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001. form	[Personally Identifiable Information] [partial] (1 page)	12/12/1995	b(6)

COLLECTION:

Clinton Presidential Records
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FOLDER TITLE:

Chron Files December 10-16, 1995 [3]

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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 advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
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PVR

PRINCETON VENTURE RESEARCH, INC.

95 DEC 12 P 6:39

TELECOPY TRANSMITTAL SHEET

cc: Tyson
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Date: Tuesday, December 12, 1995
Deliver to: Mr. Bruce Lindsey/
The White House Office
FAX No.: 202-456-6279
From: John B. Torkelsen
Re: Securities Legislation

Total Number of Pages Transmitted Including This Page: ~~14~~ ¹⁵.

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December 12, 1995 DEC 12 P 6 : 39

VIA - FAX - 202-395-4198

President William J. Clinton
THE WHITE HOUSE
Attn: Carolyn Huber
1600 Pennsylvania Avenue, NW
Washington, DC 20500-2000

Dear President Clinton:

I really appreciate your taking the time on Friday to speak with Pam and me on the subject of the securities legislation. As you requested I have put together brief descriptions of several securities frauds where ordinary investors received substantial compensation for their losses which they would not have received if the conference bill, H.R. 1058, was law. As you saw from the letter that I gave to you Friday, the victims of these securities frauds suffer greatly. Furthermore, these are the people that I believe you should protect from fraudulent activity on the part of large corporations, insurance companies, and accounting firms--the people who have sponsored the securities legislation. You should note that Tony Gumbiner, the subject of the Wall Street Journal article that I gave to you, through companies that he controls, has been a substantial contributor to SEASS, the lobbying organization that promoted the bill.

The examples that I have given you include Equitec, the case we discussed Friday night; Lincoln Savings, one I am sure you are familiar with; Melridge, a terrible fraud in Portland Oregon, Koger Properties, a fraud aimed at retired people in Florida; and First Humanics, a classic Ponzi scheme.

With the exception of First Humanics, either I or members of my staff provided economic analyses used to quantify the damages in the trials. I have personally spoken to a number of investors, mostly retired people whose life savings were taken in these frauds. These situations are really terrible.

In order to accurately provide you with information concerning H.R. 1058, I received assistance in preparing these write-ups from the lawyers who tried these cases. I apologize if the information is a bit lengthy.

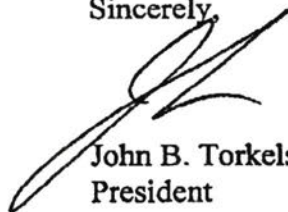
Speaking as an investment professional, I would summarize all of these write-ups by saying to you that the ordinary investors who received recovery in these cases would not have recovered their money under H.R. 1058 due to:

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December 12, 1995

1. Enhanced pleading requirements that would be virtually impossible to meet in the examples I have given to you.
2. Most of these cases involved bankrupt primary defendants. Therefore, joint and several liability was important for recovery.
3. The "Safe Harbor" for forward looking statements would have barred several of these cases.
4. The shortened statute of limitations would have prevented recovery in several of these cases.
5. Aiding and abetting was important in prosecuting several of these cases against accountants and law firms.
6. The new requirement to identify whistle blowers would have prevented the defrauded investors from finding hidden information in several cases.
7. The fee shifting requirement would have intimidated any of the ordinary investors who lost their savings from filing a suit.

Again, it was good to see you on Friday night. Pam and I appreciate it.

Sincerely,

A handwritten signature in black ink, appearing to be 'JBT', written over the typed name.

John B. Torkelsen, CFA
President

JBT/cs

Enclosures

EQUITEC REAL ESTATE LIMITED PARTNERSHIPS

Eight Equitec Limited Partnerships were organized, one per year, as partnerships to invest in commercial real estate. The partnership interests were sold primarily by salesmen throughout the West and Midwest to individuals such as 62 year old Georgine Lesycyiski, who invested \$150,000 in insurance proceeds she received when her husband was killed in a car accident. Most of the investors in these real estate partnerships were saving for retirement. They were people who do not normally invest in the stock market. There were more than 58,000 individuals who invested in these partnerships.

Equitec Financial Group, Inc. packaged the real estate partnerships to invest in commercial real estate. These partnerships, each with approximately \$100 million of initial capital, were designed to be liquidated within ten (10) years.

With the downturn in the real estate market, Equitec found it impossible to sell new partnerships. Therefore, Equitec decided to raise money by selling its General Partner's interest and the management contracts for its existing limited partnerships.

Equitec arranged to sell its interests to Tony Gumbiner, an influential financier, who lives in Monaco. With the assistance of Smith Barney and Dean Witter, Gumbiner arranged to have the limited partners vote to roll-up the partnerships into a non-liquidating limited partnership that he would control. His new partnership, Hallwood Realty Partners, paid annual fees of \$4-5 million to his company, while paying no dividends or distributions to the limited partners.

The two brokerage firms were paid substantial sums of money to facilitate the transaction by writing a "fairness opinion" for the limited partners or for soliciting the limited partners to vote for the roll-up. After the roll-up occurred, the limited partners stopped receiving dividends and distributions of their capital; and the trading price of the Hallwood Realty Limited Partnership sank to a fraction of the value that the limited partners would have had if they had simply allowed their partnerships to be liquidated.

Defendants in this action were Equitec, Hallwood (Tony Gumbiner), Smith Barney, and Dean Witter. In early 1994, after months of trial in the Federal court in San Francisco, there was a settlement of \$35.5 million. Equitec had gone bankrupt and Tony Gumbiner's assets were outside of the United States. The primary settling defendants were Dean Witter and Smith Barney. In addition, Hallwood contributed to the settlement.

Impact of H.R. 1058

1. Enhanced Pleading Requirements.

Under the conference bill it is unlikely that the limited partners would have recovered very much. It would have been almost impossible to sustain a complaint against Smith Barney and Dean Witter. The obligation to state with particularity facts giving rise to a fraudulent intent would never have allowed these two defendants to have been named.

The most important facts establishing their liability were not known prior to discovery. Plaintiffs learned in discovery that one institutional investor, Liquidity Fund, which had a significant position in these limited partnerships, was prepared to fight the roll-up. In order to counteract this threat, Gumbiner arranged for a Swiss bank to buy out Liquidity Fund at a price substantially higher than the limited partners received in the roll-up, by a factor of four. All parties were sworn to secrecy.

Dean Witter knew about the transaction, but it was never revealed in any of the SEC filings, nor was it disclosed to the limited partners whose assets were being handed over to Tony Gumbiner. It was their knowledge of this material transaction that enabled a successful prosecution. It is unlikely that this important information would have ever come out if this case were prosecuted under the conference bill.

2. Joint and Several Liability. In this case, the defendants would have been held jointly and severally liable for either recklessness or their negligent conduct. Under H.R. 1058, joint and several liability is limited to knowing securities fraud. Since Equitec and Hallwood had no significant assets, any meaningful recovery had to come from the investment banks who sold the deal.

LINCOLN SAVINGS & LOAN

Sam and Ethel Rabkin of Granada Hills, Ca. lost \$100,000 in what has become the most notorious securities fraud on record. The Rabkins were among 23,000 people in California and the southwest who purchased American Continental Corporation ("ACC") bonds in the lobbies of their local Lincoln Savings & Loan in the mid to late 1980s. "Lincoln was a family bank with all the tellers knowing you by your first name and they made you feel part of the family," Sam Rabkin said. But when federal regulators seized Lincoln Savings in 1989, it became clear that the bonds were worthless. Lincoln was the largest S&L failure in U.S. history, costing taxpayers \$2.5 billion.

ACC and Lincoln President Charles Keating vigorously denied all liability and denounced the lawsuit. Eventually he was convicted of felonies and is in prison. His 23,000 victims, over half of whom are elderly retired people, had only one possible remedy – to file a class action lawsuit against Keating and those who helped him hide the financial truth about Lincoln Savings and American Continental from government regulators and the public.

The class action lawsuit resulted in Keating's accountants (Arthur Anderson & Co, Arthur Young & Co [now Ernst & Young], and Touche Ross & Co. [now Deloitte Touche]); his four law firms (Kaye Scholer; Parker, Milliken; Sidley & Austin; and Jones Day); and associated underwriters (including Drexel Burnham Lambert and Michael Milken) paying \$262 million in settlements to Lincoln bondholders. The bondholders have recovered 60% of their losses due to the fraud.

Impact of H.R. 1058:

As Senator Richard Bryan and Congressman John Bryant and others have pointed out, H.R. 1058 would have had a devastating impact on the victims who were trying to recover the losses in the Keating case. In fact, this legislation would have virtually wiped out the \$262 million recovery, leaving under \$20 million for the victims.

1. Enhanced Pleading Requirements. The Keating victims would not have been able to proceed with their case under H.R. 1058 because of the bill's enhanced pleading requirements. Lincoln customers who were sold bonds without a prospectus knew only that they had bought bonds from bank employees, received assurances of their safety, and that the bonds became worthless when ACC went bankrupt. They could allege specific facts about false statements, but could not state with particularity facts giving rise to a strong inference of fraudulent intent. Only through the discovery process did the bondholders uncover specific facts that they had been deliberately targeted for fraud¹ and that Keating's associated professionals acted with scienter.

¹ For instance, discovery produced a memo to bond sales personnel telling them "remember the weak, the meek and the ignorant are always good targets." Under H.R. 1058, plaintiffs never would have discovered this document.

2. Aiding and Abetting Liability. Many of the defendants in the bondholders' case played no direct role in the sale of ACC bonds in the lobbies of Lincoln S&Ls, but these defendants were aiders and abettors in keeping Keating's criminal enterprise afloat and making the bond sales possible. The legislation leaves in place the 1994 Supreme Court decision that said that aiders and abettors cannot be sued in private actions, even if they knowingly assist securities fraud. The liability of Drexel Burnham, Michael Milken, several law firms, certain consultants, and Touche Ross was dependent upon aiding and abetting liability. Without this liability, \$121 million of the recovery would have been erased.

3. Statute of Limitations. The shortened statute of limitations would have barred many of the claims against Keating and his accomplices. The requirement that the suit be brought within one year from the discovery of the fraud would have jeopardized thousands of legitimate claims by retirees because it was argued that there were warnings in print about the way Keating was doing business. With a shortened statute of limitations, Sen. Bryan, Rep. Bryant and others estimate that 20% of the claims would have been time-barred, eliminating another \$28 million in recoveries to victims.

4. Immunity for Predictions. Under H.R. 1058, the investors' case would have been hampered by the bill's broad immunity for company statements predicting future events or results, so-called "forward looking statements." Any forward-looking statements made with reckless disregard for their falsity would have been immunized entirely. Although the bill purports to retain liability for knowingly fraudulent statements, that provision is largely illusory. The Keating victims could not possibly have pleaded that the misleading statements were made or approved with "actual knowledge" of senior ACC officials that they were misleading. Therefore, the victims would have been precluded from basing their case on ACC's false projections and forecasts. A major part of the fraudulent conduct would have been immunized from liability.

5. RICO/Joint and Several Liability. By virtually eliminating RICO in securities cases and capping the liability of reckless wrongdoers for the judgments against their insolvent co-conspirators, H.R. 1058 would have assured lower recoveries for the Lincoln bondholders. Joint and several liability was a linchpin in the bondholders' case, since most of the damages were paid by the accountants, lawyers, and other professionals accused of reckless behavior. Sen. Bryan, Rep. Bryant and others have estimated that the bill's curtailing of joint and several liability would have reduced bondholders' recovery by \$67 million, and the elimination of RICO would have reduced recoveries by another \$30 million.

6. Institutional Control. H.R. 1058's provision requiring that the largest investor control the class action could have led to the dismissal of the Keating case. Among the largest investors in the case were an ACC employment stock ownership plan controlled and influenced by ACC's executives, some of whom were later indicted; an Executive Life Insurance Co. trust controlled by Fred Carr, who, like Keating, had strong ties to Drexel Burnham and Michael Milken; and Offerman & Co, a Minnesota brokerage house controlled by friends of Keating that was later sued in the case. All these large investors had incentives to dismiss the case or settle it quickly for a nominal amount.

7. Discovery Stays and Exposure of Sources. H.R. 1058 throws at least two other major procedural hurdles in front of the bondholders: First, the bill requires a discovery stay whenever a defendant files a motion to dismiss. If discovery had been stopped for motions to dismiss, it would have given defendants more time to destroy documents (in addition to those they did destroy), prolonged the case for many years, and allowed the statute of limitations to run out for many defendants who were added to the case as their involvement became clear.

Second, H.R. 1058's requirement that victims identify all confidential sources of information in the complaint would have delayed or even prevented the case. The bondholders received information from many confidential sources, including the news media and former employees, who would not have come forward if their identities would have been divulged.

8. Bond Requirement/Fee Shifting. Keating and his professional assistants vigorously protested their innocence and maintained that the case against them was without merit. They threatened to seek sanctions. The Rabkins have said that if they had to post a bond and run the risk of paying the legal fees of Keating and his accountants, they would not have stepped forward to challenge the fraud. H.R. 1058's enhanced Rule 11 sanctions would have intimidated many, perhaps all, of the bondholders from filing their lawsuit.

It is clear that many of the provisions of H.R. 1058 alone could have prevented bondholders from recovering their losses in this terrible securities fraud. Even more troubling is that the bill's combination of heightened pleading standards, severe limits on joint and several liability, lack of RICO remedies, lack of aiding and abetting liability, abbreviated statute of limitations, mandatory discovery stays, control by the largest investors, mandatory confidential source disclosure, and the foreboding threat of fee shifting would devastate any future cases similar to the Keating case.

MELRIDGE, INC.

Mr. Peter Baker, a retired chemist, and his daughter, Janet Baker, of Oregon were two of thousands of investors in Oregon and Washington who purchased shares of a highly praised company called Melridge, Inc. in a series of public offerings of stock from 1983 to 1987. Melridge, an Oregon-based company that developed and produced hybrid lily bulbs, sought out individual investors, many of whom were retired people, to buy its shares.

The investors did not know that Melridge was creating the illusion of high profits and rapid growth by booking non-existent sales and profits through phony foreign licenses and corresponding phony receivables. Melridge was also hiding substantial expenses and inflated its balance sheet, by charging these expenses to capitalized growing costs of a non-existent large inventory of hybrid lily bulbs.

The mastermind of the Melridge fraud was its president, George Heublein, but he was assisted in hiding the true worth of Melridge from investors by his underwriters, Boettcher & Co., and his auditors, Price Waterhouse. Between 1983 and 1987, Melridge, with the help of its auditors and underwriters, raised approximately \$47 million in public offerings based on totally false financial statements.

When it was no longer possible to keep the fraud hidden, Melridge's stock collapsed in late 1987, and investors learned that their shares were worthless. A class action lawsuit was filed on behalf of the Bakers and thousands of other investors. Heublein had disappeared and a significant amount of money from the company was also missing.

The investors sued Melridge, its officers, Boettcher, Price Waterhouse, and the other consultants to the company. During the trial, the defendants placed all the blame on the missing man, George Heublein, saying the case against them was "without merit." A Portland jury disagreed, and on May 27, 1993, awarded investors \$88 million from Boettcher & Co., for their role in hiding and assisting the fraud, and from other wrongdoers, including: Heublein, now a fugitive; a Heublein associate, now in jail for fraud; and other bankrupt officers of Melridge. During the trial, Price Waterhouse and the other accounting defendants settled with investors for \$18.2 million with the \$6.8 million in settlement before trial, a total of \$25 million was recovered.

Impact of H.R. 1058

The Melridge fraud victims would have been left virtually without a remedy if H.R. 1058 was the law when they filed their case. Put another way, the underwriters and accountants that assisted the fraud would have benefited greatly from this legislation.

1. Enhanced Pleading Standards. The legislation would have made it impossible to file a case against Price Waterhouse and Boettcher & Co., because of the

requirement to state "with particularity" facts giving rise to a fraudulent intent. At the time investors filed, the facts giving rise to intent by these professionals were primarily circumstantial. Even though there was a strong case that these professionals were reckless in their "see no evil, hear no evil" okays of Heublein's scheme, this likely would not have been enough to satisfy the pleading requirements in H.R. 1058.

Only during the discovery process did information become available that established clear liability for the accountants and underwriters. For example, it became known that Price Waterhouse was told by a large bulb grower that the Melridge receivables were inflated and that Boettcher was told by both the Melridge farm manager and a second bulb grower that the value of the Melridge bulb crop was inflated. That certainly would satisfy the intent standard, but it was hidden at the time investors filed a case.

2. Joint and Several Liability. Since Melridge is totally insolvent and Heublein has fled the country, investors would have recovered very little of their losses without joint and several liability. Under H.R. 1058, Price Waterhouse, Boettcher & Co., and others would have had to pay far less in damages, and the Melridge investors would have been forced to bear the weight of the loss. With joint and several liability, that weight is shifted from the victims to those who made the fraud possible.

3. Enhanced Sanctions/Fee Shifting. While the named plaintiffs lost substantial sums (from \$9,000 up), no person would agree to be a name plaintiff if there was a risk of being subject to attorneys fees and sanctions. Under H.R. 1058, the attorney would have to disclose this risk, which would chill anyone's interest in being a named plaintiff.

4. Measure of Damage. Melridge stock could never have been sold to the public but for the fraud that made the company look profitable. Therefore, under current law, investors were entitled to recover all of their losses when the company went bankrupt. Under H.R. 1058, defendants would be able to reduce these damages by concocting arguments such as that the stock went down due to a general market decline. These kinds of arguments supposedly "mitigate" the damages caused by the fraud. Thus, even though the entire company was a scam from the start, investors would not necessarily recover all of their damages.

KOGER PROPERTIES

Victor Mesaros, an 84 year old retired cruise ship purser from White Oak, Virginia, and his wife invested \$44,000 of their retirement savings in stock of Koger Properties, a Florida real estate company. They began buying shares of Koger in June of 1988 at \$26 a share, but by the time they sold most of their shares in December 1990, the stock had dropped to \$4. The Mesaros lost \$32,000 of their investment. They joined others in filing a class action lawsuit against Koger to try to recover some of their money.

On March 7, 1995, a federal district court jury found Koger Properties' accountants, Deloitte & Touche, liable for securities fraud. The jury awarded investors \$81.3 million. The New York Times reported on March 8 that the jury found that "Deloitte & Touche, by giving false auditing opinions, had caused the stock of Koger to be inflated by \$10.05 a share, before it fell sharply to \$9 a share on Oct. 1, 1990."

Impact of H.R. 1058:

The case against Koger and Deloitte would never have developed if H.R. 1058 had been the law.

1. Forward-Looking Statements. The case began in October 1990 after Koger, contrary to all previous forward-looking statements about future dividend payments and prospects, announced a sharp reduction in its quarterly dividend. At the time that management made these forward-looking statements, they knew that the financial condition of the company was weak. However, senior executives continued to suck millions of dollars out of the company. Under H.R. 1058, Koger's statements would be protected. When coupled with a discovery stay, investors would have found the "safe harbor" insurmountable.

2. Heightened Pleading Requirements. The heightened pleading standards in H.R. 1058 would also have prevented investors from locating evidence of fraud and would have barred the case.

At the time Mesaros and other investors filed their case against Koger, they were able to provide specific facts about false statements, but under H.R. 1058, this is not enough. They would have had to state "with particularity" facts giving rise to a strong inference of fraudulent intent by Koger and its accountants. Before discovery, they did not yet have any facts demonstrating intent, and therefore would not have been able to go forward.

Upon hearing about the case, a former Koger employee contacted Mr. Mesaros' lawyers and told them that Koger had improperly capitalized expenses in its accounting, and that Koger's auditor Deloitte & Touche was aware of an attempt to improperly capitalize expenses.

Based on the information provided by the former Koger employee about Deloitte, investors filed an amended complaint in January 1991 and added Deloitte as a defendant. The case against Deloitte also would have been thrown out of court under the pleading standards of H.R. 1058. The specific charges of reckless conduct against Deloitte were based on Deloitte's being on notice that Koger had attempted to violate proper accounting practices. Deloitte tried to get the charges dismissed, but the court denied the motion. Under H.R. 1058, the allegations against Deloitte would not have been sufficient to demonstrate that Deloitte had an intent to commit fraud, and the case would have been dismissed.

Under H.R. 1058, the plaintiffs at the outset of the case are required to reveal to defendants all sources of documents and evidence used to plead plaintiffs' case, as a way to intimidate whistle-blowers from coming forward. This provision could have kept the former Koger employee silent.

Because the current pleading standards allowed the case to go forward against Koger and Deloitte, the discovery phase of the case revealed documents which provided clear evidence of fraud, including fraudulent intent.

These facts were discovered despite Deloitte's repeated insistence that many of their documents and papers were "irrelevant" to the case and not subject to discovery. The judge ruled otherwise. Under H.R. 1058, the plaintiffs would have never gotten the chance to follow up on the specific facts with which they brought their case, and the fraud would have gone unpunished.

3. Joint and Several Liability. In the trial, the court instructed the jury that "knowing" conduct included recklessness. Thus, Deloitte was found jointly and severally liable and required to pay the \$81 million verdict, since Koger Properties went bankrupt. However, under H.R. 1058 recklessness is not sufficient to find a defendant jointly and severally liable. Thus thousands of cheated Koger investors would not have been able to recover the bulk of their losses from the accountants.

4. Enhanced Sanctions/Fee Shifting. Mr. Mesaros and other investors and their lawyers believed they had a good case at the beginning, but they were far from certain of the outcome. They would not have been willing to gamble paying millions in legal fees -- and to post a bond for this purpose -- in case a judge ruled that their suit was meritless. The Mesaros' already lost \$32,000, so H. R. 1058's mandatory review and sanctions, with a presumption that plaintiffs will pay full legal fees and expenses of defendants if sanctions are applied, would have posed too great of a threat to the Mesaros and their lawyers.

FIRST HUMANICS

In the late 1980s, Russell Ramser of Ohio and Bill Ayers of Virginia were two of about 4,000 people who bought bonds to finance the building and operation of nursing homes across the country. The nursing homes were the brainchild of Lee Sutcliffe, the president of First Humanics Corp., who sold \$80 million worth of bonds to people like Mr. Ramser and Mr. Ayers.

Sutcliffe had retained Touche Ross (now Deloitte Touche) and Price Waterhouse, two of the largest and most respected accounting firms in the world, and prominent attorneys.

It was later discovered that Sutcliffe's accountants and attorneys knew, but did not tell investors, that Sutcliffe had been barred from selling securities in Missouri after he sold fraudulent oil and gas investments; he had been convicted of failing to file tax returns; and he had been caught representing himself as a bond lawyer in Colorado, even though he had never attended law school and did not have a license to practice law.

At First Humanics, Sutcliffe was running a classic Ponzi scheme, using money from one bond issue to prop up the failure of others (there were 21 bond issues in all). The occupants of the nursing homes suffered terribly. First Humanics was a shell corporation formed by Sutcliffe for the purpose of selling bonds, not for fixing up nursing homes. The money from the bond offerings also went to buy Sutcliffe a yacht in South Florida.

When interest payments ceased, bondholders hired lawyers to investigate what they felt could be fraud. Eventually, after a seven week trial against Sutcliffe and Deloitte, the jury found liability. The case settled before damages were assessed, and the bondholders recovered \$45 million, mostly from Sutcliffe's accountants, lawyers, and trustee banks. Investors recovered between 50% and 100% of their losses due to fraud, depending on the bond issue, after attorneys' fees and expenses. Sutcliffe eventually went to jail for mail fraud.

Impact of H.R. 1058:

If Congress had already enacted H.R. 1058 when investors filed their case against First Humanics, here is what would have happened:

1. Aiding and Abetting. Without aiding and abetting liability, there would have been a much reduced recovery. After First Humanics went bankrupt, the bondholders hired lawyers to investigate the role of Sutcliffe's lawyers and accountants, who looked the other way while Sutcliffe committed securities fraud. If the bondholders could not have used aiding and abetting liability to pursue the professionals who helped Sutcliffe,

they would have dropped the case -- because they would have had little chance of recovering losses if they had to pursue the professionals under primary liability theory. In fact, the jury found Deloitte guilty of aiding and abetting liability in seven bond issues and to be primary violators in only five of the twelve bond issues they worked on.

2. Joint and Several Liability. The curtailment of joint and several liability would have meant very little recovery for the investors. Sutcliffe was insolvent, and the accountants and lawyers were held liable for reckless conduct that allowed the fraud to take place. H.R. 1058 undoes this doctrine and would allow reckless wrongdoers like the accountants and lawyers in First Humanics to be relieved of responsibility for fully compensating victims. Thus the investors would have recovered only a small portion of their losses.

3. Statute of Limitations. The First Humanics bondholders would have been time-barred from filing a claim under H.R. 1058 as to most of the bond issues, because Sutcliffe kept his fraud hidden from them for over three years. The legislation lets stand the 1991 Supreme Court ruling that shortened the statute of limitations for filing a securities fraud suit to three years from the time a fraud is committed and one year from the time it is discovered.

This bond case, as in most bond frauds, took many years to uncover. Ponzi schemes are frequently not revealed in three years. Also, if a bondholder smelled fraud earlier on, it would have been impossible to meet the new pleading standards, since the documents that showed intent to defraud were only available after the scheme collapsed and First Humanics went bankrupt. Even then, it was most unusual for the plaintiffs to have internal documents at the time they filed the case, but in First Humanics, the plaintiffs were bondholders on the First Humanics bankruptcy committee, so they had access to all company records.

4. Elimination of RICO Liability. H.R. 1058 would eliminate RICO liability unless a defendant has a prior felony conviction in connection to the alleged fraud. This provision would have taken away an important tool that bondholders used to bring the case against the lawyers and accountants to a settlement.

5. Enhanced Sanctions/Fee-Shifting. The legislation could require that Mr. Ramser and Mr. Ayers put up a bond in order to bring their case. The bond is supposed to guarantee that they could pay the legal fees of Deloitte Touche, Price Waterhouse, several defendant law firms, trustee banks, auditing firms and Sutcliffe, if a judge thought their case was without merit. At the time they filed, they have said they smelled fraud, but were not entirely sure of the outcome. They would not have taken the risk of paying the legal fees of a Big Six accounting firm, since they already had lost their savings.

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- 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]

THE WHITE HOUSE
PRE-EMPLOYMENT INFORMATION

Name: Peterson Kristen A
Last First Middle Initial

SSN: (b)(6)

Local Address: 235 Second Street, N.E. Washington, DC 20002
Street City State Zip

Phone: (202) 546-3255, (202) 456-5465
Home Work

Department: Office of Records Mgt Requested by: Terry W. Good 

Position Title: Records Mgt. Technician Salary: \$22,554

Proposed Date of Employment: 1/8/96 Ending Date, (If possible): _____

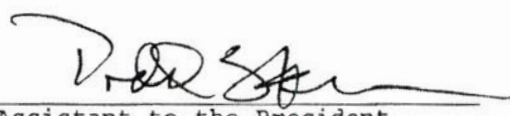
Work Schedule (circle one):

Full Time

Part Time

Intermittent

APPROVALS


Assistant to the President

Office of Management
and Administration

12-12-95

Date

Date

Upon Approval or disapproval, return to:

Lee R. Johnson
Name

EOB 80
Room

62240
Extension

THE WHITE HOUSE
WASHINGTON

December 7, 1995

The Honorable James B. Hunt, Jr.
Governor of North Carolina
Raleigh, North Carolina 27603-8001

Dear James:

Thanks so much for your letter recommending Rear Admiral Fred Stephen Glass for appointment to the U.S. Court of Military Appeals.

Because the Department of Defense will make an initial recommendation to me about this vacancy, I am forwarding a copy of your letter to Secretary Perry. I know that he will give your endorsement serious consideration.

It was good to hear from you, and I appreciate your letting me know of your strong support for Admiral Glass.

Sincerely,

B. Clinton

*Hunt's
filed
C. E. Bowles
Hunt letter
approved
C. E. Bowles
C. E. Bowles
by D. A. L.*



Dad Gray

STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR
RALEIGH 27603-8001

JAMES B. HUNT JR.
GOVERNOR

November 22, 1995

#2599198

The President
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

I am writing to personally urge the appointment of Rear Admiral Fred Stephen (Steve) Glass, Judge Advocate General's Corps, United States Naval Reserve (USNR), to the United States Court of Appeals for the Armed Forces. Steve possesses the highest degree of ethical standards and integrity, keen legal intellect, and a strong sense of fairness, all of which are personal qualities that enhance his truly outstanding military and legal qualifications for this important appointment. I have known him personally since 1972.

Steve has risen on his own merit to the top of his military legal profession, serving as the Naval Reserve Senior Judge Advocate. As such, he gives leadership to approximately 1,000 Naval Reserve lawyers and 150 paralegals. His superior leadership abilities and unique contributions to the military resulted in his recently being recognized by the Naval Reserve Association with its National Meritorious Service Award. The award cited his innovation in restructuring the Naval Reserve law program so that it can be integrated with the active duty Judge Advocate General's Corps and thus render real-time contributory support to the active duty Navy. His restructuring initiative gives the taxpayer a premium in dollars spent on reserve training, and this model is being followed by other elements of the reserve force.

As a military lawyer, Rear Admiral Glass has excelled in scholarship as well as leadership. He is the author of several military law references, including the Reserve Naval Construction Force (Seabee) Legal Guide for Commanding Officers. This handbook was the authoritative one-stop legal reference in the Naval Reserve program during the time he was the national Force Judge Advocate for the Seabees.

During his initial period of active duty, 1967-1971, he served as Trial Counsel (prosecutor), Defense Counsel, Legal Assistance Officer, Staff Judge Advocate, and in 1969, he was chosen as the first Special Courts-Martial Military Judge of his rank in the San Diego Naval District. He is a graduate of the Military Judge Course of the Army Judge Advocate General's School. After release from active duty in 1971, he served as the instructor for Military Justice in the Naval Reserve Officer's School, at that time in Greensboro, North Carolina. He is an active member of the American Bar Association's Standing Committee on Armed Forces Law. The military portion of his legal career demonstrates the clear traits of outstanding leadership, superior scholarship, unmatched creativity, and the highest respect of his peers.

I met Steve when he was recommended to me as a well-respected young attorney who could successfully manage my 1972 campaign for Lieutenant Governor in Randolph County. That county was one of North Carolina's strongest Republican counties. You recall the difficulty that Democrats had in 1972. Nonetheless, through Steve's hard work, I carried that county and won the election statewide.

In my 1976 campaign for Governor, it was natural that I chose Steve to again manage my campaign in that county. Once more, because of Steve's strong leadership, organizational abilities and energetic commitment, we carried Randolph County.

As I put together my first administration in 1977, I chose Steve as Executive Director of the North Carolina Democratic Party. He subsequently served as Deputy Commissioner (administrative law judge) on the North Carolina Industrial Commission in my first administration. Following that, he served as a Special Assistant to Congressman Ike Andrews. He has worked in all of my campaigns and in 1992 he served as the Get-Out-the-Vote manager for the local Wake County campaign. His wife Martha, a long-time campaign worker, is currently my administrative assistant and personal secretary.

Steve Glass has been recognized as a leader since his election as high school student body president. His subsequent elections as student government president at Wake Forest University and Student Bar Association president at Wake Forest School of Law clearly demonstrate his early and lasting commitment to making things better in whatever environment he finds himself.

As a law student, Steve achieved the high distinction of winning the first place prize among North Carolina's law schools for estate planning. As one of the top law school graduates in 1966, he was chosen to serve as the law clerk for Judge I. Beverly Lake, Sr., and later for Judge Susie Sharp (subsequently, Chief Justice) of the North Carolina Supreme Court.

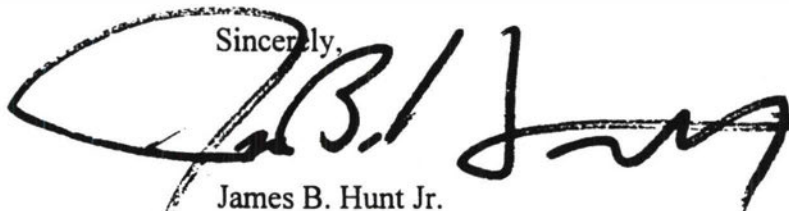
As a widely respected and talented trial lawyer, he has experienced a wide variety of professional achievements. He is a writer and popular speaker on the CLE circuit. In the criminal law forum, he has both prosecuted and defended murder cases. In the civil litigation arena, he specialized in medical malpractice defense work before becoming the lead attorney for Poyner and Spruill's complex public utilities litigation. Steve was my law partner in the firm of Poyner and Spruill from 1987 to 1992 in Raleigh. While we were partners, he managed one case of such great complexity that a dozen of our lawyers and about 70 paralegals, numerous litigation support vendors and other personnel worked under his management. That case, involving over 20 million documents and hundreds of depositions, was settled most favorably for our clients for approximately \$400,000,000.

In addition to his Navy duties and local law practice, Steve is heavily involved in local Chamber of Commerce and civic activities. An Eagle Scout, Steve currently serves as President of the Occoneechee Council of the Boy Scouts of America. This Council covers 12 of our counties including Fort Bragg and Pope AFB and is one of the larger Councils in the country. He has served as President of the National Eagle Scout Association and as a member of the National Boy Scout Committee. He also serves as chairman of the North Carolina Collaboration for Youth (an "umbrella" organization of 15 major youth service agencies) which he organized.

Because of his widely recognized contributions to our youth and his exemplary patriotic service in the Navy Reserve, Steve enjoys bipartisan respect throughout North Carolina, and by all who know him. He is known for his strength of character, personal honor, his compassion and his sound judgment. Your appointment of Steve Glass to the U. S. Court of Appeals for the Armed Forces would be an immensely popular selection within our state. I enthusiastically urge your appointment of Rear Admiral Steve Glass, Judge Advocate General's Corps, USNR, to that court.

Please contact me or my office if we can provide additional information.

My warmest personal regards.

Sincerely,

James B. Hunt Jr.

*This means a lot to me personally.
Please have someone call me if any questions.*

THE PRESIDENT HAS SEEN
12-12-95

THE WHITE HOUSE
WASHINGTON

95 DEC 11 P6:45

December 11, 1995

MEMORANDUM TO: THE PRESIDENT

FROM: DON BAER, DAVID SHIPLEY

RE: VANITY FAIR TRIBUTE TO RONALD REAGAN

Dee Dee Myers asked if you would be willing to contribute a 250-word remembrance of President Reagan for a special issue of Vanity Fair marking the former President's 85th birthday.

We, along with Mike McCurry, recommend that you accept the invitation. We would like to draft for you an essay about President Reagan's favorite place in the White House -- a room, a corridor, a view. The essay would then go on to explain how that place is representative of President Reagan's greatest quality: American optimism.

Please let us know how you wish to proceed.

OK

12/11

Todd,

Does this need a
response or

to R.M.

by to
Dorinda
S

Dear President and Mrs. Clinton, and Chelsea,

Thank you for your lovely Christmas
card of the White House "Blue Room."

This is a representation of
Lakshmi, the Goddess of
Prosperity and Health, for
your total success in 1996.

We wish you the most joyful
Christmas and New Year.

Sincerely Yours,

Almendra Steffen Healey

Mandy Steffen

E/m D. 76/11-

Elinor B. Philbin
1150 Fifth Avenue
New York, NY 10128

PRESIDENT & MRS. CLINTON! CHELSEA
THE WHITE HOUSE

THE PRESIDENT HAS SEEN
12-11-95

HEALTH LOBBYISTS WIN ADJUSTMENTS TO MEDICARE PLAN

CHANGES WORTH BILLIONS

Industry Sees New Provisions
Helping to Draw Elderly
From Traditional Plan

By MARTIN GOTTLEB

Out of the spotlight of the Medicare debate, the nation's private health plans have obtained a series of technical changes in the overhaul approved by Congress that stand to reap them billions of dollars.

One adjustment in the Medicare legislation would raise to 8 percent next year's increase in the amount that private plans are reimbursed by the Government for treating Medicare patients. In earlier versions of the legislation, passed separately by the House and Senate, the rate would have been several percentage points lower, making the reimbursements billions of dollars less.

The change was one of several — disquieting technical and built on what many would consider minutiae — that the industry vigorously pushed for and that would improve its economic fortunes.

Although President Clinton last week vetoed the budget bill containing the Medicare legislation, the adjustments stand a good chance of surviving in a compromise plan. This is because the administration proposal for Medicare calls for far more modest cutbacks in money for the plans.

The health care industry says that because of these changes, health maintenance organizations and other private plans would be able to offer greater benefits to enrollees they hope to lure out of the conventional Medicare program, in which the Government pays providers for individual services.

Critics say the adjustments stand to earn the industry unnecessary profits, and would have the effect of drawing a disproportionate number of healthier Medicare recipients out of the program, jeopardizing its financial underpinnings.

The story of how the industry largely got what it wanted is one of haggling by a politically powerful lobby over subtle, lucrative details that few outside Washington even realize exist.

Industry representatives defend the changes. Donald B. White, a spokesman for the Group Health Association of America, which represents 1,000 managed care plans and spearheaded the lobbying campaign, said, "Congress understands very clearly that to attract people into H.M.O.'s and managed care there has to be sufficient reimbursement so that these managed care plans can continue to provide the kind of comprehensive benefits which attract managed care beneficiaries right now."

He added, "We're not aiming for windfall profits."

Republicans say the adjustments make economic and policy sense. Representative Bill Archer, chairman of the Ways and Means Committee, said the bill "offers beneficiaries the opportunity to choose better coverage while helping stem the rapid growth in the cost of the program."

Clinton Administration officials

Continued on Page 26, Column 4

Continued From Page 1

are cynical about the changes.

Bruce Vladeck, who runs the Medicare and Medicaid programs for the Administration, said he saw the increase in Congress's bill as an effort to "buy off" segments of the health care industry.

"Our take is they're trying to keep the providers happy in the short term and turn on the screws in the long term," he said. "And, as Keynes said, in the long term, we're all dead."

Large profits for private industry, at least early on, are one possible result of the changes, some experts say. "That's why everyone's thinking of getting into this business," said Lynn Riberger, who headed the health care unit of the Office of Management and Budget in the Carter and Reagan Administrations.

He added that the ability of plans to market to healthy Medicare enrollees was the key to financial success. "I think it's going to be profitable in many areas," he said, "and Congress has set it up that way largely to get enrollment."

Among the health-care lobby's other victories in the conference committee that reconciled the House and Senate versions of the bill were these:

• The final bill allows private plans to receive Medicare money for medical education and care of the uninsured, even when they do not send members to teaching hospitals or to patients. The Senate version of the bill had eliminated these payments.

• The final bill lets stand more of the wide disparity between payments to plans in rural and high-cost urban areas than the Senate bill would have allowed. High fees in many urban areas have led to a profitable expansion of private Medicare plans. Meanwhile, in the final bill, Congress set a minimum payment for low-cost areas, which a Clinton Administration official says could lead to windfall profits.

• The final bill continues to use a basic funding formula for private plans as a jumping off point to compute future payments. This formula has long been criticized as overly generous and a cost to the Medicare program. Alternative formulas, although discussed, were never even seriously considered in Congress.

Even with the changes in Congress's bill, the legislation calls on private plans to absorb tens of billions in reductions in anticipated annual Government payments. The plan would cut \$270 billion in projected growth in Medicare over seven years, largely by raising recipients' premiums, encouraging recipients to use less costly services provided by private plans, and cutting increases in payments to the plans that had been projected to be far higher than what the Republicans are offering.

Mr. Clinton's proposal would cut Medicare's expected growth by \$124 billion over seven years. Although his plan would reach its goal through many of the same devices as Congress's bill, he has proposed that they be used far more moderately. In this way, it preserves more of the flavor of the current system for the 37 million older Americans on Medicare, and seeks less in savings from the private plan.

Private insurance companies, and more recently managed-care plans, have been potent forces on the Washington scene, contributing more than \$25 million over 10 years to the two political parties and to Congressional candidates, according to the public interest group Common Cause. Some played a major role in defeating Mr. Clinton's efforts to revamp health care last year.

Another advocacy group, Citizen Action, determined that eight leading insurance companies contributed roughly \$378,000 to representatives and senators this year, with roughly 80 percent going to Republicans, including Speaker Newt Gingrich and several committee leaders.

In pressing for increases in the money private plans could collect for treating Medicare patients, representatives of four trade organizations decided that the Group Health Association would take the lead, industry sources say.

Association officials, often with allies on hand, argued their case before Mr. Gingrich, who was said to have an unusual understanding of minute financing details, and House and Senate committee heads and staff.

The upshot was that under the final bill the Government would pay

private plans more than in the House and Senate versions. This meant that the savings to the Government would go down and would have to be made up elsewhere.

Congressional Budget Office estimates starkly reveal the loss to the Government. Under the House plan, the savings were estimated at \$33.4 billion over seven years; under the Senate version, they were estimated to be \$10 billion greater.

But under the final legislation, the budget office estimated savings of only \$28.3 billion. This was largely if not exclusively because of benefits won by private plans.

Nothing about these estimates is simple: under an alternate computation, the budget office estimated savings of \$41 billion in the final bill. But these were still an equal amount below alternate savings for the House and Senate legislation. Revised estimates are scheduled for release on Tuesday.

The most striking way in which private plans would get more money under the final bill was the increase by 8 percent rather than 5.3 percent in next year's payments.

Diane Dennett, the health association's vice president in charge of governmental affairs, described the increase as "a very key issue." She said many plans had already begun marketing products based on a fee schedule approved in October by Medicare officials that called for a 10.1 percent increase, the rate the Administration still favors. Indeed, the association pressed for the full 10.1 percent.

"Any change from the published rates is going to be very difficult to accommodate," she said.

Republican Congressional staff members defended the increase for the same reason. They and the association also said in interviews that under Federal regulations, excess payments that plans receive have to be returned to Medicare — which never happens — or passed to beneficiaries through benefits or lower premiums.

But skeptics say greater benefits will only draw more enrollees to the plans, which will increase profits, and that it is nearly impossible for Medicare officials to tell whether private plans are tucking excess payments in administrative costs or other areas that are hard to pin down.

The Republican plan also builds future payments on a base that many critics say favors private plans and would cost the Government money. Alternatives were never seriously considered.

Under the funding formula retained for next year in the final bill, for each enrollee, the plans receive 85 percent of the average cost of a comparable beneficiary in the traditional Medicare program in the same county. The presumption is that plans save 15 percent because most practice managed care, which tends to hold down costs.

Yet a study two years ago by a private company, Mathematica Policy Research, found that private plans saved twice as much on each beneficiary. This, the report found, was because of economies in managed care and because plans enrolled healthier Medicare patients.

The managed care industry strongly disputes these findings, citing other studies that contend their clients are similar to Medicare's. But the Mathematica report has been cited as recently as last month by agencies like the Congressional Budget Office, the General Accounting Office, and the Physicians Payment Review Commission, an advisory council to Congress. This year the commission recommended that in many cases, rates should be set by competitive bidding.

In a report last month, the accounting office said favorable rates led to an explosion in health maintenance organizations serving the Medicare population to 164 from 108 in less than 18 months.

Still, Congress stuck with the 85 percent rate. One Congressional staff member explained that Republicans felt it was important to provide continuity and also to insure that plans had enough money to offer more benefits.

The staff member, who spoke on the condition of anonymity, also pointed out that although the 85 percent rate applies next year, future increases are based on other figures. In its plan, the Administration also starts with the 85 percent figure, but provides for more generous increases. Mr. Vladeck said his agency, the Health Care Financing Administration, would undertake competitive bidding projects next year.

The complications do not stop here. The haggling over the bill continued over how hospitals are paid for the care of the uninsured and how teaching hospitals are paid for education.

Both sums are now included in the average figure computed for the cost of a beneficiary's care in the standard Medicare program. Because of this, these fees are passed to private plans in the 85 percent rate.

But even though plans receive this money, they often do not send patients to hospitals caring for the uninsured or training doctors.

"It does not make much sense to include a payment that was originally intended to be a reimbursement to hospitals for particular costs if those costs are not going to be incurred by the managed care organizations," said John M. Eisenberg, chairman of the Department of Medicine at Georgetown University Medical Center.

Senate Republicans agreed and eliminated the payments in their legislation. But in the conference committee, the payments were restored. Ms. Dennett argued that increasingly, managed care plans were using teaching hospitals and hiring residents.

Representative Archer said that given the sharp reductions in rates to the plans over the years, "we felt that it was important not to further depress rates by taking out funding for teaching hospitals."

Mr. Vladeck said the Administration plan called for the payments to be phased out by 1998.

Members of Congress from low-cost medical areas were also concerned about using costs of care in individual counties as the basis of payments to private plans. Countywide averages vary from less than \$200 a month in Fall River County, N.D., to more than \$600 in the Bronx.

Lean
We need
to know all of
this —

12-11-95

Potter wants

① Thank you letter
to both Houses
of Parliament in
England & Ireland.

② Thank you to people
in Derry

T o o o

12/11

I will send to
Dor SK Kind.

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Crane

12-11-95
THE PRESIDENT HAS SE
... SUNDAY, DECEMBER 10, 1995 A3

Drug Discounts for HMOs May Shift Costs to Others

Two-Tiered Price System Emerging, Study Says

By Steve Sakson
Associated Press

NEW YORK—Drug companies forced to give deep discounts to managed health care plans are making up the difference by raising prices to the elderly, uninsured and others least able to pay, a study by a drug store organization shows.

The findings suggest the emergence of a two-tiered pricing structure in the prescription drug industry, which defended the practice as necessary to fund research into new drugs.

Wholesale prices of the top 500 prescription drugs sold in stores rose 4.1 percent in the third quarter compared with a year ago, researchers at the University of Minnesota said last week.

During the period, the consumer price index, which is only one measure of inflation, rose 2.5 percent.

Drug manufacturers give price breaks of as much as 25 percent to garner business from health maintenance organizations (HMOs) and other managed care plans. Members of HMOs and group prescription plans often pay only a nominal fee of roughly \$5 per prescription.

The only patients who pay drug-store prices, however, are those who are not members of HMOs or other insurance plans. Those retail buyers represent about 45 percent of the public, including those over 65—whose Medicare benefits often don't include drugs.

"What's happening is that old people are subsidizing the discounts being offered to managed care," said Hemant Shah, an independent drug industry securities analyst in Warren, N.J.

That may help companies boost their profits in the short run, Shah said, but it's a risky strategy.

"For the long-term prosperity of a company, pricing should not be a major tool for growth. The major tool for growth has to be new products," he said.

The study by the National Association of Chain Drug Stores and the Prime Institute backs up anecdotal reports of price increases earlier this year from drug industry securities analysts and an independent research corporation, Medispan Inc.

Drug industry representatives contacted Thursday were hesitant to address accusations of price shifting to the weakest Americans.

"I'm not going to talk about pricing strategies, which company does what and why they do it," said Pat Korten, a spokesman for the Pharmaceutical Research and Manufacturers of America.

Korten accused the chain store organization of bias, noting that it has filed a lawsuit against drug makers seeking the same discounts given to HMOs. He questioned the survey's accuracy, pointing out that the government inflation rate for prescription drugs was only 1.9 percent during the same period. He acknowledged that includes discounts to the insured and HMO members.

Several drug companies said their overall price increases, including HMO discounts, have been within inflation for several years. Most wouldn't reveal their wholesale price increases to drug stores.

CORRECTION

A TV Week story in today's editions concerning the Michael Jackson concert on the HBO pay-cable network was prepared and published before his illness prompted postponement of the event. HBO will instead air a feature film, "The Specialist," at 8 p.m.

CLARIFICATION

In a report on the Soviet disinformation program released Friday, CIA Director John M. Deutch said that intelligence from agents that were controlled by Moscow "had the potential to influence U.S. military [research and development] and procurement programs costing billions of dollars," but that a survey of Defense Department consumers led the damage assessment team to conclude there was "clear-cut damage" in only a "few cases." Deutch did not Friday, or in an earlier statement on Oct. 31, say the tainted reports may have caused overspending of billions of dollars.

EN COLLECTION
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NATIONAL ARCHIVES PHOTO
and through
ee months in
in Canada.

FACSIMILE TRANSMISSION

TO: Nancy Hernreich Phone: 202/456-6610
Fax: 202/456-6703

FROM: Paul Montrone Phone: 603/926-5911
Fax: 603/926-1152

DATE: December 9, 1995

RE: Attached letter to President Clinton

Dear Nancy,

I hope all goes well with you and I look forward to seeing you next week during my visit to the White House.

I would appreciate your passing the attached letter on to the President. It is timely regarding the securities bill now on his desk.

Best regards,



Send to Doriskind
for reply
yes.

12/11/95

THE PRESIDENT HAS
12.11.95 PAUL M. MONTRONE
LIBERTY LANE
HAMPTON, NEW HAMPSHIRE 03842

December 9, 1995

The President
The White House
Washington, DC 20500

Dear Mr. President,

It is my sense — based upon daily contacts with the business community — that your standing with business people is improving at this time. The combination of a decent economy, your strong pro-balanced budget position, your pro-trade position, and the antics of the Republicans are all working in your favor with this constituency.

Several months ago I wrote to you concerning tort reform. In its many forms it is the issue that strikes the broadest base of companies and has virtually universal support in the business community. The first piece of legislation related to this area is the securities law reform bill. The press seems to be characterizing it as a matter of interest to the securities industry and high-tech companies. This is absolutely incorrect. Over the years our companies have been in neither of these categories and have been sued innumerable times in private litigation (not involving the SEC) for alleged "violations" of securities laws. In fact, it is routine that in any merger of publicly owned companies, regardless of industry, an extortion payment is ultimately made to the plaintiff's bar.

Your opposition to reasonable legislation on tort reform — and the securities reform law is perceived as such — will be read as a strong anti-business move. I hope that you will consider these thoughts when making your decision on signing this legislation.

With every good wish,

PMM/ls

THE PRESIDENT HAS SEEN

12-11-95

Journal

FRANK RICH

Bennett's
Moral
Filter

William Bennett, our best-selling arbiter of virtues, couldn't resist congratulating himself this week. When he announced his campaign against companies that sponsor vulgar TV talk shows, he noted that some of those companies "have been friendly to the Republican Party." Indeed, Philip Morris, which sponsors Montel Williams and Maury Povich, is a big giver to Mr. Bennett's own conservative political action group, Empower America. No matter. When your friends sponsor trash TV, Mr. Bennett told The Washington Post, then, by golly, "you've got to go after your friends."

Well, bully for Bill. But even as he talked of his friends at Philip Morris, I was thinking of a friend of mine, Rob Buford, who was buried at age 46 in Richmond on Thursday — the same day that Mr. Bennett and two Senators, Sam Nunn and Joseph Lieberman, were holding a press conference unveiling the commercials in which they berate Philip Morris, among others, for sponsoring TV's "cultural rot." Rob wasn't killed by "cultural rot." He was killed by cigarettes.

"By the time I was 15, when we all know we are immortal, I was a full-blown nicotine addict and openly smoking," Rob wrote in a syndicated op-ed piece, "Thoughts of a Dying Smoker," only weeks before his death. "Few people begin to use tobacco after age 20," he added, urging that the Federal Government take stronger steps to counter the relentless advertising by which companies like Philip Morris hook kids on smoking as early as they can.

So forgive me if the juxtaposition of Rob's death and Mr. Bennett's press conference made it hard for me to take this campaign against Montel et al seriously. To attack Philip Morris for sponsoring afternoon TV talk shows with commercials for its food division, Kraft, when it is peddling the product that most threatens our children's health is as absurd as attacking a poison-gas manufacturer for having a sideline in junk food. Only yesterday The Wall Street Journal uncovered a Philip Morris draft report likening nicotine to cocaine. Yet Mr. Bennett, a former drug czar and former nicotine addict himself, expends his celebrity and moral zeal on Montel and

Maury.

To stand up to Big Tobacco about tobacco itself takes a courage that is in short supply almost everywhere. At CBS, the chill is such that those with the most intimate knowledge of how and why "60 Minutes" spiked its interview with a tobacco-industry whistle blower — the segment's producer, Lowell Bergman, and the network's general counsel, Ellen Oran Kaden — both declined my invitation to clear up the many conflicting accounts of the case this week.

Also this week I was able to secure a tape of the "Turning Point" tobacco documentary that ABC pulled last year shortly after Philip Morris sued that network over a tobacco story run on "Day One." The unseen ABC show, reported by Meredith Vieira, goes after Philip Morris's promotional activities far more aggressively than, say, Diane Sawyer went after

Philip Morris
gets off
easy.

ter Michael Jackson in an ABC news magazine show that did air. Meanwhile, a newsletter that monitors network news, the Tyndall Report, calculates that the time network evening-news shows devoted to the tobacco industry fell by more than 75 percent during the second half of 1994 — after Philip Morris filed its suit against ABC.

Might Congress finally take on the beast? Don't hold your breath. Democratic leaders like Richard Gephardt and David Bonior are themselves big recipients of tobacco money. The majority G.O.P., for its part, is all but choking on tobacco loot. Philip Morris is sponsoring the host committee for the Republicans' '96 convention and, according to the watchdog group Common Cause, has set "a record for soft-money contributions from a single donor to a single political party, or even to both parties combined" during the first six months of 1995. Tobacco executives, Philip Morris's included, sponsored a "Salute to Newt" fund-raiser in June.

"It is too late for me," wrote Rob Buford in his piece. "I may be dead by the time you read this. But it is not too late for your children and grandchildren. We must protect them. Who will? It is not a hopeful sign that this country's self-styled moral leaders rush to protect our children from televised "cultural rot" that any parent with a remote control can turn off rather than from a far more insidious and addictive product that rots first, then kills.

Observer

RUSSELL BAKER

Easy
On the
Pedal

Scotty Reston died after the first edition Wednesday. He was as good a newspaperman as I ever saw, and better than most. He learned his trade in the school of hard knocks. This taught him to prefer understatement and simple sentences to the long-winded flourishes once so common in American journalism.

In a rare criticism of a Times colleague he once wrote that Arthur Kravitz "thought a sentence couldn't be immortal unless it was interminable."

The same could have been said of most Times writers 40 years ago. It was Reston's success in teaching The Times to talk in plain English and tolerate an occasional wisecrack that made possible the relatively literate paper we publish today.

Scotty did not have much use either for the show-off reporter who can't resist writing up a literary storm before getting down to the story.

"Why don't you just play it pianissimo?" he suggested if he saw that look in your eye suggesting you were about to give Scott Fitzgerald a lesson in high-class prose writing.

Pianissimo it shall be then. Age never diminished the boyish Reston delight in the pleasures of journalism. Middle age takes the zest out of the sport for many reporters. Reporting, after all, is a passive game for watchers. It's likely to seem unfulfilling for aging go-getters who yearn to make things happen. Mere watching doesn't always seem quite so amusing to people over 40.

The very best reporters, however, never tire of it. They are built differently from most of us: Their precious childish curiosity, a reporter's greatest asset, never flags with age.

In Scotty Reston this blessing combined with a childish delight in "scooping" the brotherhood. You could see the pleasure it gave him to publish a "scoop" that would keep the opposition working past midnight to match.

Working at the State Department for him, I was constantly pressed for scoops on the most trivial ambassa-

'Play it
pianissimo,'Scotty Reston
used to suggest.

dorial appointments. "Why put so much effort into finding out what will happen tomorrow instead of doing a better job of telling people what happened yesterday?" I sometimes asked.

This could only have saddened Scotty as evidence that I lacked the real stuff necessary to make a great reporter (which I did). For Scotty, getting your "scoops" was the exercise that kept you in shape. He who didn't work at it with a passion was letting the side down.

When I think of him now the pictures that come to mind are of the young scoop artist at moments of high triumph. At Vienna in 1961, for example: Khrushchev and Kennedy have talked privately all day, and thousands of journalists mill through the Hofburg trying to concoct plausible stories from official briefings about "fruitful exchanges of views."

Despite an all-star cast, the Times bureau is equally helpless as deadlines close in. Then — Da da da da! — into the office strolls James Barrett Reston.

Where has he been for the past hour? Having a private chat with President Kennedy, of course. Before starting his own story, though, he orients the rest of us. I can hear him still:

"This thing has been a disaster... Kennedy scared to death..." And for the color writer: "Kennedy's back is killing him."

Another picture further back in time: 1955 or 1956. President Eisenhower has had a serious heart attack. The question all humanity wants answered: Will Ike be medically able to run for a second term?

The one man who can answer that is his cardiologist, Dr. Paul Dudley White of Boston. What's more, Dr. White is in Washington this very day. He is scheduled to discuss heart disease before a Senate committee. Every reporter in town is searching for Dr. White. No luck.

Dozens are gathered in the drive under the Senate steps where Dr. White must inevitably appear. I am there among them. A taxi arrives. Tremendous press uproar. Dr. White steps out. A second figure steps out behind him.

Yes, it's Scotty Reston. There is an expression of absolute satisfaction on his face, though Dr. White had told him nothing of value.

This kid's joy in beating the rest of the gang was one of the strengths that helped make him one of the very, very best. That's an "Ave," Scotty, if you'll excuse the Latin. Pianissimo. □

Lace UP

12-11-95
JIM DORSKIND:
Please coordinate the reply.

just a few notes

THE WHITE HOUSE
WASHINGTON
DECEMBER 8, 1995

THE PRESIDENT HAS SEEN
12-11-95

95 DEC 8 P9:01

*12/12 Higgins
copied
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12/11/95

Mr. Bowles,

This office has handled
POTUS' note on page re
the SBA Report.

Staff Secretary's office.

MEMORANDUM FOR THE PRESIDENT

FROM: KITTY HIGGINS *Kitty*
SUBJECT: SUMMARY OF CABINET WEEKLY
DECEMBER 3-9

DEPARTMENT OF THE TREASURY

- **Secretary's Activities:** On December 11, Secretary Rubin will travel to New York to attend a breakfast roundtable and lecture at the Collegiate School. He will also participate in a Wall Street Journal group luncheon. On December 13, the Secretary will chair the Social Security Trustees meeting and address the World Affairs Council dinner. His remarks will focus on his recent trip to South America. On December 14, he will host a CEO lunch, and meet with Chairman Greenspan.
- **Third Asia Money Laundering Symposium:** On December 12-14, Under Secretary for Enforcement Ron Noble will participate in the Third Asia Money Laundering Symposium to be held in Tokyo, Japan.
- **US/Mexico Border Conference on Financial Crime:** On December 12-14, FinCEN and the National Association of Attorney's General (NAAG) are co-sponsoring a US-Mexico Border Conference on Financial Crime in Scottsdale, Arizona. The Conference will include 150 representatives from Mexico's Ministry of Finance.
- **Anti-Terrorism Bill:** The House is likely to begin consideration of the Anti-Terrorism Bill next week.
- **Assault Weapons Ban:** The House may consider a repeal of the ban during the week of December 18. Treasury understands that the bill will be a straight repeal with no amendments. The Senate has not indicated if they will consider the issue.

DEPARTMENT OF COMMERCE

- **Commerce will Release the Following Economic Data:**

U.S. International Transactions of the Third Quarter of 1995	December 12
Advanced Retail Sales for November	December 13
Third Quarter 1995 Gross Domestic Product	December 19
- **Secretary's Activities:** On December 8, Secretary Brown traveled from Cape Town, South Africa to Miami to attend the Florida Democratic State Party Convention. On Monday, December 11, he will travel to Pennsylvania to attend a District Export Assistance Center opening in Harrisburg and speak with Wharton Business School students in Philadelphia. On Wednesday, December 13, Secretary Brown will deliver an address to the National Coalition for Advanced Manufacturing, and participate in the U.S.-Chile Roundtable. The Secretary will also speak with the mayors of several cities to discuss your budget priorities. He travels to New York on December 15 and to New Orleans on December 18, to open District Export Assistance Centers.

DEPARTMENT OF LABOR

 **401(k) Protection Roundtable with Reporters:** Because of the high volume of press interest in DOL's 401(k) pension fraud campaign, Secretary Reich will convene a reporter's roundtable on December 11. He may announce plans to change the regulation which specifies how long employers may hold employee 401(k) contributions before turning them over.

- **Travel to New York:** On December 14, Secretary Reich will travel to New York to participate in a press briefing hosted by Ernst & Young that will address workplace issues and will focus on the need for businesses to provide a new kind of management within their companies. Ernst and Young will announce the results of an exclusive survey of managers and employees that is intended to break new ground in the examination of workplace issues. While in New York, the Secretary will also participate in the Women's Policy Roundtable and will have media interviews to discuss the budget, the 401(k) pension fraud campaign, and garment enforcement efforts.
- **CPI Release:** The Bureau of Labor Statistics will release the November Consumer Price Index on December 14.
- **Unemployment Compensation Meeting:** The Advisory Council on Unemployment Compensation (ACUC) will hold its last meeting on December 13. The Secretary will deliver remarks. The ACUC was established on January 24, 1992 to evaluate the unemployment insurance program. The Council will make recommendations to you and to Congress shortly.
- **Bosnia:** DOL's Veterans' Employment Training Administration (VETS) staff is providing assistance to the approximately 3,800 National Guard and Reserve members who have been notified of possible deployment to Bosnia. The service members are being informed of their reemployment rights and employer notification obligations.

- **Caterpillar/UAW Dispute:** UAW members at Caterpillar voted to reject the new contract offer. UAW leadership recessed the strike and called for a return-to-work. Caterpillar released a statement that workers should not return to work until contacted by the company. The UAW anticipates that it might take up to two weeks before CAT management announces its plans. The union will attempt to resolve this dispute from the inside using different techniques. The UAW has been engaged in ULP strikes against Caterpillar since June 1994 and has not had a labor contract with the company since September 1991.
- ✓ **\$6.1 Million Awarded to Assist Workers from Long Beach Naval Shipyard:** This week, DOL awarded the State of California a \$6.1 million dislocated worker grant to assist 1000 of the 3811 civilian employees dislocated by the BRAC closure of the Long Beach Naval Shipyard. Bernard Anderson, Assistant Secretary of the Employment Services Administration, and Wage and Hour Administrator Maria Echaveste, who were in California for garment enforcement events, announced this grant award.
- **Labor Force Projections:** This week, the Bureau of Labor Statistics released updated labor force projections for the period 1994-2005. Total employment is projected to increase by 14 percent or by nearly 18 million over this period. The growth rate is slower than during the previous 11-year period (1983-1994). Health, social and business services are expected to account for almost one out of every two jobs added.
- **Results of NYC and Massachusetts Garment Enforcement Initiatives:** The Boston regional Wage and Hour Division conducted a garment enforcement initiative targeted to the City of Boston and Southeastern, Massachusetts during October 30 to November 9. Violations were found in seven companies with back wages of almost \$76,000 for 120 employees. On November 30, Secretary Reich joined Wage and Hour Administrator Maria Echaveste in an event in New York City announcing the results of a special enforcement initiative targeted to garment shops in New York City during the week of October 30; so far, more than \$100,000 of the \$200,000 computed in back wages have been recovered for the employees.

DEPARTMENT OF TRANSPORTATION

- **Tour of NAFTA Border Crossings:** Secretary Pena toured the U.S. - Mexico border crossings this week to assess preparations for the opening of the border to commercial trucking operations on December 18. Events highlighted U.S. - Mexico cooperation and technologies that will ensure safety and improve the efficiency of transporting commerce over the border. While the Secretary's group was received positively on their border tour, the Teamsters, and individuals who opposed NAFTA, continue to oppose the opening of the border to commercial trucking. DOT anticipates some negative response on the 18th, but are working to mitigate it.
- **Aviation Commuter Rule:** On December 14, Federal Aviation Administrator Hinson and the Secretary will announce a new rule that will work toward the same high standards of safety for American travelers, whether they board a major carrier or a scheduled commuter airplane with 10 seats. These rules will bring standards for pilot training, on board equipment and total aspects of commuter operation up to the same levels that are applied to

major air carriers. In addition to the new commuter standards, DOT and FAA will also announce proposed stronger standards to ensure that airline crews have adequate rest between shifts.

- **Flooding in Pacific Northwest:** Oregon and Washington suffered flood damage to roadways in early November, and more damage is anticipated from additional flooding that began early this week. On November 29, all of the routes across the Cascade Mountains were closed except for the westbound lanes of Interstate 90. The only access to eastern Washington from the west side of the mountains is via Portland, Oregon. During the last week, the Coast Guard in the Pacific Northwest responded to this emergency.
- ✓ **Third Quarter Financial Results of the Aviation Industry:** The eleven major airlines, as a group (nine major passenger airlines and UPS and Federal Express), reported a combined operating profit of \$2.36 billion and a combined net profit of \$1.14 billion for the third quarter. Almost two-thirds (\$1.56B or 66%) of the operating profits were generated from their domestic operations, and one-third (\$851M or 34%) from their international operations (13% Atlantic entity, 4 percent Latin entity, and 17 percent Pacific entity). The nine major passenger airlines showed a combined operating profit of \$2.22 billion (an improvement of \$809.1 million over the third quarter 1994) and a combined net profit of \$1.07 billion (an improvement of \$438.9 million).
*//
- **U.S. - India Aviation:** On December 2, the United States and India reached an accord on the expansion of airline services. The agreement paves the way for United Airlines to introduce, on December 14, 1995, round-the-world service, and for Northwest to begin direct services to India in January 1997.
- **U.S. - Japan Aviation:** The second round of broad-scale cargo talks with Japan took place on November 28-29 in Washington. The U.S. presented a proposal for phasing in a liberal cargo regime over 5 years. The Japanese proposed a scheme that would open up opportunities for Japanese carriers while it would constrain the growth of existing U.S. carrier services. It would provide no opportunities for additional U.S. carrier entry. Several U.S. cargo carriers have expressed an interest in serving Japan. The talks concluded with the two sides far apart. No dates have been set for further talks but a round in late January is under consideration.
- **U.S. - Czech Aviation:** A second round of negotiations on a new air services agreement is underway in Prague, December 5-8. The U.S. delegation is exploring recent indications of interest by the Czechs in an "open-skies" agreement.
- **U.S. - China Aviation:** Aviation talks with China are scheduled for December 19-21 in Beijing. Under the U.S.-China aviation bilateral, U.S. carriers were entitled this year to increase from 20 to 27 their weekly frequencies to China. Five of these seven additional frequencies were allocated to Northwest; the other two have been allocated to Federal Express. However, China has refused to permit these seven additional flights, citing provisions in the bilateral that require "reasonable balance" in the traffic carried. China also refuses to allow cargo services purchased by Federal Express from Evergreen to be operated via Japan. The upcoming talks will be the fourth round in the past year aimed at resolving this issue.

- **U.S. - Thailand Aviation:** Civil aviation negotiations with Thailand are scheduled to be held December 18-20 in Washington, D.C. These talks follow informal discussions that were held in Bangkok November 20 and 21. The two sides appear to be very close to concluding a new Air Transport Agreement, to replace the one terminated by Thailand in 1990.
- **Drunk and Drugged Driving Month:** December is National Drunk and Drugged Driving Prevention (3D) Month. This year's campaign will target drivers aged 21 to 34. The National Highway Traffic Safety Administration (NHTSA) has already distributed over 60,000 3D Prevention Month Planners and campaign posters and buttons to NHTSA 3D coalition members and state and community safety groups. The Recording Artists Against Drunk Driving (RADD), the newest 3D Coalition member, has released a CD with 35 impaired driving Public Service Announcements recorded by various artists. This was distributed to over 3,500 radio stations nationwide. In addition, on December 14, NHTSA will hold a press briefing at DOT headquarters to kick-off the International Chiefs of Police National Holiday Lifesaver Weekend, to be held December 15-17. On December 15, the "Lights on for Life Day" event will be held. On this day, motorists will turn on their headlights during the day to remember persons killed or injured in alcohol-related crashes. DOT is also working on a December 19 event with POTUS.
- **Response to the National Highway System Bill Weakening Safety:** DOT has been actively involved in safety outreach following your signing of the National Highway System bill. Copies of the Secretary's letters to the governors of nine Western states were provided to the respective AP bureaus and to the major newspapers in each state. In addition, copies of an op-ed have been submitted to newspapers in 32 states. In a related matter, on November 30, Secretary Pena announced \$5.4 billion in FY 1996 apportionments that states will receive because you signed legislation designating the National Highway System (NHS). The response from the states to changes in the National Maximum Speed Limit varies.
-  **Drug Interdiction:** On November 30, a Coast Guard cutter responding to a USN aircraft sighting intercepted a 45-foot vessel approximately 150 miles southwest of Puerto Rico. A search of the vessel revealed 501 pounds of cocaine located in a false compartment between cargo holds. The vessel and contraband were seized and transferred to U.S. Customs. In another case, on December 5, the Coast Guard Cutter GALLATIN discovered over 2,000 kilograms of cocaine aboard the 80-foot Haitian fishing vessel, LA FAMILIA, approximately 190 miles northwest of Colombia. The Coast Guard is awaiting permission to seize the vessel and enforce U.S. law.
- **Migrant Interdiction Efforts:** As reported for the past several weeks, Coast Guard activity in this area continues. Over the past week an additional 114 Dominicans, 15 Haitians, 2 Cubans and 3 Indians were interdicted.
- **Fisheries:** The Coast Guard is preparing to enforce a National Marine Fisheries Service moratorium on the harvest of weakfish from South Carolina to New England. This action is being taken because of a decline in fisheries stock from 80 million pounds in 1980 to 8 million pounds in 1994. The moratorium, which will be effective in the U.S. Exclusive Economic Zone (EEZ), will start December 21. The moratorium has the potential to

become controversial, especially in North Carolina, where a large percentage of the commercial harvest of weakfish comes from the EEZ.

U.S. TRADE REPRESENTATIVE

- **Auto Parts Advisory Committee:** Amb. Kantor met this week with the Auto Parts Advisory Committee (APAC) to discuss the importance of effective implementation and monitoring of the auto parts agreement concluded with Japan. Amb. Kantor also discussed industry efforts to collect data necessary to evaluate objectively progress toward increased opening of the Japanese market to U.S. exports under criteria set forth in the auto parts agreement. The first semi-annual report on monitoring and implementation of the agreement is expected to be completed in March 1996.
- **Softwood Lumber Negotiations:** Amb. Kantor met with Sen. Max Baucus to discuss the status of the ongoing bilateral negotiations on softwood lumber. The Senator has introduced legislation that would impose duties on Canadian lumber and mandate the Commerce Department to initiate a countervailing duty case. At the outset of the meeting, there was a conference call with five lumber producers in Montana to discuss falling lumber prices in the U.S. as a result of increased imports from Canada.

SMALL BUSINESS ADMINISTRATION

- Get Mr. Sule
- **White House Conference on Small Business Report:** On December 6, a progress report was presented to the President on the White House Conference on Small Business recommendations. The Clinton Administration has responded enthusiastically to the vast majority of the Conference recommendations. The report is being distributed to White House Conference on Small Business Delegates, Members of Congress, small business trade groups, the media and other interested groups.
 - **National Legislative Conference on Small Business:** The Office of Advocacy hosted a National Legislative Conference on Small Business from December 6 - 8 to inform state legislators and their staffs of the progress made on the WH Conference on Small Business recommendations.
 - **One Stop Capital Shop Opening:** On December 11, the Administrator will be in Philadelphia to open the One Stop Capital Shop with Mayor Ed Rendell and Camden, NJ Mayor Arnold Webster. The One Stop will serve the Philadelphia/Camden Empowerment Zone.

DEPARTMENT OF JUSTICE

- **DOJ and EPA Announce Major Clean Air Act Settlement with General Motors:** On November 30, the parties in United States v. General Motors Corp., settled this action which alleged that GM illegally sold 470,000 Cadillacs with pollution control devices that tripled carbon monoxide emissions. GM will pay an \$11 million civil penalty, more than

\$25 million to recall and retrofit the polluting vehicles, and up to \$8.75 million on projects to offset emissions from these vehicles. These projects may include buying back older vehicles or purchasing new school buses that burn cleaner fuels.

- **Tenth Circuit Affirms Billion Dollar Adverse Tax Ruling:** On November 28, the Tenth Circuit affirmed the Tax Court's decision in Phillips Petroleum v. Commissioner. The Tax Court in Phillips invalidated the Treasury regulation which governs whether income from the sale of mineral resources is treated for tax purposes as coming from a U.S. or foreign source. The regulation provides that such income is to be treated as being derived in the country in which the resource is located, even if sold in another country. The Tax Court held that the regulation conflicted with statutory language which provides that income shall be treated as derived partly from sources within and partly without the U.S. In the case of a U.S. tax payer such as Phillips the source of income is vital to the calculation of the amount of foreign tax credits that may be utilized in a given year. In this matter, \$1 billion was at stake for Phillips.
- **Federal Correctional Institution in Alabama Ends Lockdown:** On November 27, the Federal Correctional Institution (FCI), Talladega, Alabama, ended the lockdown put in place following a October 19 disturbance. The prison remained on partial lockdown for a prolonged period primarily because of damage that the physical plant sustained during the inmate unrest. With this action, all BOP facilities have resumed normal operations.
- **Department Cracks Down on "Rogue" Brokers:** Criminal charges against 11 investment brokers in Florida, Illinois, Indiana, Iowa, Michigan, New Mexico, Ohio, Oklahoma, Pennsylvania, and Texas were filed in the Department's first concerted effort to prosecute "rogue" brokers who cheat the elderly and the unsuspecting. In Largo, FL, a financial consultant was charged with selling nearly \$1 million in phony securities to 42 victims, most of them elderly. A Houston stock salesman was accused of defrauding at least 10 victims of \$189,000 in retirement and children's education funds. The "rogue" broker initiative is a coordinated law enforcement effort of the Fraud Section of the Criminal Division, the U.S. Securities and Exchange Commission, and the FBI.
- **G-7 Ministerial Meeting in Ottawa, Canada:** On December 11-12, the Attorney General will represent the administration at this international meeting dealing with terrorism.
- **Press Inquiries:** Justice expected stories today regarding Deval Patrick's testimony on the Hill, stating the Administration is against the Dole-Canady bill to eliminate affirmative action.
- **Attorney General's Activities Next Week:** On December 9, the Attorney General travels to Beckly, WV for the Federal Corrections Facility Opening with Senator Byrd. On December 11, she will be in Miami to address the ONDCP Conference on domestic and international drug control enforcement and prevention. On December 14, AG Reno will meet with International Association of Chiefs of Police President Walchak.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

- **Detroit Public Housing -- Partnership with the Mayor:** Today, Secretary Cisneros met with Mayor Archer to discuss possible solutions for addressing the management deficiencies of the Detroit Housing Department (DHD). Several months ago, HUD entered into an 18-month Memorandum of Agreement with the City to turn around the city's poorly run public housing agency. The agreement provided for technical assistance and the creation of an Executive Committee composed of the Mayor, HUD official, resident, and jointly appointed community members. Currently, the Housing Department is lead by an interim executive director.
- **Dedication of Memorial Tree and Private Memorial Service for Survivors of Oklahoma City Bombing:** On December 10, Secretary Cisneros will be in Oklahoma City to participate in a private memorial service for the Department's survivors and families of the victims of the April bombing. The private service will include plaque presentations to the families who lost loved ones in the tragedy and the dedication of a memorial tree. The memorial tree is a bronze sculpture composed of 85 hanging leaves and 35 fallen leaves, the former representing the HUD survivors of the bombing while the latter represents the casualties. The memorial tree will placed in the lobby area of the new HUD office building.
- **Conference Call with Mayors on the Balanced Budget:** Next week, several Cabinet officials will participate in regional conference calls with mayors to discuss the your seven-year budget plan and the impact of a potential government shutdown. As part of this Administration effort, Secretary Cisneros plans to participate in a conference call on December 14, with the following mayors from the northeast region: Mayor Eugene Eaton, Troy, NY; Mayor Tim Itoni, New Rochelle, NY; Mayor Janice Stork, Lancaster, PA; Mayor Stephen Reed, Harrisburg, PA.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

- **New AIDS Drug Approval:** Hoffman-La Roche received approval on December 7 for saquinavir (trade name Invirase), the first of a type of drug called "protease inhibitors" to be approved for use in the treatment of AIDS and HIV infection. (Such drugs "inhibit" the AIDS virus by blocking the growth of an enzyme necessary for its reproduction.) FDA made the approval in a record 97 days after the manufacturer, Hoffman-La Roche, filed its application. On November 7, an FDA advisory panel recommended accelerated approval of this therapy for treatment of advanced HIV infection, in combination with drugs such as AZT.
- **1996 Medicare Physician Fee Schedule To be Published:** Today, HHS published the Medicare physician fee schedule for Calendar Year (CY) 1996 and new targets for increases in physician services for FY 1996. In 1996, payments will increase 3.8 percent for surgical services, decrease 2.3 percent for primary care services, and increase 0.4 percent for nonsurgical services, compared to CY 1995 levels. Unless legislation is enacted, making a change, the statutorily determined rates will be effective on January 1. The regulation also changes the way Medicare pays for services of teaching physicians,

effective July 1, 1996. However, different fee updates are included in the President's Medicare plan, and these rates could be changed through subsequent legislation.

- **Update on Oregon:** Oregon and HHS staff met this week to resolve issues concerning moving the treatment line, determining which medical services will be provided Medicaid beneficiaries. On December 7, HHS and Oregon reached a mutually satisfactory agreement on "raising the line." Staff are now working on the terms and conditions needed to implement the agreement.



Drug Use Among Youth Continues to Rise: Before the end of the year, the Department plans to release the annual Monitoring the Future survey that shows an increase in the use of illicit drugs among American youth. In 1995, 48.4% of high school seniors reported using illicit drugs at least once, up from 45.6 percent in 1994. This survey also confirms previously reported trends that marijuana use is once again making inroads among our youth. The survey also will include data on alcohol and tobacco use. HHS is coordinating release of the survey with the White House.

- **Report to Congress Shows Great Improvements in FDA Prescription Drug Review:** Within the next few days, HHS's third annual report on progress under the Prescription Drug User Fee Act of 1992, will be transmitted to Congress. The report finds FDA has not only met but **exceeded** performance goals in every category required by the Act. The percentage of on-time reviews in all categories is at least one year ahead of the report's goals. For original new drug applications and resubmissions, the agency is performing at a pace two years ahead of the Act's targets. FDA Commissioner David Kessler will highlight this progress in a December 12 speech to the Food Drug Law Institute.
- **Blood Safety Update:** On December 14 and 15, an FDA blood advisory panel will meet to hear updates from agency staff on Creutzfeldt-Jakob Disease (CJD) and blood safety, and on HIV-1 antigen screening of donors. In August, FDA issued blood-donor guidance on CJD, a rare and fatal disease of the central nervous system, and on HIV-1 antigen screening. Although no cases of transmission of CJD by blood products have been reported and the risk is considered extremely small, it was recommended that any products from individuals at risk of, or subsequently diagnosed to have, CJD be withdrawn. The agency also recommended that blood establishments begin screening all blood donors with test kits for HIV antigen within three months after approval of one of the kits. Using the antigen tests would reduce by about one week the two-month "window period" between HIV infection and detection. FDA expects to approve one or more of these test kits soon.
- **HHS Will Award Stop-Gap Funds for AIDS/HIV Treatment:** In the next week or so, the Department will announce grants totaling \$7.3 million to 23 eligible metropolitan areas to continue immediate funding for emergency medical care and support care for low-income people living with HIV and AIDS. These awards, under the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act, reflect only partial-year funding because Congress has yet to reauthorize the CARE Act. HHS is coordinating this release with the Office of National AIDS Policy and the White House.
- **Approval of San Diego Welfare Waiver:** On December 6, HHS approved the "School Attendance Demonstration Project," a welfare reform demonstration to be implemented in

the San Diego Unified School District. This is the third welfare waiver for California approved during your Administration.

- **Poverty and Infant Mortality, 1988:** The *Mortality and Morbidity Weekly Report* for December 15 tentatively is scheduled to carry a new report that uses 1988 data to analyze the relationship between low-income and infant mortality. Data indicates that infants of women living in poverty in the U.S. have an overall excess risk of mortality, about 60% higher than infants of women above the poverty threshold.

OFFICE OF NATIONAL DRUG CONTROL POLICY

- **Survey Finds Drug Abuse the Second-Most Serious Issue:** On December 11 in Miami, Director Brown will discuss a recent Gallup Survey which found that the problem of drug abuse is second only to violent crime as a serious issue. The survey indicates that 93% of Americans favor more anti-drug education in the public schools, 87% favor increased funding for police, 85% favor increased funding for community education; 83% favor increased job training funding for youth at risk, and 64% favor use of U.S. anti-drug advisors abroad.

SOCIAL SECURITY ADMINISTRATION

- **Departure of the Social Security Administration's Principal Deputy Commissioner:** SSA's Principal Deputy Commissioner, Dr. Lawrence H. Thompson, has announced that he has accepted an offer to become a Senior Fellow at the Urban Institute in Washington, D.C. He will leave Social Security by January 1.
- **Congressional Activity Regarding the Social Security Earnings Limit:** On December 5, the House of Representatives passed H.R. 2668 which would permit senior citizens to earn more without losing Social Security benefits. Raising the limit known as the "Retirement Earnings Test" is one of the key features of the "Contract with America." Under existing law, seniors older than 65 and younger than 70 can earn slightly more than \$11,500 in 1996 before benefits would be reduced. For every \$3 earned above the limit, Social Security benefits are reduced by \$1. The bill would increase the income limitation to \$14,000 next year with additional increases that would raise it to \$30,000 by 2002. At an estimated cost of \$7 billion over seven years, the proposal would be paid for from budget savings achieved through changes in areas such as limiting payments for drug addiction and alcoholism (DA&A), eliminating the withholding of attorney fees and limiting such fees to a maximum of \$4,000, and establishing a revolving fund mechanism for continuing disability reviews. Senator McCain has introduced S. 1432 in the Senate, which is substantially similar to the House version. It is expected that the Senate will act on this legislation before Christmas.

Why Social Security won't
and they paying taxes - and
if you go to work won't that cut cost?

VETERANS ADMINISTRATION

- **Balanced Budget Activities:** In the coming weeks, Deputy Secretary Gober and Secretary Brown will address your commitment to maintain adequate benefits and services for veterans while negotiating a seven year balanced budget with Congress. VA will inform veterans, their families, and the public regarding the impact of the Congressional proposals to cut veterans' benefits and services.

DEPARTMENT OF EDUCATION

- **National Congress on Teacher Education:** On December 11, Secretary Riley will address the National Congress on Teacher Education in Washington, D.C.
- **Employer's Promise for Learning:** Also on Monday, the Secretary will join CEOs at Marriott's corporate headquarters in Bethesda as they sign the new Employer's Promise for Learning. The Promise commits the CEOs and their companies to support education in their communities.
- **Regional Laboratories:** On December 12, the Department expects to announce the ten research institutions that will receive contracts to serve as regional education laboratories. The average amount of each contract will be \$50 million over five years.
- **Default Rates:** On December 18, the Department is tentatively scheduled to release default rates for post secondary institutions.
- **Immigration Reform:** During the week of December 18, the Senate Judiciary Committee may consider immigration reform legislation. Senator Feinstein has expressed interest in offering an amendment that would require the Federal government to reimburse States for the education of immigrant children.

DEPARTMENT OF THE INTERIOR

- **National Parks and National Wildlife Refuge Systems Freedom Act of 1995:** Today, Assistant Secretary for Fish Wildlife and Parks George Frampton testified before Chairman Don Young's full committee on The National Parks and National Wildlife Refuge Systems Freedom Act of 1995. This bill would require the Secretary of the Interior to accept from a State donations of services of state employees to perform, in a period of government shutdown, otherwise authorized functions in any unit of the National Wildlife Refuge System or National Park System.

This bill, drafted immediately after the partial shut down in November, is intended to keep parks and refuges open in the event of a future budgetary shutdown, and in so doing keep the issues - locking up the Washington Monument, removing back country campers, canceling valuable interpretive programs intended for school children - off the front page. The National Park Service believes that this bill raises serious liability issues and serious implications for resource protection and management. There remains room for discussion

of the option of accepting money only from a state (not services from state employees) if that state wishes to assume liability and donate funds to the federal government for the purposes of keeping open a park or refuge. Obviously, the best option is for Congress to pass either the Department's appropriations bill or a continuing resolution which would insure that the parks remain open.

- **Utah Wilderness Bill:** The controversial Utah wilderness legislation was brought before the Senate Energy and Natural Resources Committee yesterday after two months of delay. Senator Craig introduced a substitute proposal to address concerns raised about the bill, with the agreement of the Utah senators. It eliminated language authorizing future construction of dams and pipelines in the wilderness and agreed that any land exchanges should follow accepted appraisal methods. The largest, most significant issues -- the total acreage protected and the unprecedented "hard release" language for all lands in the state not designated in this bill -- remain unchanged. Senator Bumpers stated that the addition of much more acreage and the elimination of the hard release language would be necessary to remove the threat of veto from this legislation. Numerous other problems remain. The Democrats agreed to let the bill go to the floor, with Senator Bumpers indicating that he and other Democrats would have further amendments to offer at that time.

DEPARTMENT OF AGRICULTURE

- **USDA Hosts Gleaning Roundtable:** Today, the Secretary convened a gleaning and food rescue roundtable in Washington, D.C. to begin a dialogue on ways that the federal government can improve and enhance gleaning efforts on a national level. Representatives of the restaurant, food manufacturing industry, grocery and institutional food industries (cafeterias, hospitals), as well as relevant charities, feeding operations, corporate interests, and key Members of Congress were invited.
- **Farm Bill Update:** USDA has had frequent meetings with House and Senate Members and staff over the past few weeks, and there are several proposals which are supported as alternatives to the current Congressional proposal on the 1995 Farm Bill. In the Secretary's meetings with key Members, he is working to develop a unified Democratic farm bill alternative that reflects the Administration's commitment and priorities.
- **Child Nutrition Block Grant Fight Delays Welfare Reform:** The welfare reform bill conference remains deadlocked due to the inclusion of a block grant of the child nutrition portion of the bill. Senators Lugar and Jeffords have refused to sign the conference report, preventing it from being brought to the floor of either chamber. House Education and Opportunities Committee Chairman Goodling is the leading advocate for block granting. Efforts to reach a compromise continue.
- **Agriculture Heats Up:** Florida tomato producers have been pushing for relief from Mexican imports that are subject to tariff-rate quotas under NAFTA. Florida vegetable producers recently dumped a truckload of eggplants in Palm Beach County to symbolize how Mexican growers are allegedly "dumping" produce on the U.S. market. USDA and the U.S. Trade Representative have been working to develop actions to respond to Florida tomato producers, including weekly tariff-rate quota administration, implementation of

safeguards, and support of legislation to make Mexican tomatoes subject to federal marketing order size requirements. At the request of Senator Graham, the Secretary is traveling to Florida on December 11 to discuss these actions.

- **USDA Customer Service/Cost-Saving Efforts:** The USDA Forest Products Laboratory in Wisconsin and the adjacent Veterans Administration Hospital in Madison this week celebrated a completed agreement with the state of Wisconsin to purchase steam from the university heating plant. The two federal agencies will be able to close their heating plant operations, saving \$620,000 annually, and the university will receive \$300,000 annually to upgrade its heating plant capacity and cover fixed costs. The project is a prime example of federal and state agencies working together to reduce the cost of operating government at all levels.
- **Timber Sales Protests Continue:** The temporary area closure surrounding the Oregon Sugarloaf timber sale has been the site of constant protest activity since it was opened on November 27. Demonstrators protested the sale because it called for logging in a roadless area. However, no roads were built within the roadless area, all yarding of logs was done by helicopter, and approximately two-thirds of the trees growing at the site remain after harvest. Meanwhile, protests at the Warner Fire Recovery Project in the Willamette National Forest in Oregon continue. Demonstrators have built a log fort and a series of trenches on the only access road to the sale area. It is unknown when the purchaser will start logging the sale. Additionally, a hunger striker has camped for 60 days at the Willamette Forest Supervisor's Office in Eugene.

DEPARTMENT OF ENERGY

- **Upcoming Press on Travel and Other Matters:** The *Los Angeles Times* will write a story for its Sunday edition focusing on the Secretary's international travel. The reporters will assert that the Secretary has been out of the country fifty percent as much as Secretary Christopher. The Department believes the reporters ignore the fact that there are over a trillion dollars in energy investment overseas; that 11 of the 16 foreign trips have been Presidential and Vice Presidential initiatives; and that Secretary O'Leary has turned down well over 100 foreign invitations. The General Accounting Office is scheduled to release its report on the Department's travel practices in the future and will focus on accounting practices that make it difficult to account for certain expenditures.

ENVIRONMENTAL PROTECTION AGENCY

- **Everglades Restoration:** EPA has been working with the White House and other agencies to develop an Administration position on the sugar program and Everglades and south Florida ecosystem restoration. Several competing congressional proposals have emerged out of the Farm Bill and Reconciliation Act consideration for a specific \$35 million land purchase, with money raised through a marketing assessment on all sugar growers, and one to raise about \$350 million through a 2 cent per pound marketing assessment targeted at Florida growers. There is broad public support in Florida for a 2 cent assessment to raise

funds from sugar producers to address the impact of their pollution. Senator Dole has also indicated he is working to find some way to fund enhanced Everglades restoration.

OFFICE OF PERSONNEL MANAGEMENT

- **Shutdown Hearing:** On December 12, the Civil Service Subcommittee of the House Committee on Government Reform and Oversight (Rep. Mica, chair) will hold a second hearing on the recent Government Shutdown. This hearing will allow Members of Congress to present their views on the shutdown.

DEPARTMENT OF DEFENSE

- **Former Yugoslavia:** The NATO Enabling Force, which will include about 1,400 Americans (approximately 700 in each country), has begun to arrive by air in Bosnia and Croatia. This force will prepare the way for the NATO peace implementation force after the Dayton agreement is signed in Paris on December 14. The Enabling Force will establish the essential infrastructure --communications, command and control, and intelligence -- to prepare for arrival of the main force. In the next week, about 3,000 support forces will deploy to Hungary. Their job is to build staging facilities and to open the road networks for the movement of the main force. The Presidential selected reserve call-up will involve approximately 3,800 reservists. The first rotation of this 3,800 will be for 270 days and will be mostly Army.

Secretary Perry traveled to Brussels on Tuesday to join Secretary Christopher in meeting with all the NATO foreign ministers and defense ministers. The meeting underscored that NATO is approaching Bosnia with remarkably strong unity. One the margins of Secretary Perry's meeting with Grachev last week, the 1996 plan for bilateral defense and military contacts was signed. The plan calls for 40 contacts this year, a number which will inevitably grow as additional proposals are approved.

- **Bosnia Deployment Cost:** DoD Comptroller, James Hamre, is looking at FY96 rescission options to fulfill your commitment to pay from within the FY96 DoD Appropriations Bill the costs for Bosnia, and provide up to 1.0 billion for domestic requirements including \$200 million for humanitarian activity in Bosnia. He has a tentative rescission list adding to \$4.1 billion. It includes \$1 billion associated with lower inflation. John White is working on the timing of this rescission package.

DEPARTMENT OF STATE

- **NATO Ministerial:** This week's NATO Ministerial meetings, which Secretary Christopher attended in Brussels, were perhaps the most important NATO meetings since the end of the Cold War. Among the historic accomplishments were: the first joint meeting of NATO Foreign and Defense Ministers to review and approve the Bosnia implementation plans' the ratification of Javier Solana's selection as NATO Secretary General; and, the French announcement that they would enhance their participation in NATO's military structure - a

move that undoes almost three decades of French policy and signals that NATO is now and will be Europe's premier security institution. Secretary Christopher was also pleased that we were able to bring the Allies around to endorsing our concept of a new phase of the NATO enlargement process and to agreeing to our ideas for enhancing the Partnership for Peace.

- **Northern Ireland:** All sides are moving to capitalize on the atmosphere generated by your visit to Belfast, which was clouded by the IRA's truculent statement on arms today. After get-acquainted discussions among panel members this weekend, Senator Mitchell will lead the decommissioning panel's initial visit December 14-18. Dublin and London will soon begin parallel talks outlined in last week's communique, but details have yet to be announced. Trimble's Ulster Unionists are keeping their distance from the twin-track process, but are seeking common ground with John Hume.
- **Japan Trip:** Your trip to Europe last week demonstrated again how important your foreign travel is to projecting U.S. leadership and advancing both the Administration's policy goals and our national interests. Your success in Europe only underscores the importance of rescheduling your trip to Japan for the first quarter of 1996.
- **Bosnia:** State Department officials are continuing their intensive efforts on the Hill to build support for the deployment of U.S. troops to Bosnia. Although many Members of Congress laud the achievement of the Dayton agreement and are impressed by the thoroughness and detail of Administration planning for its implementation, skeptics still believe U.S. participation in Bosnian peace implementation is not in the national interest. There have been some questions about whether the U.S. has made a commitment to arm and train Federation forces; and if so, how it would be linked, conceptually and practically, with regional arms control. Other common doubts focus on exit strategy, risks to troops, and keeping U.S. forces free of "nation-building" tasks. Several Members have shown frustration at what they see as an Administration "fait accompli" presented to Congress. Additionally, the detail of the military planning has highlighted the relative infancy of the civilian planning and raised new concerns.

Opponents of deployment are unimpressed by our claims that continued U.S. leadership is vital to make peace work, that the U.S. choice is between smaller risks now or larger risks later, and that NATO's role in Bosnia has reinvigorated the alliance, boding well for the future of European security. This opposition poses a dilemma for Senator Dole. With strong backing from Democrats, he would have more than enough votes to pass a resolution more or less acceptable to the Administration. However, he apparently does not have enough Republican votes for the maximum political impact he seeks. Senator Dole has postponed debate and votes until next week and may be tempted to make unhelpful concessions on the wording of the resolution to attract reluctant Republican votes.

CENTRAL INTELLIGENCE AGENCY

- **Intelligence and Defense Budget Issues:** Director Deutch and Deputy Secretary White have agreed on a reduction of \$250 million in FY97 and \$100 million in FY98 to the overall National Foreign Intelligence Program (NFIP) budget.



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

THE PRESIDENT HAS SAID
12.11.95

Kathleen A. McGinty
Chair

95 DEC 8 P9:00

December 8, 1995

MEMORANDUM FOR THE PRESIDENT

FROM: KATHLEEN A. MCGINTY

CC: LEON PANETTA

RE: CEQ WEEKLY REPORT

I received your note on removing federal regulations. It should have read "scrapping" 16,000 pages of federal regulations. *But is it down or still in motion?*

TIMBER RIDER

This week, U.S. District Court Judge Michael Hogan in Eugene, Oregon, ruled that two sales offered under your Forest Plan came under the provisions of the timber rider. While the immediate impact of his ruling is to shield those sales from judicial review, government attorneys are reviewing the decision for broader implications related to the Plan.

On the legislative front, Congresswoman Elizabeth Furse (D-OR) and 30 co-sponsors introduced a bill to repeal the entire timber rider. Meanwhile, we have begun discussions with Members from the Pacific Northwest regarding proposed legislation that would target more narrowly our problems with the green, old growth timber provisions and the cases interpreting those sections.

ENVIRONMENT IN THE NEWS - TIMBER

We had two very negative stories in the New York Times and the Seattle Post-Intelligencer about the logging rider. Both stories question our contention about the over-reaching by the timber industry and Judge Hogan and focus on why we signed the rider. The Chief of Staff has set in motion our legislative strategy to see if we can recoup there. In addition, I met with Bob Semple of the New York Times Editorial Board who now better understands the issue and may be helpful.

OZONE DEPLETION

In Vienna this week, at the Seventh Conference of Parties to the Montreal Protocol, the U.S. successfully negotiated significant progress in protecting the ozone layer.

The most contentious issue involved methyl bromide, an agricultural pesticide that is the largest remaining threat to the ozone layer. In Vienna, developed countries committed to this phase-out this chemical by 2010, with a 50% reduction by 2005 and 25% reduction by 2001. Developing countries agreed to freeze their use of this compound in 2002. The Parties agreed to develop a critical "agricultural use exemption" to protect farmers in the event substitutes for methyl bromide do not become available.

Neither environmentalists nor farmers in this country will be entirely happy with this deal, although the worst fears of each have been avoided. The phaseout schedule is longer than environmentalists wanted -- but the agreement to a phaseout even 15 years away is an important victory for them. Some farmers will be unhappy about the gap between developed and developing country controls -- but the relatively long phaseout schedule means the better and cheaper substitutes should be available before use must be curtailed.

We will now need to make some tough decisions under the Clean Air Act. Under current law, U.S. farmers are required to phaseout entirely from methyl bromide use by 2001. Farmers will argue that this is an unfair competitive burden, in light of the more extended phaseout for the rest of the world. The environmental community, however, may argue that any substantial changes to this 2001 phaseout would amount to a rollback of environmental protections, inconsistent with your strong stand on the environment. To date, we have made only general statements about our support for a legislative "safety valve" to protect U.S. farmers; we will now need to be more specific.

In other action, the Montreal Protocol Parties agreed that developing countries would phaseout use of CFCs by 2010, that developing countries would freeze use of HCFCs in 2016 and phaseout in 2040 and that developed countries would move forward the date for phasing out HCFCs from 2030 to 2020.

TRIP TO CHATTANOOGA

I delivered the keynote address at a transportation planning conference on ways to reinvent environmental review so that it can be cost-effective while protecting the environment. I had the opportunity to meet with the Mayor of Chattanooga, local business and community leaders. The City of Chattanooga has become a national model for sustainability with the use of electric buses, an ecosystem park, and affordable housing.

In addition, I traveled to Columbia University in New York City to mark the 25th Anniversary of EPA and the opening of a new campus Center for Environmental Research and Conservation.

NEW WORLD MINE

On Tuesday, the United Nations World Heritage Committee declared Yellowstone National Park a "world heritage site in danger." The Committee visited the park earlier in September

with concerns about the potential impacts of the proposed New World gold mine on the site. I think our strategy should be to ignore the listing, as it is a U.S. responsibility and in any case we will make sure that Yellowstone is protected. There will be some short-term negative stories from western members of Congress, but overall, we think the best strategy is to not debate this issue.

As Clear-Cutting Returns, Motives Are Questioned

Clinton Draws Disfavor of Conservationists

By TIMOTHY EGAN

PORTLAND, Ore., Dec. 1 — Loggers have returned to the old-growth forests of the Pacific Northwest this fall, bulldozing roads into pristine areas and leveling 200-year-old trees in a manner that was illegal until four months ago.

The leveling, or clear-cutting, will damage rivers and streams, set back a \$1.2 billion Federal program to restore overcut national forests and could eradicate some runs of Chinook salmon, President Clinton has said.

But, whether by bad fortune or design, the President now finds himself in the position of criticizing something he helped to create. The act he recently attacked for its potential to cause "grave environmental damage" is one he signed into law last summer, after initially vetoing it. It has turned out, Mr. Clinton said, to be far more damaging than he or many members of Congress anticipated.

The green light to cut big swaths of centuries-old trees came about because of a Congressional rider to a popular budget-reduction bill that suspends all environmental laws in some areas of national forests in Washington and Oregon through the end of next year.

The rider was promoted by Western Republicans, like Senator Slade Gorton of Washington, as a way to cut fire-scarred or bug-infested salvage timber and promote forest health.

But a single paragraph in the rider had nothing to do with damaged trees. It directed the Government to lift all environmental laws in a few areas so that some old-growth timber could be cut.

The timber industry, which, along with other development interests in the West, has strongly opposed Mr. Clinton as being too sympathetic to environmentalists, asked Congress for a suspension of the laws, saying they were being used in court to virtually shut down logging in national forests. After Republicans took control of Congress this year, they approved the rider.

Mr. Clinton initially vetoed the budget bill, saying the rider "would basically direct us to make timber sales to large companies subsidized by the taxpayers." After some changes were made — changes that the President said would provide adequate protection — he signed the bill with an amended rider.

A day later, the timber industry went to court, arguing that the crucial paragraph in the rider permitted unregulated logging of forest lands throughout the Pacific Northwest that were long thought to have been protected. A Federal court in Oregon has agreed.

Now, even as Mr. Clinton has embraced environmental values as a rallying cry for his re-election campaign — "I will not compromise on the environment," — he declared last week — environmentalists say the President has already betrayed them. Although the Administration says it was misled about the rider's intent, environmentalists say the intent was clear and by signing the bill, the President risked the very thing he now criticizes.

"Most of Congress, the President and the American people were duped," said Patti Goldman, an attorney with the Sierra Club Legal Defense Fund. "A few watchful timber industry advocates knew exactly what they were doing when they wrote this rider into the law. This is political payback to the industry."

Before the President signed the bill, environmentalists had flooded the White House with more than 50,000 letters and calls urging him to veto it again. Ever since he signed it, on July 27, they have been furious.

"The timber industry bought Congress and in essence got them to remove all citizens' rights, barring them from the courthouse door," said Tim Hermach of the Native Forest Council in Oregon. "To be kind, you can say President Clinton was naive to go along with them. To be less than kind, you can say it was stupidity or a cave-in."

To critics in both parties, the twist of events shows the danger of using obscure side-amendments to change some of the nation's basic environmental laws. Republicans in Congress have attached riders to the budget reconciliation that would open the Arctic National Wildlife Refuge to oil drilling and increase logging elsewhere.

The logging rider was attached this summer to a bill that cut 1995 spending by \$16 billion and that included money Mr. Clinton had urgently sought for relief of disasters like the Oklahoma City bombing and the California earthquakes.

Since then, the price of wood has declined due to a slump in the housing market, and the timber industry has not shown as much interest in cutting salvage timber. The Forest Service has offered thousands of acres but have not gotten a single offer in the last three months.

The real action is with the healthy, valuable stands of old-growth forest that had been protected both by the President's 1993 forest plan and by litigation, which has kept them off-limits to logging for the last five years. These stands are home to endangered fish and birds, and in some case hold most of the water for entire river systems.

Now that they are exempt from environmental laws, including statutes that protect clean water, timber companies are trying to get as much of this wood as they can during the period when they do not have to comply with the law.

The Clinton Administration had said the rider applied only to a few select areas of some national forest, according to Jim Lyons, assistant Agriculture Secretary for forestry.

But Federal Judge Michael Hogan of Oregon, who is hearing the suit by the timber industry, agreed with the logging companies' interpretation. He ordered the Forest Service and other agencies to offer for sale old growth timber in areas of all national forests in Oregon and Washington. The Administration has appealed, but an appeals court has refused to grant an injunction.

So, after five years of relative peace, the timber wars have returned to the Northwest, with protesters blocking logging roads, and interest groups pointing fingers.

The Forest Service now estimates that nearly twice as many trees will fall under the special rider as was estimated by the Administration when the President signed the bill. They say more than 600 million board feet of mostly old-growth timber will be cut. By comparison, less than 100 million board feet of older forests have been cut in the last three years. About 10,000 board feet of timber are used to build the average house.

The numbers are crucial, say people who have been working to restore national forests in the Northwest, because more than 90 percent of old-growth forests, a term that describes ancient stands that have never been cut, have been logged.

"This is not what we had in mind when the President signed the bill," said Tom Tuchmann, who is overseeing the new forest plan for the Administration. "But you have to put this in perspective. These are the last of the big old-growth sales. Over all, it will have small impact. The President's plan still protects 80 percent of the remaining old growth."

Timber industry officials say Mr. Clinton is being disingenuous in his recent statements about the intent of the rider.

"The environmentalists for the first time are not getting their way," said Chris West, spokesman for the Northwest Forestry Association, which represents timber companies. "They are beating up on the Pres-

The President now criticizes what he himself did.

dent, so his recent statements are just a way to show them that he's green."

Mr. West said the old-growth logging is "a drop in the bucket" compared to years ago, and he said it will not significantly harm the environment. When asked whether loggers would comply with requests by Federal biologists that they try not to harm some streams with endangered salmon and trout runs, Mr. West said, "that's a call left up to the individual companies."

He said Federal environmental laws had been used to shut down virtually all logging in the remaining old-growth areas on public land and until the laws are changed, the industry is likely to need protection from lawsuits.

Logging company owners, after years of losing court battles to environmentalists, are happy to finally have some Federal timber back in the mills. The owners of Hull-Oaks Lumber in Monroe, Ore., say the new timber will allow them to keep their small mill — which depends almost exclusively on old growth — running for another five months.

Throughout the Northwest, much

of the new clear-cutting will take place in the very areas where the Government is spending millions of dollars trying to restore streams and woodlands to protect fish and wildlife. It is, for the most part, the old-style logging that the Forest Service, since the early 1990's, has condemned — felling every tree in a given area, logging right to edge of streams that may be spawning grounds for salmon and trout.

In southern Oregon, logging will begin taking place any day in forest areas near the Umpqua River, the centerpiece of a \$36 million sports-fishing industry. Federal biologists have recently written memorandums saying that the new logging in the area because it does not have to comply with environmental laws, could severely damage cutthroat trout and salmon runs in the river basin.

Also, a thriving tourism business has developed around rafting and sightseeing along the Umpqua, portions of which are part of the nation's Wild and Scenic River system.

Gov. John Kitzhaber of Oregon said that much of the new Federal logging went too far and could damage the state's thriving economy.

Mr. Kitzhaber was one of several Democrats who earlier had said that they thought the rider would be relatively harmless.

After Mr. Clinton vetoed the initial version, some changes were made after negotiations. The period when loggers could ignore all environmental laws was reduced by a year, and Forest Service supervisors were told that they could enforce good stewardship standards in the sales of burned or insect-damaged timber.

With those changes, the President signed the bill, saying there were adequate protections.

But the key paragraph of the rider dealing with the old-growth timber was never changed. It is that section that has caused the furor.

"Somebody convinced the Administration that it wasn't such a big deal," said Mitch Friedman, head of the Northwest Ecosystem Alliance, an environmental group. "They disguised this all as salvage sales. As it turned out, there was a loophole big enough to drive a parade of logging trucks through."

Seattle P-I p. A3

Monday, Dec. 4

Clinton deals leave environmentalists angry, disappointed

By JOEL CONNELLY
PI NATIONAL CORRESPONDENT

At the end of negotiations with the White House on timber sales last summer, a legislative aide to Sen. Slade Gorton, R-Wash., chuckled, "These people just fell off the turnip truck."

The Clinton administration's senior environmental managers, even Interior Secretary Bruce Babbitt, privately concur. They admit that unprepared White House negotiators gave away the store when they agreed to a so-called salvage rider. While supposedly directed at dead trees, what it really did was direct some federal timber sales to go ahead regardless of environmental cost.

The debacle has a bearing on a bigger upcoming battle — namely, how hard President Clinton will resist environmental rollbacks included in budget bills set for final approval by Congress.

The president's performance will determine whether Democrats harness the environment as a political issue in 1996. House Speaker Newt Gingrich, once a Sierra Club member, worries about that and recently admitted that he and fellow Republicans have "messed up on the environment."

Babbitt rattled sabers in Seattle last week. "They (Republicans) are following a radical agenda," he said. "The president has, on both (budget) bills, taken a clear position. He will use his veto."

At a private breakfast, however, Babbitt heard about 40 environmental activists vent anger at Clinton. The mood of those in the audience ranged from "deep disappointment to a sense of complete betrayal," said Denis Hayes, president of the Bullitt Foundation, who introduced the Interior secretary.

They weren't angry with Babbitt, who has fought, and often lost, on many fronts. The frustration went over his head — to the top. Its foundation was what activists see as Clinton's habit of dealing away the environment when it comes time to make a deal.

In 1993, when he was rounding up votes needed to pass his budget, Clinton undercut Babbitt's plans for mining and grazing reform. As recently as last week, he signed a transportation bill that rolled back the Highway Beautification Act, which encouraged states

The salvage rider was part of a budget reconciliation bill that rolled back spending by federal agencies during the 1995 fiscal year. Clinton vetoed the legislation. Subsequently, however, he struck a deal with Republicans that restored cuts in education and job-training programs. White House negotiators let the timber language stand with minor modifications.

The rider has become the timber industry's legal battering ram in overriding holdups on timber sales from Washington's Olympic Peninsula to Oregon's Umpqua River. U.S. District Judge Michael Hogan has ruled that the administration cannot withhold once-auctioned timber sales that were canceled after fisher and wildlife biologists raised objections.

"The judge's decision goes way beyond language of the reconciliation bill," Babbitt complained last week. But a senior federal official in the Northwest privately observed, "The salvage rider was carefully crafted to do exactly what it is doing."

Babbitt promises that the administration will press for an amendment to "reverse the most egregious parts of the (judge's) ruling."

Such an amendment will get nowhere in the GOP Congress. Republicans from the West are clamoring for the Forest Service to log even faster, particularly on salvage sales of dead and dying timber.

"I just don't know why we can't crank it out," Sen. Conrad Burns, R-Mont., said last week. "Are we park service or are we timber managers?"

Rep. Jack Metcalf, R-Wash., added, "Much has already been lost, and that's a criminal waste."

Clinton is now embroiled in a much larger battle with Congress over budget legislation designed to reshape and shrink the federal government. The environment comes into play on three fronts:

■ **Arctic National Wildlife Refuge:** The Republicans would open 1.5 million acres of Alaska's Arctic National Wildlife Refuge to oil and gas leasing. The lease area includes prime coastal calving grounds of the giant porcupine caribou herd.

■ **Environmental Protection Agency:** The Congress has sharply reduced 1996 funding for the EPA. The agency would get 14 percent less money, and take a 21 percent cut in enforcement.

■ **Tongass National Forest:** Alaska's GOP congressional delegation is pushing for much more logging in Southeast Alaska's Tongass National Forest. The lawmakers would roll back provisions of 1990 law that increased environmental protection and scaled back federal subsidies of timber harvesting in the world's largest temperate rain forest.

"President Clinton has made specific commitments on these three items," Hayes said. "He made the commitment to environmental leaders at a meeting a couple of weeks ago. Even if everything else he does want is stripped out of the budget, he has promised to veto it on purely environmental grounds."

It's a pretty firm commitment for a born compromiser. And after the salvage rider, environmentalists won't give Clinton any slack.

Said Hayes: "It is time for him to stand and deliver."

POTOMAC WATCH

Our weekly review
of people & issues
in Washington, D.C.

12-11-95

To Whom Should we
send this?

Leon

Chris Cef

Jennifer O'Connor

C.

Philip Morris Memo May Be Key to Tobacco Battle

By John Schwartz
Washington Post Staff Writer

A Philip Morris Cos. internal memo that calls cigarettes "nicotine delivery systems," may become an important piece of evidence in suits against the tobacco industry and in the Food and Drug Administration's effort to regulate cigarettes as drug delivery devices, critics of the industry said yesterday.

The memo, quoted in an article in yesterday's Wall Street Journal and subsequently posted by that newspaper on the Internet, says that nicotine is "the primary reason" for smoking, and it compares nicotine with other drugs such as cocaine and morphine. The memo is not dated, but cites data from as recently as 1992. In recent months, other documents with discussions of cigarettes as delivery vehicles for nicotine have come to light from R.J. Reyn-

olds Tobacco Co. and the Brown & Williamson Tobacco Co.

The 15-page memo contains a proposal for a "safer" cigarette, code-named "Table," that would substantially reduce byproducts such as tar while delivering a satisfying dose of nicotine, a "revolutionary nicotine delivery device" along the lines of the failed Premier cigarette developed by R.J. Reynolds. The report also compared cigarettes with other nicotine delivery systems such as the patch and gum products that some smokers use to help them quit.

How cigarette manufacturers view their products—and particularly the part played by nicotine—has become a central legal and regulatory issue. The FDA has proposed regulating most tobacco products as drug delivery devices. The industry is being sued by several states seeking reimbursement for Medicaid funds spent on smoking-related diseases, and smokers have filed a

large class action lawsuit in New Orleans against cigarette makers. In addition, a federal grand jury is investigating whether tobacco executives, including then-Philip Morris CEO William Campbell, perjured themselves when testifying in 1994 that they believe nicotine was not addictive.

In a statement, FDA Commissioner David A. Kessler said the memo "is one more example of what tobacco industry officials knew and said about nicotine before we did."

Steven C. Parrish, Philip Morris USA senior vice president and general counsel, said in an interview yesterday that the memo did not state his company's views on smoking or nicotine. To his knowledge, Parrish said, the part of the memo dealing with nicotine's drug effects was not even presented to senior management. The author of the draft paper, Barbara Reuter, "was not a part of senior management," Parrish said.

Reuter is currently a director in the marketing department for the company's "premium brands," including Benson & Hedges, Merit and Virginia Slims.

Parrish also said that the pharmacological effects of nicotine are not a matter of dispute, although the interpretation of those effects is. "Nicotine has pharmacological effects just like a number of substances—like caffeine, sugar and other things. That does not mean the FDA has jurisdiction under the law to regulate caffeine in coffee as a drug."

Victor DeNoble, a former Philip Morris researcher who studied nicotine's drug effects for the company in the 1980s, said yesterday that the memo is proof that "what these tobacco companies say publicly is very, very different from what they say internally.... Internally they view cigarettes as a nice delivery device and nicotine as a drug. Publicly, they say nicotine is a flavor molecule."

Slow Job Growth Said to Foreshadow Rate Cut

Many Analysts Expect Federal Reserve to Act as Hiring Lags, Unemployment Rises

By John M. Berry
Washington Post Staff Writer

The economy is adding jobs so slowly, according to a report issued yesterday by the Labor Department, that many financial analysts believe the Federal Reserve likely will soon decide to cut short-term interest rates.

The report said payrolls rose by 166,000 last month, but officials at the Labor Department said that except for a couple of statistical quirks the number would have been below 100,000. Private and government employers have been adding just over 100,000 workers a month to their payrolls since August, a hiring pace less than overall growth of the labor force.

Manufacturing firms, which have been trying to reduce stocks of unsold goods, trimmed 32,000 jobs

from their payrolls. It was the seventh monthly drop in a row for factory jobs, which are down about 220,000 over the period.

Meanwhile, the nation's unemployment rate ticked up to 5.6 percent last month from 5.5 percent in October, as the monthly survey of American households found fewer people with jobs and more looking but unable to find them.

"The November employment report confirms other data pointing to sluggish [economic] activity," said Bruce Steinberg, macroeconomics manager at Merrill Lynch & Co. in New York. "We expect the Fed to ease policy at the Dec. 19 Federal Open Market Committee meeting."

That committee is the central bank's top policymaking group. It last reduced its target for overnight interest rates, to 5.75 percent from 6 percent, in July.

Even before yesterday's report, comments from several Fed officials indicated they apparently are leaning in the direction of cutting rates, probably by another quarter of a percentage point.

A cut in short-term rates could help consumers who collectively have increased their debt burden sharply over the past two years. Rates charged on many home equity loans, a growing number of credit card balances and some other installment loans are tied to banks' prime lending rate. The prime rate, in turn, tends to move up and down along with the Fed's target for the federal funds rate, the rate financial institutions charge one another for overnight loans.

Thus, a move by the Fed would quickly give many consumers a break in the form of lower payments on

See ECONOMY, F7, Col. 3

Let's Discuss
THE WASHINGTON POST
SATURDAY, DECEMBER 9, 1995

Many Analysts Expect the Fed To Cut Rate

ECONOMY, From F1

their debt. And that could help boost consumer spending, analysts said.

One indication in yesterday's report of some softening in labor markets, economists said, was that the number of people working for temporary service firms fell by 8,000 last month following a 12,000 decline in October.

"This tends to be a leading indicator of overall employment," said Ray Stone of Stone & McCarthy Research Associates, a financial markets research firm in Princeton, N.J. "Firms first cut outside labor forces prior to cutting permanent staff."

"For the Fed, these data provide further evidence that the economy is slowing, possibly actually beginning to show signs of faltering."

However, economist Charles Lieberman, managing director of Chemical Securities in New York, was more opti-

mistic about the outlook and saw no need for the Fed to cut rates.

The employment numbers suggest the economy is growing about as fast as it can without causing inflation to worsen. "Having achieved its objective of slowing the economy close to its sustainable long-term pace, there is very little need for the Fed to do anything other than sit back and bask in the accolades that it has earned," Lieberman said.

One Fed official, Thomas Hoenig, president of the Kansas City Federal Reserve Bank, said in an interview Thursday, "What you are coming down from now is a fairly robust third quarter. Our projections are that we are growing at our long-term potential of around 2.5 percent. Can we continue to do that? That is what I am analyzing now."

The policy issue for the Fed, according to Hoenig and several other central bank officials, is not the current pace of economic growth but whether a rate cut is needed to keep growth from faltering later in 1996. Another key consideration is that several Fed officials have been revising downward their expectations about inflation next year, perhaps opening the door to rate cuts without damaging their long-term goal of lower inflation.

THE WASHINGTON POST
12-10-95