Premium.* The Senate bill would income-relate the Medicare Part B premium. While we do not oppose income-relating Medicare in principle, we have a number of concerns about this proposal. First, we do not need income-related beneficiary contributions to Medicare to balance the budget. Second, we have serious concerns about how an income-related premium will be administered. Administration by the Department of Health and Human Services (HHS), which has no access to individual beneficiary income data, would be impractical and very expensive, and we have previously said that only the Treasury Department could administer such a policy in the short run. Moreover, the administering agency would require substantial additional resources to undertake this new responsibility. Finally, we believe that this provision, which completely eliminates any Part B premium subsidy for the highest-income beneficiaries, could lead these beneficiaries to drop Medicare coverage, thus leaving poorer, typically less healthy, beneficiaries in the Medicare risk pool and thereby increasing their premiums. While we have serious concerns about this proposal as drafted, we remain interested in discussing it, or proposals like it, in the broader context of reforms to address the long-term financing and structural challenges facing the program.

Threat to Beneficiary Protections. The Administration strongly supports the introduction of new options for Medicare beneficiaries in both the fee-for-service and managed care sectors. We also believe, however, that any new options must both provide value beyond that offered by the traditional Medicare program and include beneficiary protections. The Senate bill includes several provisions that violate these principles, and we urge the Conferees to drop them.

The first provision allows beneficiaries to choose a so-called "private fee-for-service" option under the Medicare Choice program. We are concerned that private fee-for-service plans in Medicare Choice represent bad policy, particularly given the fact that these plans will be subject to no balance billing or quality protections. We are also concerned that this option will attract primarily healthy and wealthy beneficiaries and leave sicker and poorer beneficiaries in the more expensive, traditional Medicare program. In addition, it could disproportionately attract rural beneficiaries if the few providers in their area choose to leave traditional Medicare and form private fee-for-service plans.

The second provision would allow physicians to obtain private contracts from beneficiaries whereby the beneficiary would agree to pay whatever the physician charged (i.e., waive balance billing limits) and agree not to submit a bill to or collect anything from Medicare. The beneficiary would be totally responsible for out-of-pocket expenses for the physician's entire bill, even though the service would be covered by Medicare if the bill were submitted to Medicare. As a result, we are concerned that private agreements could become licenses for physicians to coerce beneficiaries, exposing beneficiaries to unlimited liability and making meaningless the Medicare coverage they have paid for.

The third provision would allow Durable Medical Equipment (DME) suppliers to bill Medicare beneficiaries for amounts beyond cost-sharing for "upgraded" DME items, while still accepting assignment. Beneficiaries already have the option of choosing upgraded DME under current law. We are concerned that this new option undermines limits on beneficiaries' out-of-pocket payments and, as a result, could permit suppliers to take advantage of beneficiaries.

Medical Savings Accounts. We believe that any demonstration of this concept should be limited in order to minimize potential damage and costs to Medicare. We commend the Senate for limiting the demonstration to 100,000 participants, but we believe a successful demonstration could be structured with fewer participants. In any case, we want this demonstration to be as small as possible. We also commend the Senate for limiting cost-sharing and deductibles to amounts enacted under the Health Insurance Portability and Accountability Act (HIPAA). But, we still prefer a geographically-limited demonstration that applies current law limits on balance billing to protect beneficiaries from additional provider charges. We urge the Conferees to limit this demonstration numerically (within the numbers outlined above) and geographically for a trial period (two States for three years), enabling us to design the demonstration to answer key policy questions.

Preventive Benefits. We are pleased that the preventive benefits in the House and Senate bills are largely the same as those in the President's budget. Unlike the budget, however, the House and Senate bills do not waive all cost sharing (coinsurance and deductibles) for mammograms. Research shows that copayments hinder women from fully taking advantage of this benefit. We urge the Conferees to modify the House and Senate provisions to waive all cost sharing for mammograms.

Medigap. The President's budget advanced a number of important Medigap reforms, including annual open enrollment, community rating, initial open enrollment for disabled and kidney dialysis beneficiaries, and various portability provisions. We are disappointed that neither the House or Senate adopted certain of these reforms. The Senate bill took the largest strides toward these important reforms, providing for an initial open enrollment period for disabled beneficiaries and a trial period for managed care enrollees. We urge the Conferees to adopt at least the Senate provisions, and to fully consider the President's suggested additional reforms.

Medical Malpractice. The House bill includes malpractice provisions that are extraneous to the budget agreement. The Administration has consistently made it clear that we find these provisions objectionable, and we urge the Conferees to delete them.

Provider Sponsored Organizations. Another step forward in both bills is their inclusion of provider sponsored organizations (PSOs) as Medicare options. We are concerned, however, about the lack of minimum private enrollment requirements and aspects of the PSO definition, and we look forward to working with the Conferees on these issues.

Managed Care Payments. We agree that the current unjustifiable geographic variation in payments to managed care plans should be remedied as part of the reconciliation bill. We prefer the House proposal, which mitigates the geographic variation in payments and maintains the link to fee-for-service payments, along with an adjustment for adverse selection. Various payment provisions in the Senate bill, some of which are individually justifiable, together have a significant negative impact on areas with a high managed care enrollment and could lead to abrupt changes in additional benefits now provided to Medicare enrollees. The Senate proposal also ties growth in managed care payments to growth in gross domestic product (GDP). We prefer a less disruptive payment proposal and one that ties growth in payments to growth in fee-for-service Medicare. Limiting managed care payment growth to GDP effectively creates two growth rates for Medicare payments, leading to an erosion of the value of the Medicare Choice benefit package and exposing beneficiaries to increased premiums.

Managed Care Risk Adjustment. The Senate bill includes immediate implementation of an untried, "new enrollee" risk adjustment methodology that would be applied in an inequitable manner (exempting some plans) and that would be replaced by a different revised

methodology two years later. We prefer to implement a managed care risk adjustment methodology once — and sooner. Therefore, we support the House provisions on risk adjustment, modified to authorize the collection of hospital discharge data immediately and to authorize implementation of the risk adjustment methodology in 2000.

Medical Education/Disproportionate Share (DSH) Carve-out. The President's 1998 budget proposed to move medical education (indirect and direct) and DSH adjustments out of managed care payment rates and redirect them to eligible hospitals that provide services to Medicare managed care enrollees. This important proposal would ensure that the Nation's teaching hospitals and those that serve low-income populations receive the Medicare payments to which they are entitled. The Senate and the House Commerce Committee adopted these provisions, and we urge the Conferees to adopt them as well.

Managed Care Enrollment. We urge adoption of the Senate provisions with regard to open enrollment. The House bill permits beneficiaries to be locked into a MedicarePlus plan for as long as nine months, after a lengthy transition period. We continue to support the monthly disenrollment option as an important safety valve for managed care enrollees who are dissatisfied with their managed care plan.

Managed Care Quality. Both the House and Senate bills go far to ensure quality in Medicare managed care. The House bill, however, has an objectionable provision allowing external quality review requirements to be met through accreditation. The House bill also contains a similar provision in its Medicaid title. We prefer maintaining a true requirement for external quality review to protect beneficiaries in this rapidly changing marketplace, as the Senate bill provides.

Medicare Commission. Both the Senate and House bills would establish a Medicare commission. We believe strongly that a mutually agreeable, bipartisan process is essential to successfully address the long-term financing challenges facing Medicare. We look forward to working with you to develop the best possible bipartisan process to address those challenges while simultaneously ensuring the sound restructuring of Medicare to continue to provide high-quality care for our Nation's senior citizens.

Office of Competition. The Senate bill would create an Office of Competition within HHS to administer competitive pricing demonstrations. We believe this provision would create unnecessary duplication of staff and resources within HHS and become a potential source of confusion for Medicare beneficiaries and plans. We are also concerned about certain aspects of the competitive pricing demonstration, and we look forward to working with the Conferees to ensure that the demonstration authority would lead to valid and verifiable results.

Hospital Payment Systems. We have several concerns with various House and Senate provisions relating to hospital payments, including: the Senate provision to move the hospital update to a calendar year basis while leaving all other changes to PPS payments on a fiscal year basis, thus requiring two separate payment rules; the Senate provision on hospital transfers, which does not include home health agencies and which we believe creates a strong, unjustified payment bias to use home health services for post acute care; and the Senate provision to provide large bonus payments for certain PPS-exempt facilities, which could lead to a significant redistribution of funds among PPS exempt facilities.

Medicare Disproportionate Share Payments (DSH). We look forward to working with Congress to develop a new adjustment for hospitals that serve a disproportionate share of low-income individuals. We want to improve the current adjustment to create a better measure of services to indigent populations so that we can better target DSH payments. But, we oppose any cuts to the current DSH adjustment in the interim. We have proposed to freeze the adjustment for the next two years to ensure that vulnerable hospitals serving large numbers of uninsured and under-insured patients are not burdened with excessive cuts.

Medicare Secondary Payer (MSP). Both the House and Senate bills limit the time period for MSP recovery to three years after the date of service. We urge the Conferees to adopt a five-year time limit, consistent with the President's proposal. The IRS/SSA data match does not provide information in a timely enough manner to be able to recover overpayments within a three-year window. We also urge the Conferees to adopt our insurer reporting proposals.

Implementation Issues. We are concerned about how the full scope of the House and Senate provisions would affect HHS' administrative abilities and resources necessary to implement them. We urge the Conferees to consider changes in the effective dates of the provisions so they are consistent with the funding levels that the budget agreement provided to the Health Care Financing Administration (HCFA).

Medicaid

We commend the House and Senate for reporting bills that conform to many of the Medicaid reform principles of the budget agreement. Both achieve savings through lower disproportionate share hospital payments (DSH) and greater State flexibility. Both bills give States more flexibility to manage their Medicaid programs by repealing the Boren amendment, allowing managed care without Federal waivers, and eliminating unnecessary administrative requirements. We also commend the Senate for including managed care quality standards that are consistent with the President's consumer protection framework.

Nevertheless, the House and Senate bills contain provisions that are inconsistent with the budget agreement.

First, the budget agreement includes a provision to restore Medicaid for current disabled children losing Supplemental Security Income (SSI) because of the new, more strict definition of childhood eligibility. The Senate bill does not include this proposal. The House bill allows, but does not require, States to provide Medicaid benefits for about 30,000 children who could lose their health care coverage in fiscal 1998. We strongly urge the Conferees to conform to the budget agreement by including the provision from the President's budget that would guarantee coverage to these children, and allocate the necessary funds for this purpose.

Second, the budget agreement includes a 70 percent Federal matching payment for Medicaid in the District of Columbia. We are pleased that the Senate bill includes a higher matching payment, but we are concerned that it is not sufficient; it sunsets at the end of fiscal 2000 and is 10 percentage points lower than the 70 percent that the budget agreement called for. A 60 percent matching rate would still leave the District paying a higher share of its Medicaid program than any other local government. We urge the Conferees to include the provision from the agreement.

The budget agreement also includes adjustments for the Medicaid programs in Puerto Rico and the territories. We are pleased that the Senate includes adjustments for those programs, but we would prefer that the Conferees include the language in the President's 1998 budget.

The Administration has significant concerns with other House and Senate provisions that we urge the Conferees to address.

Assistance for Low-Income Medicare Beneficiaries. The Senate bill includes \$1.5 billion in premium assistance for low-income beneficiaries through a Medicare block grant to States. The House provides \$1.5 billion to expand eligibility to Medicaid but does so, in part, through an administratively complex formula subsidizing only a portion of the Part B premium. We prefer a simpler approach that would finance the cost of the full Part B premium through Medicaid. In addition, we object to the Senate provision that sunsets this assistance in 2002; low-income senior citizens will still need this assistance after that date.

Medicaid Cost Sharing. The Senate bill would allow States to require limited cost sharing for optional benefits. We are pleased that a Senate amendment would bar States from imposing cost sharing on children under 18 in families with incomes below 150 percent of poverty. But, we are still concerned that the bill may compromise beneficiary access to quality care. Low-income elderly and disabled Medicaid beneficiaries may forgo needed services if they cannot afford the copayments.

Disproportionate Share Hospitals -- Allocation to States. We have concerns about the House and Senate allocations and levels of DSH payment reductions among States. As in the DSH policy of the 1993 budget reconciliation bill, this year's policy should address past abuses without causing undue hardship on any State. We are seriously concerned, however,

that the House and Senate bills may have unintended distributional effects among States. We urge the Conferees to adopt the President's 1998 budget proposal, which takes an equal percentage off of States' total DSH spending up to an "upper limit," ensuring that States with the highest DSH spending do not bear most of the impact.

Disproportionate Share Hospitals -- Targeting to Hospitals. The House bill does not retarget DSH funds. The Senate bill would require States to develop DSH targeting plans, but it does not include a Federal DSH targeting standard. As we have said previously, we believe that significant DSH savings should be linked to a Federal standard for targeting the remaining DSH funds to needy hospitals. Without such standards, providers with high-volume Medicaid and low-income utilization may not be sufficiently protected from DSH reductions.

In addition, the House bill would require States to make DSH payments directly to qualifying hospitals, and would not allow States to make DSH payments through capitation payments to managed care organizations. The Senate bill does not include this provision. We urge the Conferees to adopt the House provision, ensuring that all eligible hospitals receive a Federal DSH payment regardless of their contract, or lack of a contract, with a particular HMO.

§1115 Extensions and Provider Tax Waiver. The House and Senate bills would extend expiring §1115 Medicaid waivers. The Senate would deem approved §1115 waivers without regard to whether they will increase spending. In addition, the Senate bill would deem provider taxes as approved for one State. We have serious concerns about these provisions and would like to work with the Conferees to address the underlying problems.

Return to Work. We are pleased that the Senate bill would allow States to allow workers with disabilities to buy into Medicaid. But we urge the Conferees to adopt the version of this proposal from the President's 1998 budget, which would not limit eligibility for this program to people whose earnings are below 250 percent of poverty. We believe that the Senate-proposed limit would not give States enough flexibility to remove disincentives to work for people with disabilities.

Criminal Penalties for Asset Divestiture. The Senate bill would amend Section 217 of the Health Insurance and Portability and Accountability Act 1996 (HIPAA) to provide sanctions against those who help people to dispose of assets in order to qualify for Medicaid. We prefer to repeal section 217 because we believe that the Medicaid laws in effect before HIPAA are sufficient to protect Medicaid against inappropriate asset divestiture.

Management Information. The President's 1998 budget included a major reduction in unnecessary administrative burdens on the States, but ensured that States collect sufficient information to effectively manage their Medicaid programs. The House approach would require States to show that their State-designed systems meet outcome-based performance

standards and would permit the collection and analysis of person-based data. The Senate did not include this provision. We urge the Conferees to adopt the House provision.

Alaska FMAP Change. The Senate bill would increase Alaska's Federal Medical Assistance Percentage (FMAP) above the level of the current law formula. While we have consistently supported efforts to examine alternatives to the current Medicaid matching structure, we believe that changing the FMAP for Alaska alone is unwarranted and does not address the underlying inequities in the current system.

Children's Health

We are pleased that the children's health initiative is in both the House and Senate bills. In fact, the Senate bill goes beyond the \$16 billion that the budget agreement provides, adding another \$8 billion, which is a portion of the revenue from a 20-cent increase in the tobacco tax.

We support a 20-cent increase in the tobacco tax -- we agree that it complements the budget agreement -- and we endorse the idea of using all of the revenues raised by such an increase for initiatives that focus on the needs of children and health. We urge the Conferees to invest all of these funds wisely in order to ensure meaningful coverage for millions of uninsured children. In addition, we especially support the Senate provisions for benefits and cost sharing.

Notwithstanding these achievements, we have serious concerns about the following House and Senate provisions, which we urge the Conferees to address.

Sunset of Tobacco Tax Revenue for Children's Health. Although we commend the Senate for supporting the use of the tobacco tax for children's health, we urge the Conferees to continue this funding after 2002. A sudden drop in funding in 2003 would cause many of the newly-insured children to lose their coverage.

Meaningful Benefits, Cost Sharing/Direct Services. The budget agreement calls for the children's health investment to go for health insurance coverage. Thus, we support the Senate's definition of benefits and its limits on cost sharing, the latter of which will ensure that low-income children do not shoulder unrealistically high costs that could lead to reduced access to needed health care. We do not support the direct services option of the House bill because we are concerned that a State could spend all of its money on one benefit or to offset the effects of the DSH cuts on certain hospitals; and that children would not be assured appropriate coverage. In our view, this provision does not fulfill the commitment of the budget agreement to provide "up to five million additional children with health insurance by 2002."

Funding Structure. We support the straightforward funding structure of the House bill. But its proposal for different matching rates for Medicaid and the grant option could discourage States from choosing Medicaid. We believe Medicaid is a cost-effective approach to covering low-income children, and we support using the same matching rates for both options. In addition, we support the House provision that gives States the flexibility to spend their grant money on Medicaid, a grant program, or a combination of the two. The Senate bill requires States to choose between Medicaid and a grant option.

Eligibility. The Senate bill includes a ceiling of 200 percent of poverty. We agree that the funds should first go for insurance coverage for low-income uninsured children, but we believe income ceilings would limit States' flexibility to design programs that best fit their needs.

Use of Funds. We want to ensure that the investment in children's health goes to cover children who currently lack insurance, rather than replace existing public or private funds for children's health insurance. Thus, we support a strong maintenance of effort provision and the prohibition on using provider taxes and donations to fund the State share of the program. In addition, we want to ensure that the funds are used in the most cost-effective manner to provide coverage to as many children as possible. Therefore, we do not support provisions that allow States to pay for family coverage or pay the employee's share of employer sponsored insurance.

Expansion of the "Hyde Amendment"

Both the House and Senate bills would expand the Hyde Amendment prohibitions on Medicaid payment for abortion services to include spending on the children's health initiative, and to codify these prohibitions in permanent law. This provision could deny access to abortion services to poor women to the extent that States choose to use the children's health funding to offer family coverage, as the House bill would permit. As we have repeatedly said, we do not support limiting access to medically necessary benefits, including abortion services.

In addition, the Senate bill contains a provision that redefines the term "medically necessary services" in the context of managed care sanctions to exclude abortion services except under certain circumstances. We oppose this attempt to further constrain the availability of abortion services through this provision, and we strongly urge the Conferees not to begin writing into the Medicaid law permanent, restrictive definitions of what are "medically necessary" services -- an issue that is more appropriately decided by health professionals.

Multiple Employer Welfare Arrangements (MEWAs)

The House bill allows for Multiple Employer Welfare Arrangements (MEWAs) by including language from H.R. 1515, the "Expansion of Portability and Health Insurance Coverage Act of 1997," while the Senate bill includes no such provisions. We strongly oppose including provisions from H.R. 1515 because the bill has inadequate consumer protections and could lead to premium increases for small businesses and employees who may bear the burden of adverse selection. H.R. 1515 would transfer the regulation of a large health insurance market away from the States by preempting State laws under the Employee Retirement Income Security Act ("ERISA"). This far-reaching proposal demands much greater analysis and discussion. We also oppose the provision of the House and Senate bills that would allow a religious fraternal benefit society plan to establish a Medicare Choices plan; it would set a precedent for allowing association health plans (such as those allowed under the House MEWA language) to become Medicare Choice providers.

Continued SSI and Medicaid Benefits for Legal Immigrants

We are pleased with several provisions in the House and Senate bills. Both bills would grandfather immigrants who were receiving SSI benefits as of August 22, 1996, as the President indicated he would support in a June 20 letter to Budget Committee Chairman Kasich and Ranking Member Spratt. Both bills also extend the exemption period from five to seven years for refugees, asylees, and those who are not deported because they would likely face persecution back home.

We are pleased that the Senate bill, which restores SSI and Medicaid eligibility for all legal immigrants who are or become disabled and who entered the U.S. prior to August 23, 1996, implements the budget agreement. The House bill, however, does not. It fails to fully restore SSI and Medicaid benefits for all legal immigrants who are or become disabled and who entered the U.S. prior to August 23, 1996. As the President stated in his June 20 letter, he will not sign legislation that does not include the policy, as the budget agreement calls for, that protects disabled immigrants. Compared to the budget agreement, the House bill would protect 75,000 fewer immigrants by 2002. We strongly urge the Conferees to adopt the Senate approach.

In addition, if resources are available, we urge the Conferees to support several other Senate provisions. The Senate bill restores Medicaid coverage for future immigrant children; provides SSI and Medicaid to immigrants who are too disabled to satisfy the requirements to naturalize; and provides the same exemption period for Amerasian and Cuban Haitian immigrants as for refugees. We look forward to working with you on these matters.

Additional Work Slots for Individuals Subject to the Food Stamp Time Limits

The budget agreement included \$1.5 billion in additional Food Stamp funding to encourage work and give States the flexibility to exempt individuals from Food Stamp time limits due to hardship. The agreement specifically states that existing Food Stamp Employment and Training funds will be redirected and new capped mandatory funding added "to create additional work slots for individuals subject to the time limits," and it provides \$1 billion for this purpose.

We appreciate that the House and Senate bills would implement the 15 percent hardship exemption, consistent with the agreement. But, we are concerned that both bills create significantly fewer job opportunities than the five-year target of 350,000 slots — 70,000 a year — that the negotiators discussed. We are particularly concerned about the House bill, which would create 100,000 fewer slots than the President's proposal and about 40,000 fewer than the Senate approach over five years. The House bill also does not reflect the agreement because it does not target the funding to workslots for individuals facing the time limits. We believe the final bill should follow the Senate approach in targeting funds to work slots that meet the welfare reform law's tough requirements for Food Stamp recipients, and establishing performance standards to reward States that create additional work opportunities. We urge the Conferees to follow the Senate approach, with the House maintenance of effort provision, to make it fully consistent with the budget agreement.

Welfare to Work

We are pleased that the House and Senate bills would address many of our priorities for the welfare-to-work program to some degree, including: the provision of formula grant funds to States based on poverty and adult welfare recipients; a sub-State allocation of the formula grants to ensure targeting on areas of greatest need; appropriate flexibility for grantees to use the funds for a broad array of activities that offer the promise of permanent placement in unsubsidized jobs; some funds awarded on a competitive basis; and a substantial set-aside for evaluation. We look forward to working with the Conferees to refine these provisions.

We continue to be concerned, however, about several priority issues. In some cases, only one Chamber has adequately addressed our concerns; in others, neither has. The issues that concern us the most are highlighted below, and we urge the Conferees to address them.

Targeting Welfare-to-Work Funding to Cities and Counties with Large Poverty Populations. The challenge of welfare reform — moving welfare recipients into permanent, unsubsidized employment — will be greatest in large urban centers, especially those with the highest number of adults in poverty. Recognizing this fact, the budget agreement provided that funds be allocated and targeted to areas with high poverty and unemployment. While

both the House and Senate bills include formulas to target funds to these areas to some degree, of the three provisions in conference, the Ways and Means provision of the House bill best accomplishes this goal through its division of funds between formula (50 percent) and competitive (50 percent); its formula grant sub-State allocation factors and method of administration; and its reserving of 65 percent of competitive grants for cities with large poverty populations. We urge the Conferees to adopt the Ways and Means proposal.

Local Program Administration. The budget agreement provided not only that welfare-to-work funds be targeted to high-poverty and high unemployment areas, but that a share of them go to cities and counties. We strongly believe that cities and other local areas should manage a substantial amount of all welfare-to-work funds. These entities can most effectively move long-term welfare recipients into lasting unsubsidized employment that cuts or ends dependency. Recognizing this fact, the House provisions use existing structures to help accomplish this goal. We urge the Conferees to adopt these provisions.

Federal Administering Agency. Both bills would require consistency with Federal TANF strategies and focus resources on achieving the goal of moving long-term welfare recipients into lasting jobs. We agree with the need for consistency and with the goal, and we believe we can most effectively achieve it if we closely align welfare-to-work activities with the workforce development system that the Secretary of Labor oversees. Thus, we believe the Secretary should administer this program in consultation with the Secretaries of HHS and HUD, as included in titles V and IX of the House bill.

Performance Fund. We are pleased that the Senate recognized the value of a performance bonus concept. The Senate performance approach, however, simply augments the existing TANF performance fund in 2003, with no link to the performance that welfare-to-work funds achieve. We want to work with the Conferees to develop an effective mechanism to provide needed incentives and rewards for placing more of the hardest-to-serve in lasting unsubsidized jobs that promote self-sufficiency. A possible approach could include requiring the Governors to use a share of their discretionary funds to reward high-achieving welfare-to-work programs.

Distribution of Funds by Year. The House provides for a two-year program, with \$1.5 billion in 1998 and in 1999. The Senate bill provides for a three-year program. We want to work with the Conferees to ensure that the final bill includes an outlay pattern consistent with an estimate of zero outlays in fiscal 2002, as the budget agreement calls for. Congress could modify the Senate proposal, for instance, by requiring that no resources are spent after fiscal 2001.

Minimum Wage and Workfare

We applaud the Senate for not modifying current law with respect to applying the minimum wage and other worker protections for working welfare recipients under TANF. The minimum wage and welfare work requirement proposals in the House-passed bill were not part of the budget agreement and, had they come up in the negotiations, we would have strongly opposed them. We believe strongly that everyone who can work must work, and everyone who works should earn at least the minimum wage and receive the protections of existing employment laws – regardless of whether they are coming off welfare.

As a result, we continue to have serious concerns that certain welfare recipients would not enjoy the status of employees under the House bill and, thus, would not receive worker protections. Although the House bill moves toward ensuring that welfare recipients in work experience and community service receive the minimum wage, it fails to provide an effective enforcement mechanism. Also, while the House bill contains some protections against discrimination and threats to health and safety, we believe that its limited grievance procedures are inadequate to ensure welfare recipients receive the same protections as regular employees, and regular employees receive protection against displacement. In addition, the Administration strongly believes that we must retain the welfare law's strict emphasis on work and oppose provisions to permit States to count additional time spent in activities such as job search toward the work requirements.

We urge the Conferees to adopt the Senate position on the minimum wage, which makes no changes to current law, and to extend the Senate provisions on grievance procedures and worker protections to all working welfare recipients under TANF.

Non-Displacement

While we support the Senate provisions that include worker displacement language from H.R. 1385 (the House-passed job training reform bill), we urge the Conferees to apply these enhanced non-displacement protections to all welfare recipients moving from welfare to work, as the House does, not just to welfare-to-work funds. In addition, we urge the Conferees to accept the House provision that ensures that the Federal Government will not pre-empt State non-displacement laws that provide greater worker protections than Federal law.

Unemployment Insurance

We are pleased that the House and Senate have included the Unemployment Trust Fund ceiling adjustment and special distribution to the States that were part of the budget agreement.

The House bill also includes the provision of the agreement that achieves \$763 million in mandatory savings over five years by authorizing an increase in discretionary spending for unemployment insurance "program integrity" activities of \$89 million in 1998 and \$467 million over five years. We urge the Conferees to adopt the House language. In addition, we are seeking budget process provisions to allow for discretionary funding for these activities and the resulting savings.

Repeal of Maintenance of Effort Requirement on State Supplementation of SSI Benefits

We are pleased that the Senate bill does not repeal the maintenance of effort requirement on State supplementation of SSI benefits. We strongly oppose the House provision, which would let States significantly cut, or even eliminate, benefits to nearly 2.8 million poor elderly, disabled, and blind persons. Congress instituted the maintenance of effort requirement in the mid-1970s to prevent States from effectively transferring Federal benefit increases from SSI recipients to State treasuries. The House proposal also could put at risk low-income elderly and disabled individuals who could lose SSI entirely and possibly then lose Medicaid coverage. We opposed this proposal during last year's welfare reform debate, and we urge the Conferees to follow the Senate approach and not repeal the State maintenance of effort requirement for State supplementation of SSI benefits.

Spectrum

We support a number of the spectrum-related provisions in the Senate and House bills. We believe, however, that the Senate bill is more consistent with the goals and targets in the budget agreement, and we urge the Conferees to use it as the basis for conference negotiations. Specifically, the Senate bill provides for reimbursing Federal agencies for the costs of relocating to new spectrum bands, so that the Federal Communications Commission (FCC) can auction, for commercial use, the spectrum that they are now using. This key provision is essential to prevent agencies from making future multi-billion dollar requests for additional discretionary funding.

We have other significant concerns with both bills. First, they fall over \$6 billion short of the savings targets of the budget agreement. They both fail to include two proposals that the agreement specifies — the auction of "vanity" toll-free telephone numbers (which would raise \$0.7 billion) and the spectrum fee (which would raise \$2 billion). In addition, neither bill contains a firm date for terminating analog broadcasting (as the budget agreement assumed), which reduced the CBO's scoring of the House bill by \$2.9 billion, and of the Senate bill by \$3.4 billion. Any delay in returning analog broadcast spectrum will likely impede the rapid build-out of digital technology, delay job creation and consumer benefits, and reduce revenues from spectrum auctions. We urge the Conferees to conform the final bill to these provisions of the budget agreement.

We also request that the Conferees delete the House language that specifies spectrum bands and bandwidth for reallocation; repeals the FCC's fee retention authority; waives the duopoly/newspaper cross-ownership rules; and accelerates payments from the universal service fund. These provisions conflict with good telecommunications policy, and with sound and efficient spectrum management policy. We also urge the Conferees to amend the overly expansive definition of "public safety" of the bills; to delete mandated minimum bid requirements; and to include provisions that would authorize the FCC (1) to revoke and reassign licenses when an entity declares bankruptcy, and (2) to use economic mechanisms (such as user fees), other than auctions. We support Senate provisions requiring the FCC to explain its rationale if it cannot accommodate relocated users in commercial spectrum and to consult with the Secretary of Commerce and the Attorney General on assigning new spectrum made available for public safety.

TANF Transfers to Title XX

We oppose the House provision to allow States to divert TANF funds away from welfare-to-work efforts to other Title XX social service activities. The Senate bill includes no such provision. The budget agreement did not address making changes in the Title XX transfers provisions, and we strongly urge the Conferees to drop these provisions.

Vocational Education in TANF

We are concerned with the House and Senate provisions on vocational education in TANF. The House bill includes two sets of provisions -- one from the Ways and Means Committee, the other from the Education and Workforce Committee -- which narrow the base of eligible recipients against which the cap on vocational education applies. The Ways and Means Committee excluded teen parents in school from the cap, and set the cap at 30 percent of the narrower base. The Senate bill maintains the existing base, but removes teen parents who attend school from the 20 percent cap on vocational education. The budget agreement did not address changes in TANF work requirements regarding vocational education and educational services for teen parents, and we urge the Conferees to drop these provisions.

State SSI Administration Fees

The House bill includes a provision, consistent with the budget agreement, to raise the fees that the Federal Government charges States for administering their State supplemental SSI payments and to make the increase available, subject to appropriations, for SSA administrative expenses. This proposal would collect about \$380 million over five years, to be spent upon receipt for this purpose. The Senate bill does not reflect this provision of the budget agreement, and evidently assumes that the Appropriations Committee will implement

the proposal. The agreement, however, anticipated revenue from this proposal over the full five years and, as part of the reconciliation bill, Congress should raise the fees and make the increased revenue available, subject to appropriations. Consequently, we urge the Conferees to adopt the House provision.

Housing

We are pleased that the House and Senate bills include provisions to produce savings by reforming the FHA Assignment program and making appropriate reductions to Section 8 annual adjustment factors. We are concerned, however, about two additional provisions of the Senate bill.

The Senate bill would not transform FHA multifamily housing restructuring in the most efficient, effective fashion. By ruling out the possibility of portable tenant-based assistance, the bill would limit tenants' ability to find the best available housing and prevent projects from developing a more diverse mix of income levels. By establishing a preference for delegating restructuring tasks to housing finance agencies, the bill places an unnecessary constraint on HUD's ability to design the most effective partnerships. Finally, since Congress did not address tax issues explicitly, the Senate bill does not resolve impediments that could discourage owners from participating in a restructuring process.

We oppose the inclusion, in the reconciliation bill, of Section 2203 of the Senate bill, which repeals Federal preferences for low-income or disadvantaged individuals for the Section 8 tenant-based and project-based programs. We have supported such repeals only if they come with income targeting that would replace the Federal preferences. That targeting would ensure: (1) that the tenant-based program continues to mostly serve extremely low income families, with incomes below 30 percent of the area median income, and (2) that all developments in the project-based program are accessible to a reasonable number of extremely low-income families. We are working with Congress on this issue in the broader context of separate public housing reform legislation.

Privatization of Welfare Programs

The House bill would allow for privatizing eligibility and enrollment determination functions in Medicaid and Food Stamps. While certain program functions, such as computer systems, can now be contracted out to private entities, the certification of eligibility for benefits and related operations (such as obtaining and verifying information about income and other eligibility factors) should remain public functions. Thus, we strongly oppose the House provision, and we urge the Conferees to drop it.

Student Loans

We are pleased that both bills include \$1.8 billion in outlay savings, including \$1 billion in Federal reserves recalled from guaranty agencies, \$160 million from an end to the fee paid to institutions in the Direct Loan program, and \$603 million in reduced Federal student loan administrative costs. All of these provisions are consistent with the budget agreement, and the savings are achieved without raising costs on, or reducing benefits to, students and their families.

But, we oppose a provision in both bills, unrelated to the budget agreement, requiring administrative cost allowances (ACAs) to guaranty agencies in the Federal Family Education Loan (FFEL) program at a rate of .85% of new loan volume – paid from mandatory funding authorized under Section 458 of the Higher Education Act of 1965 (HEA) from 1998 to 2000. This provision would create a new Federal entitlement, and it would inappropriately limit the funds available to the Secretary to effectively manage the FFEL Program. Any allowance to these agencies should bear some relationship to the costs these agencies incur, and should not be based on an arbitrary formula. This is an issue more appropriately left for the Higher Education Act (HEA) reauthorization.

We strongly prefer the House language for cutting student loan administrative costs. It specifies that the Education Department may use administrative funds authorized under section 458 of the HEA to operate the FFEL program and the Direct Loan program. Under the Senate language, the Secretary would lack adequate funds to administer the FFEL program effectively.

We also oppose a House provision that would stipulate that an 18.5 percent guaranty agency retention allowance on default collections that result from defaulted loans reentering repayment through loan consolidation. This provision, now specified in regulation and letters as “up to” 18.5 percent, would codify this share at 18.5 percent without regard to the actual expenses that the guaranty agencies incur. This issue also should be resolved in the upcoming HEA reauthorization.

Smith-Hughes

We are pleased that the House bill would repeal the Smith-Hughes Act of 1917 and is consistent with the budget agreement. The Senate bill does not include such a provision, although it finds the agreed-upon \$29 million savings from the student loan programs. In light of the \$1.2 billion annual appropriation under the Carl D. Perkins Vocational and Applied Technology Education Act, we see no justification for \$7 million in mandatory spending a year under Smith-Hughes. We urge the Conferees to adopt the House provision.

Budget Process

On budget process, the House and Senate bills generally follow the budget agreement. We appreciate the provisions to extend the discretionary caps to 2002 at the levels in the agreement, to create a firewall between defense and non-defense spending for 1998-99, to provide an adjustment for international arrears and for an IMF quota increase and the New Arrangements to Borrow, and to otherwise extend and update the Budget Enforcement Act along the lines of the budget agreement.

In some respects, however, the House or Senate bills are not fully consistent with the budget agreement. For instance, both bills provide that only net deficit increases in the prior year, rather than both increases and decreases, would count under the paygo "lookback" procedure. In addition, the House bill is inconsistent with the agreement (and with the Senate bill) with regard to "paygo" requirements.

In other respects, the bills include provisions about which we have serious concerns. For instance, the House bill does not provide for the transportation reserve funds that the budget resolution established for highways, Amtrak and transit. Also, one or both of the House and Senate bills do not include several technical changes to fully extend the Budget Enforcement Act. These changes include a budget authority allowance for technical estimating differences between CBO and OMB, as current law provides; a reserve fund for unemployment integrity to carry out the mandatory savings of the agreement; and a technical change to the existing Continuing Disability Reviews (CDR) adjustment to account for the conversion of obligation limitations to budget authority. In addition, the House bill would require a cumbersome notification procedure for the detailed scoring of each paygo or appropriations bill.

TO: Gerry Shea
Fax 637-5138

FR: Diana Fortuna

Elena Kagan asked me to fax you the latest version on Texas. The attached is the latest version I can find that deals directly with Texas; it is from Sunday night. But later versions don't appear to include any change in law at all on the Texas issue. Hope this makes sense. I am at 456-5570 if you want to call.

1 **Subtitle H—Miscellaneous**

2 SEC. 5801. AUTHORITY OF STATES TO CONSOLIDATE AND
3 AUTOMATE THE ADMINISTRATION OF CER-
4 TAIN ASSISTANCE PROGRAMS, AND TO CON-
5 TRACT COMPETITIVELY FOR THE ADMINIS-
6 TRATION OF SUCH PROGRAMS TO REDUCE
7 FEDERAL AND STATE PROGRAM COSTS.

8 (a) IN GENERAL.—Notwithstanding any other provi-
9 sion of law, a _____ may administer or provide
10 for the administration of 1 or more programs described
11 in subsection (d) in accordance with a qualified plan ap-
12 proved as provided in subsection (c)(2), and any eligibility
13 determination made by a nongovernmental entity or em-
14 ployee in accordance with such a qualified plan shall be
15 considered to be made by the State and a State agency.
16 No provision of law shall be construed as preventing the
17 State from allowing eligibility determinations described in
18 this section to be conducted, using Federal funding and
19 processes established by the State, by an entity which
20 meets such qualifications as the State determines and is
21 not a State or local government, or by an individual who
22 is not an employee of the State government or of local
23 government in the State.

24 (b) QUALIFIED PLAN DEFINED.—As used in sub-
25 section (a), the term “qualified plan” means a plan which

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1 covers 1 or more programs described in subsection (d) and
2 which—

3 (1) provides for increased automation of the
4 processing of eligibility determinations under the
5 program to promote efficiency and allow a reduction
6 of the total number of persons assigned to perform
7 the determinations;

8 (2) provides for integration of eligibility deter-
9 minations under the programs covered by the plan,
10 including the consolidation of State agencies to allow
11 for a further reduction of the total number of per-
12 sons assigned to perform the determinations;

13 (3) provides for competitive bidding for the
14 right to collect and process data used to make eligi-
15 bility determinations under the programs covered by
16 the plan, under State regulations to ensure that the
17 State relies on the most efficient and innovative pro-
18 vider of such services and minimize State and Fed-
19 eral costs;

20 (4) provides assurances that the plan does not
21 affect—

22 (A) any condition for eligibility for benefits
23 under a program covered by the plan;

1 (B) any right to challenge any determina-
2 tion regarding eligibility for, or any right to,
3 benefits under any such program;

4 (C) any determination regarding quality
5 control or error rates under any such program;
6 or

7 (D) any safeguard of the privacy, confiden-
8 tiality, or protection of any individual eligible
9 for, or receiving any benefit under any such
10 program; and

11 (5) applies to not more than 50 percent of the
12 recipients of benefits under any program described
13 in subsection (d).

14 (c) ADMINISTRATIVE PROVISIONS.—

15 (1) SUBMISSION OF PLANS.—A State desiring
16 to administer or provide for the administration of 1
17 or more programs described in subsection (d) in ac-
18 cordance with a qualified plan may submit a plan for
19 such administration to the appropriate Federal offi-
20 cial with respect to any program covered by the
21 plan. Notwithstanding any other provision of law, re-
22 view of a plan under this section by the appropriate
23 Federal official as defined in subsection (e) to whom
24 the plan is submitted is the sole requirement nec-
25 essary prior to implementation by the State.

1 (2) APPROVAL OF PLANS.—

2 (A) IN GENERAL.—The appropriate Fed-
3 eral official to whom a plan is submitted pursu-
4 ant to paragraph (1) shall approve the plan if
5 the appropriate Federal official determines that
6 the plan contains all of the elements specified
7 in subsection (b), and shall disapprove the plan
8 if the appropriate Federal official determines
9 that the plan does not contain all of the ele-
10 ments specified in subsection (b). In order to
11 disapprove the plan, the appropriate Federal of-
12 ficial shall inform the State in writing, within
13 10 days after receipt of the plan, of the specific
14 elements of the plan that are not present as re-
15 quired for the plan to be approved.

16 (B) DEFAULT APPROVAL.—If, by the end
17 of the 10-day period that begins with the date
18 a plan is submitted pursuant to paragraph (1)
19 to an appropriate Federal official, the appro-
20 priate Federal official has not disapproved the
21 plan, the plan is deemed to be approved.

22 (C) CONSULTATIONS.—In determining
23 whether to approve a plan that covers more
24 than 1 program described in subsection (d), the
25 appropriate Federal official to whom the plan is

1 submitted shall consult with the appropriate
2 Federal official or officials with respect to the
3 other program or programs covered by the plan.

4 (d) PROGRAMS DESCRIBED.—The programs de-
5 scribed in this subsection are the following:

6 (1) The special supplemental nutrition program
7 for women, infants, and children (WIC) established
8 under section 17 of the Child Nutrition Act of 1966
9 (42 U.S.C. 1786).

10 (2) The food stamp program under the Food
11 Stamp Act of 1977.

12 (3) A medical assistance program operated
13 under a State plan approved under title XIX of the
14 Social Security Act.

15 (e) APPROPRIATE FEDERAL OFFICIAL.—As used in
16 this section, the term “appropriate Federal official”
17 means—

18 (1) in the case of the programs described in
19 paragraphs (1) and (2) of subsection (d), the Sec-
20 retary of Agriculture; and

21 (2) in the case of the program described in sub-
22 section (d)(3), the Secretary of Health and Human
23 Services.

24 (f) PAYMENTS TO STATES.—

1 (1) IN GENERAL.—Within 60 days after the
2 date a State plan submitted pursuant to subsection
3 (e)(1) is approved, the appropriate Federal official
4 to whom the plan was submitted shall pay the State
5 \$_____ from sums in the Treasury of the
6 United States not otherwise appropriated, which
7 amount be used only to cover the costs of conducting
8 competitive bidding in accordance with the plan and
9 to cover the other initial costs incurred in developing
10 the plan.

11 (2) LIMITATION.—A State may not receive
12 more than 1 payment under paragraph (1).

Welfare Reform Conference Issues

7/21/97

Benefits for Legal Immigrants: The President has stated that he will not sign legislation that does not provide disability and health benefits to legal immigrants who are or become disabled. If resources are available, we strongly urge the conferees to adopt all the Senate provisions regarding legal immigrants.

Administering Agency for \$3 Billion Welfare to Work Program: We insist that the \$3 billion welfare to work program be administered by the Department of Labor and operated through DOL's local Private Industry Councils (PICs), as done in the House bill.

Minimum Wage, Worker Protections, and Required Hours per Week of Work for Workfare. We insist on dropping all language in House bills which dilutes current law minimum wage enforcement, worker protections, and welfare reform work requirements.

Privatization of Medicaid and Food Stamp Operations. We insist that the conferees drop the House provisions allowing states to privatize all Medicaid and Food Stamp operations.

SSI State Supplements: We strongly oppose the House provision, which would repeal the current law maintenance of effort requirements which prevent States from lowering or eliminating State supplemental SSI payments.

Worker Displacement. We strongly urge the conferees to adopt the Senate anti-worker displacement language and apply it to the entire Temporary Assistance for Needy Families welfare reform program.

\$3 Billion Welfare to Work Program: Distribution of Funds. We strongly prefer the distribution of funds as reported out by the House Ways and Means committee: 50% of funds by formula, 50% by competitive grants; no small state minimum for formula grants; 65% of competitive funds set-aside for 100 cities with the largest poverty populations.

Welfare to Work Performance Bonus: We strongly prefer an alternative which improves upon the Senate performance bonus in which Governors would use a share of their discretionary funds and the Secretary of Labor would use a share of competitive funds to reward high-achieving welfare-to-work programs.

\$3 Billion Welfare to Work Program: Community Service as Allowable Use. We prefer the language passed by the House and Senate which allows funds from the \$3 billion program to be used for "job creation through public or private subsidies" but not language which may be added in conference allowing "community service/work experience."

Food Stamp Work Slots: The Administration endorses the Senate reimbursement structure and the House provisions for maintenance of effort in order to ensure that the maximum number of work slots are created.

Vocational Education: We urge conferees to drop all provisions changing how vocational education is counted toward the work requirements.

TANF Transfers to Title XX: We urge conferees to drop the House provisions.

Medicaid Benefits for Children Losing SSI Benefits: The Agreement calls for restoration of these benefits, and we urge the conferees to adopt the Administration's budget proposal which does so.



Cynthia A. Rice

07/24/97 12:31:11 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP
cc: See the distribution list at the bottom of this message
Subject: Ron Haskins has asked us for technical comments

I spoke to Ron Haskins. He would like the Administration to provide any suggested changes on issues we can revise on a staff basis, either technical changes or small substantive ones. He explicitly mentioned the performance bonus as an area in which he would consider some changes.

Ron will call me in about two hours when he has a new version of legislative language for us to review. I will ask him to put 3 copies out -- one for White House, one for HHS, and one for Labor. I will get the White House copy picked up and I will get a copy made for OMB and NEC (I'll email you when it's ready).

Please review the language and be prepared to discuss suggested changes on an internal conference call tomorrow, Friday July 25th, from 12:30 to 1:45. Executive Office of the President staff call 456-6755 code 3019. Agency staff call 456-6766 code 3019. Please gather together on speaker phones (only 7 lines available per number). On the conference call, we will decide what issues to raise with the Hill and how we want to do so (by memo, in a meeting, etc.).

Bruce, Elena, Martha, Janet, and Barbara -- you are welcome to join us on this call, but I don't think you need to. I will update you afterwards.

Message Copied To:

Elena Kagan/OPD/EOP
Diana Fortuna/OPD/EOP
Janet Murguia/WHO/EOP
Barbara Chow/WHO/EOP
FOLEY_M @ A1 @ CD @ LNGTWY
Kenneth S. Apfel/OMB/EOP
Barry White/OMB/EOP
Larry R. Mattack/OMB/EOP
Keith J. Fontenot/OMB/EOP
Emil E. Parker/OPD/EOP
Mary Bourdette @ 690-8425 @ fax
Geri Palast @ 219-5288 @ fax
Raymond Uhalde @ 219-6827 @ fax

Bruce

Rich talked to Ron

→ Thinks we should have mtg on underbrush

HHS-DOL-DPC meet w/Ron

Today's meeting

10 issues - Ron

Domenici - take to leadership

KASICH - we can't take 10 to the leadership

Result = "small" mtg

members Levin, Staw Talbot, Ron

m/2 hour

Bruce + Jack

See if they make us any offers
~~we won't take any~~ we won't take any

→ call Gen Palrot

→ doing mtg this pm

→

SENT TO: LOTT, RANGEL, ARCHER,
ROTT, MOYNIHAN

July 19, 1997

2~

Dear 1~:

I am hopeful that we can continue to work together to complete a spending reduction bill and tax cut plan that produce the first balanced budget in a generation and a mainstream, bipartisan tax bill that honors our values and values our families. I know that you are in conversations with key members of my Administration, and I want to highlight the fundamental principles that must be met in any tax cut package that I sign into law.

First of all, the tax cuts must be fair. Neither the House nor Senate bill provides an adequate share of tax relief to middle-income families. Under my tax cut plan, the bulk of the middle class would receive twice as large a share of the benefits as under either congressional bill. Both congressional plans fail a critical test of fairness by denying the child tax credit to millions of hard-working families who pay taxes and earn less than \$30,000 a year. These are young teachers, police officers, farmers, and nurses who work hard and play by the rules; these young parents, like other Americans, deserve to keep more of the money they earn.

The tax cuts must also reflect our commitment to making college more readily available to millions of Americans. The budget agreement we reached this spring required that the tax bill include roughly \$35 billion over 5 years for post-secondary education consistent with the objectives of my Hope Scholarship and tuition tax cut proposals. Both the House and Senate bills fall substantially short in this regard.

Building on the substantial progress of the 1993 plan and our bipartisan commitment to finish the job, we must now work together to implement the balanced budget agreement in a way that puts the Nation on the path of long-term fiscal responsibility. That is why it is so important that we all honor the provision in the Speaker's and Senate Majority Leader's letter stating that the tax cut proposal "not cause costs to explode

in the outyears" and divert us from this path. Provisions in the House and Senate bills, such as capital gains indexing, substantial estate tax changes, and unconstrained IRAs, would explode in cost, benefitting the few at the very time that we will need to strengthen Social Security and Medicare for all. While we strongly favor reasonable expansion of IRAs for retirement and education savings, the IRAs in the House and Senate bills are simply too expensive in the decades to come, because they lack effective targeting.

Critical initiatives to spur economic activity in distressed areas must be in the final tax bill. The tax bill should include incentives to clean up brownfields in distressed communities, to expand Empowerment Zones and Enterprise Communities, to encourage private investments in Community Development Financial Institutions, to move people from welfare-to-work through a tax credit, and to revitalize our Nation's capital. And I trust that we can all work in good faith to resolve important differences on other provisions in the tax bill not discussed here.

I urge that we continue to work together to meet these principles to produce fair, fiscally responsible tax relief that is consistent with our values.

Sincerely,

BC/PMCaplan/lynn (7PGRP)

Xeroxed copy of signed original to NH thru Todd Stern

CLEAR THRU TODD STERN

PRESIDENT TO SIGN

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Welfare to Work (4 pages)	ca. July, 2005	P5

**This marker identifies the original location of the withdrawn item listed above.
For a complete list of items withdrawn from this folder, see the
Withdrawal/Redaction Sheet at the front of the folder.**

COLLECTION:

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Domestic Policy Council
Cynthia Rice (Subject Files)
OA/Box Number: 15427

FOLDER TITLE:

Budget-1998-Conference-VIP Documents-Administrative Position-Summary

rx5

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Priority Welfare Reform Conference Issues

7/9/97

Administering Agency for \$3 Billion Welfare to Work Program: We insist that the \$3 billion welfare to work program be administered by the Department of Labor and operated through DOL's local Private Industry Councils (PICs), as done in the House bill.

Minimum Wage, Worker Protections, and Required Hours per Week of Work for Workfare. We insist on dropping all language in House bills which dilutes current law minimum wage enforcement, worker protections, and welfare reform work requirements.

Worker Displacement. We strongly urge the conferees to adopt the Senate anti-worker displacement language and apply it to the entire Temporary Assistance for Needy Families welfare reform program.

Privatization of Medicaid and Food Stamp Operations. We insist that the conferees drop the House provisions allowing states to privatize all Medicaid and Food Stamp operations.

\$3 Billion Welfare to Work Program: Community Service as Allowable Use. We prefer the language passed by the House and Senate which allows funds from the \$3 billion program to be used for "job creation through public or private subsidies" but not language GOP may add in conference allowing "community service/work experience."

\$3 Billion Welfare to Work Program: Distribution of Funds. We strongly prefer the distribution of funds as reported out by the House Ways and Means committee: 50% of funds by formula, 50% by competitive grants; no small state minimum for formula grants; 65% of competitive funds set-aside for 100 cities with the largest poverty populations.

Exempting Victims of Domestic Violence from Work Rates and Time Limits. We have not taken a position on the provision enacted by the Senate which allows states to exempt victims of domestic violence from the welfare law's work requirements and time limits, but we are concerned about the effects of the provision.

Legal Immigration

SSI State MOE

- + HHS
 - + 90/10
 - + House FCSA lang
 - + No SSI MOE
 - + 25% request to work/vol
 - + Perf bonus 100 mi Sect
 - + House immigrants
 - + Full privatization
- | |
|-------------------|
| - Goodwill |
| - W2w Partnership |
| - Memo rec states |
- 12th

Comparison of Priority Welfare Reform Conference Issues

7/9/97 Internal Draft

	Our Position	House Ways and Means	House Ed & Workforce	Senate Finance
Administering Federal Agency	Dept. of Labor	Dept. of Labor	Dept. of Labor	Dept. of Health and Human Services
Administering Local Agency (formula funds)	Private Industry Councils (PICs)	Private Industry Councils (PICs)	Private Industry Councils (PICs)	Local Welfare Agency (TANF)
Minimum Wage, Worker Protections, and Required Hours per Week of Work for Workfare Participants	Option #1: Strike all House provisions; Option #2: Strike all House provisions, don't apply EITC or FICA to workfare participants; Other Options: Prepared if needed.	No Enforcement Mechanism for Minimum Wage; No "employee status" and related protections; Allows less than 20 hours of real work in certain states.	No Enforcement Mechanism for Minimum Wage; No "employee status" and related protections; Allows less than 20 hours of real work in certain states.	No provision. (Byrdable)
Worker Displacement	Option #1: Senate Language applied to all of TANF program; Other Options: Being developed.	Strong Anti-Displacement Language ¹ Applies to all of TANF. (However, GOP House staff plan to weaken.)	Strong Anti-Displacement Language ¹ Applies to all of TANF. (However, GOP House staff plan to weaken.)	Strong anti-Displacement Language ¹ Applies only to \$3 Billion Program.
Welfare Privatization	Strike House Provision	[House Commerce and Agriculture Committee bills allow all Food Stamp and Medicaid operations, including eligibility determination, to be privatized.]		No Provision (Texas Specific Provision Struck due to Byrd Rule)

¹ Program may not replace a worker who has been fired or laid off; cause the hours, wages, or benefits of other workers to be reduced; violate collective bargaining agreements; or infringe upon promotional opportunities of other workers. Specific due process procedures and remedies apply.

	Our Position	House Ways and Means	House Ed & Workforce	Senate Finance
“Community Service/Work Experience” i.e. Workfare as Allowable Use for \$3 Billion	Option #1: Do not allow community service/work experience as allowable use. Option #2: If community service/work experience allowed, add limiting language ensuring goal is private sector job.	Allows “Job Creation through Public or Private Subsidies” but GOP staff want to add “Community Service/Work Experience.”	Allows “Job Creation through Public or Private Subsidies” but GOP staff want to add “Community Service/Work Experience.”	Allows “Job Creation through Public or Private Subsidies”
Welfare to Work: Distribution of Funds	50% formula, 50% competitive; Formula grants have no small state minimum. Competitive grant set-aside for 100 cities with largest poverty populations if significant percentage of all funds are competitive.	50% formula, 50% competitive; Formula grants have no small state minimum. Competitive grants have 65% set-aside for grants for spending in cities that are among the 100 with the largest poverty populations, 25% set-aside for rural areas.	95% formula, 5% competitive; Formula grants have no small state minimum. Competitive grants have no set-asides (competitive grants are only 5% of total WTW funds).	75% formula, 25% competitive; Formula grants have small state minimum. Competitive grants have 30% rural set aside.
Domestic Violence		No provision.	No provision.	States shall be allowed to exempt victims of domestic violence from work rates and time limits and not count them in 20% time limit exemptions or work participation rate.