Ronald Reagan Presidential Library
Digital Library Collections

This is a PDF of a folder from our textual collections.

Collection: Darman, Richard G.: Files
Folder Title: Presidential Decisions File (3 of 4)
Box: 5

To see more digitized collections visit:
https://www.reaganlibrary.gov/archives/digitized-textual-material

To see all Ronald Reagan Presidential Library inventories visit:
https://www.reaganlibrary.gov/archives/white-house-inventories

Contact a reference archivist at: **reagan.library@nara.gov**

Citation Guidelines: https://reaganlibrary.gov/archives/research-support/citation-guide

National Archives Catalogue: https://catalog.archives.gov/

THE SECRETARY OF THE TREASURY
WASHINGTON, D.C. 20220

September 17, 1982

MEMORANDUM FOR THE PRESIDENT

FROM: Donald T. Regan DTR

SUBJECT: Savings Bonds Interest Rates

The Tax Equity and Fiscal Responsibility Act of 1982 repealed the statutory interest rate ceiling on U.S. savings bonds and authorized the Secretary of the Treasury, with the approval of the President, to fix the investment yield on savings bonds. This permits us to issue the new variable-rate savings bond which we announced publicly in December 1981.

The interest rate on new Series EE savings bonds held for at least 5 years will be equal to 85 percent of the average yield during the holding period on 5-year marketable Treasury securities. The new EE bonds will continue to enjoy the benefits of existing EE bonds, including deferral of taxation on accrued interest, small denominations, and redeemability on demand.

The new variable rate accrual-type bonds will also have guaranteed minimum yields, ranging from 4 percent for bonds held 6 months to 7-1/2 percent for bonds held 5 or more years. Holders of outstanding bonds will also be assured of a return of at least 7-1/2 percent and, on bonds held for at least 5 years, 85 percent of the average yield on 5-year Treasury marketable securities.

The current-income type savings bonds, Series HH, will continue to be offered in exchange for accrual-type Series E and Series EE bonds, but HH bonds will no longer be offered for cash sale. There is very little demand for HH bonds, except for exchanges which permit investors in Series E and EE bonds to defer further the payment of Federal income taxes on accrued interest.

The interest rate on HH bonds issued in exchange for E or EE bonds will be 7-1/2 percent, the same as the guaranteed minimum yield on outstanding E and EE bonds. The market-based variable rate will not be offered for HH bonds.

The new savings bond rates should be announced early in the week of September 27 to go into effect October 1, 1982.

Recommendation: That you approve the new savings bond rates outlined above to be effective October 1, 1982.

Approve RR

Disapprove____________

THE WHITE HOUSE
WASHINGTON

Date: 8/6/82

NOTE FOR: SECRETARY DONALD T. REGAN
Via Craig L. Fuller

The President has

seen □

acted upon ☒

commented upon □

the attached; and it is forwarded to you for your:

information ☒ and/or

action ☒

Richard G. Darman
Assistant to the President
(x-2702)

cc: original to files
Rich Williamson
Ken Duberstein

THE WHITE HOUSE

WASHINGTON

August 5, 1982

MEMORANDUM FOR THE PRESIDENT

FROM: THE CABINET COUNCIL ON ECONOMIC AFFAIRS

SUBJECT: Public Employee Pension Legislation

Issue

What position should the Administration take on legislation to establish Federal reporting, disclosure, and fiduciary standards for state and local government pension plans?

Background

Public employee pension legislation has been introduced in the Congress in one form or another for almost a decade. Congressman John Erlenborn (R-Ill.) is the sponsor of H.R. 4929, the Public Employee Pension Plan Reporting and Accountability Act of 1982 (PEPPRA).

There are approximately 6,600 state and local pension plans with over $150 billion in assets. These plans cover 11 million current employees and pay benefits to 2.3 million beneficiaries. Most employees and beneficiaries are concentrated in a small number of large plans. Recent studies have concluded that most large public plans are adequately funded and provide adequate information on their activities. These studies suggest there are a significant number of underfunded smaller plans which do not provide adequate information to employees or beneficiaries.

PEPPRA's Provisions

PEPPRA would require state and local pension plans to submit annual reports to the Department of Labor, undergo annual audits, and invest plan assets solely for the benefit of participants. The reporting requirement would be waived for states which already have similar reporting laws. Erlenborn has indicated his willingness to remove any role for the Federal government in enforcing PEPPRA.

Opposition to and Support for PEPPRA

The National Governors Association, the National Association of Counties, the U.S. Conference of Mayors, and other organizations representing state and local governments oppose PEPPRA. The American Federation of State, County and Municipal Employees supports PEPPRA, although several public employee unions in Chicago, Texas, and Utah have voiced their opposition.

Private Pension Legislation

Earlier this year the Cabinet Council on Economic Affairs recommended and the Administration supported three needed changes to private pension law, the Employee Retirement Income Security Act of 1974 (ERISA):

1. Increasing the annual premium paid to the Pension Benefit Guaranty Corporation (PBGC), the government-owned corporation charged with insuring the benefits of private pension plans, from $2.60 to $6.00 per plan participant. This increase is needed to keep the PBCG actuarily sound.

2. Removing a provision allowing firms to terminate pension plans at any time and turn the plan's assets and liabilities over to the PBGC. This would close the loophole which allows healthy firms to spin off underfunded subsidiaries and unload their pension debt on the PBGC.

3. Granting the PBGC general creditor status. Under current law the PBGC can only claim 30 percent of a firm's net worth, which in the case of bankruptcies could be zero. The Administration supports making the PBGC a general creditor with a claim on the actual assets of a firm.

These changes in ERISA supported by the Administration have been linked in the Congress to PEPPRA. Without explicit Administration opposition, PEPPRA will be included in a package with the changes to ERISA. Congressman Erlenborn has requested Administration support for PEPPRA or at a minimum neutrality. Passage of any pension package during this session of Congress, with or without PEPPRA, is uncertain.

Options

The Cabinet Council on Economic Affairs has identified three options regarding an Administration position on PEPPRA:

1. Support PEPPRA in its current form.

2. Remain neutral toward a modified version of PEPPRA, removing any Federal enforcement.

3. Oppose PEPPRA in any form.

Option 1: Support PEPPRA.

Advantages

- Reporting and disclosure for state and local plans would give taxpayers and public employees more information on the eventual costs and benefits of their pension plans.

- Supporting PEPPRA will increase the likelihood of enacting the Administration's private pension proposals.

- Requiring state and local plans to invest solely for the benefit of plan participants would discourage social investing, for example in mortgages with below market interest rates.

- Ensuring that public plans are financially sound may reduce the pressure for future Federal bailouts.

Disadvantages

- Regulating state and local pension plans, in any form, violates the Administration's federalism principles.

- Federal regulation could imply to many a Federal obligation to help state and local plans in trouble. The next likely step after PEPPRA would be extending minimum funding and vesting requirements and pension benefit insurance to public plans.

- Greater Federal regulation increases the paperwork burden on state and local pension plans.

- There is no guarantee that support for PEPPRA would ensure passage of the Administration's private pension proposals.

Option 2: Agree to remain neutral toward a modified version of PEPPRA removing any Federal enforcement.

Advantages

- An appropriately modified law could encourage states to enforce their own reporting and fiduciary regulations with minimal Federal interference.

- Such a compromise would improve the chances of obtaining the Administration's private pension proposals.

Disadvantages

- The Administration should actively oppose legislation that violates the fundamental principles of the New Federalism.
- Once a modified PEPPRA were passed, it would be easier to amend it to introduce Federal enforcement, minimum funding standards, and pension benefit insurance for state and local plans.

Option 3: Oppose PEPPRA in any form.

Advantages

- Opposing PEPPRA is consistent with the Administration's federalism principles and philosophy of government.
- There is no demonstrated need or role for Federal legislation in regulating state and local government pension plans.

Disadvatages

- A modified version of PEPPRA could improve the operation of state and local pension plans without imposing detailed Federal regulation and enforcement.
- Opposing PEPPRA would reduce the likelihood of enacting the Administration's private pension proposals.

Recommendation: The Cabinet Council on Economic Affairs recommends that the Administration oppose legislation to establish Federal reporting, disclosure, and fiduciary standards for the pension plans of state and local governments, H.R. 4929, the Public Employee Pension Plan Reporting and Accountability Act of 1982 (PEPPRA) (Option 3).

Approve ✓ RR Disapprove ____________

DTR

Donald T. Regan
Chairman Pro Tempore

THE WHITE HOUSE

WASHINGTON

August 5, 1982

MEMORANDUM FOR THE PRESIDENT

FROM: THE CABINET COUNCIL ON ECONOMIC AFFAIRS

SUBJECT: Public Employee Pension Legislation

Issue

What position should the Administration take on legislation to establish Federal reporting, disclosure, and fiduciary standards for state and local government pension plans?

Background

Public employee pension legislation has been introduced in the Congress in one form or another for almost a decade. Congressman John Erlenborn (R-Ill.) is the sponsor of H.R. 4929, the Public Employee Pension Plan Reporting and Accountability Act of 1982 (PEPPRA).

There are approximately 6,600 state and local pension plans with over $150 billion in assets. These plans cover 11 million current employees and pay benefits to 2.3 million beneficiaries. Most employees and beneficiaries are concentrated in a small number of large plans. Recent studies have concluded that most large public plans are adequately funded and provide adequate information on their activities. These studies suggest there are a significant number of underfunded smaller plans which do not provide adequate information to employees or beneficiaries.

PEPPRA's Provisions

PEPPRA would require state and local pension plans to submit annual reports to the Department of Labor, undergo annual audits, and invest plan assets solely for the benefit of participants. The reporting requirement would be waived for states which already have similar reporting laws. Erlenborn has indicated his willingness to remove any role for the Federal government in enforcing PEPPRA.

Opposition to and Support for PEPPRA

The National Governors Association, the National Association of Counties, the U.S. Conference of Mayors, and other organizations representing state and local governments oppose PEPPRA. The American Federation of State, County and Municipal Employees supports PEPPRA, although several public employee unions in Chicago, Texas, and Utah have voiced their opposition.

Private Pension Legislation

Earlier this year the Cabinet Council on Economic Affairs recommended and the Administration supported three needed changes to private pension law, the Employee Retirement Income Security Act of 1974 (ERISA):

1. Increasing the annual premium paid to the Pension Benefit Guaranty Corporation (PBGC), the government-owned corporation charged with insuring the benefits of private pension plans, from $2.60 to $6.00 per plan participant. This increase is needed to keep the PBCG actuarily sound.

2. Removing a provision allowing firms to terminate pension plans at any time and turn the plan's assets and liabilities over to the PBGC. This would close the loophole which allows healthy firms to spin off underfunded subsidiaries and unload their pension debt on the PBGC.

3. Granting the PBGC general creditor status. Under current law the PBGC can only claim 30 percent of a firm's net worth, which in the case of bankruptcies could be zero. The Administration supports making the PBGC a general creditor with a claim on the actual assets of a firm.

These changes in ERISA supported by the Administration have been linked in the Congress to PEPPRA. Without explicit Administration opposition, PEPPRA will be included in a package with the changes to ERISA. Congressman Erlenborn has requested Administration support for PEPPRA or at a minimum neutrality. Passage of any pension package during this session of Congress, with or without PEPPRA, is uncertain.

Options

The Cabinet Council on Economic Affairs has identified three options regarding an Administration position on PEPPRA:

1. Support PEPPRA in its current form.

2. Remain neutral toward a modified version of PEPPRA, removing any Federal enforcement.

3. Oppose PEPPRA in any form.

Option 1: Support PEPPRA.

Advantages

- Reporting and disclosure for state and local plans would give taxpayers and public employees more information on the eventual costs and benefits of their pension plans.

- Supporting PEPPRA will increase the likelihood of enacting the Administration's private pension proposals.

- Requiring state and local plans to invest solely for the benefit of plan participants would discourage social investing, for example in mortgages with below market interest rates.

- Ensuring that public plans are financially sound may reduce the pressure for future Federal bailouts.

Disadvantages

- Regulating state and local pension plans, in any form, violates the Administration's federalism principles.

- Federal regulation could imply to many a Federal obligation to help state and local plans in trouble. The next likely step after PEPPRA would be extending minimum funding and vesting requirements and pension benefit insurance to public plans.

- Greater Federal regulation increases the paperwork burden on state and local pension plans.

- There is no guarantee that support for PEPPRA would ensure passage of the Administration's private pension proposals.

Option 2: Agree to remain neutral toward a modified version of PEPPRA removing any Federal enforcement.

Advantages

- An appropriately modified law could encourage states to enforce their own reporting and fiduciary regulations with minimal Federal interference.

- Such a compromise would improve the chances of obtaining the Administration's private pension proposals.

Disadvantages

- The Administration should actively oppose legislation that violates the fundamental principles of the New Federalism.

- Once a modified PEPPRA were passed, it would be easier to amend it to introduce Federal enforcement, minimum funding standards, and pension benefit insurance for state and local plans.

Option 3: Oppose PEPPRA in any form.

Advantages

- Opposing PEPPRA is consistent with the Administration's federalism principles and philosophy of government.

- There is no demonstrated need or role for Federal legislation in regulating state and local government pension plans.

Disadvatages

- A modified version of PEPPRA could improve the operation of state and local pension plans without imposing detailed Federal regulation and enforcement.

- Opposing PEPPRA would reduce the likelihood of enacting the Administration's private pension proposals.

Recommendation: The Cabinet Council on Economic Affairs recommends that the Administration oppose legislation to establish Federal reporting, disclosure, and fiduciary standards for the pension plans of state and local governments, H.R. 4929, the Public Employee Pension Plan Reporting and Accountability Act of 1982 (PEPPRA) (Option 3).

Approve ✓RR Disapprove ____________

DTR

Donald T. Regan
Chairman Pro Tempore

THE WHITE HOUSE

WASHINGTON

July 26, 1982

MEMORANDUM FOR THE SECRETARY OF THE TREASURY
THE SECRETARY OF DEFENSE
THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

SUBJECT: PRESENTATION OF MID-SESSION ECONOMIC REVIEW

Consistent with today's discussion, the following guidance should be used with regard to the mid-session economic review:

(1) The deficit numbers to be assumed and presented should be the same deficit numbers as in the First Budget Resolution (as adjusted for our recent revisions in the economic assumptions).

(2) The underlying distribution of numbers among particular budget categories is to be the same as the First Budget Resolution for FY 1983 only. However, I specifically reserve the right to propose alternative ways of reaching the assumed deficit levels for FY 1984 and beyond. The specific ways to achieve these reduced deficit levels will be determined in the ordinary budget cycle.

(3) The Department of Defense should use the Budget Resolution level for FY '83, and assume the approved February defense budget numbers for FY '84 and beyond. These numbers, of course, will be reviewed in the ordinary budget cycle. Thus, the National Security program for future years remains as we have stated it to be in February.

Ronald Reagan

THE WHITE HOUSE
WASHINGTON

May 5, 1982

MR. PRESIDENT:

As I expect you know, the Senate Budget Committee today voted down our February 6 Budget 18-0.

Jim Baker, Dave Stockman, Ken Duberstein, and I wish to meet with Howard Baker and Pete Domenici this evening to try to develop a package you and the Senate Budget Committee could announce and support -- consistent with the guidance you provided this afternoon.

The attached document, prepared by Dave Stockman, attempts to reflect your guidance. If it is satisfactory, we will discuss it with Baker and Domenici.

✓ RR Approve Revised Option of 5/5/82 (attached)

_____ Approve as amended

_____ Other

Dick

Richard G. Darman

5/5/82

I. REVISED BUDGET OPTION

	1983	1984	1985
1) Baseline Deficit	182	216	233
Deficit Reduction Measures:			
2) Management	11	11	11
3) User Fees	2	2	2
4) Federal Pay Freeze	4	6	9
5) 4% Military Pay Cap	1	3	4
6) COLA Freeze (Exluding Social Security)	3	5	7
7) Non-Defense Discretionary	8	15	22
8) Targeted Entitlements	8	12	16
9) Social Security Commission Solvency Recommendations	6	17	17
10) Defense (excluding pay/retirement)	5	7	10
11) Revenue	20	35	40
12) Interest (market effect)	7	15	20
13) Debt Service	6	20	35
14) Total Deficit Reduction	81	148	193
15) Remaining Deficit	101	68	40

THE WHITE HOUSE
WASHINGTON

Date: 6/29/82

NOTE FOR: CRAIG FULLER

The President has

seen ☒x

acted upon ☒x

commented upon □

the attached; and it is forwarded to you for your:

information ☒x

action ☒x

Richard G. Darman
Assistant to the President
(x-2702)

cc: Central Files - Original

THE WHITE HOUSE

WASHINGTON

June 26, 1982

BRIEFING PAPER FOR THE PRESIDENT

MEETING WITH THE CABINET COUNCIL ON LEGAL POLICY

DATE:	JUNE 28, 1982
TIME:	2:45 P.M. (45 MINUTES)
LOCATION:	CABINET ROOM
FROM:	CRAIG L. FULLER CF

I. PURPOSE

The Cabinet Council on Legal Policy is meeting to discuss three items:

-- Immigration Legislation

-- Federal Antitrust Laws and Local Government Activities

-- The President's Crime Legislative Crime Package

You will find a decision memo in the attached packet for each of the above items.

II. PARTICIPANTS

A final list will be attached to the agenda.

III. PRESS PLAN

White House photographer only.

IV. SEQUENCE

The Attorney General will lead the discussion.

THE WHITE HOUSE

WASHINGTON

June 25, 1982

MEMORANDUM FOR THE PRESIDENT

FROM THE CABINET COUNCIL ON LEGAL POLICY

SUBJECT: Legalization Provisions of Immigration Reform Legislation

ISSUE:

What should be the Administration's position regarding legalization?

ACTION FORCING EVENT:

Senate floor action imminent on S. 2222, the Simpson-Mazzoli Immigration bill.

BACKGROUND AND ANALYSIS:

The Senate Judiciary Committee has reported out S. 2222, the Simpson-Mazzoli immigration reform bill. The bill offers immediate permanent resident status to illegal aliens residing continuously in the U.S. since January 1, 1978 and temporary status for those who entered between January 1978 and 1982.

The bill grants all welfare benefits to permanent residents and Medicaid and SSI to temporary residents. Temporary residents become eligible for all benefits when, after two years, they become permanent residents.

The original Administration bill proposed temporary resident status for all illegal aliens who entered as of January 1980. Those who have resided continuously for ten years from date of entry would be eligible for immediate permanent resident status. In the interim, family reunification and welfare eligibility were prohibited, except for job-related disabilities incurred after legalization. This proposal attracted considerable opposition and almost no support in Congress. Consequently, the Attorney General proposed, as a compromise, a January 1981 entry limit and an eight rather than a ten year residency requirement. No compromise on benefits was proposed.

The added costs to Federal, State and local governments of providing benefits to permanent and temporary residents under the bill as reported by the Committee would be extremely high, since the bill would provide benefits to an estimated 4.8 million aliens from the first year of the program onward. The Office of Management and Budget and the Department of Health and Human Services estimate that the annual Federal welfare costs under the bill range from $642 million in FY 83 to $2.5 billion by 1986. State and local costs could range from $425 million in FY 83 to $1.4 billion by FY 86. The National Association of Counties has testified that State and local costs would be $546 million in the first year.

S. 2222 is also inconsistent with the basic principles which the Administration sought to incorporate in its proposal:

(1) that it was unfair to ask the American body politic to absorb, more or less immediately, several million illegal aliens;

(2) that illegal entry should not be rewarded by offering easy access to the benefits of permanent resident status, which in turn would lure others to enter illegally;

(3) that generous benefits to illegal aliens not be offered at a time when many Americans are unemployed and jeopardized by budget cuts in social programs, and

(4) that we should avoid creating welfare dependence in a group now viewed to have a strong work ethic.

Moreover, a program which gradually adjusted aliens to permanent resident status would ease the impact of welfare costs on all levels of government. State and local governments would have more leeway to plan for service delivery and to budget for additional costs.

OPTION 1:

Support S. 2222 as reported. Total 1983 - 1986 cost: $10.2 billion.

OPTION 2:

Maintain the Administration's Revised Position. Total 1983 - 1986 cost: $2.4 billion.

OPTION 3:

Seek a middle ground. Compromise possibilities include:

(a) Administration's Revised Position & Limited Benefits. Total 1983 - 1986 cost: $5.5 billion.

(b) A 1976 (or other) entry date for permanent residents and a four-year prospective temporary residency status with benefits for those who entered by 1981. This option would legalize a group of permanent residents immediately and offer benefits to temporary residents. Prospective four-year residency requirements delay adjustments to permanent resident status until FY 88. Total 1983 - 1986 cost: $5.1 billion.

(c) A 1982 entry date for temporary residents; limited benefits and 5 to 10 year prospective residency depending on welfare use. This option grants temporary resident status to all illegal aliens and would offer medicaid and SSI type benefits. Aliens who do not use welfare in the first 5 years could then adjust to permanent resident status. Total 1983 - 1986 cost: $1.2 billion.

DECISION:

1. Support S. 2222. Approve______.

2. Maintain Administration's revised position. Approve______.

3. Seek a middle ground. Approve ✓RR. starting with C.

APPENDICES

A. Comparison of Welfare Costs by Option

B. Explanation of Cost Calculation for S. 2222

C. Estimated Population Eligible for Legalization by Option

D. Terms of Legalization by Option

Appendix A

COMPARISON OF VARIOUS IMMIGRATION LEGISLATIVE PROPOSALS' WELFARE COSTS OVER PRESIDENT'S BUDGET
($ in millions)

	Proposal	FY 83			FY 84			FY 85			FY 86			Total 4 Year		
		Fed	State	Total	Fed	State	Total	Fed	State	Total	Fed	State	Total	Fed	State	Total
	Admin. Bill															
	High Est.	77	45	122	185	108	293	216	126	342	309	180	489	787	459	1,246
	Mid Est.	39	22	61	93	54	147	108	63	171	154	90	244	344	229	623
	Low Est.	10	5	15	23	14	37	27	16	43	39	22	61	98	57	155
(Senate)	Simpson/Mazzoli															
	High Est.	642	425	1,067	1,283	880	2,163	1,877	1,146	3,023	2,473	1,442	3,915	6,275	3,893	10,168
	Mid Est.	321	213	534	642	440	1,082	939	573	1,512	1,237	721	1,958	3,137	1,947	5,084
	Low Est.	80	53	133	160	110	270	235	143	378	309	180	489	784	487	1,271
(House)	Simpson/Mazzoli															
	High Est.	448	282	730	895	565	1,460	1,093	688	1,781	1,390	810	2,200	3,825	2,346	6,170
	Mid Est.	224	141	365	448	282	730	546	344	890	695	405	1,100	1,913	1,173	3,085
	Low Est.	56	35	91	112	71	183	137	86	223	174	101	275	478	293	771
	1978 Entry															
	High Est.	531	345	876	1,062	689	1,751	1,062	689	1,751	1,062	689	1,751	3,717	2,412	6,129
	Mid Est.	266	173	438	531	345	876	531	345	876	531	345	876	1,859	1,206	3,065
	Low Est.	66	43	110	133	86	219	133	86	219	133	86	219	465	301	766
	1977 Entry															
	High Est.	480	319	799	961	638	1,599	961	638	1,699	961	638	1,599	3,363	2,233	5,596
	Mid Est.	240	160	400	480	319	799	480	319	799	480	319	799	1,682	1,116	2,798
	Low Est.	60	40	100	120	80	200	120	80	200	120	80	200	420	379	699
	1976 Entry															
	High Est.	431	294	725	863	588	1,451	863	588	1,451	863	588	1,451	3,020	2,058	5,078
	Mid. Est.	216	147	363	432	294	726	432	294	726	432	294	726	1,510	1,029	2,539
	Low Est.	54	37	91	108	74	182	108	74	182	108	74	182	376	257	633
	Attorney Gen. Proposal/Benefits															
	High Est.	410	313	723	863	588	1,451	961	638	1,599	1,062	689	1,751	3,296	2,228	5,524
	Mid. Est.	205	157	361	432	294	726	480	319	799	531	345	876	1,648	1,114	2,762
	Low Est.	51	39	90	108	74	182	120	80	200	133	86	219	412	278	690

Appendix D

Terms of Legalization by Option

Simpson-Mazzoli (House) - 1978 entry date for permanent residents (PR) and 1980 entry date for temporary residents (TR). Two year residency requirement for TRs to adjust to PR status. Adjusts 1.2 million PR and 1.5 million TR in first year.

Simpson-Mazzoli (Senate) - 1978 entry date for PR and 1982 entry date for TR. Two year residency requirement for TRs to adjust to PR status. Adjusts 1.2 million PR and 3.6 million TR in first year.

1978 Entry Date - 1978 entry date for PR and 1981 entry date for TR with 4 year prospective residency requirement from date of enactment, for adjustment of status. Adjusts 1.2 million PR and 2.4 million TR in first year.

1977 Entry Date - 1977 entry date for PR and 1981 entry date for TR, with four year residency requirement for TRs to adjust to PR status. Adjusts 900,000 PR and 2,700,000 TR in first year.

1976 Entry Date - 1976 entry date for PR and 1981 entry date for TR, with four year residency requirement for TRs to adjust to PR status. Adjusts 600,000 PR and 3,000,000 TR in first year.

Attorney General's Proposal. 1981 entry date for TR with 8 year retroactive residency requirement for_ adjustment of status. Adjusts 420,000 PR and 3,180,000 TR in first year.

Attorney General's Proposal/Benefits. Same as above includes SSI and medicaid for TR.

New Option. 1982 entry date for TR, 10 year prospective residency requirement (shortened to 5 years if no claim for benefits), provides medicaid and SSI. Adjusts 4.8 million TR in first year.

Administration Bill. 1980 entry date for TR, 10 year retroactive residency requirement for adjustment of status. No benefits. Adjusts 300,000 PR and 2.4 million TR in first year.

Proposal	FY 83			FY 84			FY 85			FY 86			Total 4 Year		
	Fed	State	Total	Fed	State	Total	Fed	State	Total	Fed	State	Total	Fed	State	Total
Attorney Gen. Proposal															
High Est.	108	63	171	309	180	489	463	270	733	619	390	1,009	1,499	903	2,402
Mid Est.	54	31	85	155	90	245	232	135	367	310	195	505	750	451	1,201
Low Est.	14	7	21	39	23	61	58	34	92	77.	49	126	187	113	300
New Option															
High Est,	120	82	202	240	164	404	240	164	404	240	164	404	840	574	1,414
Mid Est,	60	41	101	120	132	252	120	132	252	120	132	252	420	462	882
Low Est,	52	8	60	103	16	119	103	16	119	103	16	119	361	56	417

Appendix B

Estimated First Full Year Federal Costs*
Simpson-Mazzoli (Senate)

	FACTORS			Total
Federal Program	% Eligible	% Participating	Unit Cost	Federal Cost ($millions)
Status:	Permanent Resident (1978) Entry			
AFDC	39	87	$ 740	$241
Medicaid				
Adult	13	100	$ 570	73
Child	26	100	$ 280	69
SSI	4	100	$1,596	58
SSI	4	25	$2,374	22
Food Stamps	39	87	$ 480	156
			Subtotal	619
Status:	Temporary Resident (1982) Entry			
SSI	4	25	$2,374	65
Medicaid				
Adult	13	100	$ 570	218
Child	26	100	$ 280	206
SSI	4	100	$1,596	175
			Subtotal	663
			Grand Total	1,283

* During the first year of legalization (assumed FY 1983) a 6-month cost is expected. The first full year cost would be incurred in FY 1984.

Costs assume 80% participation rate in legalization.

	Eligible Pop.	80% Participation
PR:	1,200,000	960,000
TR:	3,600,000	2,880,000

Appendix C

Population Estimates
Aliens Eligible for Legalization
(thousands)

Option	FY 83	FY 84	FY 85	FY 86
Simpson-Mazzoli (Senate)				
PR	1,200	1,200	3,000	4,800
TR	3,600	3,600	1,800	--
Simpson-Mazzoli (House)				
PR	1,200	1,200	1,950	2,700
TR	1,500	1,500	750	--
1978 Entry				
PR	1,200	1,200	1,200	1,200
TR	2,400	2,400	2,400	2,400
1977 Entry				
PR	900	900	900	900
TR	2,700	2,700	2,700	2,700
1976 Entry				
PR	600	600	600	600
TR	3,000	3,000	3,000	3,000
AG Proposal				
PR	420	600	900	1,200
TR	3,180	3,000	2,700	2,400
New Option				
PR	--	--	--	--
TR	4,800	4,000	4,800	4,800
Admin. Bill				
PR	300	360	420	600
TR	2,400	2,340	2,280	2,100

PR = Permanent resident status
TR = Temporary resident status

THE WHITE HOUSE

WASHINGTON

June 25, 1982

MEMORANDUM FOR THE PRESIDENT

FROM THE CABINET COUNCIL ON LEGAL POLICY

SUBJECT: Worker Identification Provisions in
Pending Immigration Reform Bill

ISSUE:

Whether the Administration should continue to support the Simpson-Mazzoli bill in light of its provisions dealing with workers' identification cards.

ACTION FORCING EVENT:

Senate floor action imminent on S.2222, the Simpson-Mazzoli Immigration bill.

BACKGROUND AND ANALYSIS:

The position adopted last year and specifically incorporated in the Administration's immigration reform bill with your approval was that a national identification card was neither necessary nor desirable. The principal basis of objection was that a national identification card or system (called by whatever name) was philosophically repugnant to the idea of a free society and contrary to American customs. In addition, several practical objections were raised: (1) that, short of nationalizing birth and death records, such a system would not be cost-beneficial; (2) that such a system could be discriminatory, because, as a practical matter, only those who looked or sounded "foreign" might be asked to produce identification cards; and (3) that various interest groups, ranging from the ACLU to the NRA, would voice the strongest possible opposition.

The Administration recognized, however, that given employer sanctions, employers need a means of distinguishing illegal aliens from persons authorized to work.

The full Senate Judiciary Committee and a House Judiciary subcommittee believe that the Administration's provisions for worker identification were not sufficient. The relevant language of the latest Senate version is as follows:

> "Within three years....the President shall implement such changes in or additions to the (existing documents) as may be necessary to establish a secure system to determine employment eligibility.....the system will reliably determine that a person with the

> identity claimed....is not claiming the identity of another individual....such document must be in a form which is resistant to counterfiting and tampering,....unless the President and the Judiciary Committees of the Congress have determined that such form is unnecessary to the reliability of the system."

There are opposing views on the meaning of this language.

Justice, State, Labor, and Agriculture believe that this language will not require creation of a national ID card or process. In their view the statutory language leaves discretion in the Administration to determine whether and what changes to existing documents may be appropriate. Moreover, they believe that the language is likely the best that can be achieved in view of Congressional opinion that the language is already weak and that existing ID's need to be invigorated. OMB, Interior, and the Office of Policy Development believe that the language would set the nation on a path toward the establishment of a national ID system.

OPTION 1:

Oppose S.2222 unless amended to eliminate all requirements leading to a national identity card or system.

OPTION 2:

Continue to support S.2222 gen:rally, while seeking to modify the language leading toward a national identification card. (Indicates probability of signing even if sufficient changes are not made in the language.)

DECISION:

1. Oppose S.2222 unless amended as above. Approve ___________

2. Continue efforts to change the language, but support S.2222 even if those efforts fail. Approve ✓ RR

THE WHITE HOUSE

WASHINGTON

June 28, 1982

MEMORANDUM FOR THE PRESIDENT

FROM: CABINET COUNCIL ON LEGAL POLICY

SUBJECT: The Federal Antitrust Laws and Local Governments

ISSUE:

In Community Communications Co., Inc. v. City of Boulder, the Supreme Court recently held that a regulatory ordinance of a "home rule" municipality is subject to antitrust scrutiny unless it constitutes action in furtherance or implementation of a clearly articulated and affirmatively expressed state policy. This decision raises concerns that traditional local regulatory activities may be invalidated by federal antitrust laws. The question arises whether the federal antitrust laws should be amended to afford municipalities and other subordinate state entities a broad exemption beyond that afforded them by the "state action" doctrine.

ACTION FORCING EVENT:

Assistant Attorney General Baxter is scheduled to testify before the Senate Judiciary Committee on the implication of the Supreme Court's Boulder decision on June 30, 1982.

BACKGROUND AND ANLYSIS:

Under the "state action" doctrine, competitive restraints imposed by a state as sovereign are immune from the federal antitrust laws, if the state has clearly articulated and affirmatively expressed a policy to limit competition and has provided for active state supervision. Municipalities may be eligible for such a state action exemption where the state has authorized or directed their conduct pursuant to such a state policy. The Supreme Court held in its 1978 City of Lafayette decision that municipalities are not equated with states for this purpose, however, and may not claim a state action exemption in the absence of a state policy to limit competition. The Court's recent Boulder decision established that home-rule municipalities are not exempt from that standard and, like other municipalities, must base any claim for state action immunity on a clearly expressed and actively supervised state policy.

Local government officials have expressed serious concerns that fear of antitrust treble damage liability could inhibit the performance of legitimate governmental functions. They fear that the City of Lafayette and Boulder rulings could require state legislatures to prescribe municipal policy in detail in order to avoid antitrust liability. Thus, the National League of Cities proposes that the antitrust laws be amended to exempt the actions of a municipality or other governmental subdivision of a state from the antitrust laws whenever a state would be exempt so long as the action is undertaken pursuant to general or specific enabling legislation.

State officials, on the other hand, generally oppose granting subordinate governmental entities antitrust immunity in the absence of a state policy to limit competition. Twenty-three states, including Colorado, filed an amicus brief in the Boulder case opposing the city's claim of immunity, arguing that "[fe]deralism neither requires nor allows cities, whether home rule or otherwise, to disregard the antitrust laws when acting on their own in the execution of municipal policies to displace competition."

Although the concerns of local governments are serious ones, it is not clear that the Boulder decision is so sweeping as to justify Administration support for an amendment to the antitrust laws providing a special antitrust exemption beyond the scope of the state action exemption. It is important to note that the Supreme Court did not hold in Boulder or City of Lafayette that the city had violated the antitrust laws. The Court emphasized in Boulder that it was dealing only with antitrust immunity, and specifically suggested that a "flexible" approach to the question of actual liability would probably be appropriate. The Court also emphasized, as the plurality had in City of Lafayette, that it was not reaching the question of what remedies might be appropriate if municipal conduct were found to constitute an antitrust violation. Finally, the Court repeated in Boulder the standard articulated by the plurality in City of Lafayette, which requires only that anticompetitive municipal conduct be "authorized or directed" by the state to qualify for state action immunity. The plurality in City of Lafayette explained that its holding did not mean that a city "necessarily must be able to point to a specific, detailed legislative authorization" before it may assert a state action exemption.

Thus, it is not clear that the antitrust laws as interpreted in Boulder and City of Lafayette pose a serious threat to local governmental activities. Although those decisions require municipalities to obey the antitrust laws if the state has not authorized or directed a competitive restraint, traditional municipal activities should rarely be held illegal under proper antitrust analysis even in the absence of immunity. The antitrust laws are directed primarily at restraints on commercial competition through anticompetitive agreements or monopolizing conduct. The normal conduct of municipal affairs gives rise to few, if any, occasions to engage, knowingly or unknowingly, in such conduct.

There are a somewhat larger number of contexts in which a city, acting as a purchaser or as a provider of municipal services, might arguably violate one of the "vertical" prohibitions which the courts have created over the years. But, "vertical" agreements involving, for example, buyer and seller, licensor and licensee, or franchisor and franchisee, often enhance the vigor of the competitive process and should not be held illegal absent an overall anticompetitive effect in a realistically-defined market. Misguided court decisions with respect to vertical practices represent a major problem for all business units, not just municipalities. The Department of Justice has been attempting, in a variety of ways, to address that problem other than through legislation. If a legislative approach is thought desirable, it should take the form of substantitve antitrust amendments, not exemptions for a favored class of potential defendants.

The cities' argument that, as a matter of law and policy, municipalities ought to be treated like states for purposes of antitrust liability, is one that the Administration may want to address, but legislation to clarify the scope of the Boulder decision should be carefully crafted not to sweep too broadly. No specific bills are currently pending for comment.

OPTION 1:

The Administration could endorse legislation to afford municipalities an exemption beyond that afforded by the state action doctrine. The National League of Cities' approach would effectively equate municipalities and states, where municipalities act within the scope of their enabling legislation. Other approaches could be tailored more specifically to perceived problems.

OPTION 2:

The Administration could indicate that, while it is sympathetic to the concerns of the cities and will continue to monitor the situation, legislation at this time is premature. Municipalities would be free to advocate state legislation affording them a state action exemption for any activity raising antitrust concerns.

OPTION 3:

The Administration could indicate that it is continuing to study the problem. The hearings on June 30 will not focus on specific legislation, and congressional staff members indicate that further hearings on specific proposals are likely later this summer.

DECISION:

Option 1. (Endorse legislation now.)

APPROVE ______

Option 2. (Continue to monitor; meanwhile encourage state legislation.)

APPROVE ✓ RR

Option 3. (Continue to study.)

APPROVE ______

The President's Crime Legislative Package.

The acquittal of John Hinckley by reason of insanity this week has once again, in dramatic fashion, focused public attention on the basic infirmities of the federal criminal justice system. Commentary by the press, psychiatric experts and the jurors themselves uniformily has been that the instructions given by the judge, which reflected federal law, left the jury no choice but to acquit Hinckley. The problem with the insanity defense, as with many other aspects of the federal criminal justice system, lies with existing federal statutes and judicial interpretations, extensive changes to which can be made only by Congress.

On May 24, the Cabinet Council on Legal Policy discussed the Administration crime package, which was introduced two days later as the Violent Crime and Drug Enforcement Improvements Act, S. 2572 (Thurmond, Biden), and H.R. 6497 (McClory). The major elements of these identical bills include:

- Bail Reform, to authorize pretrial detention of dangerous criminals, and allow consideration of dangerousness in setting release conditions.
- Sentencing Reform, to replace the parole system with a nationally uniform set of determinate sentences, and permit the government to appeal lenient sentences.
- Insanity, to eliminate insanity as a defense for offenders who have the requisite state of mind to commit an offense, make other mental conditions factors to be considered in sentencing, and provide for federal custody of persons acquitted by reason of insanity if the states will not assume responsibility.
- Criminal Forfeiture, to improve the ability of the government to reach proceeds and instrumentalities of organized crime operations.
- Witness/Victims Protection, to restrain and provide criminal penalties for acts of intimidation, aid witness relocation, and establish liability for government gross negligence resulting in the release or escape of a dangerous prisoner.
- Controlled Substances, to increase penalties for drug trafficking.

This bill excluded certain, more controversial, proposals in order to achieve bipartisan Senate support. On May 24 we discussed, and later that week the President publicly endorsed adding three important reforms by amendment on the Senate floor. These reforms are:

- Exclusionary Rule, to admit at trial evidence obtained in violation of the defendant's Fourth Amendment rights if the search or seizure was made by the law enforcement official in good faith, including made pursuant to a warrant.

- Capital Punishment, to establish constitutionally supportable procedures to reinstitute a federal death penalty and apply it to murder, treason, espionage and attempted Presidential assassination.
- Habeas Corpus Reform, to limit the ability of prisoners to repeatedly challenge the correctness of their convictions.

S. 2572, now cosponsored by 52 senators, has been held at the desk, and could be brought up for consideration at any time. In contrast, Chairman Rodino has referred H.R. 6497 to four different subcommittees with the apparent intention of not moving the legislation. Only the title on controlled substances has been referred to a friendly subcommittee chaired by Rep. Hughes. Bail reform is in Rep. Kastenmeier's subcommittee and the rest of the proposals are in Rep. Conyers' subcommittee, the unofficial graveyard for crime bills.

At this late stage in the session, all of our hopes for significant crime legislation are wrapped up in these bills. With the possible exception of bail reform, there is next to no chance for passage of existing separate legislation containing these proposals. No action has been taken on any bill to eliminate or modify the insanity defense, although more bills have been introduced in the wake of the Hinckley verdict.

While it would be impolitic for the President to comment publicly on the need to eliminate the insanity defense, the other proposals clearly are appropriate for Presidential attention. We should take advantage of the coalescing of public concern over the fundamental inadequacies of the nation's criminal justice system to press vigorously for the enactment of the Violent Crime and Drug Enforcement Improvements Act. This public awareness may be sufficient to obtain action by the House. If the House does not act in the wake of the current public uproar, such inaction would certainly create a very important debate for the fall elections. Such a lack of responsiveness to the public's concern over crime and justice by the current Democrat-controlled House of Representatives would constitute an issue that could be exploited by Republican candidates.

Therefore, we recommend that the President meet with Senators Baker and Thurmond to assure that the crime package is one of the first bills considered by the Senate when it returns from its July recess. He also should emphasize his desire that the Senate amend the bill on the floor to add the exclusionary rule, death penalty, and habeas corpus proposals. The President should meet with Speaker O'Neill, Chairman Rodino and the ranking Judiciary Committee Republicans to emphasize the effort that the Administration is prepared to make to obtain consideration of this bill by the House of Representatives. We further recommend that either this Cabinet Council, or a sub-group thereof be charged with monitoring the progress of this anti-crime package and making recommendations for White House and Departmental actions to secure its passage.

THE WHITE HOUSE
WASHINGTON

May 19, 1982

NOTE FOR ED MEESE
JIM BAKER
MIKE DEAVER
CRAIG FULLER

Please note the President says we should talk about this.

Richard G. Darman

Attachment

MEMORANDUM FOR THE PRESIDENT

FROM: RICHARD S. SCHWEIKER, CHAIRMAN PRO TEM
CABINET COUNCIL ON HUMAN RESOURCES

Dick Schweiker

SUBJECT: Benefits for Widows or Orphans of Veterans
Who Died of Service-Connected Causes

ISSUE: Does the nation owe something special to widows and orphans of service men who died as a result of their military service?

BACKGROUND:

A provision of the Budget Reconciliation Act of 1981 eliminated Social Security survivors' benefits for widows when their oldest child reached 16 years of age instead of 18. In addition, children from 18 to 22 years of age lost their Social Security survivors' benefits. In the past these benefits were available while attending college.

Survivors of veterans who die from service-connected causes receive a separate veterans' benefit. Widows receive a benefit until their youngest child reaches age 18, children receive benefits while attending college until age 22. Until the 1981 Budget Reconciliation Act widows and orphans received benefits from both the Veterans Administration and the Social Security Administration.

HR 5600 OPTION:

HR 5600 would recreate the Social Security benefits in the form of additional veterans' benefits for widows and orphans of all veterans who died of service-connected causes. The Cabinet Council on Human Resources decided to make no recommendation at this time.

Arguments for the HR 5600 Option:

- Politically sensitive because of special status of veterans killed on duty or who died from service-connected causes.

- These benefits could be considered part of the compensation package for members of the military service unlike Social Security survivors.

- o Congress may have taken into consideration available Social Security benefits when setting the current veterans' benefits.

Arguments Against the HR 5600 Option:

- o Cost would be $50-60 million per year.
- o Possible precedent for the 1983 Veterans' Pension Program with a potential cost of $11-13 million.
- o Would treat widows and orphans of veterans differently from other Social Security survivors.

OMB OPTION

OMB opposes supporting HR 5600 but offers an option limited to survivors of Vietnam veterans killed in or who died from combat causes. If this option is selected, OMB recommends that the Administrator of the Veterans Administration be asked to draft a legislative proposal creating a new set of benefits.

Arguments for the OMB Option:

- o Would limit program to survivors of Vietnam combat veterans.
- o Would not be an explicit reversal of prior Administration policy.
- o May be less costly.

Arguments Against the OMB Option:

- o Would not include survivors of non-Vietnam combat veterans and of all veterans whose death were service-connected but not the result of combat.
- o Because it would be a new program, benefits and converage could be expanded by Congress resulting in more cost than HR 5600 which would recreate the old benefits.

DECISION:

1. HR 5600 Option.

_________ APPROVE _________ DISAPPROVE

2. OMB Option.

✓RR APPROVE _________ DISAPPROVE

3. Other _____________

But we should talk about this.

RR

THE WHITE HOUSE

WASHINGTON

May 21, 1982

RR

MEMORANDUM FOR THE PRESIDENT

FROM: RICHARD G. DARMAN Dick

SUBJECT: YOUR DECISION RE HOUSE BUDGET RESOLUTION

This note is intended simply to clarify and record what was understood to have been your decision in this morning's meeting with the Legislative Strategy Group:

Decision:

The "Bi-partisan" budget resolution developed jointly by the House Republican leadership, selected Boll Weevils, and selected Gypsy Moths will be supported by the President and the Administration.

NOTES:

(a) This resolution includes $95 billion in additional revenue for the period FY 1983-85. It is binding only for FY '83.

(b) This resolution includes defense outlay cuts for FY '83-'85 of $5.3 billion, $7 billion, and $10 billion relative to the President's budget. (The OMB-DOD FY '83 defense outlay estimate for the President's program is $215.9 billion. The CBO estimate is 218.3. This includes pay increases and retirement. Excluding pay increases and retirement the OMB-DOD baseline figure is $195.1 billion, and the CBO figure is 197.3. The Bi-partisan resolution provides $189.8 billion, excluding pay and retirement. This is $5.3 billion below the President's budget.)

(c) This resolution includes FY '83-'85 foreign economic assistance savings of 200, 300, and 400 million dollars below the President's budget. Notwithstanding this fact, the Administration will support the Bi-partisan House Resolution in the House, but will seek to restore the economic assistance levels in any subsequent Conference.

✓RR Approve support of House Bi-partisan Resolution.

_____ Disapprove support of House Bi-partisan Resolution.

Attachment: OMB summary of House "Bi-partisan" resolution in comparison with "Coalition" resolution and revised Senate Budget resolution.

COMPARISON OF HOUSE BUDGET ALTERNATIVES

Defense and Tax Increase	Coalition	Bipartisan	Coalition vs. Bipartisan
1) Revenue Increase..................................	135.0	95.0	+40.0
2) Defense Program Cut from President's Budget......	45.7	22.3	+23.4
o Reject CBO re-estimate........................	(5.8)	(5.8)	--
o Cut from CBO Baseline.........................	(51.5)	(28.1)	+(23.4)
3) Total Tax Increase and Defense Cut (CBO Baseline)	186.5	123.1	+63.4
Non Defense Spending Cuts			
4) Discretionary Programs...........................	32.4	42.4	-10.0
5) Targeted Entitlements............................	15.6	33.9	-18.3
6) Pay and COLA Caps................................	23.0	28.8	-5.8
7) User Fees and Other Spending Reductions..........	10.2	18.7	-8.5
8) Total, Non-Defense Spending Cuts.................	81.2	123.8	-42.6

Remaining Deficit	1983	1984	1985
Bipartisan..	102	78	49
Coalition...	95	72	38

II. House Bipartisan Package Compared to Revised Senate Budget

	House Bipartisan	Revised Senate	Difference
Revenue......................................	95.0	101.0	+6.0
Defense with CBO Re-estimate.................	28.1	22.0	-6.1
Non-Defense Spending Cuts....................	123.8	101.9	-21.9

III. Problems with House Bipartisan Package:

1) Defense Re-estimate Issue

- o All spending cuts are calculated from the CBO baseline. In the case of defense, the CBO outlay baseline is higher than the President's budget by the following amounts:

1983	1984	1985	Total, 1983-85
+2.2	+1.9	+1.7	+5.8

- o As a result, the reduction from the Administration defense outlay level is smaller for any given dollar reduction from the CBO baseline:

	Reduction From President's Budget			
	1983	1984	1985	Total
Senate Budget Package................	2.8	5.1	8.3	16.2
House Bipartisan.....................	5.3	7.0	10.0	22.3
Coalition............................	9.4	14.3	22.0	45.7

2) Economic Foreign Aid Cut

- o The Bipartisan package assumes a reduction in multi-lateral and bi-lateral economic and other international affairs spending.

	1983	1984	1985
President's Budget....................	4,325	4,429	4,359
Bipartisan Cut........................	-200	-300	-400
Percent Reduction.....................	4.6%	6.8%	9.2%

THE WHITE HOUSE
WASHINGTON

3/31/82

RGD:

Attached is the original of the "mandatory retirement" decision paper, which was pulled from the P's package.

Do we need to do anything with it?

S.

files
RR chose option 2 – since it has been announced

/HITE HOUSE
SHINGTON

29, 1982

'T COUNCIL ON HUMAN RESOURCES

MARCH 30, 1982
11:00 A.M. (60 MINUTES)
CABINET ROOM

CRAIG L. FULLER CLF

uman Resources is meeting to
andatory retirement. Testimony
e House Committee on Aging and
reportedly be speaking on this
k. An options paper from the
hed which outlines the issues
view.

II. PARTICIPANTS

To be attached to the agenda.

III. PRESS PLAN

White House photographer only.

IV. SEQUENCE

Once the meeting is called to order, Secretary Schweiker can be called upon to introduce the subject.

THE WHITE HOUSE

WASHINGTON

March 29, 1982

MEETING WITH THE CABINET COUNCIL ON HUMAN RESOURCES

DATE:	MARCH 30, 1982
TIME:	11:00 A.M. (60 MINUTES)
LOCATION:	CABINET ROOM
FROM:	CRAIG L. FULLER CLF

I. PURPOSE AND BACKGROUND

The Cabinet Council on Human Resources is meeting to review the question of mandatory retirement. Testimony has been requested by the House Committee on Aging and the Vice President will reportedly be speaking on this subject later in the week. An options paper from the Cabinet Council is attached which outlines the issues and the options under review.

II. PARTICIPANTS

To be attached to the agenda.

III. PRESS PLAN

White House photographer only.

IV. SEQUENCE

Once the meeting is called to order, Secretary Schweiker can be called upon to introduce the subject.

THE WHITE HOUSE

WASHINGTON

March 26, 1982

MEMORANDUM FOR: CABINET COUNCIL ON HUMAN RESOURCES

FROM: ROBERT B. CARLESON
EXECUTIVE SECRETARY

Issue: What is the Administration's position on legislation which would raise the age below which mandatory retirement based solely on age is prohibited.

Action Forcing Event: Testimony before the Heinz/Pepper Committee on Aging April 1, 1982.

Background: According to the Department of Labor, the 1978 amendments to the Age Discrimination in Employment Act (ADEA) raised the so-called mandatory retirement age from age 65 to age 70. Accordingly the law now protects individuals from discrimination on the basis of age between the ages of 40 and 70. While this age is often called the mandatory retirement age, the law does not require employers to retire employees at that age. It only prohibits employers from involuntarily retiring employees under age 70 solely on the basis of age. Clearly, if an employee has reached age 70, an employer is free to keep that employee.

29 USC S631 contains the relevant provisions of the ADEA. There are two provisions in this section which modify the age 70 limit. One provision (Sec. 631(c)) provides that under certain conditions high level executives can be retired before age 70. Another provision (Sec. 631(d)) provides that until July 1, 1982, professors of unlimited tenure can be retired if they are between the ages of 65 and 70. Recently the latter provision was publicized because an university elected to exercise this option and retire 40 faculty members before the provision's July expiration date. Evidently, the plan has sparked a good deal of protest on the campus.

Under Section 5 of the ADEA, the Department of Labor is required to submit a report on the results of raising the retirement age from 65 to 70 and to examine the feasibility of removing the age limit. The Department has completed the required studies and, in December 1981, forwarded an interim report of study findings to Congress. The results indicate that raising the mandatory retirement age to 70 has slightly increased employment of older workers but otherwise has had very limited effects on labor force participation by other groups and on business policies. Moreover, projections indicate that removal of the mandatory retirement age would result in an additional modest improvement in older work labor force participation and have minimal other consequences.

Of course, in some states (such as California) removal would make no difference whatsoever because those states already have taken the cap off the retirement age.

Several points to keep in mind:

- o Under Secretary of Labor Lovell testified on October 29, 1981, before Senator Heinz' Aging Committee. Heinz was very insistent on the issue, trying to get Lovell to commit the Administration to eliminating the mandatory retirement age. Lovell asserted that it was a very complicated matter and that it was under study. He noted that DOL is required to study the effects of raising the limit (pursuant to S5) and thus it was appropriate to wait for the results of that study.

- o At the White House Conference on Aging, resolutions supporting elimination of the age 70 limit were adopted by several committees.

- o A 1981 Harris poll found that 73% of retirees wished they had never quit working and 75% of current employees and more than 2/3 of business executives oppose mandatory retirement on the basis of age. Of all U.S. adults, 90% oppose a mandatory retirement age.

- o Vice President Bush is scheduled to speak next week before the National Council on Aging.

- o Indications are that Congress may proceed and pass abolition of the mandatory retirement age in the near future with or without Administration approval.

A very interesting aspect of the mandatory retirement age problem is its interplay with the accrual rules of ERISA. ERISA allows pension plans to set the normal retirement age of 65. ERISA does not require that benefit accruals continue after age 65 or that age 65 benefits be actuarially adjusted if retirement occurs after age 65. Virtually no plans offer actuarially equivalent pensions past age 65 and only 50% continue accruals past age 65, Advocacy groups are, of course, pushing for changes in this aspect of the law.

A change to increase the prohibition against mandatory retirement is generally opposed by business and organized labor groups. Business feels that it constitutes further Federal controls affecting their freedom. Labor wants to encourage retirement in order to provide jobs for younger workers. Virtually all aging organizations are demanding a complete prohibition against mandatory retirement based on age only. The President in his speech to the White House Conference on Aging said he opposed mandatory retirement based on age. The Administration's Social

Security proposals of last year included the elimination of the earning's test for Social Security recipients.

Options

Option 1 - No action.

- This is not feasible because of the Department of Labor's commitment to submit recommendations.

[✓ Option 2] - Back or propose legislation to prohibit mandatory retirement based solely on age.

- Probably would have little affect on actual retirement decisions per the Labor Department studies.
- Would be very well received by the aging constituency.
- May be resisted by business and organized labor.
- Would preempt some State laws.

RR chose this (2) — w. fallback to 4 if necess. in Cong. process. RWS

Option 3 - Raising the current age 70 to 75 or a higher age.

- Probably would satisfy no one and have little impact on actual retirement decisions.

Option 4 - Option 2 except that States would not be preempted from adopting a specific age between 70 and death.

- Would have similar effects as Option 2 except for State preemption.
- Would require State action to adopt an age prohibition, which would not be politically feasible in most or all States.
- Would be consistent with Federalism.
- Would be less politically useful with the aging constituencies.

Option 5 - Submit Department of Labor's report with a recommendation that to raise the age level of prohibition against mandatory retirement based solely on age would violate our Federalism principles by preempting State laws but that the results of the studies indicate that State actions to increase the age from 70 should be encouraged.

- Would not satisfy the aging constituencies.
- Would satisfy the business and labor constituencies.
- Would be consistent with the Administration's positions on Federalism and regulation.

THE WHITE HOUSE

WASHINGTON

April 6, 1982

MEMORANDUM FOR: DAVID A. STOCKMAN
CRAIG L. FULLER
EDWIN L. HARPER

FROM: RICHARD G. DARMAN

SUBJECT: Presidential Decision Re Housing Industry Proposals

The President has noted his approval of the recommendation by the Cabinet Council on Economic Affairs (see attached).

Would you please assure appropriate follow-up.

Thank you.

THE WHITE HOUSE

WASHINGTON

March 30, 1982

MEMORANDUM FOR THE PRESIDENT

FROM: THE CABINET COUNCIL ON ECONOMIC AFFAIRS

SUBJECT: Housing Industry Proposals

The administration must formally take a position promptly on Senator Lugar's proposed housing assistance bill and other emergency housing assistance legislation currently under consideration in the Congress. The Senate markup of the Lugar proposal is scheduled to begin on Thursday, April 1. This legislation has been thoroughly reviewed at several meetings of the Cabinet Working Group on Housing Policy, chaired by Secretary Pierce, and at the March 29 meeting of the Cabinet Council on Economic Affairs (CCEA).

The Cabinet Working Group on Housing and the CCEA recommend that you:

1. Oppose emergency housing assistance legislation including the Lugar bill.

2. Support a package of administrative and regulatory measures that will provide some short-term assistance to the housing and construction industries.

The Lugar Bill

The Lugar bill (S.2226) provides $5.1 billion to finance 5-year grants to "buy down" mortgage interest rates from their current levels (15½ percent) to 11½ percent. The bill would subsidize between 370,000 and 450,000 single-family, cooperative or manufactured homes not completed before March 6, 1982. The mortgage could not exceed $67,500 and the homebuyer's income could not exceed $30,000.

The Housing Working Group and the CCEA recommend that you oppose the Lugar bill and other emergency housing legislation for the following reasons:

- o The Lugar proposal would add approximately $5 billion to federal deficits over the next five years, most of it during the recovery from the current recession.

- o Administration endorsement of a $5 billion package for housing assistance could grow beyond recognition as it moved through the legislative process.

- An emergency housing assistance program would undoubtedly lead to pressure for similar programs for other industries with high unemployment or which face severe financial difficulties. There are already bailout proposals in Congress for other industries: thrifts ($7.5 billion), agriculture ($2-5 billion), small business ($2.5 billion), etc.

- Despite the best intentions of its proponents, the Lugar bill is unlikely to result in a large number of net new housing starts. Most home purchases subsidized by the Lugar proposal would have occurred without government assistance, either this year or next.

- The federal government must get the money for housing subsidies from somewhere — either by taxing, borrowing, or monetizing deficits through inflation. Fed Chairman Volcker opposed the Lugar bill in congressional testimony noting that: "New federal programs to channel credit and economic activity to any one sector will add to financial pressures and chock off activity elsewhere."

Alternative Measures

The Housing Working Group and the CCEA recommend that you support a package of other measures that will show our concern for the industry and that are consistent with the Administration's overall budget and regulatory policies. These measures include:

1. Increased Use of Pension Funds for Housing

   The Department of Labor will act within 30-60 days under the Employee Retirement Income Security Act (ERISA) to reduce remaining barriers, within the limits of fiduciary responsibility, that restrict the ability of pension funds to invest in housing.

2. Financing Adjustment Factor

   The Department of Housing and Urban Development will raise the financial adjustment factor on federally subsidized housing to increase multifamily housing construction by 70,000 units between now and August, 1982.

3. Developing FHA Mortgage Instruments

   The Federal Housing Administration (FHA) will encourage greater use of graduated payment mortgages and shared appreciation mortgages insured by FHA. These changes will help qualify many buyers currently unable to purchase homes by reducing their initial monthly payments without simultaneously raising downpayment requirements or providing a subsidy.

4. Changing Revenue Bond Regulations

The Department of the Treasury will issue revised regulations on tax-exempt bonds for home mortgage financing. These changes will increase the volume of state revenue bonds which finance below market rate mortgages.

5. Easing Regulatory Burdens on Housing

The Department of Housing and Urban Development will revise its underwriting standards for FHA mortgage insurance increasing the eligibility of low-to-moderate income families and will modify regulations under the Real Estate Settlement Procedures Act which restrict real estate brokers, homebuyers, and attorneys from dealing directly with the providers of settlement services.

Recommendation: That the administration oppose emergency housing assistance legislation including the Lugar bill and implement the package of administrative and regulatory measures providing assistance to the housing industry outlined above.

Approve ✓RR Disapprove ____________

DTR

Donald T. Regan
Chairman Pro Tempore

THE WHITE HOUSE

WASHINGTON

March 18, 1982

MEMORANDUM FOR: MICHAEL K. DEAVER
CRAIG L. FULLER
EDWIN L. HARPER
KENNETH M. DUBERSTEIN
DAVID R. GERGEN

FROM: RICHARD G. DARMAN Dick

SUBJECT: Presidential Decisions on Tuition Tax Credits

Attached is a copy of the President's decisions on tuition tax credits as discussed in the Cabinet Meeting on March 18.

In addition to the first four approved items, the President approved in principle the fifth decision -- subject to further analysis.

As follow up:

- Craig Fuller and I should set up an appropriate Budget Review Board meeting;

- Ken Duberstein should explore the questions raised concerning Congressional timing -- and notify me when he is ready for this to be discussed in legislative strategy;

- Mike Deaver and Dave Gergen should determine the optimal time for a Presidential announcement; and

- Craig Fuller and Ed Harper should determine what further analytical work needs to be done in the Cabinet Councils.

cc: Edwin Meese III
James A. Baker III

THE WHITE HOUSE

WASHINGTON

March 17, 1982

DECISION MEMORANDUM FOR THE CABINET

FROM: ROBERT CARLESON, EXECUTIVE SECRETARY, HUMAN RESOURCES CABINET COUNCIL

SUBJECT: Tuition Tax Credits

SUMMARY

The Working Group on Tuition Tax Credits of the Cabinet Council on Human Resources has reviewed alternative ways to fulfill the President's commitment to enact a tuition tax credit bill in the 97th Congress.

A proposed draft Administration bill, "The Educational Opportunity and Equity Act of 1982", has been developed and forwarded by the Working Group. The major elements of the bill include:

- Tax Equity: The purpose of the Act is to provide tax relief to parents who bear the double burden of public and private school costs.
- Limited Coverage: The credit is restricted to parents of children in private, non-profit, elementary or secondary schools.
- A Phase-In of Credits: The policy decisions are the subject of this meeting; a decision on the ultimate size, and phase-in of credits should be referred to the Budget Review Board for recommendation to the President.
- Policy of Non-Discrimination: The tax credit is subject to a policy against discrimination.
- A Limited Federal Presence: Because the tax credit does not constitute a form of direct Federal financial assistance to institutions, it does not open a window for future intrusive Federal action.

STATEMENT OF THE ISSUE

The right of parents to direct the education of their children is a firmly established policy in American jurisprudence. More than half a century ago, in the landmark case of Pierce v. Society of Sisters, the Supreme Court decided that the Constitution protects parents' choice to have their children educated at private schools rather than in public intitutions. However, economic, social, and political changes have occurred since Pierce which, in many instances, have rendered this constitutional protection effectively meaningless.

On the one hand, parents who choose to have their children educated at a non-public school must bear the constantly escalating tuitions which those schools must charge to survive. On the other hand, these same parents must support public education through taxes which are paid by all citizens.

For many parents, this dual financial burden is too great to permit them to exercise the right to send their children to a non-public school of their choice. Therefore, tax relief for non-public school tuition expenses is necessary as an issue of equity if American families are to continue to have a meaningful choice between public and private educaton at the elementary and secondary level.

BACKGROUND

Constitutionality:

Courts which have confronted state tuition tax credit legislaton have displayed the uncertainty which characterizes this issue: five courts have found such legislation to be unconstitutional, whereas two others have found no constitutional deficiencies.

The courts which have invalidated tuition tax benefit programs have done so on the basis of an inability to discern a "secular effect" in the legislation. Therefore it is crucial for the administration to build a case for the secular purposes served by a tuition tax credit bill. The Working Group has inserted specific language in the preamble to the Act which meets this test. (refer to Section 2 in the attached bill).

Refundability:

The Working Group believes that although refundability would provide assistance to needy families who are not now taxpayers, this feature is not desirable. It would be costly to make the credit refundable to families who have no tax liability.

Moreover, refundability of tuition tax credits could set a forceful precedent for the use of the tax system to deliver other types of Federal assistance programs.

OPTIONS

The Working Group recommends introduction of tuition tax credit legislation in the 97th Congress, and a restricton of the tax credit to parents of students in private, non-profit, elementary and secondary schools.

The introduuction and enactment of legislaton this year meets the President's campaign commitment, and addresses the concerns of those who recall President Carter's reversal of policy regarding support for tuition tax credits.

Limiting the tax credit is recommended in light of changes being made in current Federal programs for post-secondary student financial assistance, and as a way to control program costs. The Treasury has estimated that the extension of tax credits to post-secondary students would approximately triple the revenue impact of the program.

1. RECOMMEND INTRODUCTON OF TUITION TAX CREDIT LEGISLATON IN THE 97TH CONGRESS.

✓RR Approve __________ Disapprove

2. RESTRICT CREDITS TO PARENTS WITH CHILDREN IN PRIVATE NON-PROFIT PRIMARY AND SECONDARY SCHOOLS ONLY.

✓RR Approve __________ Disapprove

The Treasury Department has provided the following preliminary estimates as a guide to the costs of the proposed tuition tax credit proposal. The estimates are based on the following assumptions: initiation of the program in January of 1983; 5 million initial potential recipients; a 3 year phase-in: $100 in 1983, $300 in 1984, $500 in 1985; and a small estimated first year effect, since most individuals would receive the credit on or before April 15, 1984. However, the Working Group recommends that a final decision on the phase-in and level of credits be made by the Budget Review Board.

A Tuition Tax Credit Equal to 50% of Tuition Payments

(billions)

1982	1983	1984	1985	1987	1988
-	0.1	0.6	1.6	2.5	2.6

Office of the Secretary of the Treasury, March 16, 1982
Division of Tax Analysis

3. REFER LEVEL OF TAX CREDITS AND PHASE-IN TO THE BUDGET REVIEW BOARD.

✓RR Approve __________ Disapprove

One way to delay the revenue impacts from a tuition tax credit program is to phase the program in by grade increments. This alternative would extend the phase-in period, but would require a higher initial level of credit in order to be credible. The Working Group believes that this proposal carries a built-in growth dynamic during the legislative process to extend credits to post-secondary schools, and therefore believes it would be more advantageous to initiate a smaller credit which covers all intended beneficiaries from the beginning.

4. RECOMMEND THAT THE TAX CREDIT PROGRAM NOT BE PHASED-IN BY GRADE.

cRR Approve ________ Disapprove

One further way to control costs would be to limit the credit to those under a certain income level. Such targeting would insure that the benefits of the program would be received by those most in need.

The Working Group rejected this option because it converts a tax equity proposal into a program for income redistribtion. When a similar initiative was introduced by Senator Metzenbaum in 1978 4 Republicans (Griffin, Hatfield, Javits and Stafford) joined 35 Democrats in voting for the proposal, and 34 Rebublicans joined 24 Democrats in voting against.

5. SET A RESTRICTION OF THE TAX CREDIT BY INCOME LIMITS.

________ Approve ________ Disapprove

04889355

TA004-03

PU001-03

THE WHITE HOUSE
WASHINGTON

Date: 3/9/82

NOTE FOR: CRAIG FULLER

The President has

seen □

acted upon ☒

commented upon □

the attached; and it is forwarded to you for your:

information ☒

action □

Richard G. Darman
Assistant to the President
(x-2702)

cc:

original to files

Signed / approved: 3/9/82

ITC Section 22 Investigation of Casein Imports

S 3/9/82

THE WHITE HOUSE
WASHINGTON

March 9, 1982

MR. PRESIDENT:

Attached for your approval is a memorandum from Bill Brock recommending that no further Section 22 action be taken on casein imports and that a notice be placed in the Federal Register to that effect.

Agencies of the Trade Policy Committee, Ed Harper, Ken Duberstein, Bill Clark and CEA concur. Fred Fielding has no objection.

Dick

Richard G. Darman

THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON
20506

February 23, 198

MEMORANDUM TO THE PRESIDENT

FROM: WILLIAM E. BROCK

SUBJECT: ITC Section 22 Investigation of Casein Imports

Following receipt of a recommendation from the Secretary of Agriculture, you directed the International Trade Commission (ITC) on August 5, 1981, to make an immediate investigation under Section 22 of the Agricultural Adjustment Act of 1933, as amended, to determine whether casein, mixtures in chief value of casein, and lactalbumin, as provided for in items 493.12, 493.17, and 190.15, respectively, of the Tariff Schedules of the United States are being or are practically certain to be imported under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support program for milk conducted by the U.S. Department of Agriculture (USDA), or to reduce substantially the amount of any products processed in the United States from domestic milk.

The ITC, in a report submitted to you on January 29, reached a negative determination on the issues it was asked to investigate. One Commissioner dissented in part from the report since he found that casein and mixtures in chief value of casein are being imported under such conditions and in such quantities as to materially interfere with the price support program for milk.

Section 22 empowers the President, on the basis of an investigation and report by the ITC, to impose fees or quotas to regulate commodity imports whenever he finds that such imports tend to render ineffective or materially interfere with USDA commodity price support or stabilization programs. In view of the ITC's finding, however, I recommend no further Section 22 action on casein, mixtures in chief value of casein, and lactalbumin at this time and that you authorize me to place in the Federal Register the attached notice to that effect. I have consulted with the other agencies on the Trade Policy Committee and they unanimously concur with this recommendation.

Approve ✓RR Disapprove _____ Discuss with me _____

(3190-01)

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

NOTICE OF DECISION
SECTION 22 INVESTIGATION OF IMPORTS OF CASEIN, MIXTURES OF CASEIN, AND LACTALBUMIN

On January 29, 1982, the International Trade Commission (ITC) submitted a report to the President on its investigation of casein, mixtures of casein, and lactalbumin under Section 22 of the Agricultural Adjustment Act of 1933, as amended. The ITC found that imports of casein, mixtures of casein, and lactalbumin did not materially interfere with the domestic dairy price support program. Therefore, the ITC report does not provide a basis for finding that import restrictions should be imposed under Section 22 of the Agricultural Adjustment Act.

The ITC investigation was instituted on August 24, 1981, to determine whether casein, mixtures in chief value of casein, and lactalbumin, provided for in items 493.12, 493.17, and 190.15, respectively, of the Tariff Schedules of the United States are materially interfering with or rendering ineffective the domestic price support program for milk administered by the U.S. Department of Agriculture.

In view of the investigation and report by the ITC, the Administration will take no further action regarding the Section 22 investigation into imports of casein, mixtures of casein, and lactalbumin.

C. Michael Hathaway
Deputy General Counsel