U.S. Department of the Treasury

PRESS RELEASES

AUCTION RESULTS

PUBLIC DEBT NEWS

Department of the Treasury • Bureau of the Public Debt • Washington, DC 20239

FOR IMMEDIATE RELEASE
July 3, 1995

CONTACT: Office of Financing
202-219-3350

RESULTS OF TREASURY'S AUCTION OF 13-WEEK BILLS

Tenders for $13,622 million of 13-week bills to be issued July 6, 1995 and to mature October 5, 1995 were accepted today (CUSIP: 912794V27).

RANGE OF ACCEPTED COMPETITIVE BIDS:

	Discount Rate	Investment Rate	Price
Low	5.48%	5.65%	98.615
High	5.54%	5.71%	98.600
Average	5.53%	5.70%	98.602

$110,000 was accepted at lower yields.
Tenders at the high discount rate were allotted 14%.
The investment rate is the equivalent coupon-issue yield.

TENDERS RECEIVED AND ACCEPTED (in thousands)

	Received	Accepted
TOTALS	$43,354,258	$13,622,238
Type		
Competitive	$37,881,762	$8,149,742
Noncompetitive	1,355,163	1,355,163
Subtotal, Public	$39,236,925	$9,504,905
Federal Reserve	3,537,530	3,537,530
Foreign Official Institutions	579,803	579,803
TOTALS	$43,354,258	$13,622,238

An additional $341,497 thousand of bills will be issued to foreign official institutions for new cash.

5.46--98.620 5.50--98.610 5.51--98.607 5.52--98.605

AUCTION RESULTS

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Department of the Treasury • Bureau of the Public Debt • Washington, DC 20239

FOR IMMEDIATE RELEASE
July 3, 1995

CONTACT: Office of Financing
202-219-3350

RESULTS OF TREASURY'S AUCTION OF 26-WEEK BILLS

Tenders for $13,648 million of 26-week bills to be issued July 6, 1995 and to mature January 4, 1996 were accepted today (CUSIP: 912794W42).

RANGE OF ACCEPTED COMPETITIVE BIDS:

	Discount Rate	Investment Rate	Price
Low	5.45%	5.70%	97.245
High	5.46%	5.71%	97.240
Average	5.46%	5.71%	97.240

$1,075,000 was accepted at lower yields.
Tenders at the high discount rate were allotted 60%.
The investment rate is the equivalent coupon-issue yield.

TENDERS RECEIVED AND ACCEPTED (in thousands)

	Received	Accepted
TOTALS	$47,616,817	$13,647,519
Type		
Competitive	$40,766,219	$6,796,921
Noncompetitive	1,378,451	1,378,451
Subtotal, Public	$42,144,670	$8,175,372
Federal Reserve	3,500,000	3,500,000
Foreign Official Institutions	1,972,147	1,972,147
TOTALS	$47,616,817	$13,647,519

An additional $1,162,353 thousand of bills will be issued to foreign official institutions for new cash.

5.43 - 97.255

RR-408

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

FOR RELEASE AT 2:30 P.M.
July 3, 1995

CONTACT: Office of Financing
202/219-3350

TREASURY'S WEEKLY BILL OFFERING

The Treasury will auction two series of Treasury bills totaling approximately $27,200 million, to be issued July 13, 1995. This offering will provide about $1,675 million of new cash for the Treasury, as the maturing weekly bills are outstanding in the amount of $25,519 million.

Federal Reserve Banks hold $6,864 million of the maturing bills for their own accounts, which may be refunded within the offering amount at the weighted average discount rate of accepted competitive tenders.

Federal Reserve Banks hold $3,223 million as agents for foreign and international monetary authorities, which may be refunded within the offering amount at the weighted average discount rate of accepted competitive tenders. Additional amounts may be issued for such accounts if the aggregate amount of new bids exceeds the aggregate amount of maturing bills.

Tenders for the bills will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D. C. This offering of Treasury securities is governed by the terms and conditions set forth in the Uniform Offering Circular (31 CFR Part 356) for the sale and issue by the Treasury to the public of marketable Treasury bills, notes, and bonds.

Details about each of the new securities are given in the attached offering highlights.

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Attachment

RR-409

HIGHLIGHTS OF TREASURY OFFERINGS OF WEEKLY BILLS
TO BE ISSUED JULY 13, 1995

July 3, 1995

Offering Amount	$13,600 million	$13,600 million
Description of Offering:		
Term and type of security	91-day bill	182-day bill
CUSIP number	912794 V3 5	912794 W5 9
Auction date	July 10, 1995	July 10, 1995
Issue date	July 13, 1995	July 13, 1995
Maturity date	October 12, 1995	January 11, 1996
Original issue date	April 13, 1995	January 12, 1995
Currently outstanding	$11,662 million	$17,351 million
Minimum bid amount	$10,000	$10,000
Multiples	$ 1,000	$ 1,000

The following rules apply to all securities mentioned above:

Submission of Bids:	
Noncompetitive bids	Accepted in full up to $1,000,000 at the average discount rate of accepted competitive bids
Competitive bids	(1) Must be expressed as a discount rate with two decimals, e.g., 7.10%. (2) Net long position for each bidder must be reported when the sum of the total bid amount, at all discount rates, and the net long position is $2 billion or greater. (3) Net long position must be determined as of one half-hour prior to the closing time for receipt of competitive tenders.
Maximum Recognized Bid at a Single Yield	35% of public offering
Maximum Award	35% of public offering
Receipt of Tenders:	
Noncompetitive tenders	Prior to 12:00 noon Eastern Daylight Saving time on auction day
Competitive tenders	Prior to 1:00 p.m. Eastern Daylight Saving time on auction day
Payment Terms	Full payment with tender or by charge to a funds account at a Federal Reserve Bank on issue date

PUBLIC DEBT NEWS

Department of the Treasury • Bureau of the Public Debt • Washington, DC 20239

FOR IMMEDIATE RELEASE
July 5, 1995

Contact: Peter Hollenbach
(202) 219-3302

BUREAU OF THE PUBLIC DEBT AIDS SAVINGS BONDS OWNERS AFFECTED BY FLOODING IN VIRGINIA

The Bureau of Public Debt took action to assist victims of the flooding that struck Virginia by expediting the replacement or payment of United States Savings Bonds for owners in the affected areas. The emergency procedures are effective immediately for paying agents and owners in those areas of Virginia hit by floods. These procedures are effective immediately and will remain in effect through August 31, 1995.

Public Debt's action waives the normal six-month minimum holding period for Series EE savings bonds presented to authorized paying agents for redemption by residents of the affected area. Most financial institutions serve as paying agents for savings bonds.

The city of Buena Vista the counties of Greene, Madison, and Rockbridge are included in the initial declaration. Should additional jurisdictions be declared disaster areas the emergency procedures for savings bonds owners will go into effect for those areas.

The replacement of bonds lost or destroyed will also be expedited by Public Debt. Bond owners should complete form PD-1048, available at most financial institutions or the Federal Reserve Bank. Bond owners should include as much information as possible about the lost bonds on the form. This information should include how the bonds were inscribed, social security number, approximate dates of issue, bond denominations and serial numbers if available. The completed form must be certified by a notary public or an officer of a financial institution. Completed forms should be forwarded to Public Debt's Savings Bonds Operations Office located at 200 Third St., Parkersburg, West Virginia 26106-1328. Bond owners should write the word "Floods" on the front of their envelopes to help expedite the processing of claims.

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PA-187

(RR–410)

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

July 5, 1995

A LETTER BY TREASURY SECRETARY ROBERT RUBIN REGARDING THE ACTIONS OF FEDERAL LAW ENFORCEMENT AGENCIES AT WACO, TEXAS IN 1993

RR-411

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

July 5, 1995

Congressional committees will hold hearings this month to investigate the actions of federal law enforcement agencies at Waco, Texas in 1993. The Department of the Treasury will cooperate fully with Members of Congress as these hearings move forward, and we are producing documents for their review. Through these hearings, I am hopeful that we will -- once again -- have a chance to present the truth to the American public. Opponents of law enforcement have spread misinformation about what happened at Waco. We will set the record straight.

I am writing because I believe in the mission of the Bureau of Alcohol, Tobacco & Firearms (ATF) and because the Department is proud of the searching review conducted by Treasury after Waco occurred. We will tell our story with confidence and with conviction. Before we do so, however, I wanted to give you a copy of our thorough Waco report, which will give you an advance look at the factual record. I do this because I fear some may try to use these hearings to serve another agenda: to erode public support for federal firearms laws, like the Brady Act and the assault weapons ban, by undermining public confidence in the men and women who enforce those laws.

Our September 1993 report found the following:

First, law enforcement behaved lawfully and responsibly by investigating David Koresh and his followers. In June 1992, the McLennan County Sheriff's Department asked ATF to look into possible firearms violations at the Branch Davidian Compound. A six month investigation gave ATF reason to believe that Koresh and his colleagues were committing two federal crimes: illegally manufacturing machine guns, and illegally manufacturing destructive devices, including bombs and grenades. A federal Magistrate-Judge reviewed the evidence developed by ATF and

found that there was probable cause that federal crimes were being committed. The magistrate issued valid search and arrest warrants, and those were the warrants ATF tried to serve on February 28, 1993. Defense attorneys did not attack the validity of the warrants at trial.

Second, almost an hour before the ATF agents arrived to serve the court-issued warrants, Koresh learned that the agents were coming. Koresh could have chosen to permit the search; instead he reacted violently by staging a deadly ambush. And the Treasury report rebuts one of the critics' most ill-founded charges -- that ATF investigated Koresh because of his religious beliefs, or because of questions about his abusive sexual contact with minors. Koresh was properly investigated for multiple violations of federal firearms and explosives laws. David Koresh was not the victim in this tragedy, he was the villain.

Third, the danger in Waco to public safety originated from the Davidians' illegal arsenal, not from ATF. Consider what was recovered from the Compound: dozens of machine guns, numerous silencers, and explosives of various types, all unlawfully possessed. In total, the Texas Rangers recovered over 300 legal and illegal firearms, firearms components, grenades, and hundreds of thousands of rounds of ammunition. Reviewing the evidence, a jury convicted eight Davidians of crimes that included aiding and abetting manslaughter, and firearms and explosives violations.

After the incident, Secretary Lloyd Bentsen, my predecessor, instructed Ronald K. Noble, then Assistant Secretary of the Treasury (designate), to set in motion an inquiry as to "whether ATF's procedures, policies, and practices were adequate and whether they were followed" at Waco. To ensure that the review was both impartial and comprehensive, the Secretary brought in three individuals of prominence and integrity -- Pulitzer Prize winning journalist Edwin O. Guthman, former Watergate prosecutor Henry S. Ruth Jr., and Los Angeles Police Department Chief Willie L. Williams -- to provide guidance during the investigation, review the findings, and assess the final report.

A team of talented people was assembled, including nearly two dozen highly experienced investigators from the Secret Service, the Customs Service, and the Internal Revenue Service. They conducted over 500 interviews, and received unqualified cooperation from the line agents who participated in the Waco operation. The investigators scrutinized countless videotapes, audiotapes, and charts, and reviewed thousands of pages of documents. Treasury also consulted with two firearms experts and two explosives experts to assess the quality of ATF's investigation. Six outside experts in tactical operations gave independent evaluations of the raid plan and its execution.

At every stage, Treasury's Inspector General reviewed and approved the review team's investigation and final report. The independent reviewers also gave it their unqualified support. Members of Congress on both sides of the aisle said the report was "impartial, and self-effacing" and "thorough in its findings."

Major newspapers speak for themselves. *The Wall Street Journal* characterized it as "extensively detailed." *The Washington Post* said it was a "thorough and candid account." *The New York Times* called it "brutally detailed." "Despite all that went wrong with the raid by the [ATF] on the Branch Davidian Compound last February," the *Los Angeles Times* opined, "the thorough and complete report released... by the Treasury Department shows that much in its aftermath is going right."

While the report applauded the heroism and courage of rank and file agents, and found they did their best in the face of relentless gunfire, it also criticized numerous aspects of the operation. It found that ATF too quickly selected a massive mid-morning raid as the best enforcement option. Plans to capture Koresh off the compound were abandoned prematurely. Intelligence gathering and analysis were poor. The report candidly identified errors in judgment by agents and commanders in the field, and balanced that critique by highlighting inadequate supervision and oversight in Washington.

Once the report was complete, numerous personnel actions were taken both in the field and in Washington. The leadership at ATF headquarters was replaced. Secret Service Director John Magaw, a thirty-four year veteran of law enforcement and a known reformer, succeeded retiring ATF Director Stephen Higgins. The Associate Director for Law Enforcement, the Deputy Associate Director for Law Enforcement, and the Chief of the Intelligence Division were placed on administrative leave. The two raid commanders were relieved of their law enforcement duties; they no longer wear badges, carry guns, or supervise line agents. Those disciplined broke no law in their attempt to execute lawful warrants. They were disciplined for errors in judgment and for their false and misleading statements following the raid.

Further, Treasury and ATF made extensive changes in the manner in which they conduct business. Treasury's Office of Enforcement exercises greater oversight of the enforcement bureaus. ATF has improved training for supervisory criminal enforcement personnel, from headquarters to the field, in crisis management. Deficiencies in ATF's intelligence gathering and operational security have been corrected. New policies have been established for major enforcement operations to ensure prompt and effective coordination with the Department of Justice and other agencies or experts. Treasury and ATF learned from their mistakes and have acted to correct them.

Although the subject will be Waco, the upcoming hearings cannot be understood properly outside the context cf Oklahoma City. On April 19, the most extreme and violent act of domestic

terror ever to occur in America killed 168 of our fellow citizens, including 19 children, and left the injured and the survivors with their lives horribly shattered. Law enforcement agencies, including ATF, acted with heroic speed to incarcerate a suspect and identify possible co-conspirators.

The Oklahoma City investigation focused public attention on the militia movement and the potential threat presented by some of its adherents. I am worried that investigating events at Waco, without investigating the extreme activities of some militias, seems to suggest that law enforcement agencies are the real threat to the safety of American citizens.

Let us not forget that ATF is an effective law enforcement agency that takes the most hardened criminals off the street. In the last decade, ATF investigated more than 50,000 cases involving nearly 80,000 suspects. In the previous fiscal year, ATF brought forward nearly 10,000 defendants for prosecution. Almost half had prior felony records. Nearly a third were armed drug traffickers. A quarter had a history of violence. We have good reason to be proud of ATF agents and the work they do.

A fair and objective inquiry will show that the truth about Waco has been told and that the appropriate changes have been made. We will remind people of the legitimate law enforcement concerns that brought ATF to Waco, the extensive scrutiny this operation received in the aftermath, and the corrective actions taken once the Treasury report was released. We will also remind people that this issue is about law and order, and standing with our police and our federal law enforcement officials against those who would take away our right to live in safety.

I hope you will take the time to read Treasury's report on ATF's investigation of David Koresh. Consider the story and the review team's findings, and remember this: Conway LeBleu, Todd McKeehan, Robert Williams, and Steven Willis -- the men killed by Branch Davidians -- joined ATF to serve their country. They risked and, ultimately, lost their lives so that we could live in safety. We must not permit the reopening of Waco to obscure these facts or eclipse their sacrifice.

Sincerely,

Robert E. Rubin

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

FOR IMMEDIATE RELEASE
July 6, 1995

Contact: Chris Peacock
Jon Murchinson
(202) 622-2960

MEDIA ADVISORY

The Treasury Department will honor the eight Treasury employees who lost their lives in the Oklahoma City bombing in a ceremony at the Treasury Department this Monday, July 10.

The ceremony will take place at 11 a.m. on the south steps of the building at Hamilton Place.

Treasury Secretary Rubin and others are scheduled to speak at the ceremony. Secret Service Director Eljay Bowron and Customs Service Director George Weise will represent their bureaus. Six Secret Service and two Customs Service employees were lost in the bombing.

Following the ceremony, Secretary Rubin and family members will unveil eight newly inscribed names on a plaque memorializing fallen Treasury law enforcement personnel. Treasury employees have been invited to attend the ceremony and view the plaque.

All cameras should be in place by 10:15 a.m. Media without Treasury, White House, Defense, State Department or Congressional credentials must call Treasury Public Affairs at (202) 622-2960 with the following information before 5 p.m. on Friday: name, organization, date of birth, and social security or passport number.

This advisory is for planning purposes only and is not for publication. A supplemental advisory with additional details will be forthcoming.

RR-412

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DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

July 3, 1995

MEMORANDUM FOR ALL TREASURY EMPLOYEES

FROM: Robert E. Rubin R.E.R.

SUBJECT: Memorial Service for Treasury Employees

On July 10, 1995, the Treasury Department will honor the lives and contributions of our eight colleagues who died in the bombing of the Murrah Federal Building in Oklahoma City, Oklahoma. I am writing to invite you to the ceremony we have planned.

Treasury does not forget those whose lives are lost in the course of fulfilling their duties. The names of our colleagues who, since 1907, gave this ultimate sacrifice are recorded on a memorial plaque that hangs in a place of honor on the fourth floor of Main Treasury. On the day of the ceremony, we will unveil the newly inscribed names on the Treasury Memorial Plaque. Family members who have lost a loved one in the bombing will honor us with their presence; I hope that you will too.

The ceremony will begin at 11:00 am on the Hamilton Place steps at the South Entrance of the building. Following the service, I invite each of you to file past the Memorial in honor of our fallen colleagues. Less than three months ago, we grieved together as a Department; on July 10th I believe the healing process will be advanced as we pause to remember the friends and colleagues we lost to the tragedy in Oklahoma City.

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DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

FOR IMMEDIATE RELEASE
July 6, 1995

Contact: Howard Schloss
(202) 622-2910

STATEMENT OF TREASURY SECRETARY ROBERT E. RUBIN

Congressman Gephardt has always been a leader in tax reform and so any proposal he makes deserves serious consideration. His proposal is a welcome addition to the tax reform debate.

The Administration supports efforts to make the tax system simpler and fairer. In evaluating any proposals for broad-based tax reform, we will look to see whether they are fair, ensure discipline on the deficit, promote growth and job creation, and simplify the tax system for average Americans.

We will also evaluate how transitional effects of tax reform and changes to deductions and exemptions will affect working families and particular segments of the economy.

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RR-413

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

FOR IMMEDIATE RELEASE
July 6, 1995

Contact: Howard Schloss
(202) 622-2910

STATEMENT BY TREASURY SECRETARY ROBERT E. RUBIN AND COUNCIL OF ECONOMIC ADVISERS CHAIR JOSEPH E. STIGLITZ

The Federal Reserve is independent and the Administration does not comment on specific monetary policy actions taken by the Federal Reserve.

While the Administration is always concerned about the impact on working families of even a temporary slowdown or moderation of economic growth, existing evidence suggests a favorable outlook for the economy. Many of the factors behind the recent weakness are likely to operate with less force in the future. Sales of homes show evidence of a rebound; export growth should pick up in future months; the demand for capital goods remains strong; and businesses appear to be well along in the process of paring inventories.

The Administration maintains its commitment to laying a foundation for longterm economic growth and expanded opportunity for working families through strong investment in education and training, a 10-year balanced budget plan, and further openings of foreign markets to American goods.

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RR-414

PUBLIC DEBT NEWS

Department of the Treasury • Bureau of the Public Debt • Washington, DC 20239

FOR RELEASE AT 3:00 PM
July 7, 1995

Contact: Peter Hollenbach
(202) 219-3302

PUBLIC DEBT ANNOUNCES ACTIVITY FOR SECURITIES IN THE STRIPS PROGRAM FOR JUNE 1995

Treasury's Bureau of the Public Debt announced activity figures for the month of June 1995, of securities within the Separate Trading of Registered Interest and Principal of Securities program (STRIPS).

Dollar Amounts in Thousands

Principal Outstanding (Eligible Securities)	$837,373,566
Held in Unstripped Form	$611,708,010
Held in Stripped Form	$225,665,556
Reconstituted in June	$15,748,065

The accompanying table gives a breakdown of STRIPS activity by individual loan description. The balances in this table are subject to audit and subsequent revision. These monthly figures are included in Table VI of the Monthly Statement of the Public Debt, entitled "Holdings of Treasury Securities in Stripped Form."

Information about "Holdings of Treasury Securities in Stripped Form" is now available on the Department of Commerce's Economic Bulletin Board (EBB). The EBB, which can be accessed using personal computers, is an inexpensive service provided by the Department of Commerce. For more information concerning this service call 202-482-1986.

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PA-188

(RR–415)

TABLE VI -- HOLDINGS OF TREASURY SECURITIES IN STRIPPED FORM, JUNE 30, 1995

(In thousands)

Loan Description	Maturity Date	Principal Amount Outstanding			Reconstituted This Month #1
		Total	Portion Held in Unstripped Form	Portion Held in Stripped Form	
0-1/2% Note C-1995.....	08/15/95.....	7955901	4869101	3086800	4000
-1/2% Note D-1995.....	11/15/95.....	7318550	3347350	3971200	12800
-7/8% Note A-1996.....	02/15/96.....	8450609	6623409	1827200	28800
-3/8% Note C-1996.....	05/15/96.....	20085643	16895243	3190400	8000
-1/4% Note D-1996.....	11/15/96.....	20258810	17504410	2754400	0
-1/2% Note A-1997.....	05/15/97.....	9921237	8726037	1195200	5200
-5/8% Note B-1997.....	08/15/97.....	9362836	7646036	1716800	0
-7/8% Note C-1997.....	11/15/97.....	9808329	7208329	2600000	0
-1/8% Note A-1998.....	02/15/98.....	9159068	7909148	1249920	0
% Note B-1998.....	05/15/98.....	9165387	6724187	2441200	9000
-1/4% Note C-1998.....	08/15/98.....	11342646	8871446	2471200	46400
-7/8% Note D-1998.....	11/15/98.....	9902875	7141275	2761600	68800
-7/8% Note A-1999.....	02/15/99.....	9719623	7823623	1896000	30400
-1/8% Note B-1999.....	05/15/99.....	10047103	6698303	3348800	67200
% Note C-1999.....	08/15/99.....	10163644	7928269	2235375	53475
-7/8% Note D-1999.....	11/15/99.....	10773960	7535560	3238400	83200
-1/2% Note A-2000.....	02/15/00.....	10673033	8444633	2228400	0
-7/8% Note B-2000.....	05/15/00.....	10496230	5921830	4574400	83200
-3/4% Note C-2000.....	08/15/00.....	11080646	6762726	4317920	0
-1/2% Note D-2000.....	11/15/00.....	11519682	7518482	4001200	4800
-3/4% Note A-2001.....	02/15/01.....	11312802	9120802	2192000	0
% Note B-2001.....	05/15/01.....	12398083	9673033	2725050	131000
-7/8% Note C-2001.....	08/15/01.....	12339185	9902385	2436800	56000
-1/2% Note D-2001.....	11/15/01.....	24226102	22018982	2207120	26800
-1/2% Note A-2002.....	05/15/02.....	11714397	10819517	894880	9200
-3/8% Note B-2002.....	08/15/02.....	23859015	22439815	1419200	0
-1/4% Note A-2003.....	02/15/03.....	23562691	23007587	555104	64640
-3/4% Note B-2003.....	08/15/03.....	28011028	27431028	580000	0
-7/8% Note A-2004.....	02/15/04.....	12955077	12955077	0	0
-1/4% Note B-2004.....	05/15/04.....	14440372	14440372	0	0
1/4% Note C-2004.....	08/15/04.....	13346467	13315267	31200	0
7/8% Note D-2004.....	11/15/04.....	14373760	14373760	0	0
1/2% Note A-2005.....	02/15/05.....	13834754	13834754	0	0
1/2% Note B-2005.....	05/15/05.....	14739504	14739504	0	0
-5/8% Bond 2004.....	11/15/04.....	8301806	5175406	3126400	116800
% Bond 2005.....	05/15/05.....	4260758	2827208	1433550	165000
-3/4% Bond 2005.....	08/15/05.....	9269713	8051313	1218400	84000
3/8% Bond 2006.....	02/15/06.....	4755916	4753164	2752	0
-3/4% Bond 2009-14....	11/15/14.....	6005584	2364784	3640800	237600
-1/4% Bond 2015.....	02/15/15.....	12667799	9029719	3638080	1741760
-5/8% Bond 2015.....	08/15/15.....	7149916	2637916	4512000	781760
7/8% Bond 2015.....	11/15/15.....	6899859	3083859	3816000	1060800
1/4% Bond 2016.....	02/15/16.....	7266854	6457254	809600	1019200
/4% Bond 2016.....	05/15/16.....	18823551	18524351	299200	514400
/2% Bond 2016.....	11/15/16.....	18864448	17823008	1041440	176240
/4% Bond 2017.....	05/15/17.....	18194169	8274329	9919840	1256480

3-7/8% Bond 2017.....	08/15/17.....	14016858	9088858	15[illegible]000	1208000
9-1/8% Bond 2018.....	05/15/18.....	8708639	1833439	6875200	304000
9% Bond 2018	11/15/18.....	9032870	2410270	6622600	307000
8-7/8% Bond 2019.....	02/15/19.....	19250798	5463598	13787200	681600
8-1/8% Bond 2019.....	08/15/19.....	20213832	16330312	3883520	562240
8-1/2% Bond 2020.....	02/15/20.....	10228868	5660068	4568800	856000
8-3/4% Bond 2020.....	05/15/20.....	10158883	3389603	6769280	310720
8-3/4% Bond 2020.....	08/15/20.....	21418606	5025646	16392960	808480
7-7/8% Bond 2021.....	02/15/21.....	11113373	10252573	860800	280000
8-1/8% Bond 2021.....	05/15/21.....	11958888	4400168	7558720	62080
8-1/8% Bond 2021.....	08/15/21.....	12163482	4373082	7790400	86400
8% Bond 2021.....	11/15/21.....	32798394	7316069	25482325	1038750
7-1/4% Bond 2022.....	08/15/22.....	10352790	7297590	3055200	476000
7-5/8% Bond 2022.....	11/15/22.....	10699626	2861226	7838400	75200
7-1/8% Bond 2023.....	02/15/23.....	18374361	14366361	4008000	227200
6-1/4% Bond 2023.....	08/15/23.....	22909044	22374324	534720	83680
7-1/2% Bond 2024.....	11/15/24.....	11469662	8956462	2513200	281760
7-5/8% Bond 2025.....	02/15/25.....	11725170	11134770	590400	152000
Total.....	.....	837373566	611708010	225665556	15748065

#1 Effective May 1, 1987, securities held in stripped form were eligible for reconstitution to their unstripped form.

Note: On the 4th workday of each month Table VI will be available after 3:00 p.m. eastern time on the Commerce Department's Economic Bulletin Board (EBB). The telephone number for more information about EBB is (202) 482-1986. The balances in this table are subject to audit and subsequent adjustments.

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

FOR IMMEDIATE RELEASE
July 7, 1995

Contact: Jon Murchinson
(202) 622-2960

MEDIA ADVISORY

The Treasury Department will hold a memorial service on Monday, July 10 to commemorate the eight Treasury employees who died in the bombing of the Murrah Federal Building in Oklahoma City. This schedule is for planning purposes only and is not for publication. All events are on the Hamilton Place Plaza on the south side of the Treasury Building. All times are tentative and subject to change.

10 a.m.	Cameras should be in place on press platform.
10:15 a.m.	Choir pre-program begins.
10:58 a.m.	U.S. Customs and U.S. Secret Service Color guards enter.
11 a.m.	Treasury Secretary Robert Rubin, program participants and families proceed to stage.
11:03 a.m.	Advancement of colors.
11:08 a.m.	National Anthem.
11:11 a.m.	Invocation by Father Paul Morel.
11:15 a.m.	Welcoming remarks by Treasury Under Secretary Ronald Noble.
11:18 a.m.	Eulogies by Dale Edwards, U.S. Customs Senior Agent, Oklahoma City, Lester Martz, ATF Special Agent in Charge, Dallas and Joe Gallo, U.S. Secret Service Special Agent in Charge, Oklahoma City.
11:28 a.m.	Tribute to Treasury colleagues by Secretary Rubin.
11:36 a.m.	Benediction by Father Morel.
11:38 a.m.	Customs bagpiper and memorial wreath processional.

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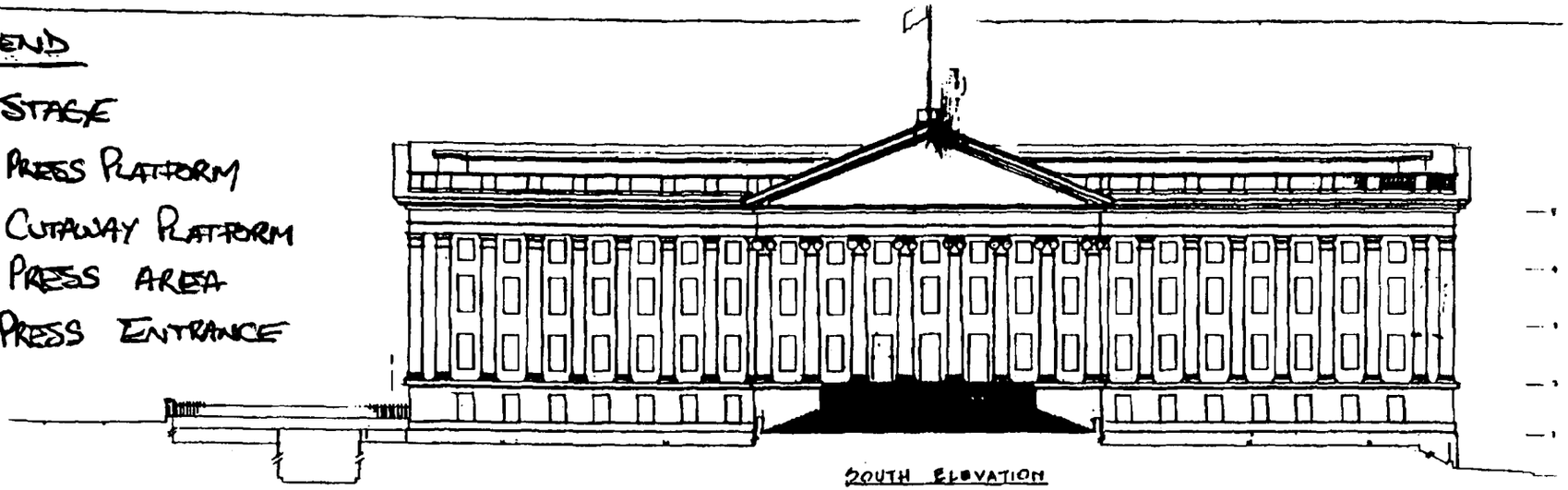
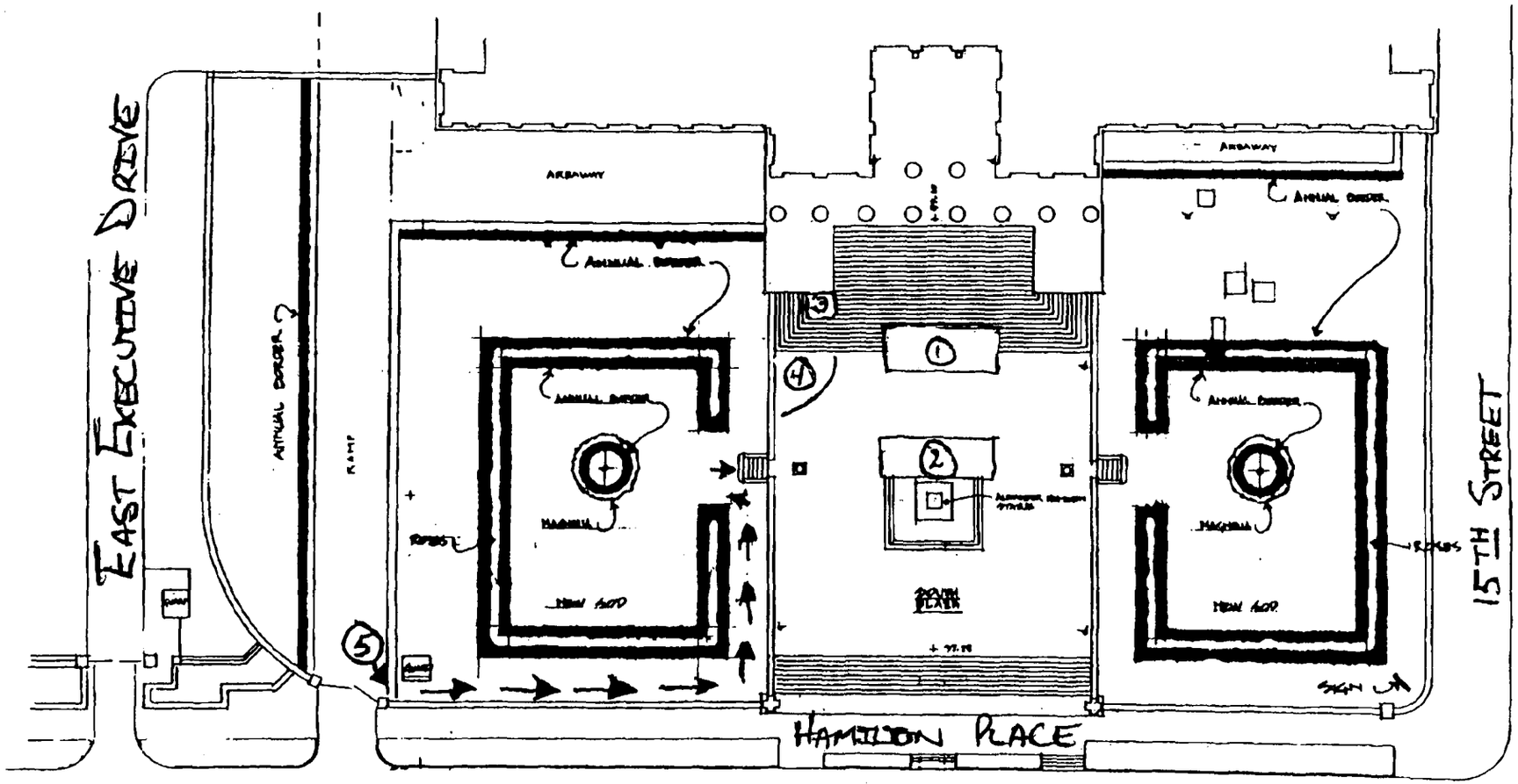
LEGEND

1. STAGE
2. PRESS PLATFORM
3. CUTAWAY PLATFORM
4. PRESS AREA
5. PRESS ENTRANCE





DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

ADV 11 A.M. EDT
Remarks as prepared for delivery
July 10, 1995

REMARKS OF TREASURY SECRETARY ROBERT E. RUBIN
LAW ENFORCEMENT MEMORIAL PLAQUE CEREMONY

In a very few minutes, it will be my solemn duty to carry out a Treasury Department tradition. Since 1991, when members of the Treasury law enforcement team have lost their lives in the line of duty, we have placed their names on a plaque in the fourth-floor hallway in our main building. It contains names dating back to 1907. The eight individuals whose names I will unveil this morning -- six from the Secret Service and two from the U.S. Customs Service -- gave their lives at Oklahoma City and sadly bring to 173 the number of Treasury enforcement personnel so memorialized by their colleagues and country.

These eight fell in the line of duty to a despicable act of terrorism, an act that shocked the entire nation. Because of the magnitude of this tragedy, I wanted to invite Treasury employees in the Washington area to join us this morning. I'm pleased to see such an outpouring to remember our colleagues, to pay tribute to their lives, and to recognize the special role law enforcement plays in our society.

In addition to the members of our Treasury law enforcement team we honor today, other members of the extended Treasury family have suffered deeply from this act of terrorism. We must also remember their loss and their grief.

The men and women of Treasury we honor today were dedicated public servants. Their lives were committed not only to making our lives safer, but also to being good neighbors, being part of their community, to raising families. As the memory of this ceremony fades, we will honor them best by renewing our commitment to the principles that these individuals rightly believed make this nation great.

RR-417 (more)

Today, from the Secret Service, we remember Assistant Special Agent in Charge Alan G. Whicher Special Agents Cynthia L. Brown, Donald R. Leonard and Mickey B. Maroney, Linda G. McKinney, office manager of the Oklahoma City Field Office, and Investigative Assistant Kathy L. Seidl. And we remember Senior Special Agent Claude Medearis and Senior Special Agent Paul Ice of the U.S. Customs Service.

When it comes to law and order, we must -- all of us -- stand with those who stand against those who would deny our right to live in safety. In America, we value the right to dissent, and we will fight those who use violence to destroy the rule of law.

We live in violent and dangerous times. The names on the plaque remind us of that. The barricades on the streets around this complex remind us of that. The pictures from Oklahoma City etched in our memories will never let us forget that. I will never forget what I saw and heard when I went to Oklahoma City and visited with the families of those who paid the ultimate price for freedom.

In these times, we must stand with our law enforcement personnel and every dedicated public servant throughout this country. Every day Treasury law enforcement personnel willingly take on some of the most dangerous assignments in the profession -- protecting our President and other dignitaries, catching those who smuggle drugs into our nation, arresting career criminals, enforcing our firearms laws. By their deeds and heroic acts, they protect our safety.

In a peaceful park, just ten blocks from here, there is a place of great beauty and quiet reflection where the names of federal, state and local law enforcement officers from across the nation are etched in stone to memorialize the lives they laid down in order to give us a safer country. These eight names will be placed on that memorial next year. I fervently hope I do not see another Treasury name added to either memorial in my tenure. In one corner of the national memorial are these words from the book of Proverbs: "The wicked flee when no man pursueth: but the righteous are bold as a lion."

We will be bold, and we will work diligently to bring those responsible for the terrorist act in Oklahoma City to justice -- justice under the rule of law. And enforcing the nation's laws is perhaps the best tribute we can pay in the coming years to those who have sacrificed their lives for a society built on the rule of law.

We salute these men and women. We salute their families. And we salute Treasury employees everywhere for the contribution you make every day.

Thank you.

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AUCTION RESULTS

PUBLIC DEBT NEWS

Department of the Treasury • Bureau of the Public Debt • Washington, DC 20239

FOR IMMEDIATE RELEASE
July 10, 1995

CONTACT: Office of Financing
202-219-3350

RESULTS OF TREASURY'S AUCTION OF 13-WEEK BILLS

Tenders for $13,646 million of 13-week bills to be issued July 13, 1995 and to mature October 12, 1995 were accepted today (CUSIP: 912794V35).

RANGE OF ACCEPTED COMPETITIVE BIDS:

	Discount Rate	Investment Rate	Price
Low	5.37%	5.53%	98.643
High	5.40%	5.57%	98.635
Average	5.40%	5.57%	98.635

Tenders at the high discount rate were allotted 21%.
The investment rate is the equivalent coupon-issue yield.

TENDERS RECEIVED AND ACCEPTED (in thousands)

	Received	Accepted
TOTALS	$56,670,635	$13,646,096
Type		
Competitive	$51,174,790	$8,150,251
Noncompetitive	1,371,957	1,371,957
Subtotal, Public	$52,546,747	$9,522,208
Federal Reserve	3,263,720	3,263,720
Foreign Official Institutions	860,168	860,168
TOTALS	$56,670,635	$13,646,096

An additional $422,432 thousand of bills will be issued to foreign official institutions for new cash.

5.38 - 98.640 5.39 - 98.638

AUCTION RESULTS

PUBLIC DEBT NEWS

Department of the Treasury • Bureau of the Public Debt • Washington, DC 20239

FOR IMMEDIATE RELEASE
July 10, 1995

CONTACT: Office of Financing
202-219-3350

RESULTS OF TREASURY'S AUCTION OF 26-WEEK BILLS

Tenders for $13,610 million of 26-week bills to be issued July 13, 1995 and to mature January 11, 1996 were accepted today (CUSIP: 912794W59).

RANGE OF ACCEPTED COMPETITIVE BIDS:

	Discount Rate	Investment Rate	Price
Low	5.28%	5.51%	97.331
High	5.30%	5.54%	97.321
Average	5.30%	5.54%	97.321

Tenders at the high discount rate were allotted 57%.
The investment rate is the equivalent coupon-issue yield.

TENDERS RECEIVED AND ACCEPTED (in thousands)

	Received	Accepted
TOTALS	$54,222,393	$13,609,651
Type		
Competitive	$47,460,359	$6,847,617
Noncompetitive	1,351,702	1,351,702
Subtotal, Public	$48,812,061	$8,199,319
Federal Reserve	3,600,000	3,600,000
Foreign Official Institutions	1,810,332	1,810,332
TOTALS	$54,222,393	$13,609,651

An additional $888,568 thousand of bills will be issued to foreign official institutions for new cash.

5.29 - 97.326

Department of the Treasury
Financial Crimes Enforcement Network

FinCEN news

2070 Chain Bridge Road, Suite 200, Vienna, VA 22182-2536
1500 Pennsylvania Avenue, NW, Suite 3210, Treasury Annex, Washington DC 20220

FOR IMMEDIATE RELEASE
July 6, 1995

Contact: Carolyn Savage
FinCEN
(703) 905-3770

FINCEN'S EXPERTISE ENHANCED BY NEW STAFF

In keeping with its goal to increase its cadre of financial and banking experts to combat money laundering, Treasury's Financial Crimes Enforcement Network (FinCEN) announced today the addition of four seasoned professionals to its senior staff.

"Building our experience base in many different directions to combat financial crimes, particularly money laundering, requires the kinds of unique talents and valuable expertise these employees bring to our organization," said Stanley E. Morris, Director of FinCEN. "Their collective knowledge and experience brings new dimensions to how we address financial crimes and our global anti-money laundering strategies."

The new personnel:

Michael (Mike) L. Eid's long-standing career with the General Accounting Office (GAO) provided him opportunities to acquire expertise in money laundering processes and techniques. Prior to joining FinCEN, Eid was responsible for GAO's review of the government's efforts to combat money laundering. Throughout his GAO career, Eid testified before Congress, state and Presidential commissions on various money laundering issues.

Jane Fisher has served in both public and private positions throughout her career, acquiring extensive experience in international relations, foreign policy, congressional affairs, management and marketing. Prior to joining FinCEN, Fisher served for eight years as Deputy Staff Director for the Commission on Security and Cooperation in Europe (CSCE) where she focused on economic cooperation, arms control, conflict resolution, and human rights issues.

Richard (Rick) W. Harms returns to FinCEN three years after leaving U.S. government service, during which he expanded his international and financial intelligence expertise while serving as an expert consultant to the Australian

-more-

Transaction Reports and Analysis Centre (AUSTRAC), Australia's financial intelligence agency. Among his other achievements, Harms was also instrumental in developing AUSTRAC's wire transfer monitoring system, which identifies potential money laundering targets.

Gregory (Greg) A. Passic comes to FinCEN from the Drug Enforcement Administration (DEA), where he was the primary architect of the money laundering component of DEA's Kingpin strategy aimed at the top levels of narcotics trafficking organizations. Passic served as DEA's Chief of Financial Investigations. Prior to becoming a FinCEN criminal investigator, Passic acquired his strategic and international money laundering expertise throughout a 27-year law enforcement career.

"FinCEN is a small agency with a very complex mission. It's strength lies in the diverse expertise and broad backgrounds of its personnel," said Morris. "The addition of these talented individuals to our staff is further evidence of FinCEN's commitment to combat money laundering with not only the most advanced strategies and technologies, but the best people."

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TREASURY LAW ENFORCEMENT MEMORIAL

The Treasury Law Enforcement Memorial plaque on the fourth floor of Main Treasury was dedicated in 1991 in memory of Treasury law enforcement personnel killed in the line of duty.

With the addition of the eight names from the Oklahoma City bombing -- six from the Secret Service, two from the Customs Service -- the plaque now includes 173 names.

The names added today are Cynthia Brown, Donald Leonard, Kathy Seidl, Mickey Maroney, Linda McKinney and Alan Whicher of the Secret Service; Paul Ice and Claude Medearis of the Customs Service.

Among the men and women from the Treasury Department who are honored for making the ultimate sacrifice are the following:

- The first name on the plaque is Joseph A. Walker of the Secret Service, who was killed on November 3, 1907, during a land fraud investigation in Durango, Colorado.

- Customs Captain Edward B. Webb was shot and killed on October 8, 1926, after he and another Customs officer, Maurray Tucker, pulled over a rum runner who opened fire on the two Customs agents while they were inspecting the car near Burlington, Vermont.

- Curtis C. Burke of the Bureau of Alcohol, Tobacco and Firearms was shot and killed by Charles Arthur "Pretty Boy" Floyd during execution of a federal search warrant in Kansas City on July 22, 1931.

- Leslie J. Coffelt of the Secret Service died after he was shot in an exchange of gunfire with Oscar Callazo and Guiselio Torresola in front of the Blair House when Puerto Rican Nationalists attempted to assassinate President Harry S Truman on November 1, 1950.

- The Secret Service's Julie Y. Cross was killed on June 4, 1980, by two unknown assailants apparently intent on robbery in Los Angeles while on assignment investigating a counterfeit case.

- ATF agents Conway Lebleu, Todd W. McKeehan, Robert J. Williams and Steven D. Willis were killed in Waco, Texas, on February 28, 1993.

DEPARTMENT OF THE TREASURY

TREASURY NEWS

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FOR IMMEDIATE RELEASE
Text as Prepared for Delivery
July 11, 1995

STATEMENT OF LESLIE B. SAMUELS
ASSISTANT SECRETARY OF THE TREASURY
FOR TAX POLICY
BEFORE THE SENATE COMMITTEE ON FINANCE

RR-421

FOR RELEASE UPON DELIVERY
Expected at 2:30 p.m. EDT
July 11, 1995

STATEMENT OF
LESLIE B. SAMUELS
ASSISTANT SECRETARY (TAX POLICY)
DEPARTMENT OF THE TREASURY
BEFORE THE COMMITTEE ON FINANCE
UNITED STATES SENATE

Mr. Chairman and members of the Committee, I am pleased today to testify on the taxation of U.S. citizens and certain long-term residents who expatriate by renouncing their U.S. citizenship or abandoning their residency.

In March of this year, the Senate Finance Committee reported out a bill (H.R. 831) similar to the Administration's proposal described below that would have effectively dealt with the problems of tax avoidance through expatriation. The entire Senate then approved that bill. The Administration supports these efforts because we believe that U.S. persons should pay their fair share of U.S. tax. Moreover, we believe that public confidence in our tax system is eroded by the perception that some wealthy individuals are able to escape paying taxes through devices that are not generally available to all taxpayers. Our existing laws generally subject individuals to income tax when assets are sold or subject estates to estate tax when the individual dies. Certain wealthy people have found that they can completely avoid paying U.S. tax on their gains by renouncing their U.S. citizenship. Because of the need to obtain another nationality and other transaction costs, renouncing U.S. citizenship to avoid tax is generally only a viable option for the wealthiest Americans.

Although expatriations by super-rich Americans have been publicized recently, the problem of tax avoidance by renouncing citizenship was first addressed in 1966. Under current rules, a special taxation regime applies to a U.S. citizen who renounces his or her citizenship unless the loss of citizenship did not have as one of its principal purposes the avoidance of tax. This special regime applies for 10 years after expatriation. It subjects certain assets that produce U.S. source income to tax at graduated U.S. rates as if the person were still a U.S. citizen. Thus, taxing U.S. persons who abandon their U.S. citizenship is an accepted part of our law. Unfortunately, existing law has proven to be ineffective.

In February of this year, the Administration offered its own proposal to deal with this issue. Under the Administration proposal, if a U.S. citizen relinquishes U.S. citizenship, property held by that person would be treated as if sold at fair market value immediately before such expatriation. Similar rules would apply to expatriating long-term residents of the United States. However, no tax would be imposed on gains up to $600,000, United States real estate, or interests in certain retirement plans.

Senator Moynihan's version of the expatriation proposal, S. 700, is similar in many respects to the Administration proposal and the Senate-passed version of H.R. 831. One important difference is that it allows expatriates who post adequate security to delay paying U.S. tax on gains from identified assets at expatriation if they elect to continue to be taxed as a U.S. citizen with respect to income or gain generated from those assets.

The House Ways and Means Committee proposal, H.R. 1812, takes a different approach to the taxation of expatriates -- one much closer to the existing law. H.R. 1812 imposes income taxes on certain expatriates on their U.S. source income for a period of ten years and estate taxes on assets in the estates of certain expatriates who die within the ten-year period.

We support S. 700 because it does not interfere with an individual's right to renounce U.S. citizenship and it appropriately ensures that the expatriate will pay tax on all gains earned while subject to U.S. taxing jurisdiction. S. 700 removes many of the tax incentives of current law that entice wealthy individuals to renounce U.S. citizenship. S. 700 is crafted to deal most effectively with the broad range of U.S. and foreign economic interests owned by potential expatriates.

Proposals such as H.R. 1812 which are limited primarily to U.S. assets would be less effective. We oppose H.R. 1812 because:

* H.R. 1812 allows an expatriate who waits for ten years before recognizing gains to avoid U.S. tax.

* H.R. 1812 generally does not tax foreign source income. This exemption of foreign gains rewards investment in foreign assets as well as creates a potential loophole for those who may be able to recharacterize their domestic income as foreign source income.

* H.R. 1812 unnecessarily causes the United States to violate international law by its intended override of most of our tax treaties.

* H.R. 1812 contains many of the same compliance problems as current law and is an ineffective response to the public perception and reality of tax avoidance by wealthy expatriates who have substantial unrealized gains.

I. COMPARISON OF LEGISLATIVE PROPOSALS.

We believe that S. 700 is a more appropriate solution to the problems of tax avoidance by expatriation than H.R. 1812. In our view, S. 700 has five advantages over H.R. 1812: (1) S. 700 does not reward patient expatriates; (2) S. 700 does not exclude income otherwise subject to U.S. tax; (3) S. 700 does not create a special class of U.S. citizens who are subject to different standards upon expatriation; (4) S. 700 is more

administrable; and (5) S. 700 does not violate international law by its intended override of most of our tax treaties.

A. S. 700 DOES NOT REWARD PATIENT EXPATRIATES.

H.R. 1812 retains the loophole in current law that allows individuals to pay no tax on gains accrued while subject to U.S. tax, if they have sufficient resources to wait for ten years to recognize those gains. Consequently, the structural problem of current law which permits a patient expatriate to avoid tax is not corrected by H.R. 1812. Under H.R. 1812, taxpayers may have the beneficial use of their assets during the ten-year period without paying U.S. tax by borrowing against their assets, since H.R. 1812 does not trigger gains if U.S. assets are used as loan collateral.

Under H.R. 1812, unlike S. 700, expatriates who can wait ten years can also achieve permanent exemption of income that has been actually realized prior to expatriation, but the recognition of which is currently subject to deferral under an exception in the Code. Congress created these exceptions, allowing deferral of realized income, based upon the assumption that the income would be taxable by the United States at a later time. Under H.R. 1812, persons who expatriate would after ten years be in a better position than persons who remain citizens, because such expatriates can defeat these Congressional assumptions by permanently avoiding tax on the income.

In contrast, S. 700 does not treat expatriates who can wait for ten years to elapse more favorably than expatriates who must recognize gains during the ten-year period after expatriation or those U.S. citizens who do not expatriate. Under S. 700, all expatriates with more than $600,000 of qualifying gains are required to pay U.S. tax. (S. 700 contains an election allowing expatriates to avoid paying the tax currently by posting adequate security and agreeing to pay U.S. tax on the entire gain when realized. There is no ten-year limitation on the tax imposed under this election.)

B. S. 700 DOES NOT EXCLUDE INCOME OTHERWISE SUBJECT TO U.S. TAX.

Despite our current tax regime which taxes the worldwide gains of U.S. citizens, H.R. 1812 only applies to domestic gains of expatriates. Thus, expatriates with foreign assets are able to avoid tax under H.R. 1812. In addition, expatriates with domestic assets may be able to avoid tax under H.R. 1812 by using tax planning techniques to treat their domestic assets as foreign assets.

1. EXPATRIATES WITH FOREIGN ASSETS.

Under current law, gains from foreign assets that accrued during U.S. citizenship are not subject to U.S. tax after expatriation. H.R. 1812 retains this structural loophole of current law, with relatively minor modifications. Thus, under H.R. 1812, even a

tax-motivated expatriate is not required to pay tax on all gains that accrued during U.S. residence. Consequently, H.R. 1812 does not effectively address published reports of tax abuse involving expatriates who avoided U.S. tax on foreign gains accrued prior to expatriation.

The limited scope of H.R. 1812 is best illustrated by examining the various types of gains it subjects to tax. First, H.R. 1812 would not tax gains from foreign real property. Second, H.R. 1812 would not tax gains from tangible personal property that is not located in the United States at the time that it is sold. Thus, if tangible personal property is moved to a foreign country before it is sold, there will be no tax under H.R. 1812. (As discussed below, the regulatory authority provided in H.R. 1812 to the Treasury regarding tangible personal property will be difficult to administer in many cases.) Finally, stocks and bonds which generate foreign source income are generally not subject to tax under H.R. 1812.

In contrast, as described above, S. 700 follows the framework of our existing tax system which taxes all gains, whether foreign or domestic, of a U.S. citizen.

2. EXPATRIATES WITH DOMESTIC ASSETS.

Under H.R. 1812, taxpayers will continue to be able to use tax planning techniques to avoid U.S. tax on domestic income by resourcing the income as foreign source. We believe that as long as the Code exempts a class of assets from tax upon expatriation, and provides for a waiting period for exemption from U.S. tax, tax advisors will constantly discover new methods to avoid tax. The approach taken in H.R. 1812 lends itself to artful tax dodging. Some holes have already been plugged, but proposals which are similar in concept to existing section 877 can be expected to be circumvented by additional planning techniques. Furthermore, since the "taxpayer" will be overseas, tax avoidance schemes do not have to be as iron-clad because of the difficulties of enforcing U.S. tax law against expatriates. Some of these techniques are described in Appendix A.

We are most concerned about loopholes in H.R. 1812 that we have not identified. Only a bill like S. 700 that does not exempt a broad class of assets or provide a waiting period before exemption can be effective in preventing taxpayers from avoiding tax by expatriation. Otherwise, tax planning techniques will certainly evolve to frustrate the goal of taxing expatriates in an appropriate and fair way.

As a final note on this issue, the JCT Report seems to recognize that aggressive tax planning will be used to circumvent expatriate tax rules. The report indicates "in the longer term, four or five years after the [Administration] proposal is enacted, individuals planning to expatriate at that time would have had enough of a warning to prepare properly for expatriation, so growth in revenue attributable to the Administration

proposal drops off significantly."[1] Although we are unsure of what techniques are contemplated and thus do not agree with this conclusion, it is clear that in comparing H.R. 1812 and S. 700, planning opportunities are very significantly greater under H.R. 1812. We do not understand why the proponents of H.R. 1812 believe that an expatriate would be unable to plan around a provision which only taxes certain income for a limited period of time (such as H.R. 1812), but would be able to plan around the Administration proposal which comprehensively taxes all accrued gains at the time of expatriation.

C. S. 700 DOES NOT CREATE A SPECIAL CLASS OF U.S. CITIZENS.

We agree with H.R. 1812's premise that current law's tax motivation requirement makes current law difficult to administer.[2] For this reason, H.R. 1812 generally does not require the IRS to demonstrate a tax avoidance motive for taxpayers with more than $500,000 of net worth. However, H.R. 1812 provides special exceptions for certain U.S. citizens by exempting them from tax unless tax avoidance can be proven.

H.R. 1812 provides special preferences to U.S. citizens who (1) were born with dual citizenship, (2) have a family member that was born in another country, or (3) have lived outside the United States for ten years. These individuals would be allowed to enjoy the benefits of citizenship, but would not be required to pay tax if they renounce U.S. citizenship unless tax avoidance is proven. We do not believe that it is appropriate to create such classes of U.S. citizens with special tax benefits. U.S. citizens of foreign birth and their children should certainly not be discriminated against nor, as H.R. 1812 would do, be provided with special benefits. This type of rule erodes public confidence in the fairness of our tax system.

H.R. 1812 does not require these exempt expatriates to pay tax to any country in order to avoid the U.S. expatriation tax. These expatriates can retire to a tax haven and still enjoy the exemption provided by H.R. 1812. (H.R. 1812 requires those with family members born in another country to obtain citizenship in that country; but this requirement may not have any real tax effect since almost all countries tax on the basis of residence, not citizenship.)

H.R. 1812 requires that these special taxpayers request a ruling from the IRS to the effect that their expatriation is not tax motivated. Thus, these taxpayers will obtain unique benefits if they merely *request* a private ruling from the IRS on this issue. Under

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[1] Staff of the Joint Committee on Taxation, "Issues Presented by Proposals to Modify the Tax Treatment of Expatriation", June 1, 1995 at E-5. We shall refer to this document hereafter as the "JCT Report".

[2] Ways and Means Committee Report at p. 24.

H.R. 1812, if the IRS does not believe the expatriate's assertions regarding nontax motivation, the expatriate will effectively avoid the tax because he requested a ruling, unless the IRS successfully challenges the motivation in court. In making such a challenge, the IRS would continue to face the same difficult problems of current law in enforcing a rule based on the taxpayer's state of mind.

In contrast, S. 700 treats U.S. citizens equally. The only exception is that S. 700 does not apply to an individual who has lived in the United States for less than five years and renounces U.S. citizenship by age 18 1/2. This exception seems appropriate because an individual may automatically be a U.S. citizen if born within the United States, and U.S. nationality laws do not allow such an individual to renounce U.S. citizenship permanently until age 18 1/2.

D. S. 700 IS MORE ADMINISTRABLE.

H.R. 1812 allows expatriates to leave U.S. tax jurisdiction without paying a current tax or posting security. Thus, H.R. 1812 suffers from the same potential compliance problems as current law. Like current law, H.R. 1812's requirement that the IRS monitor an expatriate's activities for ten years after departure is very difficult to administer because the taxpayer's income is not reported to the IRS and the taxpayer is beyond IRS jurisdiction. H.R. 1812 does not ensure that additional information is collected from expatriates for ten years after they depart. H.R. 1812 merely requires the expatriate to file a form at the time of expatriation. No additional information is required which would allow the IRS to monitor taxable events during the ten-year period after expatriation. In addition, H.R. 1812's penalties for noncompliance are not significant (the greater of 5 percent of the amount due under H.R. 1812 or $1,000).

In contrast, information should be available to enforce the provisions of S. 700 more effectively since the tax is imposed at the time of expatriation and a tax return is due within 90 days of expatriation. Generally, continued monitoring would not be required of post-expatriation activities. However, if an expatriate elects to defer U.S. tax under S. 700, the requirement that the expatriate post security should be sufficient to ensure a continuing flow of adequate information.

There are obviously tax administration issues when a person leaves the United States with unfulfilled tax obligations. S. 700 determines the amount of those obligations as the person departs U.S. jurisdiction and collects the tax shortly after departure (or permits taxpayers to elect continued taxation of specified assets provided adequate security is provided). In contrast, H.R. 1812 requires the IRS to investigate an expatriate's activities for ten years, with all of the problems incumbent therein.

In addition, the procedure contained in H.R. 1812 which requires certain taxpayers with connections to foreign countries to request an IRS ruling could result in ineffective use of IRS resources. In 1984, Congress recognized that the IRS could not

effectively administer a similar ruling process which required the IRS to determine tax motivation when appreciated property was transferred to certain foreign corporations. Also, if the IRS determines a tax avoidance purpose in the ruling process, the expatriate can reject that determination. The IRS would then be required to litigate the matter. In contrast, S. 700 has no need for such a ruling process.

H.R. 1812 also authorizes regulations that would treat the removal of tangible personal property from the United States as a taxable event. These regulations will be difficult to draft and administer. For example, what would be the tax result if an expatriate visited her U.S. grandchildren for a weekend while wearing appreciated jewelry? Should these regulations impose U.S. tax every time tangible personal property is removed from the United States? What if the tangible property is moved before expatriation?

Finally, H.R. 1812 also provides regulatory authority to apply the bill's antiabuse rules to the five-year period prior to expatriation. It is unclear how these rules would operate. For example, assume an expatriate engages in a transaction that could be subject to the antiabuse rules in year one, and then expatriates in year five. Would the regulatory authority create a taxable event in year one -- now a closed taxable year? In addition, we understand that H.R. 1812 contemplates that Treasury will issue regulations after enactment that will apply to the five-year period prior to enactment. Thus, H.R. 1812 could retroactively create taxable transactions for events that occurred in 1991, 1992, 1993, 1994 and before February 6, 1995.

E. S. 700 BETTER RESPECTS INTERNATIONAL LAW.

There are two ways in which expatriation proposals may affect international law. My testimony first considers their impact on international human rights, and then turns to their impact on U.S. tax treaties.

1. INTERNATIONAL HUMAN RIGHTS.

Some expressed initial concerns about whether the Administration's expatriation proposal would violate international law regarding human rights. It is now clear that those concerns are unfounded. Letters from a multitude of experts indicate that the expatriation proposals that have been introduced do not violate international human rights law. Letters were received from Harvard professor Detlev Vagts, New York University professor Andreas Lowenfeld, and University of Virginia professor Paul Stephan. In addition, Fletcher School of Diplomacy professor Hurst Hannum, who had initially expressed reservations about the Administration proposal, wrote a second letter indicating that the Administration proposal would not violate U.S. obligations under international law. The Department of State has provided an extensive legal opinion that concludes that the Administration proposal is consistent with international law. In response to a Congressional inquiry, the Congressional Research Service has also

concluded that the Administration proposal would not violate international law. More recently, Harvard Professor Ann-Marie Slaughter submitted a letter which concludes that S. 700 does not violate international human rights. She states: "Individuals do not have a right to evade the normal obligations of citizenship, including taxation. To allow citizens to escape these obligations without penalty or compensation would be akin to allowing an unrestricted right for rich portions of a population to secede from their poorer neighbors on the ground that they should not be required to shoulder the burden of providing for the common welfare."

The JCT Report supports these views in concluding: "In sum, viewing the objective and design of the [Administration] proposals as an attempt to neutralize the tax consequences that flow under United States tax laws from the decision to retain or renounce citizenship, it is difficult to conclude that the proposals would be an arbitrary infringement under international law..."[3]

Today, I would like to add the opinions of several others. First, I would like to submit for the record a letter from a prominent international human rights organization, the Minnesota Advocates for Human Rights. The letter states:

> While we take no position on the merits of [the Administration expatriation tax] legislation, we are concerned that international human rights law has erroneously been invoked by opponents of the proposal to suggest that it might violate the right to leave and to return to one's country. As organizations devoted to the protection and promotion of international human rights law, we must take issue with the interpretation of international law being espoused by opponents of this legislation... The proposed tax law change would not infringe upon human rights protections... Accordingly, we hope that your Committee will consider the tax proposal on its merits and avoid irrelevant international human rights arguments.

Second, I would like to submit for the record a detailed letter from Anthony D'Amato, the Leighton Professor of Law at Northwestern University School of Law. Mr. D'Amato is the Founder and Chairman of the Human Rights Interest Group of the American Society of International Law. Mr. D'Amato's letter states:

> After careful study and research, I believe that the Administration's expatriation tax proposal does not violate, even minimally, the human rights that all persons enjoy under international law. Indeed, a case can be made that the average American taxpayer's rights are infringed under current law if wealthy Americans can expatriate themselves and avoid paying their fair share of capital gains tax.

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[3] JCT Report at p. 99.

In summary, the Administration is satisfied that none of the proposals under consideration violate international human rights.

2. TAX TREATIES.

H.R. 1812 will necessarily cause the United States to violate its international obligations because it is intended to override U.S. tax treaties. Although U.S. domestic law allows legislative overrides of tax treaties, these overrides violate U.S. obligations under international law.

Under H.R. 1812, most wealthy U.S. individuals are subject to tax on their U.S. source income for ten years after they expatriate without regard to whether their expatriation was tax motivated. The Committee Report to H.R. 1812 indicates that H.R. 1812 overrides contrary provisions of U.S. tax treaties:[4]

> The Committee is also aware that certain existing U.S. income tax treaties may not permit the United States to assert its taxing jurisdiction on former citizens or long-term residents who are residents of such countries. . . . [T]he new provisions [of H.R. 1812 will] take precedence over the treaties for a period of 10 years.

H.R. 1812 is intended to override at least three categories of U.S. tax treaties. First, by substituting a wealth test for a motivation test, H.R. 1812 overrides 22 tax treaties that allow continued U.S. taxation of former citizens only if their expatriation was tax motivated (income tax treaties: Australia, Barbados, Cyprus, Finland, France, Germany, India, Indonesia, Israel, Italy, Jamaica, Mexico, Netherlands, New Zealand, Norway, Spain, and Tunisia; estate tax treaties: Austria, Canada, Denmark, Germany, and Sweden). As stated in the Committee Report, "the bill subjects certain individuals to the expatriation tax provisions without inquiry as to their motive for losing their U.S. citizenship or residency..."[5] These treaties only permit U.S. taxation of noncitizens to the extent their expatriation was tax motivated. Moreover, H.R. 1812 would clearly override the 1992 income tax treaty with the Netherlands because that treaty specifically provides that U.S. expatriation tax rules cannot be asserted against any national of the Netherlands, even if the expatriation was tax-motivated.

Second, H.R. 1812 overrides eight estate tax treaties which restrict the ability of the United States to tax transfers by former citizens who are residents of the treaty partner at the time of their death (estate tax treaties: Australia, Finland, France, Greece, Ireland, Italy, the Netherlands, and Norway).

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[4] Ways and Means Committee Report at p. 17.

[5] Ways and Means Committee Report at p. 17.

Third, the provisions of H.R. 1812 relating to former long-term residents of the United States override most of our income and estate tax treaties. None of these income tax treaties permit the United States to impose tax on certain gains that would be covered by H.R. 1812 on former residents of the United States who become residents of the treaty partner. Similarly, none of the estate tax treaties permit the United States to impose tax on certain transfers of assets that would be covered by H.R. 1812 by former residents of the United States who become residents of the treaty partner.

We also note that the override of tax treaties for a ten-year period ending in the year 2005 (assuming enactment in 1995) is unprecedented. Presumably, any issue which is pressing enough to override a tax treaty should also be pressing enough to override a tax treaty after this ten-year period expires. Also, our treaty partners knowing that the override will sunset after 2005 will attempt to drag out renegotiations so that those treaties would not change their treatment of expatriates after 2005.

Treaty overrides are not an issue that our treaty partners take lightly. The JCT Report indicates that the treatment of former U.S. citizens is an important issue in treaty negotiations. "First, [our treaty partners] may prefer to preserve for their own residents the benefits under the treaty (*i.e.*, not subject to U.S. taxing jurisdiction). Second, they may resist the continuing expansion of taxation by the United States based on citizenship status. Third, they believe that they will lose revenue if they cede to the United States primary jurisdiction over non-U.S. source income."[6] H.R. 1812 allows expatriates to reduce their U.S. tax under H.R. 1812 by any foreign taxes paid on those gains, and thereby cede primary taxing jurisdiction in certain cases to treaty partners. However, this provision does not change the fundamental nature of the treaty override: our treaty partners entered into a bargain with the United States that they did not expect to be broken unilaterally.

If the United States were to renegotiate treaties to take account of an override for expatriation, the JCT Report states that "in order to extract such a concession from our treaty partners during the negotiation process, it probably would be necessary for the United States to forego certain other benefits to obtain a balance of benefits under the treaties."[7] We agree that concessions would be necessary in any renegotiation of our treaties. Therefore, when comparing H.R. 1812 to S. 700, Congress should weigh any tradeoffs in tax treaty negotiations that would be required as a result of H.R. 1812.

We believe that, from the perspective of international law, the approach of H.R. 1812 is fundamentally flawed since it is possible to achieve the tax policy objectives of taxing expatriates without overriding tax treaties. In order to prevent tax avoidance by

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[6] JCT Report at p. 120.

[7] JCT Report at p. 120.

expatriates in a manner consistent with U.S. obligations under international law, the taxable event should occur while the individual is still a U.S. citizen or resident, and not after his expatriation. S. 700 does not conflict with tax treaties since S. 700 assesses tax while the individual is still a U.S. citizen or resident. The United States would be able to impose this tax consistent with our treaty obligations.

The JCT Report questions whether the provision of S. 700, which establishes a new date on which U.S. citizenship terminates, would violate tax treaties. (This same issue is raised with H.R. 1812.) The JCT Report is concerned that the undefined term "U.S. citizen" in tax treaties would have the meaning it had at the time that the treaty went into effect. This concern is unfounded. The United States interprets this term by reference to the definition that is in effect at the time of interpretation.[8] This U.S. approach is consistent with international norms. The 1995 version of the Organization for Economic Cooperation and Development ("OECD") Model income tax treaty will be revised to make this point more explicit, and the commentary will state that this clarification is to conform the OECD Model text more closely to the general and consistent understanding of Member states.

While a legislative override of tax treaties may occasionally be required by compelling circumstances, expatriation tax avoidance is not one of those cases. We strongly urge Congress not to override tax treaties when alternative means of achieving our tax policy objectives can be accomplished without violating international law. In this case, it is clear that S. 700 does not override tax treaties and this fact alone should be the basis for its support over H.R. 1812. We believe that this objection by itself is so serious that H.R. 1812 should be rejected.

F. OTHER ISSUES.

1. INFLUENCE OF PROPOSALS ON THE INCENTIVES FOR EXPATRIATION.

The JCT Report asserted that S. 700 would create incentives for individuals with high basis assets to expatriate. We believe that this concern does not stand up to scrutiny. First, existing law already provides powerful tax incentives for expatriation. Under current law, a taxpayer with high-basis assets (*i.e.*, someone who has recently inherited assets with a step-up in basis) can expatriate, then sell those assets at no or little gain and reinvest in foreign source income producing assets. The sooner the individual expatriates, the sooner he lowers his U.S. income tax liabilities under current law, S. 700, or H.R. 1812. (In this regard, while this tax planning idea for taxpayers with

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[8] For the general proposition that the United States interprets undefined treaty terms by reference to the definition in use at the time of interpretation, see Rev. Rul. 80-243, 1980-2 C.B. 413.

high basis assets is theoretically possible, we have not identified very wealthy U.S. citizens who have recently expatriated as being in this category.) Thus, relative to current law, S. 700 is unlikely to provide any additional incentive that would be strong enough to cause acceleration of expatriations.

In addition, H.R. 1812 has similar incentives to those alleged in S. 700. Under H.R. 1812, a recent heir could contribute his high-basis U.S. property to a foreign corporation and incur little or no tax. As a result, the expatriate's U.S. assets would be treated as foreign assets under H.R. 1812 because they are held through a foreign corporation. However, if the recent heir waited until his assets appreciated to expatriate, to the extent he does not plan around the provisions of H.R. 1812, he would trigger a larger amount of U.S. tax when he contributed his then-appreciated U.S. property to the foreign corporation. Thus, to the extent H.R. 1812 is effective, a recent heir has similar incentives to accelerate his expatriation to those he has under S. 700.

H.R. 1812 may provide incentives to accelerate expatriation among a different group of taxpayers. If H.R. 1812 is effective in requiring individuals to pay U.S. tax for ten years after their expatriation, individuals who intend to sell their business when they retire, or give the business to their children, have an incentive to expatriate ten years prior to such transaction. Under current law, they may be able to avoid U.S. tax and delay their expatriation until immediately before the transaction. These same incentives would apply to individuals who intend to expatriate to avoid U.S. estate taxes. S. 700 does not contain this same incentive to accelerated expatriation, because it does not continue to impose U.S. income tax for ten years after expatriation.

On this point, I would like to submit for the record a letter from three law professors at Harvard University: Bernard Wolfman, Reuven Avi-Yonah, and Diane Ring. Their letter indicates that S. 700 is unlikely to increase expatriations, and notes that if it were to cause increased expatriations, H.R. 1812 would be likely to have the same effect. Their letter also makes the point that those with appreciated assets will have substantially more incentives to accelerate their expatriation under H.R. 1812 than under S.700. They conclude: "We believe that a tax imposed on accrued gains at the time of expatriation (such as the Administration proposal) is superior to an approach which attempts to assess tax for ten years following expatriation. The latter proposal seems to provide more incentives to expatriate than the former."

2. TREATMENT OF LAWFUL PERMANENT RESIDENTS.

H.R. 1812 imposes continuing income, gift and estate tax obligations for ten years on any individual who has been a lawful permanent resident of the United States for eight years. Some might view it as unusual to subject these people to continued U.S. taxation for a longer period after they expatriate than the period that they were a U.S. resident.

The JCT Report states: "The Administration proposal would have an unfair effect on U.S. long-term residents who have been in the United States for more than 10 years and who have had no notice that they would be taxed on unrealized gains upon departure from the United States."[9] We do not agree with this analysis. Congress has the right to change the taxation of long-term residents and has done so in the past (*e.g.*, 1984 changes to definition of "resident" of the United States under section 7701(b)). Thus, long-term residents have no right to assume that our tax laws will not change, especially when the change mirrors a provision applicable to U.S. citizens.

Finally, we note that H.R. 1812 is only effective for long-term residents who expatriate after June 13, 1995. We believe that the effective date for any proposal should be consistent with the date used for citizens: February 6, 1995. Also, this effective date for long-term residents was set forth in the Administration's proposal.

II. THE JOINT COMMITTEE ON TAXATION EXPATRIATION REPORT.

In response to the Committee's request to testify at this hearing, the discussion below addresses a few of the points made by the JCT Report.

A. IMPORTANCE OF TAX AVOIDANCE THROUGH EXPATRIATION.

We believe that the available evidence demonstrates that tax avoidance by expatriates is an important problem which needs to be resolved. A group of wealthy individuals are taking advantage of a loophole in existing law which results in a significant revenue loss. Recent media interest as well as the attention devoted by the Congress and its staffs demonstrate a keen interest in this problem and the need to ensure that our tax code is perceived as fair. We have all dealt with reverse situations affecting a few taxpayers and the nominal revenue when the assertion is made that the tax laws were deemed to bite inappropriately. Thus, this issue needs to be resolved as a matter of fairness and public perception, regardless of the exact number of individuals affected or revenue raised.

The JCT Report found that expatriation to avoid tax was not a significant or growing problem.[10] We agree that there are relatively few persons involved, but the revenue involved is not insignificant to either the taxpayer or the Treasury.

The JCT Report states that the Department of State was only able to identify four individuals who had expatriated out of approximately one thousand who were on the

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[9] JCT Report at p. 4.

[10] JCT Report at 1, 61, 65.

Forbes 400 list over the prior ten years.[11] This does not seem to be compelling evidence of an insignificant problem for several reasons. The Department of State was unable to check a substantial portion of the Forbes 400 list because, due to the limitations of their data, the JCT was not able to provide precise names of individuals who are members of 203 families that were included in the Forbes 400.[12]

There are many wealthy individuals in the United States who are not included in the Forbes 400. Thus, assessing the magnitude of the problem by focusing on this list does not give an accurate measure of the problem. Since the Administration proposal was released in February, Treasury has continued to gather data on the incidence of tax avoidance through expatriation. We are presently able to identify 68 citizens or long-term residents by name who have expatriated in the last five years and are wealthy enough to be affected potentially by H.R. 1812. In attempting to identify these expatriates, we have experienced some of the same frustrations that the JCT has encountered in trying to identify wealthy expatriates by name. We too have found transcription errors and difficulties matching expatriation records with our tax files. Therefore, we believe that we have not identified all wealthy expatriates during this period.

Also, there is a well-known cottage industry of tax advisors who advise on these types of tax planning techniques. Books are published and seminars are regularly presented on these issues. This industry would not exist without a reasonable level of expatriation activity. In addition, based on extensive discussions with practitioners, we believe that recent publicity of the expatriation tax loophole is causing many individuals who had never seriously considered the possibility to begin the process in earnest.

Finally, the JCT revenue estimate, although much lower than the Administration's estimate, confirms the seriousness of the problem. The JCT estimates that the Administration proposal would raise $1.9 billion over ten years. (The revenue estimates are discussed in more detail below.) Even based on the JCT's assessment of the number of individuals involved, a tax loophole that allows these individuals, however many, to save such a significant amount demands attention and action.

B. ENFORCEMENT OF CURRENT LAW.

The JCT Report complains that the IRS has not exerted adequate resources in trying to enforce current law.[13] However, the JCT agrees that current law is so flawed

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[11] JCT Report at pp. 65-66.

[12] In addition, the Department of State was unable to verify at least one person on the Forbes 400, Kenneth Dart, because of a transcription error in the data it received.

[13] JCT Report at p. 2.

that any such enforcement efforts would have only been effective with respect to those taxpayers who engaged in poor tax planning. The JCT Report concludes: "Because of the limitations in the scope of present law, an individual may be able to achieve significant tax savings through expatriation, even if the person is found to have had a tax avoidance motive, and is thus subject to the special expatriation tax rules."[14]

We believe that, given the inadequacies of current law, the IRS over the last 29 years has devoted appropriate resources to tax avoidance by expatriates.

* Information provided to the JCT indicates that the IRS has identified approximately twenty individuals who are wealthy expatriates. The IRS pursued claims against many of these individuals, but existing law has not proven adequate to impose an appropriate amount of U.S. tax.

* For example, one individual expatriated several days before he earned several hundred million dollars of foreign source income. In addition, if that individual had remained a U.S. citizen, the taxpayer would have owed more than one billion dollars in U.S. tax on subsequent transactions. Despite extensive IRS resources devoted to this case, it appears that no U.S. tax will be collected on transactions after the taxpayer's expatriation.

We conclude that the infirmities of current law are so serious that additional enforcement efforts by the IRS would have been nearly futile.

C. PURPOSE OF EXPATRIATION PROPOSALS.

In evaluating the proposals, we believe that the principal goal should be to move the Internal Revenue Code closer to tax neutrality for preexpatriation gains of an individual that is currently subject to tax as a citizen and facing the choice of whether or not to expatriate. To the extent possible, expatriation should not allow a U.S. citizen or resident to escape tax otherwise due on income or wealth accrued while a citizen or resident. In this regard, proposals should attempt to develop a system where an expatriate is not treated more favorably than a U.S. citizen who does not expatriate.[15]

Many of the recommendations of the JCT Report are contrary to the goal of moving closer to tax neutrality and achieving fairness. For example, the JCT Report suggests that the United States should not tax gains of expatriates on foreign assets.[16]

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[14] JCT Report at p. 69.

[15] H.R. Rep. No. 145, 104th Cong., 1st Sess. 24 (1995). We shall refer to this document hereafter as the "Ways and Means Committee Report".

[16] JCT Report at p. 4.

However, to achieve tax neutrality, the expatriation proposal should apply to foreign source income earned by expatriates because the United States generally taxes U.S. citizens on their worldwide income, exempting the foreign source income of expatriates retains the incentive to expatriate. In contrast, a proposal that taxes worldwide gains unrealized at the time of expatriation would provide much less incentive to expatriate.

In addition, the JCT Report questions whether the expatriation proposal should apply to U.S. citizens who were not born in the United States or who have not lived in the United States for a period of time.[17] However, the United States has taxed its citizens who do not reside in the United States since the enactment of the Internal Revenue Code. The reason the United States taxes nonresidents is that they enjoy substantial benefits of U.S. citizenship. If Congress were to determine that a nonresident citizen does not enjoy enough benefits of U.S. citizenship to justify U.S. taxation of his worldwide income, he should not be subject to *any* U.S. income taxes. As long as current law provides for taxation of nonresident citizens, the expatriation proposal should also apply to these individuals.

A comprehensive tax at the time of expatriation on accrued worldwide gains, such as S. 700, comes closest to the ideal of tax neutrality. This approach would eliminate a substantial portion of the tax savings that otherwise would result from a decision to expatriate. In this regard, the motive for expatriation should be irrelevant. Further, the expatriation tax provisions should not exempt any accrued gains that would be subject to tax if realized as a citizen. Finally, the comprehensive accrued income approach would not reach beyond the economic income the taxpayer earned while subject to the U.S. tax system. Proposals like H.R. 1812 that tax U.S. source gains accrued after expatriation will encourage citizens to engage in behaviors to avoid U.S. source income after expatriation. This is the experience of current law.

III. REVENUE ESTIMATES.

You have asked for our comments on the revenue estimates of the various expatriation proposals. Treasury estimates that H.R. 1812 would generate approximately $0.10 billion over five years without a treaty override or $0.45 billion over five years with a treaty override, as compared to S. 700 which Treasury estimates would generate approximately $1.68 billion over five years. A summary of Treasury's revenue estimates for the various expatriation proposals follows.

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[17] JCT Report at p. 2.

TREASURY REVENUE ESTIMATES
(in billions of dollars)

	Through 2000	Through 2005
Administration proposal	2.15	6.30
S. 700	1.68	4.92
H.R. 1812		
(no treaty override)	0.10	0.30
(treaty override)	0.45	1.19

In order to obtain its revenue estimates, Treasury began by examining recent levels of expatriation. To do this, we attempted to locate the tax records from our files of those individuals who had recently expatriated. Our files consist of a sample of about 100,000 individual income tax returns, which includes a high proportion of the very highest income taxpayers. Because of both the incomplete coverage of our files, and the difficulty of matching records based on the name of the taxpayer (rather than the taxpayer's identification number), it is likely that we were not able to locate all of the relevant records. Nevertheless, expatriates whose tax records we were able to locate were used to project a baseline showing the projected future tax consequences of expatriation absent any change in the tax laws. The revenue gains attributable to each of the proposals before you today were then estimated by comparing their resulting tax consequences to this projected baseline.

Revenue estimates of the expatriation provisions are based on the specific financial situations of a relatively small number of taxpayers, and for this reason are subject to more uncertainty than many other revenue estimates. For example, although we have identified data showing at least 68 wealthy expatriates in recent years who apparently would have been subject to H.R. 1812, the revenue estimates of all proposals to tax income of wealthy expatriates are dominated by the potential expatriation of only a few multi-millionaires in any year. Adding or subtracting only one of these multi-millionaires from the sample, especially in the early years of the estimate, will have a relatively large effect on the revenue estimate. Therefore, it would be reasonable to expect that two independent groups, each using their best efforts and judgment, could come to different conclusions about the precise magnitude of the revenues attributable to each bill.

Inferences that can be drawn from the JCT Report suggest that JCT and Treasury may have different views on the best estimate of future levels of tax avoidance through expatriation, on the effect of estate and gift taxes on individuals, and on U.S. taxes that continue to be paid by expatriates. Treasury believes that tax avoidance through

expatriation is a growing problem. Therefore, we believe that the most recent information on expatriations most accurately represents the scope of the problem. In addition, we believe that if expatriation is deterred by a proposal, the United States will collect estate taxes on individuals who would otherwise have expatriated. Finally, we believe that expatriates continue to pay only very modest levels of U.S. tax as nonresident taxpayers under current law. Disparities between Treasury and JCT estimates likely reflect the JCT's somewhat different views on these matters.

Because of the difficulty involved in determining the precise magnitude of the revenue effects, it may be more instructive to focus on the relative magnitude of the estimates for the various proposals. In our view, the Administration proposal should raise the most revenue, S. 700 would rank second, and H.R. 1812 should be expected to raise the smallest amount of revenue.

In order to explain this ranking of the revenue-generating potential of the three proposals, let us compare the effect of each of these proposals on an extremely wealthy U.S. citizen holding a diverse portfolio of appreciated assets who is planning to expatriate solely to avoid income and estate tax under current law. Under the Administration proposal, this individual is faced with a choice: he can expatriate and pay capital gains tax on unrealized gains immediately, or he can remain a U.S. citizen, continue to pay U.S. tax on his worldwide income, and defer tax on capital gains until they are realized or his estate pays estate tax. We believe the Administration's proposal will substantially remove that individual's tax incentives to expatriate. We, therefore, assume that the individual will remain a U.S. citizen, and that the United States will lose no tax revenue from that individual because he will elect to remain a U.S. citizen. (If we had assumed that individuals such as this one would continue with their plans to expatriate, the expatriate would pay a tax on his accrued gains at the time of departure, and the revenue gain in the budget window would have been much larger.)

Generally, we assume that S. 700 will also deter this type of wealthy individual from expatriating. Although S. 700 allows taxpayers to defer the payment of tax on their gains, when the asset is eventually sold, tax is due on the entire gain. Thus, on a present value basis, an expatriate would pay a tax on accrued capital gains under S. 700 that is at least as great as the Administration proposal. However, we believe that certain individuals may choose to expatriate under S. 700 and elect to defer tax until the asset is disposed. Therefore, our revenue estimate for S. 700 is not as great as the estimate for the Administration's proposal. S. 700 would reduce the revenue in a five or ten year period for those individuals who choose to expatriate, because it would allow the taxpayer to defer the tax on assets that have substantial accrued capital gains.

We believe that H.R. 1812 is unlikely to deter many individuals from expatriating. Our hypothetical wealthy individual's tax can be expected to be lower if the taxpayer expatriates. The expatriate will nearly always have a tax incentive to expatriate under H.R. 1812, because only certain types of income will continue to be taxed, whereas he

would be taxed on all income if he remained a U.S. citizen and no tax is due after the ten-year waiting period.

Some of the reasons why expatriation continues to provide tax-saving opportunities under H.R. 1812 are inherent in the design of the bill, while others appear to stem from potential loopholes. The tax incentives to expatriate that remain under H.R. 1812 are four-fold. First, H.R. 1812 imposes tax on the U.S. assets of expatriates for only ten years following expatriation. Thus, expatriates who are patient can forego income from their U.S. assets and can put off realizing the embodied capital gains for ten years. Second, some individuals own foreign assets, whose sale would be exempt from tax after expatriation (as would any income generated by those assets). Third, as described above, there are a number of techniques that seem to allow expatriates to avoid tax on their domestic gains. Finally, H.R. 1812 allows exceptions for certain individuals with ties (by birth, ancestry, or marriage) to foreign countries. Some of the wealthy expatriates we have identified would have benefited from these exceptions.

The foregoing discussion describes the relative tax considerations for a wealthy individual with a wide variety of appreciated assets who was planning to expatriate. Much has been made of the potential effect of the three proposals on the less frequent case of a taxpayer whose assets consist primarily of recently inherited wealth. Because of the step-up in basis for inherited assets, this taxpayer will have a high basis in these assets. The claim has been made that the Administration's proposal encourages these recent heirs to expatriate immediately. We can debate whether this type of taxpayer, who had planned to postpone expatriation to some future date, would in fact immediately expatriate, and the revenue implications of such a decision. However, the Administration's proposal, S. 700 and H.R. 1812 would all lead to similar results for these wealthy heirs. In other words, under all three proposals the taxpayer will be able to expatriate and immediately sell his assets and avoid future U.S. tax consequences, so that this hypothetical should have little or no impact on the relative estimates for the three proposals. In addition, if the Administration proposal speeds up expatriations, those who expatriate are likely to pay some tax on departure, since even recent heirs are likely to also own a number of appreciated assets.

CONCLUSION

In the last few months, extraordinary attention has been focused on tax avoidance through expatriation. We stand firm in our belief that Americans who avoid their tax responsibilities by expatriating should not be rewarded. Instead, they should be asked to pay the same tax on income they accrued while subject to U.S. tax laws that those who remain will pay sooner or later. We believe that Congress should enact an expatriation tax avoidance provision that is based on S. 700.

Mr. Chairman, this concludes my remarks. I would be pleased to answer any questions that the Committee may have.

APPENDIX A

POSSIBLE TAX PLANNING TECHNIQUES FOR EXPATRIATES TO AVOID TAX UNDER H.R. 1812 ON U.S. SOURCE INCOME AND GAINS

1. Under H.R. 1812, taxpayers can effectively dispose of their U.S. assets during the ten-year period through installment sales. If an expatriate sells a U.S. asset to a foreign purchaser for an installment note that will mature in eleven years, it appears that no tax will be imposed on the sale under H.R. 1812. However, during the ten-year period he would be able to receive interest on the installment note without U.S. tax because the interest would be from foreign sources.

2. Property which produces U.S. source income can be transferred to a foreign corporation without recognition of gain. As long as that corporation does not sell the property or make any distribution of income to the expatriate within the ten-year window, there will be no U.S. tax imposed by reason of H.R. 1812 on income from those assets. After the ten-year period, the expatriate can withdraw the income without U.S. tax. Also, an expatriate will always have an incentive to contribute his U.S. assets to a foreign corporation, because any resulting gain is only taxed to the extent of preexpatriation gains. In contrast, if he continued to own the assets directly, he could be subject to tax on all gains.

3. An expatriate may reduce tax under H.R. 1812 by incurring interest expenses which would reduce domestic income. For example, assume that an expatriate will earn $20 million of domestic source dividends each year. The expatriate could borrow $200 million (secured by his U.S. stock) and invest the loan proceeds in foreign instruments. After this transaction, the expatriate will earn $20 million of domestic dividends, pay $20 million of interest expense, and earn $20 million of foreign income. Despite the fact that the expatriate may not have significantly changed his overall economic position, the interest expense may be allocated (in whole or in part) against U.S. income, thereby minimizing his U.S. tax obligations under H.R. 1812.

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May 22, 1995

Hon. Leslie B. Samuels
Assistant Secretary (Tax Policy)
Department of the Treasury
Washington, D.C. 20220
Fax: (202) 622-0605

Dear Secretary Samuels:

Your office has asked for my views on the international human rights aspects of the Administration proposal to prevent individuals who choose to renounce their citizenship from avoiding their ordinary tax responsibilities. I teach international law and international litigation and have written in the area of democratic theory and international human rights.

I understand that Senator Moynihan is offering an amendment to the Administration proposal that will allow individuals seeking to renounce their citizenship to choose either to pay capital gains tax on gains in excess of $600,000 or to continue to be treated as a U.S. citizen for tax purposes. I conclude that with the addition of this amendment the Administration's proposal is consistent with international law and with the U.S. commitment to the protection and promotion of human rights.

As has been ably analyzed by the Office of the Legal Adviser and by various other experts in international law consulted by your office, the proposed tax violates neither the right to emigrate nor the right to expatriate. U.S. citizens remain entirely free to leave the territory of the United States and to live abroad. U.S. citizens also remain free to renounce their citizenship, on the condition that they fulfill the ordinary obligations of citizenship imposed equally and non-arbitrarily on all citizens.

Individuals do not have a right to evade the normal obligations of citizenship, including taxation. To allow citizens to escape these obligations without penalty or compensation would be akin to allowing an unrestricted right for rich portions of a population to secede from their poorer neighbors on the ground that they should not be required to shoulder the burden of

providing for the common welfare. To the extent that expatriation is a means to the end of tax evasion, it is reasonable and legal for a government to qualify or condition the right of expatriation in such a way as to prevent it from being used for such purpose. Indeed, the United States joins the company of nations such as Canada, Germany, Denmark, Sweden, and the Netherlands, nations with a strong record of combining protection of fundamental human rights with recognition of the responsibilities of all members of a polity to contribute their fair share to the commonweal.

To impose the expatriation tax without regard to the motive for expatration might unfairly burden those who seek emigration for reasons unrelated to tax considerations. However, the amendment offered by Senator Moynihan allowing individuals to elect to continue to be treated as U.S. citizens for tax purposes for a length of time after expatriation alleviates this concern. As amended, the proposed tax is fully consistent with the protection of international human rights.

Sincerely,

Anne-Marie Slaughter

Anne-Marie Slaughter
Professor of Law

ADVOCATES
FOR HUMAN RIGHTS

July 7, 1995

The Honorable Robert Packwood
Chair, Committee on Finance
United States Senate
Washington, D.C. 20510

The Honorable Daniel Patrick Moynihan
Committee on Finance
United States Senate
Washington, D.C. 20510

Leslie B. Samuels
Assistant Secretary (Tax Policy)
Department of the Treasury
1500 Pennsylvania Avenue N.W.
Washington, D.C. 20220

Dear Sirs:

We understand that the Committee on Finance is considering legislation to subject wealthy U.S. citizens to tax on the capital gains (in excess of $600,000) they have accumulated during the period of their citizenship, even if they try to avoid capital gains or estate taxation by giving up their U.S. citizenship. While we take no position on the merits of this legislation, we are concerned that international human rights law has erroneously been invoked by opponents of the proposal to suggest that it might violate the right to leave and to return to one's country.

As an organization devoted to the protection and promotion of international human rights law, we must take issue with the interpretation of international law being espoused by opponents of this legislation. The Universal Declaration of Human Rights provides in Article 13 that "Everyone has the right to leave any country, including his own, and to return to his country" and in Article 15(2) that "No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality." Similarly, the International Covenant on Civil on Political Rights, which came into force for the United States on September 8, 1992, states in Article 12(2) that "everyone shall be free to leave any country, including his own."

The proposed tax law change would not infringe upon those human rights protections. U.S. citizens would not be prevented from leaving the U.S.; their right to travel would be undiminished. Neither would U.S. citizens be deprived arbitrarily of their right to change their nationality. Instead, they would be subjected to taxes which they would ordinarily have had to pay upon death or sale of their property and they would not be permitted to avoid taxation by the tactic of renouncing their citizenship.

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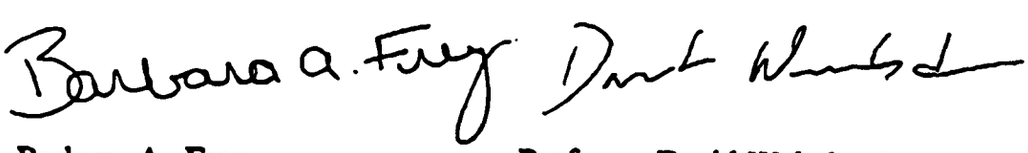
We understand that opponents of the Administration's tax proposal have even cited the Jackson-Vanik Amendment, Section 402 of the Trade Act of 1974. The Jackson-Vanik Amendment was adopted in response to the very high Soviet tax imposed on Soviet citizens (particularly Jews) who wanted to leave the U.S.S.R., but that tax was imposed on an the basis of an individual's level of education and not their wealth or income. Also, the Soviet tax was imposed on emigration -- not on change of citizenship. Hence, the Jackson-Vanik Amendment is not inconsistent with the Clinton Administration's tax proposal.

It is also useful to note that similar tax provisions have been in force in the following countries: Australia, Canada, Denmark, Finland, Germany, Netherlands, Norway, and Sweden. For example, Canada imposes a departure tax upon the termination of Canadian residence, which is somewhat similar to the proposed U.S. tax on expatriation. Indeed, Canada and all the countries mentioned above (unlike the U.S.) have ratified the Optional Protocol to the Civil and Political Covenant or have accepted the individual petition procedure under the European Convention for the Protection of Human Rights and Fundamental Freedoms. Nonetheless, a review of the jurisprudence under the Civil and Political Covenant and the European Convention fails to reveal any support for the idea that human rights law would forbid the proposed tax on expatriation.

Accordingly, we hope that the Committee will consider the tax proposal on its merits and avoid irrelevant international human rights arguments.

Sincerely yours,



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July 6, 1995

Hon. Leslie B. Samuels
Assistant Secretary (Tax Policy)
Department of the Treasury
1500 Pennsylvania Avenue N.W.
Washington, DC 20220

Dear Mr. Samuels:

In connection with the hearing that you have scheduled for July 11, 1995, I am sending you the following comments on the international human rights implications of the Administration expatriation tax proposal. I hope these comments may be of assistance to you.

Statement of Qualifications

I am the Leighton Professor of Law at Northwestern University, where I have taught since 1968. I graduated from Cornell in 1958, received a J.D. from Harvard Law School in 1961, and a Ph.D. from Columbia University in 1968. I am the founder in 1985 and still Chair of the Human Rights Interest Group of the American Society of International Law. I have written about twenty books and a hundred articles, specializing on the theory of international law and human rights.

Brief Conclusion

After careful study and research, I believe that the Administration's expatriation tax proposal does not violate, even minimally, the human rights that all persons enjoy under international law. Indeed, a case can be made that the average American taxpayer's rights are infringed under current law if wealthy Americans can expatriate themselves and avoid paying their fair share of capital gains tax.

Argument

I am personally opposed to capital gains taxation; I believe it disadvantages Americans in the world economy. However, as long as capital gains taxation is on the books, there should be no unfair loopholes for anyone who has enjoyed capital appreciation. The Administration's expatriation tax proposal closes a loophole. This can be seen clearly if we consider how Congress might have taxed capital gains and compare that scenario with the way capital gains are presently taxed. From the very beginning of the capital gains tax, Congress might have required each taxpayer at the end of the taxable year to add up all capital appreciation, subtract the amount of capital assets that had devalued during that year, and pay a tax on the net gain if any. Instead, Congress decided to tax capital gains when they were converted or sold. This may have made the capital gains tax more politically acceptable, because a taxpayer who

sold assets would presumably be holding cash, thus easing the tax bite. Yet if we compare what Congress might have done with what Congress actually did, we find that there is no substantial difference as far as measuring the tax is concerned; rather, the only difference is a technical one--that the tax as currently administered is triggered by the sale or conversion of assets, and not simply by bookkeeping at the end of a taxable year. Below the surface, what is really being taxed, in both cases, is the capital appreciation itself. Capital gains taxation is simply a tax on net capital appreciation. When the tax is triggered by a sale or by the taxable year coming to a close--is only of incidental importance.

It seems to me that any American citizen, who has enjoyed the economic and social protections of this country that have enabled him or her to amass capital appreciation, owes a capital gains tax. Congress has provided either that the tax must be paid upon sale or conversion of the capital asset or that the appreciated asset be funneled into the taxpayer's estate where it incurs estate taxation at higher rates than the capital gains rate. Since everyone who owns a capital asset either sells (or converts) it, or dies holding it, there is in theory no escape from capital gains taxes. When Congress initially enacted the capital gains tax, it was thought that there was no possible escape, and hence the tax was fair because everyone enjoying net capital appreciation would have to pay it sooner or later.

However, it has recently been found that there may have been an unintended expatriate's loophole. An American taxpayer who has amassed capital appreciation during the term of his or her American citizenship, may decide to avoid the "triggering mechanism" by (a) undergoing expatriation, and (b) selling the appreciated assets after a new citizenship has been acquired in another country. Even under present law, if the IRS can prove that the expatriation was done for a tax-avoidance purpose, the capital gains tax will apply and "follow" the taxpayer to the new country. As I see it, the only reason for the Administration's current expatriation tax bill is the difficulty of proving a tax-avoidance intent. The expatriating taxpayer can well afford to hire expensive counsel to fight the IRS on the issue of intent, an issue which is inherently difficulty to prove.

There should be no reason for the IRS to have to prove intent, because expatriating taxpayers should not be allowed to escape capital gains taxation for the incidental reason having to do with the "triggering mechanism." For the underlying fact is that capital appreciation was earned during the course of the taxpayer's American citizenship, and therefore a tax is fairly due on that appreciation at some point in time. If the taxpayer manages to avoid paying the tax because of expatriation, then all the other taxpayers who remain American citizens are proportionally disadvantaged to the extent of the expatriate's tax avoidance.

International law, a system that dates back over three thousand years, was never intended to confer an advantage on a person who changes national allegiance at the expense of the citizens who remain home. In recent years, international law has affirmatively provided for expatriation, but not at the expense of avoiding one's legitimate obligations. Thus, in the Universal Declaration of Human Rights, Articles 13 and 15 provide:

> Article 13
>
> 1. Everyone has the right to freedom of movement and residence within the borders of each state.

2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 15

1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Those who quote these provisions out of context conveniently forget that the Universal Declaration of Human Rights also contains Article 29:

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 29 paragraph 2 makes it clear that any of the preceding Articles that confer specific rights on persons (such as the right to a nationality and the right of expatriation) are not to come at the expense of the "rights and freedoms of others." Normally, the act of expatriation does not affect the rights of other persons. But if expatriation in fact functions so as to negatively affect the rights of others, then the expatriation can be limited by law so as not to have that negative effect. Thus, the expatriation tax plugs this particular loophole. It ensures that the expatriate does not get away without paying his or her fair share of taxes.

A qualification similar to that of Article 29 is contained in the International Covenant on Civil and Political Rights, ratified by the United States Senate on April 2, 1992, but this time right within the same Article that allows for expatriation, Article 12:

Article 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

2. Everyone shall be free to leave any country, including his own.

> 3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.
>
> 4. No one shall be arbitrarily deprived of the right to enter his own country.

Thus, international law again makes it clear that one person's human rights are not to be at the expense of another person's human rights. It is a fundamental tenet of taxation that persons who are equally situated are subject to equal taxes. American citizens who enjoy capital appreciation and then either sell their assets or include their assets in their estates must pay the capital gains tax (or estate taxes at higher rates). The same holds true for an American citizen who enjoys capital appreciation and then leaves the United States before selling the assets (or, of course, before dying). The capital gains that accrue when during the time that a taxpayer is an American citizen are fairly subject to taxation. Paragraph 3 of Article 12 of the International Covenant on Civil and Political Rights which speaks of the "rights and freedoms of others" ensures application, under international law, of this principle to the expatriating taxpayer.

To be sure, the scale between an individual's human rights and the "rights and freedoms of others" can tip too far in either direction. If an expatriate leaves without paying his fair share of taxes, then, as I have argued, the "rights and freedoms of others" are negatively impacted. But it is also possible to inflate the "rights and freedoms of others" to the point that a person is deterred from expatriating. This is indeed what happened in the Soviet Union in the 1970s, which was rightly subject to the Jackson-Vanick Amendment to the Trade Act of 1974. This Amendment, also known as the "Freedom of Emigration" Amendment, denied most-favored-nation treatment to the Soviet Union so long as it "impose[d] more than a nominal tax on emigration." (Trade Act of 1974, 19 USC § 2432.) Congress was reacting to the imposition by Moscow of a "diploma tax" on emigrants who had received higher education at the State's expense.

The Soviet Union's "diploma tax," for at least four basic reasons, presented an almost insuperable barrier to any individual who desired to leave that country. Yet if we look at the "diploma tax" more closely, we can find that it is significantly different from the "exit tax." First, the Soviet Union made the payment of the "diploma tax" a precondition for its citizens to leave the country. This was a physical obstacle to emigration, one that in fact blocked most people from leaving. In contrast, the Administration's expatriation tax imposes no restraint upon anyone's right or freedom to leave the United States and/or give up American citizenship. Second, the "diploma tax" was extremely steep. Although the actual amounts imposed on citizens wishing to leave the Soviet Union varied according to the bureaucrats who administered the tax, my own calculation of the average amount of the "diploma tax" is that it was the equivalent of the amount of money an average Soviet citizen might have been able to save after fifteen to twenty years of labor. As a result, the "diploma tax" was excessively burdensome, and succeeded in reducing the rate of emigration to a trickle. In contrast, the "exit tax" only applies if there are capital gains. And if there are capital gains, the taxpayer is only liable for a tax of 28% (or less) of the cash realized upon sale of the assets. Since the taxpayer will have this cash in hand, paying of a portion of it in taxes, though unpleasant, is hardly a barrier to leaving the country. (In

those cases where it may appear to be a barrier, the bill gives the expatriate reasonable options for deferring payment.) Third, there was no rational basis within the Soviet economy for placing a monetary value on higher education, with the result that the amount of the "diploma tax" was essentially arbitrary. The reason there was no rational basis was that, under the Soviet system, a college graduate received the same monthly salary as a person who did not go to college. The value of higher education was only that you had a wider choice of jobs (e.g., you could be a scientist in military defense if you were a college graduate). Since higher education was free, and since it did not lead to a higher-paying job, a college graduate could not recapture the value of her education in the job market. Hence, raising the money needed for the "diploma tax" within the Soviet economy was unrelated to the fact of having a higher education. Hence the amount of the "diploma tax" was arbitrary. This lack of economic relationship between the diploma and the diploma tax constitutes a major difference from the "exit tax" proposed in the United States, where there is a direct relation between asset appreciation and paying a capital gains tax on that asset appreciation. Fourth, the Soviet Union imposed the "diploma tax" in order to discriminate against its Jewish citizens who had been emigrating to Israel in large numbers. Although the "diploma tax" applied to everyone who wanted to leave, in fact nearly everyone who wanted to leave in the 1970s was of the Jewish faith. Thus the "diploma tax," quite apart from human-rights provisions regarding nationality and expatriation, may have violated other deep-seeted human rights prohibitions against discrimination based upon group membership.

Finally, allow me to address the contention that even if the Administration's expatriation tax does not violate international law, other countries might perceive it as contrary to the position the United States took regarding the Soviet "diploma tax," and therefore might regard the United States as compromising its moral authority with respect to international human rights. I believe that if some people in other countries take this position, they may be doing it to score political points. For honest reflection should convince them that there is not even the remotest chance that the expatriation tax violates international human rights--indeed, as I have argued, not imposing the tax would violate the rights of all the American taxpayers who do not leave this country. (If they don't want to engage in honest reflection about this point, then there's nothing we can do about it. We shouldn't change our own policies because other people can dishonestly misconstrue them.)

Conclusion

Even though I see no problem whatsoever with the international human rights implications of the Administration's expatriation tax proposal, I am gratified that this issue is being given prominent attention. A few decades ago no one would have cared about human rights. It is a distinct mark of our progress as a civilization that an issue of tax policy is argued in terms of its impact upon international human rights.

Respectfully submitted,

Anthony D'Amato
Leighton Professor of Law
Northwestern University

HARVARD LAW SCHOOL
CAMBRIDGE · MASSACHUSETTS · 02138

July 10, 1995

Leslie B. Samuels
Assistant Secretary (Tax Policy)
Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Secretary Samuels:

We would like to share with you some of our views regarding one aspect of the expatriation proposals that will be considered by the Senate Committee on Finance on July 11. We understand that it has been suggested that the Administration proposal might create a particular incentive to expatriate for individuals who own unappreciated assets. This suggestion is puzzling. Initially, we wonder how many wealthy individuals have little or no gain in their assets. Even recent heirs often have assets that have appreciated. But assuming the existence of such individuals, current law nearly always provides an incentive to expatriate as soon as possible to avoid U.S. income taxes. The Administration proposal, which would tax accrued gains of expatriating individuals, would seem to add little to the incentives of existing law, especially given the latter's ineffectiveness. Moreover, the House Ways and Means Committee proposal (H.R. 1812) would have the same purported incentive as the Administration proposal. Under H.R. 1812, an expatriate could "cleanse" U.S. assets by contributing them to a foreign corporation and then recognizing any accrued gains. Thus, under H.R. 1812, a recent heir might have an incentive to expatriate as soon as possible to reduce the amount of appreciation that would be triggered when assets are transferred to the foreign corporation. We conclude, therefore, that individuals with unappreciated assets should be no more likely to expatriate under the Administration proposal than under H.R. 1812.

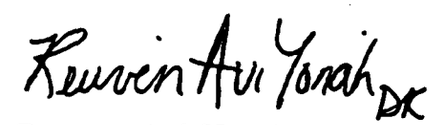
Furthermore, if H.R. 1812 effectively requires expatriates to pay tax on their U.S. income for ten years following expatriation (a result we doubt), it seems likely that H.R. 1812 would create incentives for wealthy individuals with appreciated assets to expatriate. If an individual planned to sell his or her business and retire at age 65, under current ineffective law that individual could avoid U.S. tax by expatriating immediately before retirement at age 64. If H.R. 1812 were enacted, however, the individual would need to expatriate at age 54 (10 years prior to retirement) in order to avoid U.S. tax. This concern may be more serious because the population of wealthy individuals presumably contains many more people with appreciated assets than those with unappreciated assets. Similarly, an expatriate trying to avoid U.S. estate tax can accomplish that result under current law by

expatriating just before death. If H.R. 1812 were in effect, the individual would be encouraged to expatriate at least ten years before he or she expected to die.

We believe that a tax imposed on accrued gains at the time of expatriation (such as the Administration proposal) is superior, for the above and other reasons, to an approach which attempts to assess tax for ten years following expatriation. The latter proposal seems to provide more incentives to expatriate than the former.

Sincerely,

Bernard Wolfman
Fessenden Professor of Law



Reuven Avi-Yonah
Assistant Professor of Law

Diane Ring
Assistant Professor of Law

The views expressed above are those of the individuals and not necessarily those of the University.

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

FOR IMMEDIATE RELEASE
July 12, 1995

Contact: Jon Murchinson
(202) 622-2960

RUBIN ANNOUNCES FINANCIAL MARKETS ASSISTANT SECRETARY NOMINEE

Treasury Secretary Robert E. Rubin announced Wednesday, July 12 that President Clinton has nominated Darcy E. Bradbury to be Treasury Assistant Secretary for Financial Markets.

Ms. Bradbury has been serving as Deputy Assistant Secretary for Federal Finance since August of 1993. From January of 1990 until she joined the Department, Ms. Bradbury was New York City Deputy Comptroller for Finance. Ms. Bradbury was an investment banker specializing in infrastructure finance from 1982 to 1989 with First Boston and Kidder, Peabody & Co.

Ms. Bradbury graduated *magna cum laude* from Harvard/Radcliffe Colleges in 1978 with a B.A. in social studies and graduated with honors from the Harvard University School of Business Administration in 1982. She is married to Eric Seiler of New York City and they have two sons. Ms. Bradbury was born in 1957 in New York State and was raised in Fair Oaks, CA.

-30-

RR-422

DEPARTMENT OF THE TREASURY

TREASURY NEWS

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FOR RELEASE AT 2:30 P.M.
July 11, 1995

CONTACT: Office of Financing
202/219-3350

TREASURY'S WEEKLY BILL OFFERING

The Treasury will auction two series of Treasury bills totaling approximately $26,400 million, to be issued July 20, 1995. This offering will provide about $1,175 million of new cash for the Treasury, as the maturing bills are outstanding in the amount of $25,235 million.

Federal Reserve Banks hold $6,662 million of the maturing bills for their own accounts, which may be refunded within the offering amount at the weighted average discount rate of accepted competitive tenders.

Federal Reserve Banks hold $2,875 million as agents for foreign and international monetary authorities, which may be refunded within the offering amount at the weighted average discount rate of accepted competitive tenders. Additional amounts may be issued for such accounts if the aggregate amount of new bids exceeds the aggregate amount of maturing bills.

Tenders for the bills will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D. C. This offering of Treasury securities is governed by the terms and conditions set forth in the Uniform Offering Circular (31 CFR Part 356) for the sale and issue by the Treasury to the public of marketable Treasury bills, notes, and bonds.

Details about each of the new securities are given in the attached offering highlights.

oOo

Attachment

RR-423

HIGHLIGHTS OF TREASURY OFFERINGS OF WEEKLY BILLS TO BE ISSUED JULY 20, 1995

July 11, 1995

Offering Amount	$13,200 million	$13,200 million
Description of Offering:		
Term and type of security	91-day bill	182-day bill
CUSIP number	912794 T4 6	912794 W6 7
Auction date	July 17, 1995	July 17, 1995
Issue date	July 20, 1995	July 20, 1995
Maturity date	October 19, 1995	January 18, 1996
Original issue date	October 20, 1994	July 20, 1995
Currently outstanding	$28,927 million	- - -
Minimum bid amount	$10,000	$10,000
Multiples	$ 1,000	$ 1,000

The following rules apply to all securities mentioned above:

Submission of Bids:	
Noncompetitive bids	Accepted in full up to $1,000,000 at the average discount rate of accepted competitive bids
Competitive bids	(1) Must be expressed as a discount rate with two decimals, e.g., 7.10%. (2) Net long position for each bidder must be reported when the sum of the total bid amount, at all discount rates, and the net long position is $2 billion or greater. (3) Net long position must be determined as of one half-hour prior to the closing time for receipt of competitive tenders.
Maximum Recognized Bid at a Single Yield	35% of public offering
Maximum Award	35% of public offering
Receipt of Tenders:	
Noncompetitive tenders	Prior to 12:00 noon Eastern Daylight Saving time on auction day
Competitive tenders	Prior to 1:00 p.m. Eastern Daylight Saving time on auction day
Payment Terms	Full payment with tender or by charge to a funds account at a Federal Reserve Bank on issue date

DEPARTMENT OF THE TREASURY

TREASURY NEWS

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FOR IMMEDIATE RELEASE
Remarks as prepared for delivery
July 12, 1995

REMARKS OF TREASURY SECRETARY ROBERT E. RUBIN
BRADY LAW GRANTS ANNOUNCEMENT

I want to talk about how important the action being announced today is to enforcement of what I believe is a landmark law in our efforts to reduce handgun violence and save lives. This has been a cooperative effort on the Hill and in the administration, and important progress is being made.

We're nearly a year and one-half into the Brady Law, and we know for a fact it is keeping handguns out of the hands of people who have no business owning such weapons. After our Bureau of Alcohol, Tobacco and Firearms did such a good job implementing the law, they were asked to take a look at its results. The ATF estimated in February, the one-year point for Brady, that it had stopped about 41,000 illegal handgun sales. There is clear proof that handguns are being kept away from convicted felons, fugitives, drug users, stalkers, spouse abusers and, yes, even children who have tried to buy handguns. Very importantly, law-abiding Americans who want to own a handgun are still able to purchase one with minimal inconvenience.

The requirements of the Brady Law are keeping these weapons out of reach of the small percentage of people who use them in crimes. That's important when you look at how many handguns there are in society and when you look at the crime figures.

There are an estimated 76 million handguns potentially available for sale in this country. At least 2.5 million handguns were manufactured for domestic sales in 1993, and our Bureau of Alcohol, Tobacco and Firearms estimates about 3.5 million handguns were sold in the United States in 1993.

The importance of the Brady Law is reinforced by the crime numbers. The last statistics available tell us that handguns figure in 86 percent of the violent crimes recorded in this country, and that handguns are responsible for more than 13,500 murders every year.

RR-424 (more)

We want law enforcement personnel and firearms dealers to have a rapid way to tell if a potential handgun buyer has a criminal record, is under indictment, or faces a restraining order for potentially dangerous behavior. With some 3.5 million handguns being sold each year, the faster police and dealers know if the wrong people are trying to buy guns, the better.

This program is an important step in making it easier to ensure that people who have no business with a handgun can't get one, and that law abiding citizens who want to buy a handgun can get a quick "yes."

Thank you.

-30-

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

Remarks as prepared for delivery
July 12, 1995

Remarks
by
Ronald K. Noble
Under Secretary for Enforcement
Department of the Treasury
before the
National Association of Blacks in Criminal Justice
Denver, Colorado

MEMBERS OF THE NATIONAL ASSOCIATION OF BLACKS IN CRIMINAL JUSTICE, I AM HONORED AND HAPPY TO BE HERE TONIGHT. I AM HONORED BECAUSE YOUR ORGANIZATION IS ON THE CUTTING EDGE OF LAW ENFORCEMENT. I AM HAPPY TO BE HERE BECAUSE I DO NOT OFTEN ENOUGH HAVE THE OPPORTUNITY TO SPEAK DIRECTLY WITH RANK AND FILE MEMBERS OF LAW ENFORCEMENT.

BEFORE TURNING TO SOME PRESSING LAW ENFORCEMENT ISSUES, I WANT TO CONGRATULATE YOU ON YOUR CONFERENCE AND YOUR ACHIEVEMENTS. IN THIS ADMINISTRATION WE BELIEVE IN EXPANDING OPPORTUNITY, AND WE BELIEVE THAT A PROPER ROLE FOR GOVERNMENT IS EMPOWERING ALL PEOPLE TO MAKE THE VERY BEST OF THEIR LIVES.

AFRICAN AMERICANS IN LAW ENFORCEMENT ARE ESSENTIAL TO HEALTHY CIVIC LIFE. IN OUR COMMUNITY, WE IMPROVE COMMUNICATION AND UNDERSTANDING. WE MAKE POSSIBLE A SENSE OF JUSTICE. AND WE MAKE IT MORE LIKELY THAT JUSTICE WILL BE ACHIEVED.

I AM PROUD TO SERVE IN AN ADMINISTRATION THAT INCLUDES AFRICAN AMERICANS AT THE HIGHEST LEVELS OF LAW ENFORCEMENT, INCLUDING DR. LEE BROWN AS THE HEAD OF THE OFFICE OF NATIONAL DRUG CONTROL POLICY. IN MY POSITION AT TREASURY, I HAVE STRENGTHENED OUR DEMAND REDUCTION PROGRAMS AND OUR BORDER DRUG INTERDICTION. OUR LAW ENFORCEMENT BUREAUS PROVIDE MENTORS AND TUTORS IN OUR SCHOOLS, TEACH YOUNG PEOPLE RESISTANCE TO GANGS, AND BECOME ROLE MODELS TO OUR YOUTH.

I HAVE WORKED TO ACHIEVE DIVERSITY IN TREASURY'S ENFORCEMENT BUREAUS. WE NOW HAVE A FEMALE HEAD OF U.S. INTERPOL; A FEMALE DIRECTOR OF TREASURY'S ASSET FORFEITURE FUND; I APPOINTED THE FIRST AFRICAN AMERICAN ACTING DIRECTOR OF A TREASURY BUREAU; THE FIRST AFRICAN AMERICAN ASSISTANT COMMISSIONER AT CUSTOMS, AND THE FIRST AFRICAN AMERICAN ASSISTANT DIRECTOR AT ATF.

DIVERSITY ALONE IS NOT THE ANSWER. THERE HAS RECENTLY BEEN A DISTURBING REPORT THAT FEDERAL LAW ENFORCEMENT AGENTS HAVE BEEN PARTICIPATING IN AN ANNUAL "GOOD OLD BOYS" EVENT THAT INVOLVES OPENLY RACIST ACTS. IF THESE ACTIONS OCCURRED AS REPORTED THEY ARE OUTRAGEOUS AND INCONSISTENT WITH BEHAVIOR BECOMING A LAW ENFORCEMENT OFFICER. LET ME ASSURE YOU THAT WHEN I LEARN THE FULL FACTS -- AN INQUIRY IS UNDERWAY -- I WILL ENSURE THAT APPROPRIATE ACTION IS TAKEN. THE ONE POSITIVE THING I CAN SAY ABOUT THE REPORTS I'VE HEARD SO FAR IS THAT A WHITE AND A BLACK AGENT VENTURED TO THIS EVENT TOGETHER THIS YEAR. WHEN THEY UNDERSTOOD THE TONE OF THE GROUP, THE TWO OF THEM LEFT TOGETHER AS WELL, AND REPORTED WHAT HAD OCCURRED.

BUT ALL OF THE EFFORT AND ACHIEVEMENT WE ARE MAKING IN THE AREA OF DIVERSITY AND EQUALITY AND DIGNITY IS BEING CHALLENGED BY AN OMINOUS DEVELOPMENT: THE MANY ATTACKS ON FEDERAL LAW ENFORCEMENT ACROSS THIS COUNTRY.

NEXT WEEK THE HOUSE OF REPRESENTATIVES WILL BEGIN HOLDING A SERIES OF HEARINGS ON THE EVENTS THAT OCCURRED TWO YEARS AGO AT WACO, TEXAS. THE FIRST FOUR DAYS OF THESE HEARINGS WILL FOCUS ON THE ROLE OF THE BUREAU OF ALCOHOL TOBACCO AND FIREARMS AT WACO AND THE REVIEW OF ATF'S INVESTIGATION OF DAVID KORESH THAT SECRETARY BENTSEN MADE PUBLIC IN SEPTEMBER 1993 . THESE HEARINGS, WHICH COVER GROUND ALREADY REVIEWED BY CONGRESS LAST YEAR, ARE VERY MUCH ON MY MIND.

ALSO ON MY MIND DURING THESE PAST MONTHS SINCE THE BOMBING OF THE FEDERAL BUILDING IN OKLAHOMA CITY ARE THE ATTACKS ON FEDERAL LAW ENFORCEMENT, AND IN PARTICULAR ON THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS. ATF IS A VERY IMPORTANT MEMBER OF THE TREASURY ENFORCEMENT FAMILY. TONIGHT I WOULD LIKE TO SHARE WITH YOU SOME OF MY THOUGHTS ABOUT ATF, AND ABOUT THE VARIOUS INVESTIGATIONS OF WACO.

AS POLICE IN SOME OF THE MOST DANGEROUS NEIGHBORHOODS OF OUR NATION'S CITIES, YOU FACE VIOLENCE AND VILIFICATION BY ARMED CRIMINALS EVERY DAY WHEN YOU DO THE WORK OF ENFORCING OUR NATION'S LAWS. BUT I AM CERTAIN THAT SINCE YOU HAVE BEEN WORKING AT YOUR JOBS, YOU HAVE NOT AWAKENED TO FULL PAGE ADVERTISEMENTS IN YOUR MORNING NEWSPAPERS CALLING YOU AND YOUR ORGANIZATIONS FASCISTS AND THUGS. BUT THIS IS PRECISELY WHAT HAS HAPPENED TO THE ATF AND ATF AGENTS THIS PAST YEAR. THIS NAME CALLING HAS HAPPENED IN NEWSPAPERS AND IT HAS EVEN HAPPENED IN CONGRESS.

AS THE SON OF A MILITARY FAMILY, I VIVIDLY REMEMBER THE 1960'S WHEN SOLDIERS RETURNING FROM VIET NAM WERE CALLED BABY KILLERS, AND WHEN POLICE WERE CALLED PIGS AND OTHER EPITHETS THAT I WILL NOT REPEAT HERE, BY CITIZENS WHO OPPOSED THE WAR IN VIET NAM. THAT LANGUAGE WAS WRONG AND TERRIBLY DIVISIVE. IT IS THE KIND OF VICIOUS, UNFAIR, AND DESTRUCTIVE RHETORIC THAT ATF AND ITS AGENTS FACE TODAY. IT IS NOT ONLY WRONG. IT IS NOT ONLY MOTIVATED BY THE LOWEST FORM OF POLITICS. BUT IT DEEPLY IMPAIRS THE MORALE OF THE AGENTS ON THE LINE.

I AM AWARE THAT SOME PEOPLE BELIEVE THAT THERE ARE LAW ENFORCEMENT AGENTS WHO ARE OUT OF CONTROL AND WHO MISUSE THEIR AUTHORITY. FROM TIME TO TIME POLICE OFFICERS SOMETIMES OVERSTEP THEIR AUTHORITY. BUT, AS I OFTEN TELL MY STAFF , "I AM AN EVIDENCE MAN, SHOW ME THE EVIDENCE." I HAVE NOT SEEN EVIDENCE THAT ATF OR OTHER TREASURY AGENCIES ARE OUT OF CONTROL AND USING EXCESSIVE FORCE AGAINST CITIZENS. IF, HOWEVER, YOU OR ANYONE IN YOUR COMMUNITIES ARE AWARE OF ANY MISUSE OF AUTHORITY BY TREASURY LAW ENFORCEMENT AGENTS, PLEASE BRING THEM TO MY ATTENTION, AND I ASSURE YOU THEY WILL BE THOROUGHLY INVESTIGATED.

WHY IS ATF BEING ATTACKED NOW? WE ALL RECOGNIZE THAT THERE IS ARE GROUPS IN OUR COUNTRY WHO DO NOT SUPPORT THE FIREARMS LAWS THAT WERE PASSED WITH THE OVERWHELMING SUPPORT OF THE AMERICAN PUBLIC. ATF IS THE PRINCIPAL AGENCY CHARGED WITH ENFORCING THOSE LAWS. THE MOST EXTREME OPPONENTS OF THESE LAWS ARE VILIFYING THE DEDICATED MEN AND WOMEN OF ATF. THEIR OBJECTIVE IS TO UNDERMINE ATF'S ABILITY TO ENFORCE THE LAWS, TO UNDERMINE THE PUBLIC SUPPORT FOR THE LAWS, AND ULTIMATELY TO WEAKEN THE LAWS THEMSELVES.

LET'S NOT CONFUSE THIS DESTRUCTIVE AGENDA WITH PROTECTED SPEECH. WE LIVE IN A DEMOCRACY THAT CHERISHES AND PROTECTS PUBLIC DEBATE ON IMPORTANT ISSUES. FOR THOSE WHO OPPOSE THE FIREARMS LAWS, IT IS LEGITIMATE TO CRITICIZE THE LAW IF YOU DON'T LIKE IT.

BUT IT IS WRONG TO HARASS, INTIMIDATE, AND THREATEN THOSE WHO ENFORCE THE LAW, AS AN EXPRESSION OF OPPOSITION TO LAWS LIKE BRADY AND THE ASSAULT WEAPONS BAN. LAW ENFORCEMENT AGENTS WHO ARE DOING THE DANGEROUS WORK OF PROTECTING THE REST OF SOCIETY SHOULD NOT BE USED AS PAWNS IN A POLITICAL FIGHT. DESPITE THE SHAMEFUL RHETORIC DIRECTED AT THEM, THE AGENTS OF ATF WILL NOT BE DETERRED FROM DOING THEIR SWORN DUTY.

I CANNOT PROTECT ATF AGENTS FROM THE HARM AND THE HURT AND THE INDIGNITY OF POLITICALLY MOTIVATED SLURS. BUT I CAN ASK YOU, MANY OF WHOM I AM SURE HAVE WORKED SIDE BY SIDE WITH ATF AGENTS, TO REFLECT UPON SOME OF THE HEROIC LAW ENFORCEMENT WORK PERFORMED BY ATF IN OUR NATION'S CITIES. THE BEST WAY TO COUNTER THESE INSULTS IS WITH THE JUST PRAISE THAT THESE MEN AND WOMEN HAVE EARNED.

THIS IS THE TRUE ATF RECORD:

- ATF IS IN THE FOREFRONT OF LAW ENFORCEMENT'S STRUGGLE AGAINST GUN VIOLENCE IN OUR CITIES AND AMONG OUR YOUTH. ATF HAS FORMED **21 ACHILLES TASK FORCES** WITH STATE AND LOCAL LAW ENFORCEMENT OFFICERS IN MAJOR CITIES WITH HIGH VIOLENT CRIME RATES. BETWEEN 1988 AND 1994, THE ACHILLES PROGRAM TOOK **6,251 VIOLENT CRIMINAL OFFENDERS OFF THE STREETS.**

- ATF CONFRONTS SOCIETY'S MOST DANGEROUS CRIMINALS. OF THE 10,000 SUSPECTS ATF REFERRED FOR PROSECUTION IN 1994, **47 PERCENT OF THESE WERE CONVICTED FELONS. 49 PERCENT WERE INVOLVED IN NARCOTICS TRAFFICKING. 25 PERCENT HAD VIOLENT CRIMINAL HISTORIES.**

- ATF ALSO PROVIDES SCIENTIFIC EXPERTISE AND GUN TECHNOLOGY SUPPORT FOR OTHER LAW ENFORCEMENT AGENCIES. IN NOVEMBER 1994, TWO FBI AGENTS AND A D.C. POLICE DETECTIVE WERE KILLED BY A SUSPECT IN AN UNPROVOKED SHOOTING INCIDENT INSIDE THE D.C. POLICE HEADQUARTERS. ATF TRACED THE MURDER WEAPON TO A GUN TRAFFICKING RING RESPONSIBLE FOR TRAFFICKING FIREARMS FROM ALABAMA TO WASHINGTON, D.C. THREE MEN ASSOCIATED WITH THE RING HAVE BEEN CONVICTED ON CHARGES OF VIOLATING FEDERAL FIREARMS LAWS.

- AFTER THE WORLD TRADE CENTER BOMBING, IT WAS AN ATF EXPLOSIVES TECHNICIAN AND A MEMBER OF THE NEW YORK CITY BOMB SQUAD THAT FOUND THE KEY PIECE OF EVIDENCE -- THE

VEHICLE IDENTIFICATION NUMBER FROM A RENTED VAN -- THAT ALLOWED ATF, THE FBI AND THE NEW YORK CITY POLICE TO IDENTIFY AND BRING TO JUSTICE THE ISLAMIC FUNDAMENTALISTS ACCUSED IN THE BOMBING.

ATF AGENTS ARE WORKING HAND-IN-HAND WITH OTHER FEDERAL, STATE , AND LOCAL LAW ENFORCEMENT AGENCIES TO SOLVE THE HORRIBLE BOMBING IN OKLAHOMA CITY. AFTER MCVEIGH WAS STOPPED FOR A TRAFFIC VIOLATION, AN ATF AGENT WAS INSTRUMENTAL IN IDENTIFYING TIMOTHY MCVEIGH, WHICH LED TO HIS ARREST IN THE OKLAHOMA CITY BOMBING CASE.

FOR THESE, AND OTHER ACTIONS, ATF AGENTS, AND ALL LAW ENFORCEMENT OFFICERS, DESERVE THE FULL SUPPORT AND RESPECT OF THE CONGRESS AND THE AMERICAN PEOPLE, NOT THEIR DISDAIN. NEVERTHELESS, THERE IS AN UNPRECEDENTED SWELL OF VIOLENCE, HATRED, AND DISRESPECT FOR FEDERAL LAW ENFORCEMENT OFFICERS. IN A SOCIETY THAT ONE ROSE UP AGAINST EXTREMIST RHETORIC AND STOOD WITH OUR LOCAL POLICE, WE HAVE IN SOME QUARTERS BECOME THE "BAD GUYS" AND PEOPLE WHO OPENLY PREACH DEFIANCE OF THE LAW HAVE BECOME THE "GOOD GUYS."

GROUPS OR INDIVIDUALS PREACHING "STATE'S RIGHTS," "COUNTY SUPREMACY," OR ANARCHY AS DOES THE UNABOMER, OR OTHER SIMILAR THEMES ADVOCATE THAT CITIZENS SHOULD OPPOSE, BY FORCE IF NECESSARY, THE FEDERAL GOVERNMENT. BECAUSE CONGRESS HAS GIVEN ATF PRINCIPAL RESPONSIBILITY FOR ENFORCING OUR NATION'S GUN LAWS, THESE GROUPS SEE ATF AS THEIR "ENEMY." THE HATE MAIL RECEIVED BY ATF AGENTS FROM CITIZENS WITH AN EXTREME FOCUS ON GUNS IS BOTH FRIGHTENING AND SOBERING.

THIS IS THE ENVIRONMENT IN WHICH THE WACO HEARINGS IN CONGRESS WILL TAKE PLACE. BUT LET ME SAY THIS: LAW ENFORCEMENT SHOULD NOT BE ABOVE CRITICISM. WHEN WE ARE WRONG -- WHEN WE OVERSTEP OUR LEGITIMATE AUTHORITY OR SIMPLY MAKE MISTAKES -- WE MUST CONCEDE OUR MISTAKES, LEARN FROM THEM, AND MOVE FORWARD. THIS IS WHAT WE DID AFTER WACO: WE TOOK A HARD LOOK AT MISTAKES, PRESENTED THEM TO THE PUBLIC FOR SCRUTINY, AND MOVED FORWARD BASED ON THE LESSONS LEARNED.

ON FEBRUARY 28, 1993, FOUR BRAVE ATF AGENTS WERE KILLED WHILE ATTEMPTING TO EXECUTE A LAWFUL SEARCH AND ARREST WARRANT ON DAVID KORESH AT THE BRANCH DAVIDIAN COMPOUND IN WACO. ON APRIL

19, 1993, DURING THE FBI RAID AIMED AT BRINGING AN END TO THE STAND-OFF, DAVID KORESH AND HIS FOLLOWERS SET FIRE TO THE COMPOUND AND KILLED MANY INNOCENT CHILDREN.

PRESIDENT CLINTON AND SECRETARY BENTSEN, THE CONGRESS AND THE PUBLIC, ALL WANTED ANSWERS. PRESIDENT CLINTON DIRECTED BOTH TREASURY AND THE JUSTICE DEPARTMENT TO CONDUCT VIGOROUS AND THOROUGH INVESTIGATIONS OF WHAT HAD LED TO THE LOSS OF LAW ENFORCEMENT AND CIVILIAN LIVES.

SECRETARY BENTSEN ASKED ME TO LEAD THE TREASURY DEPARTMENT'S REVIEW OF ATF'S INVOLVEMENT, FROM THE BEGINNING OF THE INVESTIGATION THROUGH THE UNSUCCESSFUL EFFORT TO EXECUTE SEARCH AND ARREST WARRANTS. HE DEMANDED THAT THE INVESTIGATION BE HONEST, UNCOMPROMISING, AND COMPREHENSIVE.

TO ENSURE THAT THE REPORT WAS IMPARTIAL AND COMPREHENSIVE, SECRETARY BENTSEN ENLISTED THREE INDIVIDUALS OF NATIONAL PROMINENCE AND THE HIGHEST INTEGRITY -- PULITZER PRIZE WINNING JOURNALIST EDWIN GUTHMAN, WATERGATE PROSECUTOR HENRY RUTH, AND LOS ANGELES POLICE CHIEF WILLIE WILLIAMS. THEIR ROLE WAS TO PROVIDE GUIDANCE TO THE INVESTIGATION, CONSIDER ITS FINDINGS, AND ASSESS THE FINAL REPORT. THEY RECEIVED NO PAYMENT FOR THEIR SERVICES. TREASURY'S OFFICE OF THE INSPECTOR GENERAL WORKED CLOSELY WITH THE REVIEW TEAM TO ENSURE THAT THE REVIEW WAS THOROUGH AND UNBIASED.

WE ASSEMBLED AN INVESTIGATIVE TEAM OF SEVENTEEN SENIOR INVESTIGATORS FROM THE SECRET SERVICE, THE CUSTOMS SERVICE, THE IRS, AND THE FINANCIAL CRIMES ENFORCEMENT NETWORK. NO ATF PERSONNEL TOOK PART IN THE REVIEW.

THE REVIEW TEAM ALSO CONSULTED WITH 10 NON-TREASURY EXPERTS IN TACTICAL OPERATIONS, FIREARMS, AND EXPLOSIVES. LIKE THE INDEPENDENT REVIEWERS, THE INDEPENDENT EXPERTS SERVED WITHOUT PAY.

WE ALL KNOW HOW DIFFICULT IT IS FOR ANY ORGANIZATION TO JUDGE ITS OWN. IT CAN BE ESPECIALLY PAINFUL IN THE LAW ENFORCEMENT COMMUNITY WHERE SUCCESS, AND SOMETIMES SURVIVAL, DEPENDS ON COMRADERIE AND LOYALTY. ONE OF THE SENIOR EXECUTIVES IN MY OFFICE LIKENED THE WACO REVIEW TO CONDUCTING OPEN HEART SURGERY ON YOURSELF, WITHOUT ANAESTHESIA.

IN CHOOSING THE MEMBERS OF THE REVIEW TEAM, MY FIRST PRIORITY WAS TO ASSEMBLE THE BEST INVESTIGATIVE TEAM COMPOSED OF INDIVIDUALS WITH THE INTEGRITY AND THE COMMITMENT TO FIND OUT WHAT EXACTLY HAPPENED. I CAN ASSURE YOU, THE REVIEW TEAM EXCEEDED MY HIGHEST HOPES IN THIS REGARD.

AT THE SAME TIME, WE ALSO ENSURED THAT THE INVESTIGATION TEAM INCLUDED PEOPLE OF COLOR AND WOMEN. INDEED, THE WACO REVIEW TEAM INCLUDED 8 AFRICAN-AMERICANS, 7 WOMEN, 1 HISPANIC-AMERICAN, AND 1 ASIAN-AMERICAN.

OVER A 5-MONTH PERIOD, BETWEEN MAY AND OCTOBER 1993, MEMBERS OF THE TEAM TRAVELLED THE COUNTRY AND CONDUCTED OVER 500 INTERVIEWS TO DETERMINE WHAT HAPPENED NEAR WACO AND WHY. WE RECEIVED UNQUALIFIED COOPERATION FROM THE HUNDREDS OF ATF AGENTS WHO WERE INTERVIEWED. WITHOUT THEIR SUPPORT, OUR DIFFICULT TASK WOULD HAVE BEEN RENDERED ALL BUT IMPOSSIBLE.

SECRETARY BENTSEN ISSUED TREASURY'S 220 PAGE REPORT ON SEPTEMBER 30, 1993. IT WAS CRITICAL OF ATF AND MAIN TREASURY. MAJOR NEWSPAPERS PRAISED THE REPORT FOR ITS CANDOR AND THOROUGHNESS.

THE TREASURY REPORT MAKES CLEAR THAT THE EVENTS AT WACO WERE UNUSUAL AND THERE WERE PLENTY OF LESSONS TO LEARN. IN RESPONSE, BOTH ATF AND MAIN TREASURY HAVE MADE ORGANIZATIONAL REFORMS.

AFTER THE REPORT WAS ISSUED, NUMEROUS PERSONNEL CHANGES WERE MADE, BOTH IN WASHINGTON AND IN THE FIELD. THE LEADERSHIP AT ATF HEADQUARTERS WAS REPLACED. THE DIRECTOR OF THE ATF RETIRED. I APPOINTED THEN SECRET SERVICE DIRECTOR JOHN MAGAW, A THIRTY FOUR YEAR VETERAN OF LAW ENFORCEMENT AND A KNOWN REFORMER AS THE NEW DIRECTOR. THE 2 RAID COMMANDERS WERE RELIEVED OF THEIR LAW ENFORCEMENT DUTIES. THEY NO LONGER WEAR BADGES, CARRY GUNS, OR SUPERVISE LINE AGENTS. THEY WERE DISCIPLINED FOR ERRORS IN JUDGMENT AND FOR FALSE AND MISLEADING STATEMENTS THEY MADE FOLLOWING THE RAID.

SINCE THE WACO INCIDENT, FOUR SEPARATE CONGRESSIONAL COMMITTEES HAVE HELD SEVEN DAYS OF HEARINGS ON ATF'S ROLE AT WACO. NOW TWO MORE HOUSE SUBCOMMITTEES ARE HOLDING HEARINGS NEXT WEEK. I HAVE SEEN THE PROPOSED SCHEDULE FOR THE HEARINGS. THE MEMBERS ARE PLANNING TO ASK THE SAME BASIC QUESTIONS THAT WERE ADDRESSED TWO YEARS AGO IN THE TREASURY REVIEW.

LET ME TELL YOU WHAT THESE BASIC QUESTIONS ARE AND HOW THE TREASURY REVIEW ANSWERED THEM.

FIRST, WAS THE INVESTIGATION OF DAVID KORESH AND HIS FOLLOWERS TO DETERMINE WHETHER THERE WAS PROBABLE CAUSE TO BELIEVE THAT FEDERAL FIREARMS LAWS HAD BEEN VIOLATED PROPERLY CONDUCTED?

MY IMPRESSION IS THAT CRITICS WORRY THAT ATF SINGLED OUT KORESH AND HIS FOLLOWERS FOR INVESTIGATION BECAUSE THEY WERE AN UNCONVENTIONAL RELIGIOUS GROUP. THAT IS NOT WHAT HAPPENED. DAVID KORESH WAS INVESTIGATED FOR FIREARMS VIOLATIONS, NOT HIS RELIGIOUS BELIEF OR RELIGIOUS PRACTICES.

ATF'S INVESTIGATION BEGAN IN LATE MAY 1992 WHEN THE SHERIFF OF MCLENNAN COUNTY, TEXAS, ASKED ATF TO INVESTIGATE SUSPICIOUS UPS DELIVERIES TO CERTAIN PERSONS RESIDING AT THE BRANCH DAVIDIAN COMPOUND. THESE DELIVERIES INCLUDED MORE THAN $10,000 WORTH OF FIREARMS, INERT GRENADE CASINGS, AND A SUBSTANTIAL QUANTITY OF BLACK POWDER.

ATF BEGAN A FORMAL INVESTIGATION ON JUNE 9, 1992 TO PURSUE EVIDENCE OF TWO VIOLATIONS: (1) THE ILLEGAL MANUFACTURE OF MACHINE GUNS FROM COMPONENT PARTS, AND (2) THE ILLEGAL MANUFACTURE AND POSSESSION OF DESTRUCTIVE DEVICES, INCLUDING EXPLOSIVE BOMBS AND GRENADES AND THE MATERIALS NECESSARY TO PRODUCE THEM.

BY NOVEMBER 1992, THE ASSISTANT U.S. ATTORNEY WAS SATISFIED THAT PROBABLE CAUSE EXISTED TO SUPPORT SEARCH AND ARREST WARRANTS. THE FEDERAL MAGISTRATE-JUDGE WHO ISSUED THE WARRANTS AGREED.

WHEN THE COMPOUND WAS SEARCHED AFTER THE FIRE, THE FOLLOWING ILLEGAL WEAPONS WERE RECOVERED:

48 MACHINE GUNS
70 SILENCERS
4 FUNCTIONAL PRACTICE HAND GRENADES
DOZENS OF GRENADE COMPONENTS

THE TREASURY REVIEW TEAM CONSULTED TWO WEAPONS EXPERTS AND TWO EXPLOSIVES EXPERTS. EVERYONE CONSULTED CONCLUDED THAT THE EVIDENCE GATHERED BY ATF AMOUNTED TO PROBABLE CAUSE OF VIOLATIONS.

MOREOVER, AT THE TRIAL OF THE 11 BRANCH DAVIDIANS ON WEAPONS AND MANSLAUGHTER CHARGES LAST YEAR, NONE OF THE DEFENSE ATTORNEYS CHALLENGED THE WARRANTS.

THE SECOND QUESTION BEING ASKED BY CONGRESS IS, ONCE THE THRESHOLD FOR PROBABLE CAUSE FOR A SEARCH WARRANT TO SEARCH THE BRANCH DAVIDIAN COMPOUND WAS MET, DID THE ATF DEVELOP AN APPROPRIATE PLAN FOR EXECUTING THE WARRANT?

THE TREASURY REVIEW FOUND THAT THERE WERE SERIOUS FLAWS IN THE PROCESS OF PLANNING TO EXECUTE THE WARRANTS. THERE WAS POOR INTELLIGENCE GATHERING AND ANALYSIS. ATF TOO QUICKLY DISMISSED ALTERNATIVES TO EXECUTING WARRANTS, SUCH AS THE POSSIBILITY OF LURING KORESH OFF THE PREMISES AND ARRESTING HIM AWAY FROM THE COMPOUND.

THE THIRD AREA OF CONGRESSIONAL QUESTIONING CONCERNS THE RAID ITSELF, DID THE ATF CARRY OUT THE PLAN IN AN APPROPRIATE MANNER?

FIRST, THE REVIEW POINTS OUT, **THE RAID COMMANDERS DEPARTED SIGNIFICANTLY FROM THE RAID PLAN.** THE PLAN WAS DEPENDENT ON SURPRISE BUT THE COMMANDERS WENT FORWARD WHEN SURPRISE WAS LOST. THE PLAN WAS DEPENDENT UPON THE DAVIDIAN MEN BEING SEPARATED FROM THE WEAPONS IN THE COMPOUND. THE COMMANDERS IGNORED THIS FUNDAMENTAL PRECONDITION, PROCEEDING BEFORE THE MEN WERE SCHEDULED TO BE OUTSIDE AND CONTINUING FORWARD WHEN THERE WAS NO EVIDENCE OF ACTIVITY OUTSIDE THE COMPOUND.

AS THE REVIEW MAKES CLEAR, **THE DECISION TO GO FORWARD WITH THE RAID WAS A MISTAKE, NOT MERELY IN HINDSIGHT, BUT BASED ON WHAT THE DECISIONMAKERS KNEW AT THE TIME.**

THESE ARE JUST SOME OF THE HIGHLIGHTS OF THE TREASURY REPORT. TWO YEARS AFTER THE REPORT WAS ISSUED, THERE MAY WELL BE DETAILS THAT CAN BE ADDED. IT MAY BE POSSIBLE TO EXPAND ON SOME OF THE SUBJECTS THAT COULD NOT BE INCLUDED IN THE 500 PAGES OF REPORT AND EXPERT REPORTS TREASURY PROVIDED. BECAUSE I AM A PERFECTIONIST BY NATURE I WILL BE DISAPPOINTED IF CORRECTIONS THAT SHOULD HAVE BEEN MADE ARE POINTED OUT TO ME. BUT I WILL NOT BE SURPRISED. SINCE WE ISSUED OUR REPORT, THERE WAS A LENGTHY TRIAL PROVIDING INFORMATION THAT DID NOT EXIST WHEN WE DID OUR INVESTIGATION.

WHATEVER FACTUAL ADDITIONS AND MODIFICATIONS COULD IDEALLY BE MADE, HOWEVER, I DO NOT BELIEVE THAT ANY EXAMINATION WILL ALTER OUR FUNDAMENTAL CONCLUSIONS ABOUT THIS TRAGIC EPISODE IN LAW ENFORCEMENT HISTORY: ATF HAD A LEGITIMATE, COMPELLING, AND LAWFUL BASIS FOR INVESTIGATING DAVID KORESH FOR VIOLATION OF FEDERAL FIREARMS LAWS; THE PLANNING EFFORT FOR EXECUTION OF THE WARRANTS WAS SERIOUSLY FLAWED; AND THE RAID SHOULD NOT HAVE BEEN CARRIED OUT UNDER THE CIRCUMSTANCES THAT EXISTED.

WHATEVER MISTAKES WERE MADE BY ATF, HOWEVER, THE REAL VILLAIN AT WACO WAS DAVID KORESH. HE WAS TIPPED OFF 45 MINUTES BEFORE THE RAID BEGAN. WITH THE KNOWLEDGE THAT AGENTS WERE COMING WITH A LAWFUL WARRANT, KORESH ARMED HIS FOLLOWERS WITH ILLEGAL MACHINE GUNS, GRENADES, AND OTHER ASSAULT WEAPONS, AND PLACED A SNIPER ON THE WATER TOWER. THEY THEN LAY IN WAIT. WHEN THE ATF AGENTS ARRIVED, LAW ENFORCEMENT AGENTS WERE AMBUSHED. FOUR ATF AGENTS WERE BRUTALLY KILLED.
OTHER AGENTS WERE MAIMED AS THEY SOUGHT COVER BEHIND CARS AND OTHER BARRIERS. IN THE FACE OF WITHERING FIRE, ATF AGENTS ACTED WITH HONOR AND HEROISM. THROUGHOUT THE FIREFIGHT. THEY DEMONSTRATED EXTRAORDINARY DISCIPLINE, COURAGE, AND HEROISM. LET ME CITE JUST TWO EXAMPLES:

SPECIAL AGENT TIM GABOURIE, A MEDIC, REPEATEDLY EXPOSED HIMSELF TO GUNFIRE TO TREAT SEVERAL WOUNDED AGENTS.
ANOTHER SPECIAL AGENT LEFT A PROTECTED POSITION TO THROW HIS BODY OVER A WOUNDED COLLEAGUE.

THIS ADMINISTRATION HAS SHOWN A FIERCE DEDICATION TO LAW ENFORCEMENT AND TO REDUCING VIOLENT CRIME IN OUR COUNTRY. SECRETARY RUBIN SPEAKS OUT EVERY DAY IN DEFENSE OF ATF'S AGENTS AND ITS PROFOUNDLY IMPORTANT MISSION. TWO DAYS AGO, SECRETARY RUBIN AND I PARTICIPATED IN THE UNVEILING OF THE INSCRIPTIONS ON A PLAQUE AT TREASURY OF THE NAMES OF EIGHT MEMBERS OF TREASURY ENFORCEMENT BUREAUS WHO DIED AT OKLAHOMA CITY IN A BOMBING. EVERY DAY, YOU ARE ON THE FRONT LINES OF THE STRUGGLE IN OUR SOCIETY BETWEEN RIGHT AND WRONG, DIALOGUE AND VIOLENCE, ORDER AND CHAOS. WHEN I TESTIFY AT THE HOUSE HEARINGS ON WACO, I WILL BE STRENGTHENED BY THE KNOWLEDGE OF YOUR STRUGGLE, YOUR DEDICATION, AND THE SACRIFICES YOU AS LAW ENFORCEMENT AGENTS ARE TOO OFTEN CALLED UPON TO MAKE TO PRESERVE THE LIFE AND LIBERTY OF THE CITIZENS OF THIS COUNTRY.

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DEPARTMENT OF THE TREASURY

TREASURY NEWS

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July 13, 1995

THE DISCIPLINE OF FAILURE

Richard S. Carnell

Assistant Secretary of the Treasury
for Financial Institutions

Conference on Foreign Banks in the United States:
Economic, Supervisory, and Regulatory Issues
Office of the Comptroller of the Currency

It is a pleasure to participate in the OCC's conference on foreign banks in the United States. To those of you who represent foreign banks with operations in this country, I extend a hearty welcome. Those of us at the Treasury who deal with issues involving cross-border banking well understand the benefits the U.S. economy derives from the large contingent of foreign banking institutions represented, in greatly varying ways and to greatly varying degrees, in the U.S. financial system.

I think you are all well aware of the mutual benefits of integrating the world's financial markets. What I would like to discuss today is a vital lesson other countries can draw from recent U.S. experience in managing (or mismanaging) risk in the banking system. Given the natural reluctance of any country to run controlled experiments on its own economy and financial system, one of the few ways to learn without suffering is to look at the outcome of failed policies in other countries.

The failed U.S. policies for managing risk in the banking system that I am referring to date back to the Banking Act of 1933 -- this nation's response to the banking collapse of the early 1930s. The approach was simple: get banks out of any business that appeared unfamiliar or unduly risky; put up barriers to competition in the form of chartering restrictions, product restrictions, and interest rate ceilings to maintain banks' earnings and financial strength; and introduce federal deposit insurance to eliminate the potential for any future failures to cause depositor anxiety and interbank contagion.

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What this approach failed to deal with was incentives: banks' incentives to take undue risks and seek ways to circumvent the new restrictions on their ability to compete; customers' incentives to seek out less regulated alternatives; and regulators' incentives to paper over problems as they arose, rather than deal with them promptly and forthrightly. This omission did not result from a universal failure to recognize the problem: President Roosevelt, Senator Glass, and many bankers and academics voiced misgivings about the potential for deposit insurance to create moral-hazard problems.

For many years (indeed, as late as the early 1970s) one could believe that the system was working extremely well. A set of favorable factors -- such as the Depression-forged conservatism of a generation of bankers -- postponed any real stress-test of the system.

It was only after market interest rates first approached and then exceeded regulatory ceilings, bank loan-to-asset ratios approached historical highs, a new generation of managers with no memories of the Depression succeeded to leadership, and banks began to feel constrained by the existing array of geographic and product restrictions that any question arose about the emperor's clothes. The credit crunches and disintermediation of 1966 and 1969, the failures of Public Bank of Detroit in 1970 and U.S. National Bank of San Diego in 1973, the recommendations of the Hunt Commission in 1971, and the birth of money market mutual funds in 1973 all provided warnings that the emperor, if not down to his skivvies, was less than adequately attired for the gathering storms. But not until the sharp reversal in Federal Reserve monetary policy in late 1979 was the emperor fully revealed in all his nakedness; the sharp rise in interest rates in the spring of 1980 stripped away the final veil and disclosed a depository system needing fundamental reform.

Thrifts took the hardest hit. We know the story of a rigidly designed thrift industry, whose liabilities repriced faster than its assets, shocked by the high and variable interest rates induced by the change in monetary policy. Unfortunately, what is less well known is how the thrift regulator's failure to close insolvent institutions exacerbated the debacle. Legislators and regulators continued to believe (or at least to hope) that the health of the thrift industry could be restored simply by deregulating prices and products and giving troubled institutions a little time to grow out of their problems. Thus began a decade of capital forbearance; of regulatory accounting designed to conceal rather than to reveal; and of tolerating continued (and, in many cases, greatly increased) risk-taking by institutions that had long been book value-insolvent. The costs of failing to deal with incentives earlier -- a $150 billion tab for taxpayers, the loss of confidence in government and the regulatory process -- have been high indeed.

The American banking industry also suffered problems during the 1980s. Bank regulators acted more quickly than thrift regulators to close insolvent institutions, but the sheer number of failures depleted the FDIC's Bank Insurance Fund in 1991. And we know now that bank regulators could have done an even better job had they been armed with more effective tools.

In enacting the FDIC Improvement Act of 1991, the Congress finally took on issues it had shied away from for decades. The Act required risk-based premiums, prompt corrective action, and least-cost resolution. Prompt corrective action requires regulators to impose increasingly stringent restrictions and requirements on an institution as its capital declines below required levels -- with the goal of resolving the institution's problems at no loss or minimal loss to the deposit insurance fund. Least-cost resolution curtails too-big-to-fail policies by generally requiring the FDIC to resolve failed or failing institutions using the method least costly to the deposit insurance fund. Exceptions can be made only if necessary to avoid "serious adverse effects on economic conditions or financial stability," and then only if proposed by two-thirds majorities of both the Federal Reserve Board and the FDIC's Board of Directors and approved by the Secretary of the Treasury. Congress intended this exception only "for those rare instances in which the failure of an institution could threaten the entire financial system."

These reforms hail the arrival of a new day in the supervision of depository institutions in this country. The reforms have already been effective. Healthy institutions have strengthened their balance sheets and management. Undercapitalized institutions are rare. Uninsured depositors and other creditors do pay attention to the health of the institutions with which they deal. The costs to the FDIC of resolving failed institutions have fallen dramatically, both in absolute dollars and as a percentage of failed institutions' assets.

The reforms signify the belated recognition (and major steps toward the solution) of an essentially universal problem. For many years, some foreign banking regulators berated the United States for allowing banks to fail. Now, many aspects of our system deserved such scorn -- the aspects that were actually conducive to large numbers of bank failures, such as branching and other geographic restrictions that tended to keep institutions small and hinder diversification of their loan portfolios.

But the possibility of failure itself -- with repercussions for managers, shareholders, and some classes of creditors, if not for insured depositors -- is a vital source of discipline. More and more, countries that once would have viewed a bank failure as a stain on their national honor are coming to realize that there are worse disgraces. And even though cultural and national differences may modify the effect of given regulatory regimes from one country to another, the responses of consumers, managers, and regulators to financial incentives are sufficiently similar to suggest that -- just as what fails abjectly in the United States is likely to fail abjectly abroad -- what succeeds here also stands a good chance of succeeding elsewhere. Bank customers everywhere want convenience, good service, and competitive prices. Shareholders and creditors want good returns and moderate risk. And managers want to keep their jobs.

It may help, in stressing the universal necessity for appropriate regulatory incentives regardless of a nation's size, culture, and institutions, to recall an incident that occurred some years ago at a conference on financial regulation. A prominent American academic was discussing the Danish bank regulatory system -- which relies (apparently with

considerable success) on prompt closure of failing institutions to maintain stability. He suggested that such an approach might prove useful in the United States. The chief executive of a major bank responded that what worked in a small country like Denmark was hardly relevant to a banking system as large and complex as that of the United States. That's parochialism.

The fact remains that a very diverse set of countries around the world have recently experienced banking problems that have highlighted the importance of imposing costs on managers and shareholders through failure and resolution -- as a means of controlling risk in the longer run. Countries that have adamantly rejected such a solution have had to recognize the high costs of maintaining such a policy. While American-style democracy may not be easy to export, an appropriate system of bank regulatory incentives -- like petroleum, caviar, and rock-and-roll -- is a commodity that should be in demand worldwide. And especially at the price I'm offering it for today.

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DEPARTMENT OF THE TREASURY

TREASURY NEWS

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STATEMENT OF THE HONORABLE ROBERT E. RUBIN
SECRETARY OF THE TREASURY
BEFORE THE SENATE COMMITTEE ON
BANKING, HOUSING AND URBAN AFFAIRS

July 14, 1995

Mr. Chairman and members of the Committee, thank you for the invitation to speak with you this morning about the U.S. program to support Mexico's stabilization.

Since I testified on Mexico before this Committee on March 10, Mexico's stabilization program has gained very significant ground. While Mexico continues to face substantial challenges, I am greatly encouraged by progress achieved to date. The goal of promoting U.S. exports, jobs, and the security of our borders over the long run is being accomplished. Potential spillover into other emerging markets that are so important to U.S. security and economic interests has been contained.

The U.S.-led international support program has been essential to Mexico's success so far. Our funds, along with financial support from the international community via the IMF,

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the Inter-American Development Bank, and the World Bank, have supported Mexico in implementing the policies needed to put its economy back on the track towards growth and prosperity.

As you know, on July 5, the Treasury provided $2.5 billion in support to Mexico. That brought total outstanding funding by the United States under the February 21 agreements to $12.5 billion, including $1 billion from the Federal Reserve. I have been asked why, if Mexico is making substantial progress, we provided this latest disbursement. This is an important question which both Under Secretary Summers and I will address today. Before we do so, however, I want to review the reasons the President authorized the program and why it is so important to persevere.

U.S. Interests

On January 31, with the bi-partisan support of the congressional leadership and of the Federal Reserve Board, the President acted to safeguard important U.S. interests by authorizing up to $20 billion in support to Mexico through Treasury's Exchange Stabilization Fund, or ESF. Potential escalation of the crisis in Mexico was a direct, long term threat to U.S. exports and jobs that depend on bilateral trade. At the same time, the crisis put at risk the security of our 2,000-mile border with Mexico.

Mexico's difficulties threatened to spread beyond its borders to other promising

emerging markets. That could have had a chilling effect on the important market reforms that these countries have been advancing, and which we have been advocating for decades. Our leadership was central to protecting our interests and to marshalling international support -- specifically, $18.9 billion in emergency support from the IMF.

On February 21, I signed four Agreements to implement the plan. These agreements were based on one overriding principle: the need to protect U.S. interests. They contain rigorous economic, financial and reporting requirements to ensure that all U.S. resources committed in this program are secure. Funding to Mexico has been provided in stages, and before each new disbursement, we have verified that Mexico continues to meet these strict conditions.

The agreements provide assured backing for our support from Mexico's oil export proceeds. Given the importance of the oil backing, we formed an interagency working group to analyze Mexico's oil export prospects over the long term. The group's conclusions confirm that Mexico's oil export revenues will fully back all outstanding disbursements and potential disbursements under the program.

Returning Confidence

When I first appeared before this Committee four months ago to describe our support effort, it was far too soon to make anything but the most preliminary judgement about the

probability of success, though it was certainly our view that this plan should work. Today, the signs of success are substantial. Mexico's government has demonstrated a steadfast determination to meet its commitments, and take the steps necessary to restore financial stability. Market confidence has begun to return, and capital inflows to Mexico have resumed. Mexico's money supply, on an inflation adjusted basis, has declined by 38 percent this year. Mexico has moved to a fiscal surplus, and to a trade surplus. The outstanding stock of tesobonos, which were at the heart of the Mexican crisis, have been reduced from $29.2 billion at the beginning of the year to $8.9 billion today. More than $2 billion in dollar borrowings from the bank insurance fund have been repaid.

The crisis of confidence which Mexico's situation created in other emerging markets has subsided. Mexico is regaining access to international capital markets faster than expected. Just this week, the government returned to the international markets with a highly successful bond issue. The success and expansion of such efforts are essential for continued stability and a return to growth.

Political Reforms

While our assistance program is not conditioned on political and judicial reforms, its support of economic stabilization has increased the prospects for their success. Since taking office, President Zedillo has moved to weed out corruption and has taken steps to continue reform of Mexico's judicial and electoral systems. The fact that opposition candidates have

won recent electoral victories is an encouraging sign that the democratization process is deepening.

Cooperation to Halt Narcotic Trafficking

Mexico is making progress on other fronts. U.S.-Mexican cooperation in combatting illicit drug trafficking has improved markedly. Attorney General Reno has held repeated talks with Mexican Attorney General Lozano since the day of President Zedillo's inauguration. The two have established a new, intensive coordination mechanism at the senior policy level. The Justice Department informs me that Mexico's resolve has begun to bear fruit, such as the arrest three weeks ago of Hector Salazar, a powerful Mexican drug leader, the capture of Jose Sosa-Mayorga, an important criminal kingpin in late May, and the April seizure of a record $6.35 million in cash at Mexico City's airport.

Attorney General Lozano intends to push a tough penal code reform package through the Mexican legislature this autumn. That will greatly enhance Mexican investigative procedures. We expect our joint efforts to progress further in the months ahead. Obviously, much more needs to be done, and we will continue to push forward with the Mexicans to combat the narcotics problem.

Lessons for the International Financial Community

The international financial community has also learned much from Mexico's experience. In this age of faster and more integrated capital markets, we must improve our tools for preventing crises before they happen, and enhance international capacity to deal quickly with crises that do unfold, before they spread to other parts of the global financial system. That is why the G-7 countries support a range of measures designed to increase transparency and surveillance, and expand emergency financing capabilities through the IMF's General Agreement to Borrow. These steps will adapt the financial system to present needs, without cost to the U.S. budget.

Latest Disbursement -- Promoting Stability

Clearly, Mexico has come a long way in a short time. With a strong trade performance, sound financial policies, and continued structural reform, growth should return by 1996. Our decision to disburse $2.5 billion last week supports continued Mexican progress and U.S. interest in solidifying the prospects for Mexico's success.

U.S. Support in the Second Half

In the press release for the Mexican support program, issued when we signed our agreements with Mexico, I stated that "ten billion dollars will be made available in stages

between now and the end of June 1995...[and] using the same terms and conditions, another $10 billion will become available -- as needed and in stages -- beginning in July." Staging our funding has provided us with the capacity to assess Mexico's financing needs on an ongoing basis.

As noted in the letter which you and Senator Dole recently wrote to me, Mr. Chairman, Mexico indicated on February 21 that the second $10 billion would be available for "unforeseen contingencies." It was our hope -- clearly shared by the Congress -- that it would not be necessary to utilize the second $10 billion of the $20 billion support package. We regret any incorrect impression we might have left that the second $10 billion would be available only for an emergency. Both Under Secretary Summers and I, in response to Members' questions, made it clear that solid evidence that the stabilization program was working would be a necessary condition for any disbursement beyond the first half-year's $10 billion.

Our decision to disburse $2.5 billion last week reflects our belief that the program is working, and is not a sign that Mexico is faltering. Data on capital flows continuously becomes available that informs our assessment of Mexico's financing needs. In view of the heavy amortization schedule this summer, our desire to promote the rising tide of market sentiment, and our current forecasts for net inflows of funds from all sources in the third quarter, we decided that it would be prudent to disburse these funds.

Conclusion

Mr. Chairman, I think that the best way to understand why the United States-led effort is so important is to put Mexico's present difficulties in historic perspective. The current crisis has been compared to Mexico's debt crisis of thirteen years ago. That crisis spawned economic calamity, first in Mexico, then a few months later in Brazil, and finally, throughout Latin America. It led to what has been called a "lost decade" of protectionist policies, negative growth, financial instability, and political and social unrest in much of this hemisphere.

Here, at home, Mexico's and Latin America's difficulties in 1982 posed a serious challenge to the health of our financial system. They sent the number of illegal immigrants crossing into the United States sharply higher. Ultimately, Mexico and Latin America's collapse deprived our economy of a full decade's worth of opportunities for trade and investment in some of the largest markets available to us.

Mexico's economy is not what it was in 1982. After 7 years of reform, the pieces are in place for Mexico to avoid a repetition of the lost decade, and instead, to achieve a healthy rate of economic growth. It was to avert another lost decade and all the harm it caused us that the United States chose to lead the present support effort for Mexico. We are now on the path toward success.

The 1982 crisis prompted a severe wage-price spiral. Prices soared by 42 percent over the first six months of the crisis, and inflation continued to rise unchecked, hitting 110 percent between January 1982 and January 1983. Today the situation looks very different. Though prices have risen over the first six months, inflation is now falling, thanks to strong action by the Mexican government.

In 1982, Mexico's currency continued to depreciate sharply, by a full 73 percent between January 1982 and January 1983. This time, the decline in the peso appears to have halted after an initial 55 percent fall. In fact, the peso has strengthened by 23 percent since March, even while Mexican reserves are rising.

Mexico's current account deficit is adjusting more quickly than if did thirteen years ago. The deficit narrowed sharply from 7.7 percent of GDP in the last quarter of last year to 2.1 percent over this year's first quarter --compared to 7.3 percent in the first quarter of 1982, and 5.3 percent in the second quarter. Rising trade surpluses in April and May of this year suggest that adjustment will continue. This time it has taken Mexico's government only 7 months to regain access to international capital markets. In 1982, Mexico was shut out of world markets for a full 7 years.

Most importantly, in 1982, Mexico and other Latin American countries initially responded to difficulties by retreating from the kind of free-market measures we have sought to promote for decades. The Mexican government slapped on exchange controls, raised

import restrictions, nationalized the banking system, suspended debt repayments, and generally retreated behind protectionist walls.

The outlook is very different in 1995. This time Mexico's difficulties have prompted the government to accelerate privatization, and to free-up wage bargaining and other sectors of the economy more quickly. The Mexicans are moving swiftly to shore up their financial regulatory and legal environments, while lifting restrictions on foreign investment. Most important from a U.S. perspective, the Mexicans have chosen to keep their markets open. This embrace of the market offers Mexico and the United States our best chance for escaping another lost decade.

Under Secretary Summers will now describe in greater detail the changes we have seen in Mexico's economy over the past six months. Thank you.

DEPARTMENT OF THE TREASURY

TREASURY NEWS

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STATEMENT OF LAWRENCE SUMMERS
UNDER SECRETARY FOR INTERNATIONAL AFFAIRS
DEPARTMENT OF THE TREASURY
BEFORE THE SENATE COMMITTEE ON
BANKING, HOUSING AND URBAN AFFAIRS
July 14, 1995

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STATEMENT OF LAWRENCE SUMMERS
UNDER SECRETARY FOR INTERNATIONAL AFFAIRS
DEPARTMENT OF THE TREASURY
BEFORE THE SENATE COMMITTEE ON
BANKING, HOUSING AND URBAN AFFAIRS
July 14, 1995

Mr. Chairman and members of the Committee, thank you for the opportunity to meet with you this morning to discuss the U.S. support program for Mexico. I would like to describe Mexico's economic stabilization efforts and provide more detailed information regarding our decision to disburse $2.5 billion to Mexico last week.

Implementation of the Economic Stabilization Program

When Secretary Rubin and I testified to this committee in March, it was clear that a fundamental change in the course of Mexico's policies was required. Mexico has needed to correct the errors of 1994 that threatened its financial stability and long-term prospects for growth. It is now going through a painful and difficult adjustment process, but I can report to you that Mexico's commitment to policy reform has resulted in significant progress, and our objectives in supporting Mexico's adjustment are being served.

Mexico's money supply is down 17 percent since the beginning of the year. The budget surplus has exceeded expectations, rising to 2.7 percent of GDP in the first quarter. Mexico is preparing transportation and petrochemical operations for sale and is opening the telecommunications and gas sectors to private investment. The central bank has increased the frequency and breadth of its public reporting, now publishing information on money market operations daily and key balance sheet data weekly. The bank will soon make this information available via the Internet.

Progress to date

The results of the economic stabilization program have been promising. Inflation is down to 3 percent in June from its 8 percent peak in April and is expected to decline further in the second half of the year. Strong export growth and restrained imports have reversed Mexico's trade imbalance much faster than expected. Mexico is also managing its dollar debt crisis successfully. Over two-thirds of the $30 billion in tesobonos have been repaid since the beginning of the year. With international support, Mexico has raised external reserves to over $14 billion, up from $6 billion at the beginning of the year, despite large repayments of debt.

Returning Confidence

The financial markets have responded to the strong policies and the economic adjustments they are witnessing in Mexico. The peso has strengthened over 20 percent since March and stabilized. Peso forward rates for the end of the year have risen almost 40 percent from their mid-March lows. Mexican stocks and prices on Mexican Brady bonds have recovered to pre-crisis levels. Mexican government agencies and some banks are regaining access to private sources of capital. And, earlier this week, the government made a strong return to international capital markets. A $500 million offering by the government was raised to $1 billion when demand exceeded the original supply by three times.

At the same time, capital flows have resumed with strength to many other developing countries. The rally in Brady bond markets in general suggests the risk of contagion from the Mexican crisis has diminished significantly.

Outstanding Problems

Inevitably, given the magnitude of the adjustment necessary, Mexico's economy has entered a deep recession. Unemployment has risen sharply. However, most observers now expect a resumption of growth late this year or early next year. Indeed, recent reports on the performance by Mexican businesses during the second quarter were more favorable than most analysts expected. As Secretary Rubin pointed out in his testimony, the adjustment will be less painful and protracted than that which followed the 1982 crisis.

As the recession has deepened, working Mexicans have faced growing sacrifices. Mexico's government has worked to mitigate the impact of the crisis, particularly on the poor. These efforts are backed by $1 billion in World Bank and IDB lending. Social cohesion has been maintained despite the difficult economic circumstances.

On June 1, the Mexican government presented a long-term development plan that stresses the importance of long-term savings and investment in human resources, including basic education, health services, and nutrition.

In our testimony and reports to Congress, we have consistently highlighted the Mexican banking system as a crucial issue. Mexico's recession and high interest rates have left many borrowers unable to repay their loans. The Mexican government has responded to banking problems with measures to improve regulation and supervision of banks, to encourage new investment in the financial sector, and to close insolvent institutions, without the creation of excess liquidity. We are monitoring the situation closely.

There have recently been some encouraging developments with respect to this sector. Interest rates have fallen from over 80 percent to near 40 percent. The banks have been able to repay $2.3 billion of the $3.8 billion borrowed from the government's insurance fund. The government will receive $1.75 billion in World Bank and Inter-American Development Bank loans, which are conditioned on stronger regulatory controls and improved accounting standards. Removal of certain limitations under the NAFTA on foreign acquisitions of Mexican banks, as well as recent government efforts to encourage and support bank restructuring, have facilitated bank recapitalization. Already one foreign investor has recapitalized and assumed control of a Mexican institution. Several other deals are under discussion.

Treasury is monitoring banking problems and the broader economy closely. We have implemented systems for the regular collection of some 60 categories of information embracing nearly 250 pieces of data from the Mexican government. Treasury staff are in daily contact with Mexican officials and will complete five compliance missions to Mexico in July alone.

U.S. Support in the Second Half

With our assistance, Mexico has come a long way. Our decision to disburse $2.5 billion earlier this month recognized this progress. It also recognized the U.S. interest in solidifying the prospects for Mexico's success and its rapid return to growth. Our disbursement reduced the uncertainty surrounding the need for Mexico to repay almost $7 billion of tesobonos over the next several weeks. The continued strengthening of confidence and stability will encourage the private sector inflows that are necessary for the program to succeed. It is also the way for Mexico to reduce its reliance on official external support.

Our disbursement coincided with that of the IMF, which, under its $18.9 billion stand-by arrangement, announced on June 30 the immediate release of $2 billion, adding to the $7.8 billion disbursed in February. The IMF also announced that it would make available $8.7 billion in 5 tranches over the next year, including $1.73 billion in August, subject to Mexico's continued satisfactory performance. I would also note that World Bank and IDB funding approved in June will add $2.8 billion to Mexico's external resources.

Let me just say on the question of the last disbursement, I sincerely regret any incorrect impression we left in our discussions regarding the availability of the second $10 billion of U.S. support. It was our intention to provide all of our support on a staged and conditional basis if and when it was needed. For the reasons I just referred to, it was our decision to provide $2.5 billion in early July.

Conclusion

Mexico has advanced substantially on the path to recovery. The U.S.-led international support program fortified Mexico's commitment to right the policy errors of 1994 and to adhere to a disciplined program based upon the fundamentals of sound economic management.

I believe that history will demonstrate that the President's decision to support Mexico was the right one -- for security along our borders and in our hemisphere, for our economic security worldwide, and for American jobs. Thank you.

Department of the Treasury Bureau of Alcohol, Tobacco and Firearms

ATFNEWS

Washington, DC 20226 24 Hour Telephone: (202) 927-8500

July 11, 1995

STATEMENT FROM DIRECTOR MAGAW
"GOOD O' BOY ROUNDUP"

Washington--Since coming to ATF as Director in October 1993, I have continually stated that we have zero tolerance to any kind of discrimination or harassment. If any of this misconduct exists in ATF, I want it searched out and destroyed.

I am appalled that an event such as the one reported in today's Washington Times would happen in any facet of our society -- particularly involving law enforcement officers.

I was alerted to this event about a month ago when I received a copy of an article that appeared on the Internet (Gadsden Minutemen Newsletter). At that time, I ordered our Office of Inspection to conduct an official inquiry. To date, that inquiry has not shown any misuse of government property or resources. I have directed our Office of Inspection to continue its investigation into this matter to determine whether any current ATF employee has breached our code of conduct or professional ethics.

Nothing is ever as good or as bad as may be first indicated. To say that ATF agents are majority participants in this event is false. In this year's event of approximately 300 law enforcement officers from Federal, State and local agencies, only 6 to 10 attendees were from ATF. Four of those were retired agents, and two were agents who left when they heard the racial undercurrents of other participants.

Everyone at ATF knows of my intolerance for discrimination and harassment. If an inquiry finds that anyone is involved in these practices, I will do everything in my power to mete out the strongest possible discipline.

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JUN-02-1995

Investigative report by Jeff Randall, Gadsden Minutemen, and other parties

The "Good 'Ol Boys" outing is held annually at Ocoee, Tn. Based on my interviews with inside sources, this event is organized by Gene Rightmeyer (BATF-Tn.) and Reuben Young (ABI-Al.). This event has a history of being an all-white get-together. It also has a history, to which there is documentation/witnesses, of being very racist.

The "Good 'Ol Boys" attracts agents from various government agencies such as ATF, DEA, Secret Service, and other law enforcement agencies. The event usually goes for several days and includes various activities. Flyers (invitations) are sent out to selected people, for a fee you receive an arm band which allows you entrance to the campground, free beer from a beer truck within the camp, a tee-shirt, a cap and a beer mug.

I learned of this event several months ago and decided to investigate for myself. I arrived at the outer edges of the camp at approximately 11:00 a.m. EST, Friday May 19, 1995. I placed a "police" cap on, grabbed my camera and walked in via a rear unguarded entrance. I was not questioned as to whether or not I was suppose to be there, however, towards the end of my visit, I felt that I was about to be asked to leave.

Inside, I blended in and met people from all agencies, some of which wore tee-shirts stating their agencies name and where they were from. Several of the people were too drunk to carry on conversations with, however I did speak with two agents, whom I did not know, but were wearing arm bands. These agents were highly upset about quote "nigger" ATF agents that were brought in by a white ATF agent the previous night (Thursday). These agents said that they would not attend the event in the future because of the "niggers" being allowed in. All around the main campground (center of camp) I heard racial slurs and saw racial tee-shirts and other items, one being a small yellow card that reads "nigger hunting license". I also overheard guests (wearing arm bands) talking about "those niggers" that were in the camp on the previous night. The conversation was, that an altercation almost occurred between various agents due to the blacks being in the camp. I also witnessed a poker game in process between several other "guests", with, what appeared to be a large sum of money on the table and exchanging hands. Several people were wearing tee-shirts depicting O.J. Simpson on a hanging gallows. Throughout my approximate 2 hour stay, I did not see any black people in the crowd of approximately 300 people. During this time I heard numerous racial slurs and dissatisfaction that their annual gathering had, for the first time, allowed "niggers" to attend.

I took several pictures, several of various anonymous law enforcement personnel, one of a man wearing a Birmingham Narcotics tee-shirt, one of a man marked Metro Police, several shots of Gene Rightmeyer, whom I recognized from previous pictures and video, with a beer mug and what appeared to be a bottle of whiskey in a paper bag, several pictures of the campsite, including the Lite beer truck, one picture of a North Carolina fraternal order of police vehicle, license plate # FOP-NC, one of an anonymous GMC van, Tn. license plate # 680 HJ, several of unnamed people wearing tee-shirts with the words "Young Guns II" and "Pigman", and one of the welcome sign to the entrance of "Good 'Ol Boys".

I did meet some people (agents) in the crowd who appeared to be very decent individuals, however, the majority of whom I spoke with, seemed to be very racist, judging from my conversations with them. The only illegal actions I witnessed was the open gambling and the guests I witnessed driving from the campground after drinking (drunk?).

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DEPARTMENT OF THE TREASURY

TREASURY NEWS

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FOR IMMEDIATE RELEASE
July 14, 1995

MEDIA ADVISORY

Treasury Secretary Robert E. Rubin will meet with U.S. Customs Service officials on Monday, July 17 in New York City. He will be available to the media to discuss law enforcement issues at the U.S. Customshouse, 6 World Trade Center, 5th floor, Room 555 at 9:45 a.m. Cameras should be in place by 9:30 a.m.

Contacts: Jon Murchinson, Treasury, (202) 622-2960
Janet Rapaport, Customs, (212) 466-4547

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DEPARTMENT OF THE TREASURY

TREASURY NEWS

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FOR RELEASE AT 2:30 P.M.
July 14, 1995

CONTACT: Office of Financing
202/219-3350

TREASURY'S 52-WEEK BILL OFFERING

The Treasury will auction approximately $18,250 million of 52-week Treasury bills to be issued July 27, 1995. This offering will provide about $1,275 million of new cash for the Treasury, as the maturing 52-week bill is currently outstanding in the amount of $16,963 million. In addition to the maturing 52-week bills, there are $25,287 million of maturing 13-week and 26-week bills.

Federal Reserve Banks hold $11,163 million of bills for their own accounts in the three maturing issues. These may be refunded at the weighted average discount rate of accepted competitive tenders.

Federal Reserve Banks hold $4,683 million of the three maturing issues as agents for foreign and international monetary authorities. These may be refunded within the offering amount at the weighted average discount rate of accepted competitive tenders. Additional amounts may be issued for such accounts if the aggregate amount of new bids exceeds the aggregate amount of maturing bills. For purposes of determining such additional amounts, foreign and international monetary authorities are considered to hold $326 million of the maturing 52-week issue.

Tenders for the bills will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D. C. This offering of Treasury securities is governed by the terms and conditions set forth in the Uniform Offering Circular (31 CFR Part 356) for the sale and issue by the Treasury to the public of marketable Treasury bills, notes, and bonds.

Details about the new security are given in the attached offering highlights.

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Attachment

RR 431

HIGHLIGHTS OF TREASURY OFFERING OF 52-WEEK BILLS TO BE ISSUED JULY 27, 1995

July 14, 1995

Offering Amount	$18,250 million
Description of Offering:	
Term and type of security .	364-day bill
CUSIP number	912794 Z6 4
Auction date	July 20, 1995
Issue date	July 27, 1995
Maturity date	July 25, 1996
Original issue date	July 27, 1995
Maturing amount.	$16,963 million
Minimum bid amount	$10,000
Multiples	$1,000
Submission of Bids:	
Noncompetitive bids	Accepted in full up to $1,000,000 at the average discount rate of accepted competitive bids
Competitive bids . . .	(1) Must be expressed as a discount rate with two decimals, e.g., 7.10% (2) Net long position for each bidder must be reported when the sum of the total bid amount, at all discount rates, and the net long position are $2 billion or greater. (3) Net long position must be determined as of one half-hour prior to the closing time for receipt of competitive tenders.
Maximum Recognized Bid at a Single Yield . . .	35% of public offering
Maximum Award	35% of public offering
Receipt of Tenders:	
Noncompetitive tenders . .	Prior to 12:00 noon Eastern Daylight Saving time on auction day
Competitive tenders	Prior to 1:00 p.m. Eastern Daylight Saving time on auction day
Payment Terms	Full payment with tender or by charge to a funds account at a Federal Reserve bank on issue date

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

FOR IMMEDIATE RELEASE
July 17, 1995

Contact: Chris Peacock
(202) 622-2960

MEDIA ADVISORY

Treasury Secretary Robert Rubin will brief reporters at 1 p.m. today, Monday, July 17 on a Treasury inquiry into the "Good O' Boys Roundup."

Secretary Rubin will be joined by Treasury Under Secretary for Enforcement Ronald K. Noble and Treasury Inspector General Valerie Lau.

The briefing will be in Room 3327 of the Treasury Department, 1500 Pennsylvania Ave. N.W.

Cameras should be in place by 12:30 p.m.

Press without Treasury, White House, State, Defense or Congressional press credentials must provide name, date of birth and Social Security number by noon to the Treasury Office of Public Affairs. Call (202) 622-2960 or fax the information to (202) 622-1999.

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AUCTION RESULTS

PUBLIC DEBT NEWS

Department of the Treasury • Bureau of the Public Debt • Washington, DC 20239

FOR IMMEDIATE RELEASE
July 17, 1995

CONTACT: Office of Financing
202-219-3350

RESULTS OF TREASURY'S AUCTION OF 13-WEEK BILLS

Tenders for $13,232 million of 13-week bills to be issued July 20, 1995 and to mature October 19, 1995 were accepted today (CUSIP: 912794T46).

RANGE OF ACCEPTED COMPETITIVE BIDS:

	Discount Rate	Investment Rate	Price
Low	5.41%	5.58%	98.632
High	5.47%	5.64%	98.617
Average	5.46%	5.63%	98.620

$100,000 was accepted at lower yields.
Tenders at the high discount rate were allotted 9%.
The investment rate is the equivalent coupon-issue yield.

TENDERS RECEIVED AND ACCEPTED (in thousands)

	Received	Accepted
TOTALS	$47,806,255	$13,231,755
Type		
Competitive	$42,544,266	$7,969,766
Noncompetitive	1,440,736	1,440,736
Subtotal, Public	$43,985,002	$9,410,502
Federal Reserve	3,261,960	3,261,960
Foreign Official Institutions	559,293	559,293
TOTALS	$47,806,255	$13,231,755

An additional $312,007 thousand of bills will be issued to foreign official institutions for new cash.

5.40 - 98.635 5.44 - 98.625 5.45 - 98.622

AUCTION RESULTS

PUBLIC DEBT NEWS

Department of the Treasury • Bureau of the Public Debt • Washington, DC 20239

FOR IMMEDIATE RELEASE
July 17, 1995

CONTACT: Office of Financing
202-219-3350

RESULTS OF TREASURY'S AUCTION OF 26-WEEK BILLS

Tenders for $13,213 million of 26-week bills to be issued July 20, 1995 and to mature January 18, 1996 were accepted today (CUSIP: 912794W67).

RANGE OF ACCEPTED COMPETITIVE BIDS:

	Discount Rate	Investment Rate	Price
Low	5.39%	5.63%	97.275
High	5.40%	5.64%	97.270
Average	5.40%	5.64%	97.270

Tenders at the high discount rate were allotted 28%.
The investment rate is the equivalent coupon-issue yield.

TENDERS RECEIVED AND ACCEPTED (in thousands)

	Received	Accepted
TOTALS	$51,373,305	$13,212,633
Type		
Competitive	$44,310,064	$6,149,392
Noncompetitive	1,563,034	1,563,034
Subtotal, Public	$45,873,098	$7,712,426
Federal Reserve	3,400,000	3,400,000
Foreign Official Institutions	2,100,207	2,100,207
TOTALS	$51,373,305	$13,212,633

An additional $1,170,693 thousand of bills will be issued to foreign official institutions for new cash.

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DEPARTMENT OF THE TREASURY

TREASURY NEWS

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FOR IMMEDIATE RELEASE
July 17, 1995

STATEMENT OF TREASURY SECRETARY ROBERT E. RUBIN

Today, I am announcing a comprehensive and independent investigation of the so-called "Good O' Boys Roundup." This inquiry will be conducted jointly by the Inspector General of the Treasury Department and by our Under Secretary for Enforcement. It will be overseen by an outside group of eminent Americans who will be asked to assess the inquiry's thoroughness, accuracy and independence. Our purpose is to get to the truth, period; and then to take all necessary steps so that we can tell the American people: This will not happen again.

Before discussing the inquiry, I would like to comment for a moment or two on why this matter is of such critical importance.

In our society, we cherish the rule of law. The rule of law can only have meaning when law enforcement and law enforcement officers act as instruments of justice and fairness.

An enduring legacy of American racism is the belief -- justified in many instances -- among African-Americans and other minorities that justice at times is enforced against them in a discriminatory fashion.

For these reasons, law enforcement officials -- in perception and reality -- must demonstrate on and off the job that they are as free from bias as their jobs require them to be. And it is the responsibility of their supervisors, right up to the Office of the Secretary, to be vigilant -- so justice is administered with integrity, fairness and freedom from bias.

We condemn as totally abhorrent the participation of law enforcement officials in the "Good O' Boys Roundup," because it included abjectly racist and anti-semitic behavior totally inappropriate for law enforcement officers, and because no one who

(More)

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participated in it had the good sense or decency to do anything about it. That is unacceptable and we will make sure it does not happen again.

When the Director of the Bureau of Alcohol, Tobacco and Firearms, John Magaw, previously the head of the Secret Service, first learned of the so-called "Roundup," he ordered an investigation by ATF's Office of Inspections.

That was nearly one month ago.

Before this investigation was fully completed, reports of the "Roundup" appeared in the press. Director Magaw, quickly and without reservation, spoke out against the racism apparent from descriptions of the "Roundup." Ronald K. Noble, Under Secretary for Enforcement, did the same thing before a national assembly of African-American criminal justice officials in Denver. I fully identified with their condemnation in response to a question from Senator Moseley-Braun at a hearing on Mexico held this past Friday.

But words are not enough; deeds are what matter.

That is why we are taking the additional actions we announce today. At Treasury, Valerie Lau, the independent Inspector General, and Ron Noble, Under Secretary of the Treasury for Enforcement, will jointly conduct an inquiry into the alleged participation of active Treasury Department enforcement employees in the "Good O' Boys Roundup." The heads of all enforcement bureaus -- Director Magaw, Secret Service Director Eljay Bowron, Customs Commissioner George Weise, and IRS Commissioner Margaret Richardson -- fully support this independent inquiry.

The purpose is to ascertain the facts; determine whether participation by Treasury employees constituted violations of law, regulations or procedure; and judge whether existing policies are adequate and sufficient to prevent participation by Treasury personnel in similar events in the future.

The inquiry is expected to be completed within 120 days, and a report with recommendations shall be made public. The members of the independent board will be announced shortly.

Once the inquiry is complete, we will take whatever appropriate actions are called for by the facts we unearth. This process will be comprehensive and candid. I personally have the utmost confidence that the Inspector General, the Under Secretary for Enforcement, and the board of inquiry will get to the bottom of this issue.

I am proud, I will say it even more strongly, deeply proud, of the men and women of the Treasury Department's enforcement bureaus.

They do dangerous and difficult work; they place their lives on the line every day so that the rest of us can live in greater safety and greater security. I was in New York this morning with agents of the Customs bureau, and we talked about the undercover work they were doing with extraordinarily dangerous criminals and the arrests that have been made in response in the areas of narcotics, in the sale of nuclear material, fraud, smuggling of various kinds and other dangerous activity inimicable to public safety.

Similarly at the ATF, roughly 30 percent of their arrests are of armed drug traffickers. This is dangerous and difficult work, and it absolutely requires our support for them to be effective. And that support in turn depends on law enforcement officials conducting themselves with scrupulous fairness, without any hint of racism or bias. And that support also requires that if problems develop, and inevitably there will be problems from time to time as there are in any organization, that those problems be dealt with fully, candidly, openly and as expeditiously as possible. It is for all these reasons that this investigation is so important.

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DEPARTMENT OF THE TREASURY

TREASURY NEWS

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TRANSCRIPT OF PRESS BRIEFING
TREASURY SECRETARY ROBERT E. RUBIN
UNDER SECRETARY RONALD K. NOBLE
INSPECTOR GENERAL VALERIE LAU
JULY 17, 1995

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DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

July 17, 1995

The Honorable Newt Gingrich
Speaker of the House of
Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

I write on the issues of deficit reduction and the need for Congress to increase the statutory limit on the public debt. The deficit reduction program enacted in 1993 has substantially reduced the deficit as a percentage of our gross domestic product. The Administration believes that it is imperative that we continue on a path of deficit reduction. This belief is reflected in the 1996 budget proposals of both the President and Congress (despite the very substantial other differences between these budgets). However, even if the budget deficit continues to decline, as I am sure you are aware, there will soon be need for action by Congress to increase the limit on the public debt.

The precise day when the Treasury will run up against the present permanent debt limit of $4.9 trillion is not knowable this far in advance. However, in the absence of an increase in the debt limit, we are likely to run out of cash and room under the debt ceiling in October. We will advise you of our more precise estimates of Treasury cash balances and debt later this summer as we approach the date when the Treasury will run up against the permanent limit.

We look to Congress to act in a timely manner to avert a debt limit crisis that could interrupt Government operations, delay payments to recipients of benefits and millions of others, disrupt the Treasury's borrowing operations, generate uncertainty in the domestic and international securities markets, and increase the Government's cost of borrowing.

I note that the conference report on the Concurrent Resolution on the Budget for FY 1996 -- recently passed by Congress -- called for a permanent increase in the debt ceiling to not more than $5.5 trillion (which would not be reached until sometime in 1997). This amount would allow ample time to revisit the debt limit issue in a well-considered and orderly fashion.

We recognize that some want to link the need for a debt limit increase to the debate over the budget this fall, but that is not appropriate or in the best interests of the American people and our economy. We look forward to working with you to ensure that the bill to increase the debt limit is not encumbered with any extraneous matters that might needlessly delay its enactment.

Sincerely,

Bob Rubin

Robert E. Rubin

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

TRANSCRIPT OF PRESS BRIEFING
TREASURY SECRETARY ROBERT E. RUBIN
UNDER SECRETARY RONALD K. NOBLE
ATF DIRECTOR JOHN MAGAW
JULY 11, 1995

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DEPARTMENT OF THE TREASURY

TREASURY NEWS

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For Release Upon Delivery
Expected at 9:00 A.M.
July 18, 1995

STATEMENT OF
CYNTHIA G. BEERBOWER
DEPUTY ASSISTANT SECRETARY (TAX POLICY)
DEPARTMENT OF THE TREASURY
BEFORE THE SENATE FINANCE COMMITTEE

Mr. Chairman and Members of the Committee:

I am pleased to present the views of the Treasury Department on fuel taxes deposited in the General Fund of the Treasury for deficit reduction purposes and on diesel dyeing requirements. We have been asked to comment on (i) the extension of the delayed effective date of the 4.3-cents-per-gallon deficit reduction fuel tax on commercial aviation fuel; (ii) the appropriateness of the 2.5-cents-per-gallon deficit reduction fuel tax currently imposed on the rail industry; and (iii) the diesel fuel dyeing requirements enacted as part of the Omnibus Budget Reconciliation Act of 1993, including proposals to suspend collection of the excise tax on recreational boat diesel fuel and to exempt Alaska from diesel dyeing requirements.

In 1993, this Committee decided that deficit reduction was critical to the nation's well-being, and that excise taxes on a broad base of transportation fuels was an appropriate part of the deficit reduction plan. In this hearing, we are addressing whether Congress' intention should be effectuated with respect to the commercial airline industry and the railroad industry. In 1993, Congress carefully considered and agreed to an allocation of the responsibilities of the various transportation industries for deficit reduction. We believe that piecemeal unravelling of that agreement would be a mistake.

1. Transportation Fuels Excise Tax Exemption for Fuels Used in Commercial Aviation

Current Law

The Omnibus Budget Reconciliation Act of 1993 (OBRA 93) imposed an excise tax of 4.3 cents per gallon on: (i) all transportation fuels currently subject to the Leaking Underground Storage Tank (LUST) Trust Fund excise tax, with a delayed effective date for fuels used in commercial aviation; (ii) liquefied petroleum gases currently taxable as special fuels; (iii) diesel fuel used in noncommercial motorboats; and (iv) compressed natural gas used in highway motor vehicles or

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motorboats (at 48.54 cents per mcf). Taxable fuels include motor fuels (gasoline, diesel fuel, and special motor fuels) used for highway transportation or in motorboats, fuel used in aviation, gasoline used in off-highway non-business uses (e.g., small engines and recreational trail uses), diesel fuel used in trains, and fuels used in inland waterway transportation. Most fuel uses that are exempt from the LUST tax are also exempt from this tax.

The excise tax increase was generally effective on October 1, 1993 (with appropriate floor stocks taxes being imposed on that date), but gasoline and jet fuel used in commercial aviation were not subject to the tax until October 1, 1995 (with appropriate floor stocks taxes being imposed on that date).

Revenues from this transportation fuels tax are retained in the General Fund of the Treasury. This tax is separate from, and in addition to, excise taxes imposed on the same fuels to fund the Highway Trust Fund, the Airport and Airway Trust Fund, the LUST Trust Fund, the Inland Waterways Trust Fund, or the Aquatic Resources Trust Fund.

Discussion

The Administration opposes further delay of the effective date of the 4.3-cents-per-gallon tax on commercial aviation fuel enacted as part of OBRA 93.

This Committee decided in 1993 that deficit reduction is critical to the nation's economic well-being, and that "the revenues raised by a broad-based transportation fuels excise tax" would be appropriate for reducing that deficit.[1] Consistent with that rationale, fuels used by all modes of transportation were equally subject to the tax.

The effective date of the tax with respect to commercial aviation fuel was delayed because of concerns that the commercial airline industry generally was experiencing significant losses. It was thought by some that the imposition of the fuel tax would exacerbate the industry's temporarily depressed economic condition, but there was no intention that commercial aviation should be exempted from the generally applicable excise tax on transportation fuels to generate General Fund revenues for deficit reduction.

In 1993 and 1994, the revenues and profits of the industry in fact recovered from recession lows. The Department of Transportation reports that as the economy recovered from the

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[1]Senate Print No. 37, 103d Cong., 1st Sess. 212 (1993).

recession, airline traffic grew.[2] The airlines also restructured their operations, increased efficiency, cut excess capacity, and reduced unit operating cost. As a result, the major airlines' operating profits grew to over $2.4 billion in 1994. These trends are continuing into 1995; first quarter operating profits were $495 million and second quarter results are now being compiled and are expected to be strong. The Federal Aviation Administration now forecasts that the present strong growth in airline traffic will continue for the next two years, and do so at the rate of approximately 4 percent through FY 2006 (this forecast assumes the imposition of the 4.3-cents-per-gallon tax). As the Department of Transportation concluded in its testimony on May 9, 1995, before the Subcommittee on Oversight of the House Committee on Ways and Means, the airlines' net income is expected to continue to grow. In addition, the Department of Transportation has provided a schedule of direct Federal taxes and customs fees for selected transportation modes. (See attached schedule.)

In view of the airlines' improved financial performance, the impact of an excise tax of 4.3 cents a gallon on commercial aviation fuel will be less burdensome than it would have been in 1993. To put this tax in perspective, the tax rate is well within the range over which jet fuel prices have fluctuated in recent years. During 1993 and 1994, average monthly jet fuel prices ranged from 50.7 to 61.3 cents per gallon. In addition, excise taxes that apply generally and at the same rate to all fuel used in a particular mode of transportation tend to be passed on to consumers.

A tax on jet fuel will not affect the international competitiveness of the U.S. carriers because the tax will apply to both U.S. and foreign carriers operating in the U.S. and will not apply to U.S. carriers (or foreign carriers) in their international operations.

The enactment of OBRA 93 reduced the deficit and contributed to the present economic expansion. We must be careful not to unravel the deficit reduction plan piecemeal. Moreover, we believe that an extension of the exemption for aviation fuel is unwarranted and would be unfair to other sectors of the transportation industry.

2. Deficit Reduction Tax on Railroad Diesel Fuel

Background

Prior to OBRA 93, highway motor fuels were subject to tax at

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[2]See statement by Patrick Murphy before the Subcommittee on Oversight of the House Committee on Ways and Means, May 9, 1995.

a rate that included a 2.5-cents-per-gallon deficit reduction rate. Receipts attributable to this deficit reduction rate were not deposited in the Highway Trust Fund, but instead were retained in the General Fund. A tax at the 2.5-cents-per-gallon deficit reduction rate was also imposed on diesel fuel used in trains, and receipts attributable to this tax were also retained in the General Fund. As originally enacted, the 2.5-cents-per-gallon tax would have expired on September 30, 1995. In 1993, the Administration recommended that the 2.5-cents-per-gallon deficit reduction tax be made permanent.

Current Law

Under the Conference Agreement to OBRA 93, the 2.5-cents-per-gallon tax on highway motor fuels was extended through September 30, 1999, but receipts attributable to the tax were shifted from the General Fund to the Highway Trust Fund, beginning October 1, 1995. The tax on diesel fuel used in trains was also extended through September 30, 1999, but the rate of tax was reduced to 1.25 cents per gallon for periods after September 30, 1995. Receipts attributable to this tax will be retained in the General Fund.

As discussed above, OBRA 93 also imposed a permanent excise tax of 4.3 cents per gallon on transportation fuels generally, including diesel fuel used by trains. Thus, beginning October 1 of this year, diesel fuel used in trains will be subject to a 5.55-cents-per-gallon tax dedicated to the General Fund for deficit reduction purposes while fuel used in other forms of transportation -- highway, inland waterway, commercial aviation and non-commercial aviation -- are subject to a 4.3-cents-per-gallon tax dedicated to the General Fund (in addition to the tax dedicated to trust funds).

Discussion

The Administration does not support repealing or reducing the 1.25-cents-per-gallon excise tax on rail diesel fuel that is deposited in the General Fund for purposes of deficit reduction. As the attached Department of Transportation analysis shows, deficit reduction taxes are a smaller percentage of net revenue for the railroads than for commercial trucking and airlines (assuming the tax on aviation fuel is taken into account). Under the compromise reached in OBRA 93, receipts from the 2.5-cents-per-gallon tax on highway motor fuels were shifted from the General Fund to the Highway Trust Fund, while the tax on diesel fuel used in trains was cut in half. Deficit reduction is essential in our efforts to balance the budget, and we support this goal in the context of this tax. The deficit reduction plan was enacted in 1993 to get the nation's economy on track. Piecemeal tax reduction would send the wrong signal concerning our commitment to further deficit reduction. As stated earlier,

the Administration does not believe that the 1993 agreement should be reopened at this time, although we believe that it would be appropriate for Congress to re-examine this issue when the tax expires in 1999.

3. Diesel Fuel Dyeing Requirements

Background

Diesel fuel and gasoline that are used for highway transportation and certain other purposes are generally subject to tax. Diesel fuel, however, unlike gasoline, is also used extensively for nontaxable purposes such as home heating. Because diesel fuel used for taxable and nontaxable purposes is otherwise physically indistinguishable, many countries[3] (including the United States) that tax highway fuels, but not fuel destined for other uses, have imposed dyeing requirements to differentiate taxable from nontaxable fuel. In addition, many States dye diesel fuel for enforcement of fuel taxes. Before 1994, the Internal Revenue Code did not impose a dyeing requirement with respect to diesel fuel. Instead, diesel fuel was generally subject to tax when sold by a wholesale distributor, who determined, in accordance with Treasury regulations, whether the fuel was taxable or nontaxable. A dyeing requirement was imposed, however, beginning in October 1993, under the Clean Air Act. The Act prohibits highway use of diesel fuel with a sulfur content exceeding prescribed levels and requires dyeing of high-sulfur fuel to facilitate enforcement of this prohibition.

During the period leading up to the enactment of OBRA 93, a number of reports indicated that there was substantial evasion of the diesel fuel tax. The Department of Transportation estimated that the diesel fuel tax was evaded on 15 to 25 percent of total gallons consumed. Both this Committee and the House Committee on Ways and Means concluded that this problem could be alleviated by moving the collection point further up the distribution stream (from the wholesale level to the terminal) for diesel fuel taxes. This change would reduce the number of times the fuel changes ownership prior to tax and reduce the number of taxpayers, so that diesel fuel taxes would be easier to collect, and payments of tax would be easier to monitor. The committees were also concerned that this change be accomplished in a manner that minimized the additional burden imposed on exempt users by preserving their ability to buy diesel fuel (including heating

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[3]To our knowledge, the following countries require dyeing of motor fuel: Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Holland, Ireland, Italy, Luxembourg, Peru, the Philippines, Portugal, South Africa, Spain, Switzerland, the United Kingdom, and the United States.

oil) free of tax. H.R. Rep. No. 111, 103d Cong., 1st Sess. 311 (1993). Senate Print No. 37, 103d Cong., 1st Sess. 214 (1993).

Current Law

An excise tax totaling 24.4 cents per gallon is imposed on diesel fuel. In the case of fuel used for highway transportation, 17.5 cents per gallon (20 cents after September 30, 1995) is dedicated to the Highway Trust Fund and 0.1 cent per gallon is dedicated to the LUST Trust Fund. In addition, 6.8 cents per gallon (4.3 cents after September 30, 1995) is imposed on transportation fuels generally and is retained in the General Fund.

OBRA 93 changed the imposition of the diesel fuel tax from the wholesale level to the removal of the fuel from a terminal facility (i.e., the terminal rack). This legislation also provided that tax is imposed on all diesel fuel removed from terminal facilities unless the fuel is destined for a nontaxable use and is indelibly dyed pursuant to Treasury Department regulations.

In general, the diesel fuel tax does not apply to non-transportation uses of the fuel. This exemption includes off-highway business uses, such as powering off-highway construction equipment and farming. Use as heating oil is also exempt. (Most fuel commonly referred to as heating oil is diesel fuel.) The tax also does not apply to fuel used by State and local governments, to exported fuels, and to fuel used in commercial fishing and shipping. Fuel consumed by intercity buses and trains is partially exempt from the diesel fuel tax.

Nontaxable (and partially taxable intercity bus and rail) users of diesel fuel may either use dyed diesel fuel on which tax is never paid (and pay the appropriate tax in the case of train and intercity bus operators) or purchase tax-paid, undyed diesel fuel and file a claim for refund of tax paid. In the case of diesel fuel sold to States and local governments and for farming use, the refunds are claimed by registered ultimate vendors who sell the fuel to the consumers without tax. (These claims accrue interest unless they are paid within 20 days.) Other nontaxable users of diesel fuel may either claim refunds on the taxpayer's income tax return (estimated income tax payments may be reduced to adjust for these amounts) or on a separate refund claim, if the total amount of refund due a taxpayer exceeds $750 at the end of any of the first three quarters in a calendar year.

To enable law enforcement officials to ensure that untaxed fuel is not used in a taxable use through dilution of dye concentrations, present law imposes a penalty of $10 per gallon ($1000 minimum) on persons who dilute dye concentrations below prescribed minimum levels. If an untaxed substance (e.g.,

kerosene) is blended with dyed diesel fuel and is destined for a nontaxable use, dye must be added to the fuel mixture to ensure that required concentrations are maintained.

Also, in certain circumstances, an untaxed substance (e.g., kerosene) is blended with taxed (clear) diesel fuel. When this blending occurs, tax is due on the untaxed substance.

Present law also imposes a penalty of $10 per gallon ($1,000 minimum) on persons who sell or use untaxed diesel fuel in a taxable use after the fuel is removed from a terminal facility. For example, truck owners having dyed diesel fuel in their vehicle tanks are subject to this penalty. Similarly, owners of truck stops having dyed diesel fuel in pumps dispensing fuel to highway users are subject to the penalty. The Internal Revenue Service (IRS) has begun a program of spot checks for dyed diesel fuel at truck stops and State highway weigh stations.

Although the dyeing requirements under the Clean Air Act and the excise tax statute are not identical, the Administration has endeavored to coordinate the two regimes to simplify compliance. The Treasury Department worked in conjunction with the EPA during the drafting of the temporary regulations governing the diesel dyeing program to assure compatibility with the Clean Air Act regulations. In addition, last year, the Administration responded to concerns raised by the State of Alaska and others regarding the similarity in color of the dye previously used for high-sulfur diesel fuel (blue) and that used for aviation gas (blue). Both the EPA and the Treasury Department issued guidance providing that the color for all diesel would be red for purposes of both dyeing regimes.

Discussion

General

Achieving effective compliance with excise taxes on fuels has been a problem not only for the Federal government but also for the States. After trying other procedures, the United States has learned that taxing fuels at the terminal rack and dyeing nontaxable diesel fuel are the best methods for preventing fraud, assuring that honest retailers and wholesalers do not have to compete with those supplied with untaxed fuel, and securing adequate revenue to support the nation's transportation infrastructure and for deficit reduction. The United States has been a late-comer to implementing these simple steps toward better compliance. As previously discussed, many foreign countries have used dyeing for years to distinguish between taxed and tax-exempt fuel.

The OBRA 93 changes in the administration of fuel taxes have been a success. Recent revenue collections demonstrate that the

changes were warranted and necessary. As the Commissioner of the IRS testified in February before the Oversight Subcommittee of the House Committee on Ways and Means, preliminary tabulations of excise tax liabilities reported on tax returns showed receipts to be $1.09 billion higher for the first three quarters of calendar year 1994 than for the same period in 1993, after adjusting for the rate increase. Complete data for 1994 have now been reviewed. The total amount of 1994 receipts available for the trust funds increased by $1.23 billion over the prior year, again adjusting for the rate increase. Taking into account increased refunds and credits, and attributing some of the increase to economic growth, the Treasury Department estimates that diesel fuel tax receipts, net of refunds, were $600 - $700 million higher in 1994 than in 1993 due to improved compliance alone.

Compliance Efforts

The diesel dyeing program represents what can be accomplished through partnerships with State taxing authorities, other Federal and State agencies (such as the Federal Highway Administration and EPA), and industry. The first phase of implementation of this program included: (i) education/outreach to affected stakeholders; (ii) recruitment and training of IRS enforcement personnel; (iii) formation of working partnerships with the States; and (iv) terminal and roadside inspections. Through May of 1995, the IRS has visited and inspected over 20,000 terminals and other outlets for both enforcement and education. These efforts at outreach, taxpayer education, and burden reduction are an ongoing and integral part of the dyed diesel compliance program. Moreover, a major portion of these compliance efforts depends on cooperative joint efforts with the States. During the week of January 23 through 27, 1995, thirty IRS Districts participated in joint compliance checks with their respective States inspecting over 16,000 trucks. The results of these inspections indicated that less than one percent of the trucks were using dyed fuel on the highway. We believe this indicates successful implementation of the diesel dyeing program. Moreover, several States[4] are piggybacking on the success of this program and passing similar legislation calling for taxation at the terminal rack and dyeing of diesel fuel.

Because the number of taxpayers liable for these taxes decreased, the ability to monitor compliance with these taxes has greatly increased. Detection of diesel fuel tax evasion schemes, however, is a dynamic enterprise. The IRS is continuing to

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[4]To our knowledge, the following states have adopted this federal piggyback legislation: Michigan, Indiana, Wisconsin, Florida, California, Iowa, South Dakota, North Carolina, South Carolina. Tennessee and New York state systems are also terminal-based for gasoline.

identify and stop noncompliance with the diesel tax law, including incorrect filings, nonfiling, and tax evasion schemes. For example, the IRS devoted additional resources to re-registering diesel vendors as ultimate vendors under the new law. This "upfront" effort has enhanced the IRS's ability to verify the authenticity of vendors filing diesel refund claims.

The improvements in administration and compliance, with the resulting increase in collections, are attributed to Congress, the Federal Highway Administration, the States, the petroleum industry, and user group representatives, and their continued interest in and support of the IRS's efforts to improve compliance with the motor fuel excise tax statutes. It is imperative that the statutory changes that have been made by OBRA 93 be left intact in order to continue this favorable trend. We will continue to monitor the effectiveness of the diesel dyeing program and will alert Congress to issues as they arise.

Particular Issues

While the diesel dyeing program has been an overall success, certain issues involving specific cases have been identified. The remainder of my testimony will discuss three concerns that have been raised.

a. State Exemptions

Background -- One issue raised has been the application of diesel dyeing in Alaska, where more than 90 percent of diesel fuel is used for home heating, commercial fishing and other non-taxable uses, and where diesel fuel must often be blended with kerosene during winter conditions. Unlike the excise tax statute, the Clean Air Act permits the EPA temporarily to exempt, upon request, Hawaii and Alaska from the dyeing requirements. Only Alaska has requested and been granted such an exemption by EPA. This exemption expires at the end of 1996.

Administration's Recommendation -- The Administration would support an exemption from the excise tax diesel dyeing requirement for diesel fuel sold in Alaska during the remainder of the period when it is exempt from the Clean Air Act dyeing requirements, subject to procedures established by the Treasury Department. The Administration believes that the Clean Air Act and the excise tax dyeing regimes should be as harmonious as feasible, respecting the differences between the two statutes.

b. Noncommercial Boats

Background -- In addition to other changes discussed above, OBRA 93 also extended the diesel fuel tax to fuel used in pleasure boats to finance the repeal of the excise tax on luxury boats. Because diesel fuel used in pleasure boats is taxed, and

dyed diesel fuel cannot be used for a taxable purpose, pleasure boats must use clear fuel. A substantial penalty is imposed on the use or sale of dyed fuel for a taxable use, including the use in pleasure boats.

It appears that, while many marinas carry both dyed and clear fuel, some marinas are carrying only dyed fuel for their commercial customers due to limited tankage. As a result, there have been complaints that pleasure boats are unable to buy clear fuel at all marinas. Many marinas, however, have already incurred the expense of adding a separate tank for clear, taxed diesel fuel in order to comply with current law. Although some State fire codes may preclude the installation of additional above-ground tanks at some locations, we are unaware of any State prohibitions on the installation of underground tanks. Based on discussions with other Federal agencies, we also conclude that there is no Federal regulatory prohibition of additional tanks at marinas.

Further, we are monitoring marinas in various areas. We have found that clear diesel fuel is readily available in areas where recreational boating is popular, and availability has improved significantly since the summer of 1994. Moreover, we found that clear fuel availability has improved even in areas, such as the Gulf Coast of Louisiana, where commercial boating predominates and retailers are least likely to accommodate recreational users. We believe that the availability of clear diesel fuel should continue to improve as the market adjusts to the new rules. We are concerned, however, that uncertainty over the permanence of the new rules is retarding the adjustment process and may have discouraged some marina operators from installing the facilities needed to serve their pleasure boat customers.

Administration's Recommendation -- The Administration opposes the proposal to suspend collection of the excise tax on recreational boat fuel for two years while the Treasury Department conducts a study on various procedures for collecting excise taxes on diesel fuel sold for use, or used, in recreational boats. This proposal merely defers the problem with no real prospect that a better alternative to the current system will be found during the suspension period. Based on our experience with the enforcement of motor fuels excise taxes since the taxes were first enacted, we believe (and collections data supports) that the current method of collection is the most effective and efficient. We have no doubt that any further Treasury Department study will reach the same conclusion. However, we are cognizant of safety concerns and want to receive more information about any area where the tax may have caused safety problems. Moreover, we recognize that there may be room to improve the availability of diesel fuel to recreational boaters, but in our view, the current situation does not justify

scrapping the entire system. We believe Congress concluded in 1993 that recreational boaters should contribute to deficit reduction. Therefore, suspending the collection of the excise tax would undermine that goal.

As noted above, the availability of clear fuel has improved significantly in the year and a half since the tax on pleasure boat diesel fuel went into effect. We believe this trend will continue as the market responds to the OBRA 93 changes.

c. Kerosene

Background -- Since OBRA 1993, it has been brought to our attention that there are continuing opportunities to evade the motor fuels excise tax on kerosene used in highway vehicles. Kerosene is a petroleum distillate used in space heaters, aircraft engines, and as a stand-alone fuel in some vehicles. Also, kerosene frequently is blended with diesel fuel during cold weather to prevent formation of wax crystals in fuel lines. In some parts of the country, diesel fuel/kerosene blends containing 30 percent kerosene are common. Clear, low-sulfur kerosene (1-K) is often available at service station pumps.

Before 1994, diesel fuel/kerosene blends used in highway vehicles were generally produced before the sale of the blend by the wholesale distributor, and the blend was treated as diesel fuel. Thus, tax was paid on the kerosene portion of the blend in the same manner as tax was paid on the diesel fuel.

Treasury temporary regulations provided that before July 1, 1994, kerosene would not be treated as diesel fuel. Subsequently, the IRS published Notice 94-72, 1994-2 C.B. 553, announcing that the exclusion of kerosene from the definition of diesel fuel would continue until the issuance of further guidance. Therefore, under the current rules, kerosene is not taxed or dyed upon removal from the bulk transfer/terminal system, but if it is blended outside the system with previously taxed diesel fuel, the untaxed portion of the mixture is taxable on the removal or sale of the resulting blend.

Commentators have alleged that many kerosene/diesel fuel blenders have been able to sell their product at a much lower price than their competitors because they evaded tax on the increased volume of the fuel they produced and sold. Therefore, these commentators have proposed that kerosene be included in the definition of diesel fuel and be taxed or dyed when removed from the bulk transfer/terminal system. Others, however, have expressed concern that a tax-or-dye requirement would conflict with numerous State laws and product safety certifications that

require kerosene to be sold clear and undyed.[5] In addition, a tax-or-dye requirement would impose increased burdens on lower-income families who would recover the tax paid on kerosene for heating purposes only through an income tax credit.

Administration's Recommendation -- We believe that the continuation of the present treatment of kerosene would perpetuate the problems that Congress sought to correct in the 1993 Act, and that a change is essential if the new diesel fuel tax system is to function as Congress intended. We also believe, however, after consulting with the Consumer Product Safety Commission, that it is imperative to consider the consumer safety issues of adding dye to kerosene used in space heaters. Therefore, we would like to work with Congress, mindful of the differing needs of the consumer and the distributor, to devise an ultimate vendor refund rule in this specific case. We urge the Congress to address this issue as soon as possible.

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[5]A number of states require that clear kerosene be used in space heaters. These states are concerned that dye in kerosene may disguise impurities, such as sulfur, that may be toxic when burned in unventilated areas. The Consumer Product Safety Commission has also expressed similar concerns.

DIRECT FEDERAL TAXES AND CUSTOMS FEES FOR SELECTED TRANSPORTATION MODES
Fiscal Year 1994

	Actual FY 1994			With the Aviation Fuel Tax		
Commercial Aviation	Total	Trust Fund	General	Total	Trust Fund	General
Fuel						
Deficit reduction	$ -	$ -	$ -	$ 379.0	$ -	$ 379.0
LUST	$ 12.5	$ 12.5	$ -	$ 12.5	$ 12.5	$ -
Passenger ticket	$ 4,747.0	$ 4,747.0	$ -	$ 4,747.0	$ 4,747.0	$ -
Freight waybill	$ 330.0	$ 330.0	$ -	$ 330.0	$ 330.0	$ -
International departure	$ 224.7	$ 224.7	$ -	$ 224.7	$ 224.7	$ -
Total taxes	$ 5,314.2	$ 5,314.2	$ -	$ 5,693.2	$ 5,314.2	$ 379.0
Customs fees 1/	$ 213.8	$ -	$ 213.8	$ 213.8	$ -	$ 213.8
Total taxes and customs fees	$ 5,528.0	$ 5,314.2	$ 213.8	$ 5,907.0	$ 5,314.2	$ 592.8
Total Revenue	$ 65,748.0			$ 65,748.0		
Net revenue 2/	$ 65,735.5			$ 65,356.5		
Taxes and fees as a % of net revenue	8.4%	8.1%	0.3%	9.0%	8.1%	0.9%
Commercial Trucking						
Fuel						
Highway Trust Fund	$ 4,392.6	$ 4,392.6	$ -	$ 4,392.6	$ 4,392.6	$ -
Deficit reduction	$ 1,752.4	$ -	$ 1,752.4	$ 1,752.4	$ -	$ 1,752.4
LUST	$ 25.1	$ 25.1	$ -	$ 25.1	$ 25.1	$ -
Tire tax	$ 357.5	$ 357.5	$ -	$ 357.5	$ 357.5	$ -
Retail sales tax 3/	$ 1,635.7	$ 1,635.7	$ -	$ 1,635.7	$ 1,635.7	$ -
Highway use tax 4/	$ 650.3	$ 650.3	$ -	$ 650.3	$ 650.3	$ -
Total taxes	$ 8,813.6	$ 7,061.2	$ 1,752.4	$ 8,813.6	$ 7,061.2	$ 1,752.4
Customs fees 5/	$ 16.5	$ -	$ 16.5	$ 16.5	$ -	$ 16.5
Total taxes and customs fees	$ 8,830.1	$ 7,061.2	$ 1,768.9	$ 8,830.1	$ 7,061.2	$ 1,768.9
Total revenue	$ 88,600.0			$ 88,600.0		
Net revenue 6/	$ 79,769.9			$ 79,769.9		
Taxes and fees as a % of net revenue	11.1%	8.9%	2.2%	11.1%	8.9%	2.2%
Railroads						
Fuel						
LUST	$ 2.8	$ 2.8	$ -	$ 2.8	$ 2.8	$ -
Deficit reduction	$ 190.2	$ -	$ 190.2	$ 190.2	$ -	$ 190.2
Total taxes	$ 193.0	$ 2.8	$ 190.2	$ 193.0	$ 2.8	$ 190.2
Customs fees	$ 6.3	$ -	$ 6.3	$ 6.3	$ -	$ 6.3
Total taxes and customs fees	$ 199.3	$ 2.8	$ 196.5	$ 199.3	$ 2.8	$ 196.5
Total revenue	$ 33,007.0			$ 33,007.0		
Net revenue 6/	$ 32,807.7			$ 32,807.7		
Taxes and fees as a % of net revenue	0.6%	0.0%	0.6%	0.6%	0.0%	0.6%

1/ Includes fees on passengers arriving by ship.
2/ Total revenue less LUST and deficit reduction fuel taxes. (The ticket tax, waybill tax, international departure tax, and customs fees are collected by the airlines from their customers, and are not included in gross revenues.)
3/ A 12-percent federal tax imposed on purchase of large commercial trucks.
4/ Annual licensing tax of $100 to $550 (depending on size) imposed on commercial trucks.
5/ Includes fees paid by commercial buses.
6/ Total revenue less total taxes and customs fees.

STATEMENT OF PATRICK V. MURPHY
ACTING ASSISTANT SECRETARY OF TRANSPORTATION
FOR AVIATION AND INTERNATIONAL AFFAIRS
BEFORE THE
SUBCOMMITTEE ON OVERSIGHT OF THE HOUSE
COMMITTEE ON WAYS AND MEANS
CONCERNING THE TRANSPORTATION FUELS TAX EXEMPTION
FOR AVIATION JET FUEL
May 9, 1995

Madame Chairman and Members of the Committee, the Department of Transportation is pleased to have this opportunity to testify on the scheduled imposition of the aviation fuel tax on the airlines this October 1.

I would like to submit for the record my written testimony on the airline fuel tax and the financial condition of the airline industry, which I delivered to the House Aviation Subcommittee several weeks ago.

Background

Two years ago, Congress imposed a 4.3-cent per gallon excise tax on transportation fuels, effective October 1, 1993, but temporarily exempted the airlines from paying the tax as it would have applied to aviation fuel. That statutory exemption expires September 30, 1995. Given the improving health of the airline industry and the need to reduce the Federal budget deficit, the Administration believes that the exemption should not be extended. This action is also appropriate given that the other transportation industries have paid their full share of this tax for two years.

Industry Health

The airlines are today in a far better position than they were two years ago to absorb the impact of the fuel tax. At the time Congress granted the exemption, the airline industry was undergoing the worst financial crisis in its history. In 1992, the U.S. aviation industry suffered its worst year ever, with total operating losses of $2.2 billion and net losses of $4.6 billion. The airlines had accumulated over $10 billion in net losses from 1990 through 1992. All major passenger carriers except Southwest Airlines had suffered heavy losses. Several airlines, including Eastern and Pan American, had ceased operations and were liquidated during this period, and three more major airlines had filed for bankruptcy protection.

Today's picture is significantly different. Most airlines have experienced major improvements in their financial condition. As the economy has recovered from recession, so has airline traffic. The airlines have also engaged in a major restructuring of their operations, increased efficiency, cut excess capacity, reduced unit operating costs, and enhanced their competitive strength. In addition, the three major airlines that had been under bankruptcy protection two years ago have since emerged from Chapter 11 proceedings. As a result, the major airlines' operating profits grew to over $2.4 billion in 1994, a complete reversal from 1992, and their net loss declined to $121.5 million. Five of the nine major passenger airlines posted operating profits and net profits, as did both major all-cargo airlines.

These trends are continuing into 1995. The majors' first-quarter operating profit increased from $85 million in 1994 to $485 million in 1995. Since first-quarter results are normally relatively low, owing to the extreme seasonality of airline traffic, we expect the airlines to show strong operating and net profits for calendar year 1995.

The FAA now forecasts that the currently robust airline traffic growth rates will hold for the next two years, and then continue at a healthy 4.2 percent through FY 2006. That strong growth in airline traffic, combined with the airlines' ongoing capacity reductions, should result in higher load factors for the industry. This, in turn, should boost the airlines' operating profits. In view of these factors, we are now optimistic that the airlines' net income should also continue to grow.

Wall Street analysts appear to share this positive outlook for the airlines. The emerging consensus among airline analysts is that airline fundamentals have improved and should continue to improve. The positive fundamentals include increased traffic, restrained capacity growth, higher load factors, improving revenue performance, cost containment, and financial restructuring. These are not temporary changes. As Michael Derchin of NatWest Securities has stated, "These are not the type of changes that affect profitability for a quarter or two, but the type that can enhance the profitability picture for this industry for the rest of the decade."

The airlines' recovery has been driven, in part, by the steady decline in fuel costs in recent years. Airline fuel costs have declined from 78 cents per gallon in 1990 to about 53 cents per gallon today. In 1990, fuel costs accounted for nearly 17 percent of the airlines' total operating expense. In 1994, they represented only about 10.6 percent of total expense, and only 10.2 percent in the first quarter of 1995.

In this perspective, the impact of a 4.3 cent-per-gallon fuel tax is now far less onerous than it was two years ago. Based on the latest reported data, if the tax were imposed on the 12.6 billion gallons of jet fuel purchased in 1994 by the major passenger airlines, expense would be higher by $543 million annually--an increase in total operating expense of only 0.7 percent. Moreover, we anticipate that the airlines will pass through some portion of the tax to passengers and shippers in the form of higher fares and rates and will adjust capacity and make service adjustments to increase fuel efficiency, reducing the tax's cost burden. A further reduction in the impact would result from the manner in which the fuel tax expenses are handled by the airlines in calculating their income tax liability.

Fairness to Other Transport Modes

The 4.3-cent per gallon fuel tax was applicable to highway gasoline and diesel fuel, maritime fuels, general aviation fuels, and commercial aviation fuel. Only the tax on commercial aviation jet fuel was deferred for two years, the reason being to give the airline industry time to recover from its financial losses.

As a result of the 1993 fuel tax increase, modes of transportation other than commercial aviation, including motor carriers and railroads, had their then-existing deficit reduction

fuel tax of 2.5 cents per gallon, as established by the Omnibus Budget Reconciliation Act of 1990, increased by 4.3 cents per gallon, to a total of 6.8 cents per gallon for deficit reduction.

We have calculated the relative impact of the deficit reduction portion of the Federal excise fuel taxes on the railroads and motor carriers. We estimate that for 1994 the impact of the deficit reduction portion of the fuel taxes on the Class 1 railroads and their users was approximately $221 million, and was approximately $1.78 billion for motor carriers and their users. (We have not estimated the effect on maritime carriers.)

In this context, the case for extending an exemption is very difficult as a matter of fairness. Other transport modes have paid the 4.3-cent per gallon transportation fuel tax for almost two years. By the time the commercial aviation exemption expires, motor carriers and their users alone will have paid as much $3.5 billion over two years. In view of the airline industry's recovery, there is no longer any justification for granting the airlines preferential treatment compared to surface modes.

Deficit Reduction

The 4.3-cent per gallon transportation fuel tax was enacted to help reduce the deficit. In this era of fiscal austerity, we believe it is imperative for all sectors of the economy to pull their fair share of the weight in reducing the Federal deficit. The aviation fuel tax represents the airlines' contribution to deficit-reduction. Accordingly, we believe the airlines' exemption from the transportation fuel tax should be permitted to expire as scheduled.

STATEMENT OF PATRICK V. MURPHY
ACTING ASSISTANT SECRETARY OF TRANSPORTATION
FOR AVIATION AND INTERNATIONAL AFFAIRS
BEFORE THE
SUBCOMMITTEE ON AVIATION OF THE HOUSE
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
CONCERNING THE FINANCIAL CONDITION OF THE AIRLINE INDUSTRY
MARCH 22, 1995

Mr. Chairman and Members of the Subcommittee, the Department of Transportation is pleased to have this opportunity to comment on the financial condition of the U.S. airline industry.

When I last appeared before this Subcommittee two years ago, the airline industry was in the very earliest stages of recovery from the most severe financial crisis in its history. In 1992, the U.S. aviation industry suffered its worst year ever, with total operating losses of $2.2 billion and net losses of $4.6 billion, and had accumulated over $10 billion in net losses from 1990 through 1992. All major passenger carriers except Southwest Airlines had suffered heavy losses. Several airlines, including Eastern and Pan American--two of America's oldest and largest airlines--had ceased operations and were liquidated during this period, and three more major airlines--America West, Continental, and TWA--had filed for bankruptcy protection under Chapter 11; several more airlines were considered by industry analysts to be on the brink of bankruptcy.

I am pleased to report that today's picture is different. Most airlines have experienced improvements in their financial condition. As the economy has recovered from

recession, so has airline traffic. The airlines have also engaged in a major restructuring of their operations. As a result, they have increased efficiency, cut excess capacity, reduced unit operating costs, and enhanced their competitive strength. In addition, the three major airlines that had been under bankruptcy protection two years ago have since emerged from Chapter 11 proceedings.

Historic Financial Results

Since 1985 the airlines have ridden a financial roller coaster. From 1985 through 1989, the major airlines as a group had strong net income in every year but 1986. Over the five-year period, they had cumulative net income of over $3 billion, including $1.6 billion in 1988. By the end of 1989, the major airlines had aggregate net stockholders' equity of nearly $14 billion, and long-term debt of nearly $16 billion. The airlines' debt/equity ratio stood at a fairly healthy 53/47 level.

Beginning in 1990, the airlines suffered three consecutive years of massive losses. In 1990, the major airlines lost over $3.6 billion, due primarily to Iraq's invasion of Kuwait, the subsequent Gulf War, and the consequent increase in fuel prices and decline in international airline traffic. The airlines suffered another $1.8 billion loss in 1991 as the economy slid into recession, and $4.6 billion in 1992 (including over $2 billion in one-time charges to reflect changes in the airlines' accounting of pension liabilities). By the end of 1992, the majors' long-term debt had skyrocketed to over $21 billion, and stockholders' equity had plummeted to about $9.2 billion. The industry's debt/equity ratio had climbed to 70/30.

The industry began its recovery in 1993, when the major airlines earned operating profits of $1.4 billion and net income of $450 million. Six of the nine major passenger airlines were profitable in 1993. (These figures somewhat overstate the industry's improvement, as they include "fresh start" accounting for Continental and TWA with their emergence from bankruptcy in 1993.) Preliminary figures for 1994 show that, although they posted a small net loss of $63.6 million, the major airlines' operating profits increased to $2.4 billion. Five of the nine major passenger airlines posted operating profits and net profits, as did both major all-cargo airlines.

Although long-term debt continued to increase in 1993, to $27 billion, net stockholders' equity began to recover, climbing nearly one-third to $12.3 billion. According to preliminary figures, the industry's long-term debt declined in 1994 to $26.6 billion, and stockholders' equity grew another 30 percent to a record high of nearly $16 billion. The majors' debt/equity ratio has improved to 62/38.

The overall industry recovery during the last two years has been driven primarily by the general economic recovery from the 1991-1992 recession. In addition, carriers have been significantly aided by the rapid decline in aviation fuel costs since 1990. Because of instability in the oil markets caused by the Iraqi invasion of Kuwait, the industry's average cost of fuel jumped to nearly 78 cents per gallon in 1990. Fuel prices have declined sharply every year since then, falling to 60 cents in 1993 and to 56 cents during the first nine months of 1994. This steep, rapid decline in jet fuel costs

has been a primary factor in the airlines' recovery over the last two years. Finally, most major carriers have restructured their operations to improve efficiency and cut costs, in order to become more competitive not only with each other but with low-cost carriers like Southwest and successful new entrants.

Since January 1992, no fewer than 30 new jet airlines have started up domestic U.S. operations, and we have authorized operations for 12 carriers who have not yet commenced service. At this moment, we have 10 more new entrant applications pending before the Department. These and other low-cost, mid-size airlines have filled a void left by the majors in point-to-point, short-haul and medium-haul city-pair markets with dramatically positive results. The larger carriers have been forced by this development to redouble their cost-cutting efforts. They have reduced service on unprofitable routes, expanded service on underserved routes, retired older, inefficient aircraft, and, in some cases, achieved new collective bargaining agreements that allow a more efficient use of labor. In order to improve the efficiency of their operations, airlines have entered into major domestic and international code-sharing and joint-marketing alliances with other carriers. Many have also restructured their debt and equipment leases to improve earnings and cash flow; others have reappraised their entire route structures and operating philosophies. In addition, management leaders at many airlines have increasingly formed partnerships with labor by encouraging employee ownership, primarily through Employee Stock Option Plans. Employees now hold an outright majority share of United, the nation's largest airline, and own

large equity shares of many other airlines, including America West, Continental, Northwest, Southwest, and TWA.

These changes in the airlines' operations constitute the most comprehensive restructuring of the industry at least since the development of hub-and-spoke networks in the early and mid-1980s, and perhaps since passage of the Airline Deregulation Act in 1978.

As a result of this restructuring, most airlines have achieved dramatic improvements in their financial position. Northwest, in particular, has made enormous strides in the past two years. After suffering record losses of $386 million in 1992, it earned $81 million in 1993, and a record $430 million last year. American, America West, and United, which also suffered from heavy losses in 1992, were all solidly in the black by 1994. Southwest, which was the only profitable passenger carrier in 1992, has seen its net earnings increase by 73 percent to $290 million last year. And ValuJet, less than 2 years old, enjoyed an astounding 25 percent operating margin last year, with net income of over $20 million. Restructuring has also enabled the three major airlines formerly under Chapter 11 protection to reorganize and escape from bankruptcy. Continental emerged from bankruptcy in April 1993, TWA in November 1993, and America West in August 1994.

At the same time, the airlines' recovery has not been uniform. Despite their large aggregate operating profits, the major carriers posted net losses for 1994 of $64 million

(based on preliminary data), and a few carriers remain in a weak financial position. Even the weaker carriers, however, have made significant progress in cutting unit costs, rationalizing their route systems, and increasing efficiency. As airline traffic increases with continued economic growth, the industry's fortunes should improve considerably.

Forecast Operating and Financial Results

The airline industry's financial prospects are critically dependent on continued airline traffic growth, which itself is a function of overall growth in economic output. Gross domestic product (GDP) grew by 3.8 percent in fiscal year 1994. At the same time, airline traffic increased by 5.5 percent, from 483 billion revenue passenger miles (RPMs) in FY 1993 to 510 billion in FY 1994.

OMB forecasts continued GDP growth of 3.1 percent in FY 1995, 2.4 percent in FY 1996, and 2.5 percent from FY 1997 to 2001, and 2.4 percent from FY 2002 to 2006. (The FAA's long-term traffic forecast is based on a consensus of long-term growth forecasts issued by OMB and several economic analysts in the private sector.) With these economic forecasts as a basis, the FAA forecasts that the currently robust airline traffic growth rates will continue for the next two years, and then continue at a healthy 4.2 percent through FY 2006. The FAA forecasts airline traffic of 537 billion RPMs in FY 1995, 567 billion in FY 1996, and 869 billion by FY 2006.

Most major airlines have announced plans to control or trim their capacity this year, and to continue pursuing reductions in unit costs. Continued strong growth in airline traffic, therefore, should result in higher load factors for the industry. This, in turn, should boost the airlines' operating profits, even as their real passenger yields (revenue per passenger-mile) continue to fall.

We are now optimistic that the airlines' net income should also continue to grow. Long-term debt should continue the slow decline begun in 1994, and net stockholders' equity should increase sharply.

As over the last two years, however, these benefits may not be spread evenly among the carriers. Airlines with high costs or poor route structures may continue to struggle unless they effect significant corrective steps. Highly leveraged carriers are especially vulnerable to upward pressures on interest rates. Nevertheless, we anticipate that even the weaker carriers should progress toward profitability over the next several years, albeit possibly at a slower rate than the healthier airlines.

Airline industry cost structure

The airline industry is labor-intensive. During fiscal 1994 (the most recent period for which we have detailed data), salaries and wages accounted for 24.8 percent of the major airlines' total operating expense, and fringe benefits comprised another 9.6 percent. Total labor costs amounted to 34.3 percent of their operating expense, by far the largest expense item.

Fuel and capital costs were the next largest expense groups. The majors' fuel and oil expense was 11.2 percent of operating expense. Total equipment costs (rentals plus depreciation) were 13.4 percent of operating expense. Passenger traffic commissions are also a major airline expense, amounting to 9.4 percent of operating expense. Altogether, labor, fuel, equipment, and commission costs made up 68.3 percent of total expense in FY 1994.

The distribution of airline expenses has not been static over time. Fuel and oil made up nearly 23 percent of airline expense in 1985, declining to a low of 13.7 percent in 1988 before climbing again to 16.7 percent in 1990 with the Iraqi invasion of Kuwait and the attendant instability in the oil markets. Since that time, the industry's fuel cost has declined as a share of operating expense to a 10-year low of 11.2 percent in fiscal 1994.

Traffic commissions grew rapidly and nearly continuously during the last ten years, from 7.8 percent of expense in 1985 to 10.3 percent in Calendar Year 1993, an increase of one-third, before declining to 9.4 percent in fiscal 1994. Aircraft rentals have also grown from 3.5 percent in 1985 to 8.5 percent in FY 1994.

Labor expenses as a share of total expense have fluctuated a great deal over the last 10 years, falling from a high of 38.6 percent in 1986 to a low of 31.9 percent in 1990. They have since increased to 34.3 percent in FY 1994. Depreciation has shown a

similar trend, declining from 5.5 percent in 1985 to 4.3 percent in 1990, and since then climbing to 4.9 percent in FY 1994.

Unit costs have also shifted over time. Total operating expense per available seat-mile (ASM) grew from a low of 7.2 cents in 1986 to a peak of nearly 9.3 cents in 1991. Since that time, total unit cost has declined somewhat to about 9.2 cents per ASM. Labor costs, which were 2.7 cents per ASM in 1986, have climbed steadily, reaching nearly 3.4 cents in FY 1994. Passenger commissions have also grown continuously and rapidly, from 0.6 cents per ASM in 1986 to nearly 1.1 cents in 1993, an increase of over 72 percent in seven years, before declining in FY 1994 to 1.0 cents per ASM. Equipment costs (depreciation, amortization, and rentals) have also increased, from 0.8 cents per ASM in 1986 to nearly 1.4 cents in FY 1994. Fuel costs, on the other hand, peaked at 1.6 cents per ASM in 1990, and have since declined nearly one-third to less than 1.1 cents per ASM.

By functional grouping, the airlines' largest costs were aircraft operating expense, which accounted for 40.1 percent of total operating expense in fiscal 1994. (Aircraft operating expense consists of flying operations expense, flight equipment maintenance, and depreciation and amortization on flight equipment.) Other major functional groupings are reservations and sales expense (including commissions), which accounted for 16.6 percent of total expense, traffic servicing at 10.3 percent, passenger servicing at 9.4 percent, and aircraft servicing at 6.2 percent of operating expense. Together

these five groups accounted for 82.6 percent of the airlines' operating expenses in FY 1994.

Effect of the 4.3 cent jet fuel tax

Two years ago, Congress temporarily exempted the airlines from paying the 4.3 cents-per-gallon excise tax on jet aviation fuel. That statutory exemption expires September 30, 1995. At the time Congress granted the exemption, airlines were undergoing their worst financial crisis in history.

The industry is now in a position to accommodate this tax increase. Therefore, we do not support a further extension of the exemption. As I noted earlier, fuel costs have continued to fall, and now represent only about 11 percent of the industry's total operating expense. In absolute terms, fuel is now about 56 cents per gallon, down from 78 cents in 1990 and 64 cents in 1992. In that perspective, the impact of a 4.3 cent-per-gallon fuel tax is far less onerous. Based on the latest reported data, if the tax were imposed on the 12.1 billion gallons of jet fuel purchased by the major airlines, the airlines' fuel expense would be higher by $543 million annually--an increase over actual fuel expense of 7.9 percent, but an increase in total operating expense of only 0.7 percent.

The Department of the Treasury estimates that, for every dollar it gains from the aviation fuel tax, it loses about 25 cents in corporate income tax from the airlines. Thus, a very rough estimate of the net effect of the fuel tax on the airlines would

appear to be about $407 million, or only about one-half of one percent of operating expense. Moreover, we anticipate that the airlines will pass through some portion of the tax onto passengers and shippers in the form of higher fares and rates. We also expect that the airlines will adjust capacity and make equipment and service adjustments to increase fuel efficiency, thus further reducing the tax's cost burden. Thus, the net impact on the industry would be substantially less than $407 million.

In this context, the case for extending an exemption is very difficult as a matter of fairness to other transport modes, which have paid increased excise taxes on fuel during the past two years. The Administration's position, therefore, is that there is no longer a justification for exempting the airlines from paying their fair share of energy taxes beyond the current fiscal year.

Recommendations to enhance airline profitability

Because the airline industry is hyper-sensitive to overall economic conditions, the surest road to the industry's recovery is continued economic growth. As Laura D'Andrea Tyson, then Chair of the President's Council of Economic Advisors and now Chair of the National Economic Council, wrote last year in introducing the Administration's Initiative to Promote a Strong Competitive Aviation Industry, "A strong economy will be the best medicine for what ails the aerospace complex."

Nevertheless, as Dr. Tyson added, "a strong economy cannot alone cure these industries' ills." There is still a role for government policies to promote the financial

health of the aviation industry. Two years ago, at the Administration's behest, Congress established the National Commission to Ensure a Competitive Aviation Industry to investigate the causes of the aviation industry's financial woes, and to recommend measures to speed their recovery. The Commission adopted a list of 61 recommended steps to improve the aviation and aerospace industries' viability.

In January 1994, in response to the Commission's recommendations, the Administration unveiled its Initiative to Promote a Strong Competitive Aviation Industry. The Administration adopted 49 of the Commission's recommendations. As of January 1995, the Department has taken a large number of specific administrative actions to implement these recommendations.

Among the Department's most prominent actions are the introduction of new technology and navigation rules to streamline the FAA's air traffic control, which has already significantly reduced fuel consumption and airport delays for many carriers; accelerated implementation of the Global Positioning System; and a comprehensive examination of the High Density Rule affecting the four slot-controlled airports (Kennedy, LaGuardia, O'Hare, and Washington National), in order to determine the rule's impact on airline competition, fares, and service patterns. In addition, the Department has continued to monitor closely the airlines' operating and financial results, has encouraged the entry of new airlines by removing hindrances to market entry and assuring that new carriers are not harmed by unfair competitive practices.

We are also continuing to reassess the economic impact of existing regulations in order to minimize regulatory burden on the industry.

Another important way to improving airline profitability is liberalization of routes, fares, and rates. Although the domestic industry has been deregulated for over 16 years, international routes are still subject to severe restrictions in many bilateral aviation markets. Liberalization of our bilateral aviation agreements with our trading partners, therefore, is another important goal of the Administration.

To achieve this, the Administration has adopted "Open Skies" initiatives with a number of our trading partners. The most dramatic fruit of this effort was the recent signing in Ottawa of the new U.S.-Canada aviation agreement. That agreement provides for complete "Open Skies" to be phased in over three years between the U.S. and the Canadian cities of Montreal, Toronto, and Vancouver, and for immediate "Open Skies" in all other U.S.-Canada markets. The Department has just issued temporary exemption authority to six U.S. carriers to provide new service to Montreal, two airlines to Toronto, and six to Vancouver. We expect the new U.S.-Canada agreement to result in several billion dollars in new trade between the two countries.

The Administration has also aggressively pursued "Open Skies" agreements with countries overseas. In the last few weeks, the United States has initialed "Open Skies" agreements with Austria, Belgium, Iceland, Luxembourg, and Switzerland. "Open Skies" negotiations with Finland are scheduled for this week, and should begin soon

with Denmark, Sweden, and Norway. In addition, the Administration is seeking to improve bilateral agreements with a number of our other trading partners, including China, Japan, Peru, Poland, and the United Kingdom.

Successful implementation of "Open Skies" or liberalized bilateral agreements will provide U.S. airlines with more opportunities to compete on an even footing for increasingly valuable international traffic. Since U.S. carriers are the most cost-efficient in the world, we are confident such opportunities will result in increased profitability recovery.

In addition to the foregoing administrative actions, and as Secretary Peña discussed with this Subcommittee on February 14, the Administration has proposed draft legislation to restructure FAA's Air Traffic Control functions in a new government-owned corporation funded by user fees. This would allow for more flexible personnel and procurement policies, ensure that the ATC system is able to respond quickly and efficiently to the growth of the industry and to technological advances, and provide for the highest degree of safety. We expect to transmit the draft legislation to Congress shortly.

Last year, in response to recommendations of the Airline Commission, the Administration supported provisions in proposed legislation to reform the bankruptcy laws, including changes with respect to airlines. Last October Congress enacted the Bankruptcy Reform Act of 1994 we included several of the provisions we supported.

In addition, on February 15, 1995, Representative Clinger introduced legislation in H.R. 951 to liberalize the restrictions on foreign ownership of U.S. carriers. Liberalization of foreign ownership rules was included in the Commission's recommendations, and has been adopted by the Administration in its Aviation Initiative and by the Department of Transportation in its recent international aviation policy statement. The Department is reviewing H.R. 951 in light of these factors.

Conclusion

With competitive pressures exerted by low-cost carriers, every major airline has launched a program to cut costs to the bone. These programs have included withdrawal from unprofitable routes and stations, retiring inefficient aircraft, reducing food service, changing distribution channels, shifting to ticketless reservations and booking, cutting commissions, and trading labor concessions for equity stakes in the airlines. These developments reflect the major changes going on in the airline industry as it restructures itself into a more efficient, highly competitive, and low-cost service industry. When these efficiencies are combined with today's health economy, and with our ongoing efforts to promote the health of this important economic sector, we see a profitable era for airlines.

Mr. Chairman, let me once again extend my thanks for the opportunity to present the Department of Transportation's views on the current and future health of the aviation industry. I am confident that, as our economy continues to grow, as U.S. air carriers

become more efficient, and as the policies the Department has proposed or has underway are implemented, the aviation industry will grow, flourish, and prosper.

DEPARTMENT OF THE TREASURY

TREASURY NEWS

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WRITTEN STATEMENT OF ERIC J. TODER
DEPUTY ASSISTANT SECRETARY (TAX ANALYSIS)
DEPARTMENT OF THE TREASURY
SUBMITTED TO THE WAYS AND MEANS OVERSIGHT SUBCOMMITTEE
IN CONNECTION WITH HEARING ON IRS'S TAXPAYER COMPLIANCE
MEASUREMENT PROGRAM
JULY 18, 1995

Dear Madame Chairman and Members of the Subcommittee:

I am happy to submit this statement at your request regarding the ways in which Treasury's Office of Tax Policy (OTP) relies on the data compiled in the Internal Revenue Service's (IRS's) Taxpayer Compliance Measurement Program (TCMP) audits. The principal purpose of the TCMP audits is to develop information that will enable the IRS to administer the tax laws more effectively. IRS is solely responsible for the timing, scope, and design of the TCMP audits. But the information the audits produce is also helpful to OTP for both policy analysis and revenue estimation.

From a policy perspective, from TCMP audits provide OTP with valuable information on those aspects of the Federal tax system that create the greatest problems of compliance for taxpayers and administrative problems for the IRS. TCMP audits indicate which items of income, expense, deduction, or credit generate the greatest numbers of errors per response. Such errors can occur either because the specific tax provisions associated with those items are unduly complex and confusing for taxpayers, because they are difficult for the IRS to verify, or both. The TCMP data can thus be very helpful to OTP in suggesting policy changes that reduce taxpayer burden and improve compliance. From an estimating perspective, TCMP audits provide useful information on how proposed changes in information reporting or in the level of resources devoted to tax administration would affect future tax receipts.

Treasury's Office of Tax Analysis (OTA) evaluates numerous proposals to improve taxpayer compliance and the ability of IRS to enforce the tax laws. In estimating the revenue impact of these proposals, it is first necessary to establish a "baseline" of the level of non-compliance. The TCMP is the only source of data that provides sufficiently detailed information on the level of compliance associated with specific tax provisions. For example, the Energy Act of 1992 required buyers who deduct seller-financed mortgage interest to report the name and social security number of the seller. The revenue estimate for this

proposal required two key pieces of information: (1) the degree of non-compliance in reporting home mortgage interest deductions associated with seller-financed mortgages and (2) the extent to which the IRS could expect to close this gap by requiring the additional information. TCMP data on the level of non-compliance for seller-financed mortgages and on the level of compliance for mortgages financed through financial institutions that currently required information reporting were used to estimate the revenue gain from the proposed increase in reporting requirements.

Another example of the use of the TCMP data in estimating the revenue effect of tax compliance initiatives is the provision of the Omnibus Budget Reconciliation Act of 1993 which required donors to obtain substantiation from donee organizations for charitable contributions of $250 or more. The provision required a charitable organization to state the size of the contribution made by the donor and provide a good faith estimate of any goods and services rendered in exchange for the contribution. Before this change in the tax law, the taxpayer needed only to have a cancelled check as validation for a charitable contribution deduction. The TCMP data showed that charitable contribution deductions are frequently and substantially overstated, and showed how the overstatement of charitable contribution deductions was distributed by size of contributions. These data proved crucial in estimating the effects of alternative proposals to detect overstatement of charitable contribution deductions, including the specific one that became law.

The TCMP data also were very helpful in estimating the revenue effects of requiring mortgage brokers to file information reports to the IRS on the proportion of property taxes paid by the buyer and the seller in the course of a home sale. Previously, it was possible for both the buyer and the seller of the house to claim a deduction for the entire amount of property taxes paid on the house in the year of the sale. While the TCMP data did not directly measure compliance for this specific type of deduction, compliance under this proposal could be inferred from examination of compliance in the reporting of the home mortgage interest deduction, an item whose compliance <u>is</u> measured by the TCMP. Thus, even if the revenue effects of a compliance proposal cannot be estimated directly from the TCMP data, it may be indirectly estimated by using a closely related TCMP compliance-measured income or deduction item.

These are just a few examples of how OTP uses TCMP audit data to determine where additional information reporting would be particularly helpful and in estimating the revenue consequences of such changes. To the extent the quality of the TCMP data is maintained at a level consistent with the primary objectives of the program -- the determination of taxpayer compliance levels, the appropriate allocation of IRS audit resources, and the selection by the IRS of specific tax returns for audit -- the TCMP data will continue to meet OTP's requirements. Conversely, if the TCMP program were reduced or compromised to the point where it no longer accomplishes these objectives of the IRS, OTP's ability to rely on the data would also be adversely affected. Were that to happen, our ability to propose improvements to the tax system and provide accurate revenue estimates would be reduced.

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FOR RELEASE AT 2:30 P.M.
July 18, 1995

CONTACT: Office of Financing
202/219-3350

TREASURY'S WEEKLY BILL OFFERING

The Treasury will auction two series of Treasury bills totaling approximately $26,400 million, to be issued July 27, 1995. This offering will provide about $1,125 million of new cash for the Treasury, as the maturing 13-week and 26-week bills are outstanding in the amount of $25,287 million. In addition to the maturing 13-week and 26-week bills, there are $16,963 million of maturing 52-week bills. The disposition of this latter amount was announced last week.

Federal Reserve Banks hold $11,163 million of bills for their own accounts in the three maturing issues. These may be refunded at the weighted average discount rate of accepted competitive tenders.

Federal Reserve Banks hold $4,683 million of the three maturing issues as agents for foreign and international monetary authorities. These may be refunded within the offering amount at the weighted average discount rate of accepted competitive tenders. Additional amounts may be issued for such accounts if the aggregate amount of new bids exceeds the aggregate amount of maturing bills. For purposes of determining such additional amounts, foreign and international monetary authorities are considered to hold $4,357 million of the original 13-week and 26-week issues.

Tenders for the bills will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D. C. This offering of Treasury securities is governed by the terms and conditions set forth in the Uniform Offering Circular (31 CFR Part 356) for the sale and issue by the Treasury to the public of marketable Treasury bills, notes, and bonds.

Details about each of the new securities are given in the attached offering highlights.

oOo

Attachment

RR-438

HIGHLIGHTS OF TREASURY OFFERINGS OF WEEKLY BILLS
TO BE ISSUED JULY 27, 1995

		July 18, 1995
Offering Amount	$13,200 million	$13,200 million
Description of Offering:		
Term and type of security	91-day bill	182-day bill
CUSIP number	912794 V4 3	912794 W7 5
Auction date	July 24, 1995	July 24, 1995
Issue date	July 27, 1995	July 27, 1995
Maturity date	October 26, 1995	January 25, 1996
Original issue date	April 27, 1995	July 27, 1995
Currently outstanding	$11,768 million	- - -
Minimum bid amount	$10,000	$10,000
Multiples	$ 1,000	$ 1,000

The following rules apply to all securities mentioned above:

Submission of Bids:	
Noncompetitive bids	Accepted in full up to $1,000,000 at the average discount rate of accepted competitive bids
Competitive bids	(1) Must be expressed as a discount rate with two decimals, e.g., 7.10%. (2) Net long position for each bidder must be reported when the sum of the total bid amount, at all discount rates, and the net long position is $2 billion or greater. (3) Net long position must be determined as of one half-hour prior to the closing time for receipt of competitive tenders.
Maximum Recognized Bid at a Single Yield	35% of public offering
Maximum Award	35% of public offering
Receipt of Tenders:	
Noncompetitive tenders	Prior to 12:00 noon Eastern Daylight Saving time on auction day
Competitive tenders	Prior to 1:00 p.m. Eastern Daylight Saving time on auction day
Payment Terms	Full payment with tender or by charge to a funds account at a Federal Reserve Bank on issue date

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FOR IMMEDIATE RELEASE
July 19, 1995

STATEMENT BY TREASURY GENERAL COUNSEL EDWARD S. KNIGHT

Dick Reavis has questioned the legal basis for the military support to the Bureau of Alcohol, Tobacco and Firearms in the Davidian matter. The Treasury Department's Waco Administrative Review and my office have reviewed the law and facts. We have concluded that military support in this matter was lawfully provided.

A reading of the specific statutes shows, first, that the "Posse Comitatus Act" -- which bars military forces from direct civilian law enforcement -- does not prohibit all military assistance to civilian law enforcement. Second, all types of assistance -- including national guard assistance -- provided the ATF in this matter falls outside the "Posse Comitatus Act." Third, the type of military support that was provided the ATF during the investigation of the Davidians and execution of warrants could have been obtained regardless of whether or not there was a showing of a drug nexus.

The facts are that ATF uncovered and disclosed, in good faith, information of a possible narcotics violation at the Davidian compound. This information was accepted by the state and federal military entities. All of the special forces training was provided consistent with orders issued by the military. Finally, as the Texas National Guard required, the helicopters used to assist ATF were not armed.

-30-

RR-439

Statement of H. Geoffrey Moulton, Jr.
Associate Professor, Widener University School of Law
Project Director, Department of the Treasury Waco Administrative Review
Before the Subcommittee on National Security, International Affairs, and Criminal Justice, Committee on Government Reform, and the Subcommittee on Crime, Committee on the Judiciary
July 19, 1995

Thank you to both Chairmen and Committees for giving me the opportunity to appear before you today. My name is Geoff Moulton, and two years ago I served as the project director for the Treasury Department investigation into ATF's failed raid on the Branch Davidian Compound near Waco, Texas. Before undertaking that assignment, I graduated from Columbia Law School in 1984, clerked for Chief Judge Wilfred Feinberg in the United States Court of Appeals for the Second Circuit, and then for Justice Rehnquist on the United States Supreme Court. After finishing my clerkship with Justice Rehnquist, I served roughly four years as an Assistant United States Attorney in the Eastern District of Pennsylvania. In the middle of those four years, I spent six months on a temporary detail to the Justice Department, serving as Special Counsel to the Assistant Attorney General for the Criminal Division. After I left the government, I worked in private practice for two-and-one-half years. I am now an associate professor at Widener Law School in Delaware, where I teach criminal procedure, white collar crime, and legal ethics.

As we all know, on February 28, 1993, four agents from the Treasury Department's Bureau of Alcohol, Tobacco and Firearms were killed, and more than twenty were wounded, as they unsuccessfully attempted to execute lawful search and

arrest warrants at the Branch Davidian Compound near Waco, Texas. Several residents of the Compound were killed in the raid as well.

Even before the fire 51 days later, the Executive Branch, Congress, the media and the general public raised serious and important questions about ATF actions at the Compound, and about ATF's inconsistent post-raid statements about what had actually happened. Clearly, there needed to be a comprehensive review of the events of February 28, and of the process that lead up to the raid. The Treasury Department began planning for such a review during the 51-day stand-off that followed the failed raid. That standoff was handled on the law enforcement side by the FBI, which was invited to and did take over at the scene the day after the raid. The standoff ended on April 19, when the Compound erupted in fire set by residents after the FBI used tear gas to attempt to force the occupants to leave. The fire destroyed the Compound, and more than 70 residents died.

On April 19, President Clinton directed the Treasury and Justice Departments, which are responsible for ATF and the FBI, respectively, to conduct "vigorous and thorough" investigations of the events leading to the loss of law enforcement and civilian lives. Secretary Bentsen created a unique review structure that, I believe, was very effective. He asked Ronald K. Noble, who by then had been designated to be Assistant Secretary of the Treasury for Enforcement, to lead Treasury's review of ATF's involvement in the case, from the beginning of its investigation of Koresh through the unsuccessful effort to execute search and arrest warrants. To ensure that the report was impartial and comprehensive, the Secretary enlisted three individuals of

national prominence and integrity -- Watergate prosecutor Henry Ruth, Pulitzer Prize winning journalist Edwin Guthman, and Los Angeles Police Chief Willie Williams -- to provide guidance to the investigation, consider its findings, and assess the final report.

Mr. Noble asked me to serve as the project director for the Review. As project director, I was responsible for assembling the seventeen senior investigators from the Secret Service, the Customs Service, the IRS, and the Financial Crimes Enforcement Network, as well as six other attorneys, to assist in the investigation and the preparation of the report. Along with two assistant project directors -- Lewis C. Merletti, then Deputy Assistant Director of the U.S. Secret Service, and David L. Douglass, an attorney on leave from the law firm of Wiley, Rein and Fielding -- I was responsible for directing and overseeing the investigation, supervising the Review's day-to-day operations, and coordinating and participating in the drafting and editing of the report.

In addition to the independent reviewers selected by Secretary Bentsen, Treasury's Office of Inspector General monitored the review team to provide assurance to the Department that the project plan was complete and properly implemented, and that all relevant facts were fully considered. We also consulted with ten non-Treasury experts in tactical operations, firearms and explosives. The independent analysis that each one of them submitted to the review team is appended to the report. These outside experts, like the three independent reviewers, served without pay.

Our mission from the beginning was to conduct a thorough, comprehensive and impartial review. First and foremost, our goal was to learn what happened near Waco, and then to relate the facts. We reviewed primary source material and interviewed over 500 individuals in the four-and-one-half months between May 17 and the submission of the report on September 30, 1993. The vast majority of those interviews were conducted in person, and many lasted a full day or more. As the review progressed and new facts emerged, we conducted countless follow-up interviews. Based on this investigation, including credibility determinations and circumstantial evidence, we made factual determinations and analyzed those facts. We took a hard, critical look at all the evidence, and produced a thorough, detailed and candid report.

What did we learn? I want to emphasize one thing we learned that I fear may be lost in these next several days --the rank and file agents of ATF who were sent to enforce federal firearms and explosives law at the Branch Davidian Compound did their best to perform their assigned tasks and showed dedication and often spectacular courage in the face of extraordinary gunfire. Unfortunately, the Review also found disturbing evidence of flawed decisionmaking, inadequate intelligence gathering, miscommunication, supervisory failures, and deliberately misleading post-raid statements about the raid and the raid plan by certain ATF supervisors. Upon publication of our report, five ATF employees were placed on administrative leave. Soon thereafter, the position of ATF Director was filled by John McGaw, former director of the Secret Service, and other senior ATF managers were replaced.

I understand from the agenda for the next several days that you are interested in a few issues in particular: Was ATF's investigation of David Koresh and his followers improperly motivated? Did ATF have probable cause to believe that people inside the Compound were manufacturing illegal machine guns and explosive devices? Why did the ATF decide to enforce its warrants through a dynamic entry rather than some other option? Was the raid plan well-conceived and properly executed? Did ATF mislead the military in its effort to obtain military assistance?

These are all issues that the Treasury Review thoroughly investigated two years ago and which we addressed in our report. I would like briefly to highlight for the Committees the Review's findings with respect to those issues.

Did ATF properly initiate an investigation of Koresh and his followers?

The answer we gave in the report and the answer that remains correct is yes. Based on evidence that is set out in the report, we concluded that ATF properly focused on Koresh after receiving complaints from local law enforcement officials -- the McLennan County Sheriff's Department -- in May, 1992. We reviewed allegations that ATF targeted Koresh because of his religious beliefs and sexual conduct with minors. We found no support whatsoever for those allegations. Before opening a formal investigative file, the ATF case agent made a preliminary determination, by debriefing local officials, interviewing gun dealers, and searching national firearms registries, that federal crimes might be being committed. He then opened a file, and conducted a thorough, professional investigation to develop probable cause that illegal machine guns and explosive devices were being produced

and possessed at the Compound. In light of the information presented by local authorities, it would have been irresponsible for ATF not to have initiated an investigation.

Did ATF have probable cause to believe that people inside the Compound were manufacturing illegal machine guns and explosive devices?

The answer we gave in the report was the same as the one given by the judge who reviewed and approved the warrant, Magistrate-Judge Green -- yes. The evidence that ATF presented in support of the warrant application plainly showed that there was probable cause to believe that Koresh and his followers were committing numerous violations of federal firearms laws. ATF agents painstakingly traced the paper trail of transactions involving firearms, firearms parts, and chemicals, and interviewed local law enforcement officials, neighbors, and former residents of the Compound.

By late February 1993, the case agent, Davy Aguilera, had amassed an impressive amount of evidence that Koresh was unlawfully possessing and manufacturing machineguns and explosive devices. At the beginning, Aguilera knew that Koresh was receiving shipments of M-16 parts and materials used to make explosives, along with other firearms materials. Because neither Koresh nor any of his known followers were registered owners of any M-16 machine guns, or of any machineguns at all, the agent could reasonably infer that Koresh was purchasing M-16 parts to convert AR-15 semiautomatic rifles into illegal machineguns, over a fairly substantial period of time. That inference was strengthened when the agent learned that another firearms dealer, Henry McMahon, had sold about 90 AR-15 lower

receivers to Koresh, and that McMahon tried unsuccessfully to conceal the bulk of those sales and then mislead Aguilera about the identity of the purchaser. Aguilera also learned that Koresh had purchased AR-15s and AR-15 upper receivers from several other sources. Once he had the AR-15 receivers and the M-16 parts, Koresh needed only a metal lathe and milling machine to make a substantial quantity of machine guns. Reports from several sources made it clear that Koresh possessed both machines at the Compound, and that he had experienced operators, including a mechanical engineer, who were designing and manufacturing fully automatic weapons for Koresh.

In addition, ATF had reason to fear that Koresh posed a danger not only to his followers but also to the surrounding community. Aguilera learned Koresh had a propensity toward violence and intimidation. Koresh's control of the Compound originated with a gunfight, which was ended by armed deputies. He used threatening rhetoric and preached an apocalyptic theology, backed up by an arsenal of weapons and an extraordinary control over his followers. ATF reasonably believed that Koresh was far more threatening than a lone individual who had a liking for illegal weapons. It would have been irresponsible for ATF not to have pursued Koresh once Aguilera's investigation showed there was probable cause to do so.

That this evidence established probable cause that Koresh was violating the firearms laws was corroborated by ATF firearms and explosives experts, and by interviews of neighbors and former Compound residents. I think it is important to remember that "probable cause" is not the same as "beyond a reasonable doubt." The

leading Supreme Court case on the subject, *Illinois v. Gates*, 462 U.S. 213 (1983), describes probable cause as a "fair probability" or "substantial chance." So the question here is whether the evidence obtained by ATF created a "fair probability" or "substantial chance" that there would be evidence of firearms violations at the Compound. That standard was not only met but exceeded.

The Treasury Review further confirmed the existence of probable cause by consulting two non-Treasury weapons experts and two non-Treasury explosives experts. The weapons experts, William Davis, Jr., and Charles Fagg, confirmed that Aguilera and Judge Green had ample evidence to support searching the Compound for evidence of the manufacture of illegal machine guns. The explosives experts we consulted, Paul Cooper and Joseph Kennedy, concluded that the evidence gathered by ATF established probable cause to believe that illegal explosives were being manufactured. All four of their reports were included in the Appendix to the Treasury Report published in September 1993. I should add that Aguilera's conclusion was further confirmed when, in March 1993, a former Compound resident told the Texas Rangers that he had milled AR-15s at the Compound so that they could be fired automatically, and when, after the April 19 fire, 48 illegal machines and evidence of illegal explosive devises were recovered from the Compound.

I would like to make one final point about the probable cause issue before moving on. None of the lawyers for the eleven Branch Davidians who were charged with weapons offenses and conspiracy to murder federal agents ever challenged the validity of the search warrant. And several of their clients were convicted of the very

offenses that Aguilera referenced in his warrant. In this country, the proper way to challenge the validity of a warrant is in court, not by shooting at the people who are attempting to serve it. The warrant here was carefully reviewed by the U.S. Attorney's Office, duly authorized by a neutral and detached magistrate, and properly issued. I am confident that had it been challenged in court, the trial court, the Court of Appeals and the U.S. Supreme Court all would have upheld its validity.

Why did the ATF decide to enforce its warrants through a dynamic entry rather than some other option? And was the raid plan well-conceived and properly executed?

As the probable cause investigation was nearing its conclusion, ATF tactical planners were deciding how best to execute the warrant they expected to soon obtain. At first, the planners considered the siege option. Under this scenario, agents would first ask those inside the Compound to honor the warrant. If access were denied, ATF would immediately establish a perimeter around the Compound and seal off its inhabitants until they relented and permitted the search to proceed. This option might have minimized the risk of a violent confrontation between ATF and the Branch Davidians and, even if violence ensued, would have minimized the agents' exposure to gunfire from the Compound. This option was ultimately rejected, however, for several reasons. Several former Compound residents noted the danger that Koresh might respond to a siege by leading his followers in a mass suicide. In addition, the residents had their own source of well water and at least a three-month supply of military rations, and so might well have withstood a long and arduous standoff. The planners also were worried about the destruction of evidence within the Compound

during a siege.

In evaluating the raid planning process, the raid plan itself, and the execution of that plan, the Treasury Review was assisted by six, independent tactical operations experts. Each of those experts had access to all Review materials, and each filed their own analysis for inclusion in the Treasury Report.

With the help of those experts, our report reached several important conclusions concerning the raid planning process. First, whether or not the planners were right to reject the siege option, they should not have done so without the benefit of assistance from psychologists and other experts who were better equipped to evaluate the accounts of former Branch Davidians. Second, the planners did not give sufficient attention to trying to arrest Koresh away from the Compound. A seriously flawed intelligence-gathering and processing system lead the planners to believe, wrongly, that Koresh never left the Compound. It was true that he did not leave the Compound regularly, but the Review was able to document that Koresh in fact did leave the Compound on several occasions in late 1992 and January 1993. As a result of the deficient intelligence system, ATF's effort to arrest Koresh away from the Compound, and thus reduce the risk of resistance from his followers, was abandoned too quickly.

Third, the Review catalogued other intelligence-system flaws that seriously compromised the raid-planning process. The raid planners mistakenly believed that Koresh kept all the weapons under lock and key in a room adjacent to his own, and planned accordingly. They mistakenly believed that all or almost all of the men

living at the Compound would be out working in a construction area way from the "arms room" at 10:00 a.m. the day of the raid. As a result the raid was planned for 10:00 a.m. rather than the more traditional pre-dawn time period.

Fourth, the planners failed to engage in meaningful contingency planning. The absence of any contingency plan, other than to abort the raid before arrival at the front door of the Compound, left the raid commanders with the stark choice between going forward with the raid after surprise was lost or canceling an operation in which they had made a tremendous investment.

Finally, as to the technical merits of the raid plan itself, most of the Review's tactical experts agreed that the plan had a reasonable chance of success if all of the planners' major factual assumptions had been correct. The experts disagreed, however, over whether the plan was a good one. I understand that later this week you will be hearing from two of the experts whose analysis we included in our report, so I will defer discussion of the technical aspects of the plan until then.

Did ATF mislead the military in its effort to obtain military assistance?

The Treasury Report describes the support received by ATF from the active military as well as the Texas National Guard. This support included the provision of training facilities and equipment, aerial reconnaissance missions, the use of helicopters during the raid, and advice concerning ATF's medical and communications plans. The principal military support issue that we addressed was whether ATF misled the military about the existence of a "drug nexus" in order to obtain "nonreimbursable" support, that is, support provided by the military free of

charge.

In order to answer that question we interviewed the critical personnel at ATF, the Texas National Guard, and the Department of Defense. We also reviewed the written communications between ATF and those other two entities. What we found, and what the report states, is the following. In November 1992, ATF approached the U.S. military and the Texas National Guard for support. In early December, a Department of Defense representative briefed ATF officials about military support available for the Branch Davidian investigation and possible execution of search warrants. During this briefing, the Department of Defense representative told ATF that it could obtain military assistance without having to reimburse the Defense Department if the investigation was related to narcotics enforcement, that is, had a "drug nexus." Soon thereafter, an ATF agent then met with officials of the Texas National Guard to determine what assistance that entity could provide. During that meeting, the Guard and representatives of the State of Texas repeated that ATF could get "nonreimbursable" (free) support if the case had a drug nexus.

Following these meetings, ATF agents investigated whether there was any drug activity at the Compound. The case agent, Aguilera, had information from a former member that parts of an illegal methamphetamine lab had been at the Compound when Koresh took control in 1988, and that the local sheriff's department had planned to collect this equipment. Aguilera then learned from the sheriff's department that it had no records indicating that these parts had been collected by or turned over to the sheriff. In addition, an ATF agent acting in an undercover

capacity reported that Koresh had told him that the Compound would be a great place for a methamphetamine lab because of its location. Furthermore, a criminal records check and information from informants suggested that one Compound resident had a prior conviction for possession of amphetamines and a controlled substance, and that several other individuals associated with the Compound had been identified as perhaps having some involvement in illegal narcotics activity.

After this information was gathered, ATF accurately provided it to the Texas National Guard and representatives of the U.S. military. In particular, on February 4, 1993, ATF officials met with representatives of both groups and accurately informed them of the results of ATF's investigation into the existence of a drug nexus. The information was not fabricated, nor was it exaggerated. All of the military entities concerned indicated that they were satisfied that a sufficient drug nexus existed to justify nonreimbursable military assistance. Moreover, most of the military support that was provided to ATF in this matter could have been obtained, on a reimbursable basis, even had there been no drug nexus.

In short, after thoroughly investigating the facts, the Treasury Review concluded that ATF did not mislead U.S. military or Texas National Guard officials in obtaining their assistance on a nonreimbursable basis. That is not to say that ATF had developed probable cause to believe there were narcotics offenses taking place at the Compound. They had not. But here probable cause was not the relevant standard. As our report pointed out, neither the laws, nor the regulations and manuals of the military entities, provided a definition of the quantum of evidence

necessary to establish a drug nexus. Indeed, the Review expressly suggested that the relevant policymakers develop more precisely defined criteria for determining when a drug nexus is sufficient to justify nonreimbursable military assistance.

Other Findings.

Before concluding, I want to outline briefly the Treasury Review's other significant findings, which may or may not be addressed in these hearings.

Media Impact on ATF's Investigation.

Our report analyzed the interaction between ATF and the media before and during ATF's raid on the Branch Davidian Compound. The interest of the media in covering suspected criminal conduct and official responses to that conduct will often be in tension with law enforcement's need to have the advantage of surprise in its activities. Here those interests collided first before the raid, when ATF was unable to persuade a local newspaper to delay its publication of a series about Koresh and his followers. We concluded that while those negotiations might never have been successful, had they been entrusted to someone in ATF with more expertise in media relations, an arrangement more suitable to ATF and the paper might have been made.

On the day of the raid, media activity in the area of the Compound tipped off Koresh, allowing him to lay his ambush for ATF agents. Employees of the local paper and a local television station roamed the roads in the area of the Compound for more than an hour before the raid. A cameraman for the television station told a local letter carrier, who unbeknownst to the cameraman was resident of the Compound, that a raid was imminent. The letter carrier in turn told Koresh, who

then prepared his ambush.

The Flawed Decision to Go Forward with the Raid.

The report addressed why ATF's raid commanders proceeded with the raid even though they should have realized that the raid had been compromised. We concluded that the decision to proceed was tragically wrong, not just in retrospect, but based on what the decisionmakers knew at the time. Based on interviews of all surviving law enforcement participants in the raid, it was and is clear that the raid commanders had more than enough information from the undercover agent to conclude that the raid had been compromised. The report further concluded, however, that the flawed decision to go forward was not simply a matter of bad judgment by the raid-day decisionmakers. It was also the product of serious deficiencies in the intelligence gathering and processing structure, poor planning and personnel decisions, and a overall failure of ATF management to check the momentum of a massive operation.

Treasury Oversight.

Our report examined the role of the Treasury Department, and in particular the Office of the Assistant Secretary for Enforcement, in the February 28 raid. The Office of Enforcement, which has oversight responsibility for ATF, was not advised of the planned raid until fewer that 48 hours before it was to begin. Although the Office of Enforcement's approval was not sought, concerns about the action caused that office to direct that the raid not go forward. As the report stated, those concerns were expressed by several individuals in the Office, including Ron Noble, who at the

time was acting as a part-time consultant pending his nomination and confirmation as Assistant Secretary for Enforcement. ATF then provided assurances that the raid was necessary, carefully planned, and designed to minimize the risks to all involved. Based on these assurances, which addressed the concerns raised by Noble and others, the raid was permitted to proceed.

We further concluded that the responsibility for ATF's failure to notify the Office of Enforcement until fewer than 48 hours before the raid rested with both ATF and the Office of Enforcement, which at the time had no regulation or guideline that required notification from ATF. As noted in the report, the Office subsequently instituted new guidelines and regular meetings with enforcement bureau heads to ensure early notification of significant operations that will permit meaningful oversight and review.

ATF Post-Raid Dissemination of Misleading Information about the Raid and the Raid Plan.

The report described how, in the wake of the February 28 tragedy, the raid commanders and their superiors in the ATF hierarchy attempted to answer the call for explanations. Critical aspects of the information that they provided to the public was misleading or wrong. Two of the principal commanders, in particular, appeared to engage in a concerted effort to conceal their errors in judgment. Their conduct had the effect of wrongfully pointing the finger at a line agent as being responsible to the failed raid. In addition, ATF's top management, perhaps out of a misplaced desire to protect the agency from criticism, offered accounts based on those raid commanders statements, disregarding evidence that those statements were false. The report also

described the alteration of the written raid plan by raid commanders, after the raid itself, and the submission of that altered plan to the Texas Rangers and to the Review, without any indication that it was not the original raid plan.

Conclusion.

The Treasury Review was thorough, accurate, and candid. It did not shy away from criticizing, where appropriate, the conduct of ATF and ATF personnel. The independent reviewers and Treasury's Inspector General gave it their full support. Upon the report's publication in September 1993, it was praised by members on both sides of the aisle, as well as by much of the media. I am aware of nothing that has been learned in the nearly two years since that calls into question the central findings of our report.

MILITARY SUPPORT TO THE ATF OPERATION IN WACO

ATF properly received military support from Federal and National Guard units in connection with the investigation of Vernon Wayne Howell. The type of support that was provided to ATF by the military, including training, could have been obtained with or without a drug nexus. The following points summarize the relevant law, and how it authorized the military support provided in this case.

LAW AND PROCEDURE

Posse Comitatus Act

- The Posse Comitatus Act, 18 U.S.C. § 1385, bars military forces from direct enforcement of civil law. It does not prohibit all assistance to civilian law enforcement by the military. The support ATF received in this case did not constitute direct enforcement.

- The Posse Comitatus Act did not apply to the operations of the National Guard units which provided support to ATF in Waco. The extent to which a state National Guard may assist civilian law enforcement is a function of the state's law. Federal law, e.g. 32 U.S.C. § 112, affects funding and whether such state-provided support needs to be reimbursed by the law enforcement entity.

Military Assistance - Title 10 forces

- Chapter 18 of Title 10, U.S. Code, sets out the extent of the assistance which federal military forces can provide.

- 10 U.S.C. § 372 allows DOD to provide military equipment, including spare parts and supplies, and base facilities, to civilian law enforcement entities, for all (not just drug-related) law enforcement purposes.

- 10 U.S.C. §§ 373 and 374 allow DOD to provide training to civilian law enforcement in the operation and maintenance of § 372 equipment, and expert advice by DOD personnel, for all (not just drug-related) law enforcement purposes. DOD personnel can also actually operate § 372 equipment, to the extent such operation does not constitute direct participation in civilian law enforcement.

- 10 U.S.C. § 375 incorporates the restrictions of the Posse Comitatus Act, by prohibiting "direct participation in a search, seizure, arrest, or other similar activity." All of the military support provided to ATF complied with § 375.

- 10 U.S.C. § 377(b) waives the requirement for reimbursement for such equipment and services if it is provided in the normal course of military operations or training, or if it

results in a benefit to the military unit equivalent to what the unit would otherwise obtain from training or operations.

Military Assistance - National Guard

- Texas law provides a broad grant of authority to the Governor to use the Guard to support civilian law enforcement. See Texas Government Code, § 431.111(b): the Governor can employ national guard assets "to assist civil authorities in executing law as the public interest or safety requires . . ."

- 32 U.S.C. § 112 provides federal funding for state National Guard operations done to further drug interdiction and other counter-drug enforcement activities, and results in provision of such support without a reimbursement requirement.

- Provision of National Guard support to civilian law enforcement is possible without a drug nexus, where the state is willing and able to provide the service, and the Department of Defense has vetted the request's legality, and provisions for reimbursement.

FACTS

- ATF initially approached the Texas National Guard, seeking aerial reconnaissance of the Davidian compound. The ATF representative was told that such support required a drug nexus; i.e., an indication that there was a counter-drug element to the investigation or operation.

- By this time, ATF had obtained information indicating that there had been a methamphetamine lab at the Davidian compound several years earlier, and that there had been a recent shipment of unspecified chemicals, instruments, and glassware to the compound, suggestive of a current operation.

- ATF later acquired additional information suggesting the possible presence of a methamphetamine lab at the compound, including a statement by Koresh to an undercover agent.

- This information was provided to the Texas National Guard, and later to officials of the entities which regulated and provided Federal military support, Operation Alliance and Joint Task Force Six. The information was not fabricated and was accurately reported. All of the military entities concerned indicated that they were satisfied with the drug nexus identified by ATF.

- The military support provided to ATF consisted of the

National Guard overflights which detected "hot spots" consistent with methamphetamine production; tents, office equipment and other administrative support; medical, communications, and range training by a Special Forces unit attached to JTF-6, as well as some critiquing of ATF's rehearsal of the raid; and 3 helicopters which were to operate as a diversion at the start of the raid.

- All of the Special Forces training was provided consistent with the requirements of Chapter 18, and did not constitute direct enforcement of civil law.

CONCLUSIONS

- Neither the laws, nor the regulations and manuals of the military entities, provide a definition of the quantum of evidence necessary to establish a drug nexus.

- ATF uncovered and disclosed, in good faith, information indicative of potential narcotics violations at the Davidian compound. This information was accepted by the state and federal military entities.

- The type of support that was provided to ATF by the military, including training, could have been obtained with or without a drug nexus.

- The Treasury Report correctly concluded that ATF did not mislead U. S. military or Texas National Guard officials in obtaining their assistance.

DISTORTIONS IN THE ASHES OF WACO BY DICK J. REAVIS

Distortion: Reavis states that federal law enforcement agents threw "grenades" inside the compound (p. 11).

Fact: ATF agents were not armed with grenades. Only the Branch Davidians had and used hand grenades, which explode, expelling fragments to kill and maim. Grenades thrown by Branch Davidians badly injured ATF personnel.

Some ATF agents were authorized to use flashbangs, diversionary devices which employ a bright flash and a loud noise to distract--not injure. There is no evidence that any Branch Davidian was injured by a flashbang.

Distortion: Reavis states that fully automatic weapons--machineguns--may be lawfully purchased or **made** in the United States (p. 34).

Fact: Since 1986, it has been illegal to manufacture machineguns, except by licensed manufacturers for sale to the military, to law enforcement, and for export. Pre-1986 machineguns may only be sold, transferred, or purchased with prior approval by ATF.

Distortion: Reavis states that kits to convert the semi-automatics to automatic fire are legal items of commerce (p. 34).

Fact: Conversion kits designed and intended for use in converting weapons into machineguns are not legal items of commerce.

Distortion: Reavis states that converting an AR-15 to automatic fire is not a simple job and requires special equipment (p. 34).

Fact: Special equipment is not necessarily needed to convert an AR-15 rifle into an illegal machinegun. Merely substituting some M-16 parts may turn an AR-15 rifle into a machinegun--a matter on which ATF has issued a public warning since 1988. Furthermore, milling out the AR-15 for insertion of an automatic sear is a comparatively easy process. Trade publications commonly carry advertisements from companies selling tools that

are specifically designed to make the conversion process simple.

Distortion: Reavis claims that the affidavit did not show intent, a requirement of the law (p. 35).

Fact: The search warrant affidavit, examined by a detached and neutral magistrate, did contain facts showing Howell/Koresh's intent to commit a crime. The affidavit clearly states that Koresh expressed a desire to obtain and/or manufacture machineguns and hand grenades, and all of the evidence in the affidavit clearly indicates that he was gathering all of the parts and machines necessary to fulfill that intent. Further, the affidavit refers to several witnesses who stated that they either saw or heard machinegun fire and explosions. Finally, the purpose of a search warrant is not only to seize evidence of a crime, but also to seize contraband, and an illegal machinegun--one that is not registered--is contraband and may be seized.

Proof of a crime meeting prosecution standards is not needed to obtain a search warrant. Under the standard established by the Supreme Court, probable cause to obtain a search warrant is established by examining the affidavit for the "totality of the circumstances" presented. In fact, the leading Supreme Court case, Illinois v. Gates, 462 U.S. 213 (1983), upheld a finding of probable cause based only on an affidavit that partially corroborated an anonymous tip.

Distortion: Citing selective legal scholarship, Reavis suggests that the firearms statutes enforced by ATF are unconstitutional (p. 122).

Fact: Reavis fails to mention that the Federal Courts, including the Supreme Court, have consistently upheld the constitutionality of such statutes. United States v. Miller, 307 U.S. 174 (1939); United States v. Hale, 978 F. 2d 1016 (8th Cir. 1992)(rejecting constitutional challenge to federal restrictions on machinegun ownership).

Distortion: Reavis argues that Koresh was involved in a legal business to buy and sell firearms, citing his transactions with Henry McMahon (p. 35).

Fact: Koresh did not have the license necessary to legally engage in business as a firearms dealer. In fact, Henry McMahon, doing business as Hewitt

Hand Guns out of his home, attempted to mislead ATF officers about his relationship with Koresh. On one of ATF's visits to his home, McMahon told the ATF officers that Koresh, a "preacher," was storing 65 AR-15 rifles missing from his stock. About a month later, McMahon presented ATF with receipts and ATF forms reflecting the sale of the missing 65 lower receivers to "Vernon Howell," implying that David Koresh and Vernon Howell were two different people. In fact, 15 of the AR-15s which McMahon sold to Koresh were converted to illegal machineguns.

Distortion: Reavis suggests that the Davidians were merely defending themselves against excessive, deadly force.

Fact: The Davidians were not defending themselves. They set a deadly ambush for law enforcement officers who were serving a valid search warrant. On Turning Point, Graham Craddock, a Branch Davidian, admitted that members of the compound were lying in wait for Koresh's signal to shoot these officers.

The book paints a picture of the Davidian women dressing their children and attempting to hide them from an impending assault. The book omits any description of the Davidian men getting their assault rifles, including machineguns and .50 caliber rifle, passing out ammunition, and concealing themselves to await the order to fire.

Distortion: The helicopters strafed the compound (pp. 130-134).

Fact: The helicopters did not strafe the compound. All the helicopter pilots and crew say the helicopters were not armed and did not fire on the compound. Mullony, a reporter, says the helicopters were turning away when ATF cattle trailers started up the road. Firing erupted 10-20 seconds <u>after</u> this. Only a fixed wing craft was over the compound later, when 911 tapes claimed strafing.

Distortion: The number of raiders who disembarked at Mt. Carmel has never been authoritatively established (p. 138).

Fact: The Treasury Review (Report, 81) has established that 76 agents disembarked from the cattle trailers. Six forward observers were also direct raid participants.

Distortion: Reavis implies that the Davidians thought that ATF shots at the dogs were directed at them, and that is what started the fire fight.

Fact: No shot was fired at any dog until well after a barrage of gunfire erupted from the compound (pp. 138-141).

Distortion: There are two kinds of federal search warrants (p. 139).

Fact: This is simply wrong. There is only one kind of warrant. There are two ways of executing a warrant, depending on whether the agent thinks it is safe to knock and announce.

Distortion: The Texas Rangers didn't take custody of the compound until 3 hours after the fire, and ATF could have taken the "missing" right side of the door (p. 142).

Fact: After the fire on April 19, an ATF explosives expert was the only ATF employee to have access to the compound and he was accompanied by a Texas Ranger. Furthermore, the Rangers have said that they simply did not recover the right side of the door because there was nothing particularly recognizable left.

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

FOR IMMEDIATE RELEASE
July 19, 1995

Media Advisory

Reporters who need Treasury Department information during hearings on Waco should contact David Icikson in the Office of Public Affairs at (202) 622-2960.

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RR-443

DEPARTMENT OF THE TREASURY

TREASURY NEWS

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FOR RELEASE AT 2:30 P.M.
July 19, 1995

CONTACT: Office of Financing
202/219-3350

TREASURY TO AUCTION 2-YEAR AND 5-YEAR NOTES TOTALING $29,250 MILLION

The Treasury will auction $17,750 million of 2-year notes and $11,500 million of 5-year notes to refund $16,621 million of publicly-held securities maturing July 31, 1995, and to raise about $12,625 million new cash.

In addition to the public holdings, Federal Reserve Banks hold $562 million of the maturing securities for their own accounts, which may be refunded by issuing additional amounts of the new securities.

The maturing securities held by the public include $982 million held by Federal Reserve Banks as agents for foreign and international monetary authorities. Amounts bid for these accounts by Federal Reserve Banks will be added to the offering.

Both the 2-year and 5-year note auctions will be conducted in the single-price auction format. All competitive and noncompetitive awards will be at the highest yield of accepted competitive tenders.

Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D. C. This offering of Treasury securities is governed by the terms and conditions set forth in the Uniform Offering Circular (31 CFR Part 356) for the sale and issue by the Treasury to the public of marketable Treasury bills, notes, and bonds.

Details about each of the new securities are given in the attached offering highlights.

If the auction of 2-year Treasury notes to be held Tuesday, July 25, 1995, results in a high yield in a range of 5.500 percent through and including 5.624 percent, the 2-year notes will be considered an additional issue of the outstanding 5-1/2 percent 5-year notes of Series P-1997 (CUSIP No. 912827G30) originally issued July 31, 1992. The additional issue of the notes would have the same CUSIP number as the outstanding notes, which are currently outstanding in the amount of $12,104 million.

If the auction results in the issuance of an additional amount of the Series P-1997 notes rather than a new 2-year note, it will be noted at the bottom of the Treasury's auction results press release.

oOo

Attachment

RR-444

DEPARTMENT OF THE TREASURY

TREASURY NEWS

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FOR IMMEDIATE RELEASE
July 19, 1995

Attached is additional background information based on testimony in today's Waco hearings.

-30-

RR-445
4:30 EST

CNN

Statement:	David Thibodeau says Koresh advised his followers that "no one should do anything stupid" when ATF approached.
Fact:	Branch Davidian Graeme Craddock confessed on Turning Point that members of the compound were lying in wait for Koresh's signal to shoot ATF agents. Koresh advised his followers to get out the guns and the ammunition in preparation for ATF's arrival.
Statement:	Six Davidians were killed.
Fact:	ATF agents killed three Davidians on February 28. Three others were killed by persons inside the compound.
Statement:	Defense lawyers testified that Koresh and his followers were involved in a business venture to buy and sell guns.
Fact:	The Treasury review found no independent evidence to corroborate the claim that Koresh bought the guns as an investment. If this was true, he did not have the proper licenses to conduct such a business.

REAVIS

Assertion: In the course of a meeting between McMahon and ATF, McMahon called Koresh who offered to show ATF his guns; McMahon offered Aguilera the phone with Koresh still on the line, but Aguilera waved McMahon away (p. 38).

Fact:

- McMahon did pass a message to this effect from Koresh to the agents. However, the ATF agents were understandably reluctant to have direct contact with Howell/Koresh so early in their investigation.
- There is no objective reason to believe that Howell/Koresh would have willingly shown the agents his illegal machineguns.

Reavis:

Assertion: "My reading of the warrant does not convince me that there was intent to put legal parts together into illegal weapons."

Fact:

- Mere possession of a machinegun is unlawful without any showing of intent (18 U.S.C. 922(o))

- The affidavit clearly states that Koresh wanted to obtain and/or manufacture machine guns and hand grenades, and the evidence set forth in the affidavit clearly indicates that he was gathering all of the parts and machines necessary to fulfill that intent.

- The affidavit also refers to several witnesses who stated that they either saw or heard machine gun fire and explosions at the compound.

- The warrant was reviewed by the Assistant U.S. Attorney and a federal magistrate-judge. They found there was probable cause to issue search and arrest warrants for the unlawful manufacture of machineguns and the unlawful manufacture and possession of explosives.

- The validity of the warrants was not questioned at trial.

REAVIS

Assertion: McLemore and Mullony say they saw the helicopters make two passes directly behind the compound at low altitude (p. 129).

Fact:

- McLemore testified the helicopters came within "a couple of hundred yards" of the compound.

Fact:

- McLemore was not in a position to state precisely how close the helicopters came to the compound, as Mullony testified that the two of them were <u>two miles away</u> from the compound when they observed the helicopters making the first two passes.

- Mullony testified that the only aircraft over the compound during the firing was a fixed wing aircraft, which was not flying particularly low.

REAVIS

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- Mere possession of a machine gun is unlawful without any showing of intent. (18 U.S.C. 922(o))

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- The affidavit also refers to several witnesses who stated that they either saw or heard machine gun fire and explosions at the compound.

- The purpose of a search warrant is not only to seize evidence of a crime, but also to seize contraband. An illegal machine gun--one that is not registered--is contraband and may be seized.

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FOR IMMEDIATE RELEASE
July 19, 1995

Attached is additional background information based on testimony in today's Waco hearings.

-30-

RR-446
6:00pm EST

Tibbadeaux

Statement: Special Agent Aguilera stated in his affidavit that the undercover agent had observed the upper and lower receivers of a disassembled AK-47. The AK-47 has a one piece receiver, not separate upper and lower receivers, a fact which should have been known to Special Agent Aguilera.

Fact:

- The statement is that a company in South Carolina has sold the necessary parts to convert AR-15 rifles and AK-47 rifles to machine guns if their customers had the upper and lower receivers for those firearms. Howell was a customer of this Company. That statement is correct as it relates to an AR-15s. The statement does not necessarily indicate that an AK-47 consists of two parts as Mr. Tibbideaux seems to indicate.

RESPONSE TO INCORRECT STATEMENTS IN STUART WRIGHT'S TESTIMONY

Assertion: Federal Law Enforcement has not accepted responsibility for what happened at Waco.

Truth: Treasury issued a detailed and critical report that blamed ATF for poor intelligence gathering, which lead to the premature abandonment of other options for serving the warrants. The report also criticized the ATF raid commanders who chose to proceed, even though the element of surprise had been lost. These raid commanders were demoted; they no longer have law enforcement authority, command agents, or carry weapons.

Assertion: ATF could have served the warrants when Koresh left the compound.

Truth: It must be remembered that three warrants were issued -- one to arrest Koresh, one to search the main house at the compound, and one to search the "Mag Bag" at the compound. Although ATF might have been able to arrest Koresh off the compound, it would still have been necessary to serve the search warrants on a heavily armed structure. It is entirely possible that arresting Koresh would have lead his followers to take offensive violent action to free him. It is also likely that his followers would have resisted the search warrant just as violently, even if Koresh had been arrested away from the compound. The Treasury Review fully addresses the issue of ATF's intelligence failures and criticizes ATF planners for failing to determine if Koresh ever left the compound.

Assertion: ATF used armor piercing bullets against the Davidians.

Truth: ATF did not use armor piercing bullets. It was the Davidians who fired .50 caliber armor piercing ammunition at the ATF agents.

Assertion: Rick Ross acted as an outside advisor to ATF.

Truth: Ross only gave ATF the address for David Block. He did not provide any other information to ATF.

Assertion: Helicopters arrived first and fired on the compound.

Truth: The helicopter pilots testified at trial under oath that no shots were fired from the helicopters. The doors of the helicopters were closed at all times. In fact, two helicopters were forced to land because they were hit by fire from the Davidians. None of the helicopters ever flew over the compound. The Treasury Review concluded that the helicopters arrived subsequent to the horse trailers.

REAVIS

Assertion: If the element of surprise was important as ATF claimed, the agents would have conducted the operation at dawn.

Fact:

- On February 11 and February 12 ATF raid commanders briefed ATF headquarters on the plans for the operation. Associate Director for Law Enforcement Daniel Hartnett questioned why the raid was scheduled for 10:00 a.m., rather than pre-dawn, when raids are generally begun. Chojnacki and Sarabyn, the raid commanders, explained that the plan depended on catching the men in the pit away from the room where the guns were believe to be located.

- ATF was also concerned about the risk to children and other innocent if the warrants were executed under the cover of darkness.

- These findings were set forth in the Treasury review.

Reavis

Assertion: My guess is that Koresh did not start making machine guns until he learned of ATF's investigation.
Fact:

- A neighbor of the compound with military experience has stated that from about January and February of 1992 he heard machine gun fire on the compound property during the night hours. Koresh was not alerted to ATF's interest until agents met with Henry McMahon in the summer of 1992.

- Former residents stated that they had seen machine guns on the compound before ATF started its investigation.

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FOR IMMEDIATE RELEASE
July 19, 1995

STATEMENT OF TREASURY SECRETARY ROBERT E. RUBIN

The Administration strongly opposes Congressman Sanders' amendment to H.R. 2020. The Exchange Stabilization Fund has been a vital tool of international economic and monetary policy for every President since FDR. It has enjoyed broad bipartisan support for 60 years because it has been frequently used to defend the dollar, to avoid excess fluctuations in currency markets and to protect vital U.S. economic and security interests. House action on this legislation is but one step in a long and continuing legislative process. We will continue to press our very strong concerns on this issue in the weeks and months ahead.

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RR-447

DEPARTMENT OF THE TREASURY

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FOR IMMEDIATE RELEASE
July 20, 1995

Attached is a copy of testimony to be delivered by Lewis Merletti before the House subcommittees investigating events at Waco.

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RR-448

STATEMENT OF LEWIS C. MERLETTI

UNITED STATES SECRET SERVICE

Assistant Project Director, Department of the Treasury Waco Administrative Review

July 20, 1995

Thank you to both Chairmen McCollum and Zeliff for giving me the opportunity to appear before you today. My name is Lew Merletti, and two years ago I served as the Assistant Project Director for the Treasury Department Administrative Review of the Alcohol, Tobacco, and Firearms' investigation of Vernon Wayne Howell, also known as David Koresh.

In the way of background, I am a veteran, having served from 1967 to 1970 in the United States Army's 7th Special Forces Group, Fort Bragg, North Carolina and in the 5th Special Forces Group in the Republic of Viet Nam. I graduated from Duquesne University in 1973 and was appointed as a Special Agent in the United States Secret Service in 1974. I have been assigned to the Philadelphia and New York Field Offices, where I participated in numerous complex criminal investigations, including interviews

of some of the survivors of the Jonestown Massacre. I have been a team leader on a Secret Service Tactical Counter Assault Team and have been the Special Agent in Charge of the Baltimore Field Office and the Secret Service's training center located in Beltsville, Maryland. While assigned as the Assistant Project Director for the Department of Treasury Waco Administrative Review, I was the Deputy Assistant Director for the Secret Service's Office of Inspection. I am currently assigned to the Office of Protective Operations.

On February 28, 1993, agents of the Treasury Department's Bureau of Alcohol, Tobacco, and Firearms attempted to execute lawful search and arrest warrants at the Branch Davidian Compound near Waco, Texas. They were met with a murderous hail of gunfire and as a result, four agents were killed, and more than 20 were wounded. Several residents of the Compound were killed in the exchange of gunfire between ATF agents and those inside the Compound building.

The Treasury Department, understanding the need for a comprehensive review of the events leading to the failed attempt to serve the warrants, began planning for an administrative review, which would fully examine ATF's actions at Waco. On April 19, 1993, President Clinton directed the Treasury and Justice Departments, which are responsible for the ATF and the FBI, respectively, to conduct "vigorous and thorough"

investigations of the events leading to the loss of law enforcement and civilian lives. The Treasury Department acted immediately. Secretary Bentsen directed Ronald K. Noble, then Assistant Secretary of the Treasury (Enforcement) designate, to lead a Treasury review of ATF's criminal investigation of Koresh and the unsuccessful effort to execute search and arrest warrants. The Review was also to consider any misleading or contradictory statements made to the public by ATF officials.

In an effort to ensure that the Review's investigation was impartial and comprehensive, three individuals of national prominence and integrity agreed to serve as Independent Reviewers -- Watergate prosecutor Henry Ruth, Pulitzer Prize journalist Edwin Guthman and Los Angeles Police Chief Willie Williams. They were to oversee and provide guidance to the investigation, consider its findings, and assess the final report. Treasury's Office of Inspector General was to monitor the review team investigation to provide assurance to the Department that the project plan was complete and properly implemented and that all relevant facts were fully considered. Additionally, outside experts in tactical operations, firearms and explosives from varied law enforcement and military backgrounds were enlisted to consider the technical aspects in their area of expertise. Each of these ten experts provided independent reports on their analysis of the investigation. Their conclusions are appended to the Treasury Department report.

H. Geoffery Moulton, Jr. was named Project Director for the Review, and David L. Douglass and I served as Assistant Project Directors. A team of seventeen senior criminal investigators were selected from the U.S. Customs Service, the IRS, and the U.S. Secret Service to assist in the investigation and preparation of the report.

I interviewed each of these investigators. I advised them that the Review was not a criminal investigation, but an administrative review and that the purpose was to find the truth of what happened at Waco and to report those findings. The Review was not to be either a "witch hunt" nor a "whitewash", but rather, a tough, thorough, and detailed investigation with no limitations on where that investigation might lead.

As the investigative plan was developing, the review team received a briefing from the Secret Service's Traumatic Incident Program on what the team could encounter as they conducted the interviews of those agents involved in the shooting at the Branch Davidian Compound. In fact, many of the traumatic reactions addressed by the Program were exactly what the investigative team encountered and I believe that because of the Program we were better prepared to assist the agents being interviewed to cope with very emotional recollections. A number of other briefings occurred as well. Those briefings provided background information addressing ATF's mission; the technical aspects of

converting guns to machine guns; and a general discussion of the legal ramifications problematic with an administrative review in the face of an ongoing criminal investigation, as well as the possibility of resultant personnel actions.

The murder investigation of the four ATF agents was being conducted by the Texas Rangers, who supported a complete, impartial review by the Treasury Department. I met with the lead prosecuting Assistant U.S. Attorney, Ray Jahn, and I informed him of how the Review was to be conducted and our concern with regard to the on-going murder investigation. ATF Director Stephen Higgins, in a memorandum to the Assistant Secretary for Enforcement, requested the Office of Enforcement assume leadership for a comprehensive review of the incident.

With this spirit of cooperation and commitment from the Treasury Department, the ATF, the Texas Rangers and the U.S. Attorney's Office at Waco, the investigative team began collecting and reviewing all existing material relating to the ATF investigation of Koresh. It included ATF's investigation of Koresh and the development of probable cause, the planning and execution of the search and arrest warrants, the decision making process to proceed with the execution of the warrants, and media statements made by ATF officials after the raid.

The interviews were organized to encompass all areas of

consideration and included: ATF agents; Treasury Department officials; other Federal law enforcement officers; state and local law enforcement officers; neighbors of the compound; local merchants; former Davidians; National Guard and military personnel; personnel who provided non-law enforcement support; members of the media; and anyone else who might have pertinent information. In all, more than 500 of these persons were personally interviewed by this Review.

In most cases, prior to the interview of ATF "line" agents, the Review Project Director and I would meet with them and explain the Review process and mission. We would attempt to answer any question posed and respond to any who raised concern with the process. After each interview, we met individually with each agent to determine if the interviews caused them any concerns. Both Geoff Moulton and I were impressed with the overwhelming positive responses by those agents who were interviewed, not only with regard to the Review process, but with regard to the manner in which the interviews were conducted. Almost without exception, the "line" agents welcomed the Review and demanded that the truth be heard.

Each one of our interviews was reflected on a Memorandum of Interview, all of which have been produced to these Committees, and all of which were turned over to the prosecution team in Waco.

I cannot adequately describe to you the process the Review used to conduct the investigation and the manner in which the report was drafted without commenting on the commitment and dedication to the process of the members of the review team. Almost without exception, after each battery of interviews were completed, the entire team - over twenty agents and lawyers - would meet and to analyze each interview. In this manner, all team members became aware of all aspects of the investigation. This was not an easy or short process. Each detail of a factual event from an interview was brought forward. It was analyzed and compared with details about the same factual event from other interviews. When a disparity or contradiction was noted, further investigation was conducted until a consensus among the team members was reached on the disputed detail. In addition, lines of inquiry were often developed during these meetings and all team members contributed to the decision to go forward with or limit the scope of inquiry.

This process extended to the drafting of the report as well. As each section was drafted, it was presented to the entire team. Each member independently reviewed that section and a meeting was convened to discuss word by word, line by line, paragraph by paragraph, the factual content of the section and any conclusions the facts might engender. This process was repeated over and over again until there was agreement by all members, that the section of the report contained all the factual information

necessary to reach the stated conclusions and that the information was accurate and presented fairly. Needless to say, this process was long and arduous and I feel that only fully committed individuals with a strong belief in fairness and the pursuit of the truth could have completed the process.

The Report of the Department of the Treasury on the Bureau of Alcohol, Tobacco, and Firearms Investigation of Vernon Wayne Howell, also known as David Koresh, is partly the product of a group of committed individuals who worked countless hours, spent many days away from their home and family, and who endeavored to get at the truth that would answer the questions raised in the aftermath of the failed attempt to serve the warrants. It is partly the product of a government that insisted, that a group such as this be formed and then mandated it to find the truth. But it is mostly the product of the men and women of the ATF, who came forward willingly to tell their story and who told their story without regard to any self interest or fear of repercussions in order that the death of their comrades in arms will not have been in vain, and that their agency learn from the mistakes made and become a stronger organization.

Therefore, I stand by the solid, time tested integrity of the report, as do my seventeen fellow investigators, and I look forward to the Committees affirmation of this Review.

AUCTION RESULTS

PUBLIC DEBT NEWS

Department of the Treasury • Bureau of the Public Debt • Washington, DC 20239

FOR IMMEDIATE RELEASE
July 20, 1995

CONTACT: Office of Financing
202-219-3350

RESULTS OF TREASURY'S AUCTION OF 52-WEEK BILLS

Tenders for $18,294 million of 52-week bills to be issued July 27, 1995 and to mature July 25, 1996 were accepted today (CUSIP: 912794Z64).

RANGE OF ACCEPTED COMPETITIVE BIDS:

	Discount Rate	Investment Rate	Price
Low	5.36%	5.68%	94.580
High	5.38%	5.70%	94.560
Average	5.38%	5.70%	94.560

Tenders at the high discount rate were allotted 100%.
The investment rate is the equivalent coupon-issue yield.

TENDERS RECEIVED AND ACCEPTED (in thousands)

	Received	Accepted
TOTALS	$43,711,143	$18,294,143
Type		
Competitive	$37,909,800	$12,492,800
Noncompetitive	824,943	824,943
Subtotal, Public	$38,734,743	$13,317,743
Federal Reserve	4,650,000	4,650,000
Foreign Official Institutions	326,400	326,400
TOTALS	$43,711,143	$18,294,143

An additional $49,900 thousand of bills will be issued to foreign official institutions for new cash.

5.37 - 94.570

RR-449

DEPARTMENT OF THE TREASURY

TREASURY NEWS

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FOR IMMEDIATE RELEASE
July 20, 1995

Attached is additional background information based on testimony in today's Waco hearings.

-30-

RR-450
3:15pm EST

Hartnett

Assertion: Treasury's Waco review was less than thorough and objective.

Fact:

- The Treasury report has been widely praised in the media by members of Congress and outside reviewers for being candid and comprehensive.

- Independent Reviewers. To ensure the report was impartial and complete, then Secretary Bentsen enlisted three individuals of national prominence and integrity -- Pulitzer Prize winning journalist Edwin Guthman, Watergate Prosecutor Henry Ruth, and Los Angeles Police Chief Willie Williams -- to provide guidance to the investigation, consider its findings, and assess the final report. They received no payment for their services. These reviewers found the report to be thorough, objective, and fair.

- Seasoned Investigators. Seventeen senior investigators from the Secret Service, the Customs Service, the IRS, and the Financial Crimes Enforcement Network assisted with the interviews and the preparation of the report. No ATF personnel took part in the review. These investigators interviewed over 500 individuals, and prepared objective and thorough reports of the interviews. All of these have been provided to Congress.

- Outside Experts. The Treasury review team consulted with 10 non-Treasury experts in tactical operations, firearms, and explosives. The analyses each submitted to the review team are appended to the report. They, like the independent reviewers, served without pay.

- Inspector General. Treasury's Office of the Inspector General (OIG) monitored the administrative review team to ensure that the project plan was complete and properly implemented. The OIG was asked to comment on whether relevant information obtained during the investigation was properly considered and included in the final report.

- The findings of the Treasury report were the result of a painstaking process of debate, analysis, reconsideration, and critical review.

- **The Independent Reviewers, the Inspector General, and the editorial boards of major newspapers commended the report for its honesty and candor.**

- **Members of Congress on both sides of the aisle found the report was "impartial, and self-effacing" and "thorough in its findings."**

- **The assertion about the integrity of the Treasury report was made by an individual criticized by the review and who resigned from his position immediately after its publication.**

Fact Sheet

"Flashbangs"

- As the name implies, a flashbang produces a bright light and a loud noise; its purpose is not to kill or injure, but to distract.

- These devices may not be used unless approved in advance in writing by Headquarters, Chief Special Operations Division, and then only after the agents attend an eight hour training course.

- At Waco, as in any case where such devices could be used, the agents were instructed to use distraction devices only after visually checking the area to determine it was safe to do so. Moreover, in Waco there was a particular concern to ensure no children were in the area.

Shadegg

Assertion: ATF could have gone directly to the door to serve the warrants. During the compliance inspection of Henry McMahon, Koresh invited ATF to visit the compound.

Fact:

- ATF had search warrants for the unlawful manufacture and possession of machine guns and explosives. There is no reason to believe that Koresh would have allowed federal agents to search the compound without resistance.
- Visits by Joyce Sparks, the case worker from the Texas Department of Protective and Regulatory Services, were carefully controlled and orchestrated.
- The decision not to rely on Koresh's goodwill was entirely appropriate and rested on valid considerations. Koresh's had a propensity towards violence, used armed guards, and controlled a massive arsenal of automatic and semiautomatic weapons. The ATF planners reasonably concluded that a polite request to search the Compound without readiness to use force would have been foolhardy and irresponsible.
- The violent response by Koresh to the ATF, resulting in the deaths of 4 ATF agents, on the day they attempted to serve the search warrant (February 28, 1993) demonstrates that Koresh would not have "peacefully" allowed such a search.
- There is no evidence to suggest that the offer made by Koresh on July 30, 1992, was a "standing offer" that was open until February, 1993.

Zeliff

Assertion: Treasury provided the subcommittees with 13,000 pages of disorganized pieces of paper.

Fact:

- In response to congressional requests, the Treasury Department provided congressional committees with more than 25,000 pages of documents and numerous charts, maps, diagrams, audiotapes, photographs, and videotapes. Each page bears a bates stamp.

Zeliff

Assertion: The surveillance notes from the undercover house were incomplete.

Fact:

- That is correct, as the Treasury review reported two years ago: "[t]he agents in the undercover house did not conduct effective surveillance or keep comprehensive records of what they did see and they could not see." (p.148)

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DEPARTMENT OF THE TREASURY

TREASURY NEWS

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FOR IMMEDIATE RELEASE
July 20, 1995

Contact: Chris Peacock
(202) 622-2960

STATEMENT OF TREASURY SECRETARY ROBERT E. RUBIN

I am naming today six members to an independent Citizens Review Panel for the Treasury Department's investigation of the "Good Ol' Boys Roundup." The members of the Citizens Review Panel will provide their individual evaluation of the Office of Inspector General's fact-finding investigation and report. They will also provide their individual evaluation of the Under Secretary for Enforcement's recommendations concerning the applicability of existing laws, policies, rules, or regulations, and any proposed changes to them.

The Citizens Review Panel is composed of six extremely qualified and well-respected Americans:

Julius L. Chambers, Chancellor of North Carolina Central University, and former Executive Director of the N.A.A.C.P. Legal Defense and Educational Fund;

Norman Dorsen, Stokes Professor of Law at New York University School of Law, former President, Society of American Law Teachers, and former President, American Civil Liberties Union;

Helene L. Kaplan, a partner in the law firm of Skadden, Arps, Slate, Meagher & Flom, and former chair, Board of Trustees of the Carnegie Foundation and Barnard College;

Rex E. Lee, president of Brigham Young University, who served as Solicitor General of the United States during the Reagan administration;

Patrick V. Murphy, Director of the Police Policy Board for the United States Conference of Mayors, and former Commissioner of the New York City Police Department;

Fred Thomas, Director of Public Safety for Prince Georges County, Md., and recently retired Chief of the Metropolitan Police Department of Washington, D.C.

I am honored that these distinguished individuals have agreed to lend their expertise and judgment to this important undertaking.

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DEPARTMENT OF THE TREASURY

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FOR RELEASE UPON DELIVERY
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JULY 21, 1995

STATEMENT OF
JOSEPH H. GUTTENTAG
INTERNATIONAL TAX COUNSEL
DEPARTMENT OF THE TREASURY
BEFORE THE COMMITTEE ON FINANCE
UNITED STATES SENATE

Mr. Chairman and members of the Committee, I am pleased today to testify on the tax policy considerations relating to the deferral of United States income tax on earnings of U.S.-owned foreign companies, as well as on the tax treatment of foreign sales corporations (FSCs).

This Administration has been keenly aware of the importance of keeping U.S. companies competitive in the global marketplace. We approach the taxation of international income earned by U.S.-owned foreign companies with such awareness.

Simply and basically put, the United States allows most business income realized by U.S.-owned foreign corporations to be eligible for a deferral of U.S. tax until the income is remitted to the United States. The reason for taxing passive income currently and eliminating deferral with respect to excess passive assets is that there is no policy justification for allowing tax deferral for investment portfolios abroad that could just as well be located in the United States and that bear little or no relationship to the operation of an active business. Typically, these investment portfolios are held abroad in low or no tax countries.

In the international tax area one should consider at least three aspects of the rules governing taxation of outbound investment: the rules governing deferral of the taxation of income earned abroad, the rules governing relief from

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international double taxation, and the rules for sourcing income and expense. Accordingly, after a brief discussion of the problems inherent in international taxation, I will provide an overview of current law that focuses on the reasons for our existing policy before turning to two specific items under current law that play important roles in implementing this policy: 1) provisions relating to section 956A of the Internal Revenue Code; and 2) the tax treatment of passive foreign investment companies. Finally, I will discuss the tax treatment of FSCs.

Issues Inherent in International Taxation

As this Committee is well aware, there are many difficult issues that must be addressed in any tax system. With respect to the taxation of international income, additional issues arise because different countries have different tax rates and tax bases. These differences in tax rates and tax bases can distort decisions about where to conduct income-producing activities just as different tax treatment of different domestic investments may distort where income is invested domestically. Such distortions reduce worldwide economic welfare. It is impossible to eliminate these distortions completely. Our tax rules should be aimed at raising required revenue in an equitable, administrable fashion while at the same time minimizing the distortions.

The issues in designing international tax rules can be illustrated by examining two ways in which tax burdens can differ. First, an individual may face different tax burdens depending on whether he invests at home or abroad thus distorting the investors choice between investing at home or abroad. In the face of differing international tax burdens, the residence country can equalize its investors' choices, from a tax perspective, by taxing all investment currently and offering a full tax credit for any taxes paid abroad. (Eliminating this type of tax distortion is often referred to as capital export neutrality.) Under such a system investors will choose to fund the most productive activities regardless of where they are located (that is, in the United States or in a foreign country) and capital will not be diverted to less productive alternatives in low tax jurisdictions. There would be minimal incentive for foreign countries to grant tax holidays and more incentive to harmonize tax burdens.

A second way in which tax burdens can differ is if capital invested in a country is taxed differently depending on whether it comes from foreign or domestic sources. A country can ameliorate this distinction by exempting the foreign income of its resident investors from tax, so that their foreign investments are taxed only by the source country. (Putting foreign and domestic investors on an equal footing is often referred to as capital import neutrality.) Under such a system

foreign and local investors in each country will face the same tax burden and no investor will have a tax advantage over another investor.

It is impossible to eliminate both types of tax differences in the face of differing tax rates and bases in different countries. A country with a moderate tax rate cannot equalize taxes paid by its residents on income from foreign and domestic investments, and at the same time allow those residents to pay a lower rate of tax, for example, on income from tax havens.

U.S. tax policy must cope with the reality that independent countries, in the exercise of national sovereignty, will inevitably have different tax rates and bases. The following section discusses the way that the United States approaches this challenge.

Overview of Current Law

Like most industrial countries, the United States claims income tax jurisdiction on the basis of both the residence of the taxpayer and the source of the income. Thus, the United States taxes its citizens and residents (including U.S. corporations) on both domestic and foreign source income, and it eliminates or reduces international double taxation by allowing a credit for foreign taxes paid or accrued on foreign source income. U.S. persons may earn foreign source income directly, for example through a foreign branch of a U.S. corporation. They also may earn foreign income indirectly through a foreign corporation that repatriates foreign profits by paying dividends to U.S. shareholders. A U.S. citizen or resident earning foreign source income directly generally is taxed in the year the income is earned. In contrast, the U.S. tax on foreign source income earned through a U.S.-controlled foreign corporation generally is deferred until the income is repatriated. Although such income is not permanently exempt from U.S. tax, this deferral can provide a substantial tax benefit in the form of the time value of the money. With unlimited deferral, the most relevant tax liability is the foreign (source country) tax, and U.S. shareholders bear an effective tax burden comparable to that borne by other investors in the source country.

Deferral provides no tax benefit where the effective foreign tax rate on the earnings of a foreign corporation is equal to or higher than the effective U.S. rate. In this situation, the foreign tax credit will completely offset U.S. tax, whenever that tax is imposed. In tax havens or low tax countries, however, the availability of unlimited deferral can operate as a strong tax incentive for foreign over domestic investment (and for investment through an affiliate of a foreign corporation rather than a foreign branch). In this case, the deferral could cause a U.S. multinational corporation to prefer foreign investments with

pre-tax returns substantially below those of comparable domestic investments.

While the general rule over the history of U.S. tax law has provided for deferral of tax on income earned by foreign entities, numerous situations have been identified which require deferral to be limited or eliminated. Thus, the Code provides a number of "anti-deferral" regimes to tax currently the income derived from investments that are easily moved internationally, including passive investments (portfolio investments in debt or equity and rents or royalties in which there is no active management of the underlying property) and investments in certain active businesses that are easily moved, such as international shipping, insurance, and income from sales among related parties that are routed through third countries. The most important of the anti-deferral regimes is contained in subpart F of the Code which requires that 10 percent or greater U.S. shareholders of a controlled foreign corporation ("CFC") include in current income their pro rata shares of the CFC's income from passive investments and movable active businesses.

For foreign corporations (including CFCs) with predominantly passive income or assets, the passive foreign investment company (PFIC) rules of Code sections 1291 through 1297 impose an interest charge with respect to the deferred tax on all income of the foreign corporation that is not currently included under subpart F; alternatively, each shareholder, regardless of the size of its ownership interest, may make an election under which it currently includes in its income its pro rata share of all income of the PFIC. Other anti-deferral rules potentially applicable to foreign corporations with some degree of U.S. ownership are the foreign personal holding company rules of Code sections 551 et seq. and the foreign investment company rules of Code section 1246. The accumulated earnings tax of Code section 531 et seq. and the personal holding company tax of Code section 541 also apply to foreign (as well as domestic) corporations. We have been working with the tax-writing committees of Congress to simplify these rules by eliminating some of these overlapping regimes and better coordinating the regimes that would remain. We look forward to continuing to work with the Committee to implement such a simplification proposal. We view this effort as a very high priority.

The previously described rules restricted deferral with respect to taxes on <u>income</u> from certain passive assets. Pre-1993 law provided an inappropriate tax incentive to keep excess passive assets themselves overseas, outside U.S. tax jurisdiction. In 1993 Congress added section 956A to the Code to remove these benefits for excessive accumulations of passive assets abroad. Such accumulations are excessive when their purpose bears no reasonable relationship with the operation or expansion of any active business abroad, but merely avoid U.S.

tax. It is very difficult to justify deferral for such accumulations on grounds that they are needed to preserve international competitiveness, and Congress believed that neither subpart F nor the PFIC rules sufficiently restricted the benefits of deferral in such cases.

Current U.S. tax policy generally strikes a reasonable balance between deferral and current taxation in order to ensure that our tax laws do not interfere with the ability of our companies to be competitive with their foreign based counterparts. As noted at the outset, countries have different tax rates and tax bases. Therefore, it should come as no surprise that various countries have different approaches to the individual components of international taxation. Nevertheless in looking at the totality of the United States tax system, our rules are similar to our major trading partners whose tax laws provide for general deferral of tax combined with a foreign tax credit and anti-abuse provisions. Accordingly, many foreign competitors of U.S. multinationals are subject to tax regimes similar to the U.S. system.

The following sections describe in greater detail two regimes that were designed to eliminate investment distortions that can be caused by differential tax rates.

956A and Related Subpart F Rules

Subpart F represents the most significant exception in existing law from the general rule of deferral. Subpart F was originally enacted in 1962 and was substantially revised in 1986. The excess passive assets rules of section 956A were added to subpart F in the Omnibus Budget Reconciliation Act of 1993.

In general, under subpart F, a "U.S. shareholder" in a foreign corporation that was a "controlled foreign corporation" for an uninterrupted period of thirty days or more during the taxable year is taxed currently on its pro rata share of the corporation's "subpart F income," its earnings invested in U.S. property, and, after enactment of section 956A, its earnings invested in "excess passive assets." A "U.S. shareholder" is a U.S. person that owns 10 percent or more of the foreign corporation's voting stock (Code section 951(b)). A "controlled foreign corporation" ("CFC") is a foreign corporation in which such U.S. shareholders hold directly, indirectly, or by attribution more than 50 percent of the voting power or value on any day during the corporation's taxable year (section 957(a)).

"Subpart F income" consists primarily of insurance income and foreign base company income, which is income derived from passive investments and certain business activities considered to be easily movable and thus responsive to tax considerations. A "high tax" exception is available for income that would otherwise

be foreign base company or insurance income if that income is subject to an effective tax rate greater than 90 percent of the maximum U.S. statutory rate (section 954(b)(4)).

In addition to taxation of subpart F income, the subpart F regime also requires U.S. shareholders of CFCs to include in income the undistributed, untaxed earnings that the CFC invests in U.S. property (section 956) or in excess passive assets (section 956A). Ordering rules ensure that earnings are not subject to tax under more than one regime and are not again taxed when distributed.

"U.S. property" for section 956 purposes is defined to include tangible property located in the United States, including real property, any stock in, or obligation of, a U.S. person, and any right to use intangible property in the United States (section 956(c)). Section 956 was generally designed to tax U.S. shareholders on transactions by the CFC that are analogous to the distribution of dividends and to prevent foreign earnings from returning to the United States without bearing full U.S. tax.

Under the excess passive assets rules of section 956A, U.S. shareholders must include in income their pro rata share of a CFC's earnings from tax years beginning after September 30, 1993 to the extent the CFC holds passive assets in excess of 25 percent of its gross assets. The 25 percent test is applied on a group basis to related CFCs; a group for these purposes consists of foreign corporations each of which is owned more than 50 percent (by vote or value) by another member of the group (other than the top-tier CFC).

Section 956A falls squarely within the parameters that over time have defined the circumstances in which restrictions on deferral have been determined to be appropriate. That is, within the context of an overall deferral regime, section 956A imposes a tax on foreign earnings where deferral would unduly influence and distort investment decisions. It ends deferral only where the accumulation of passive assets is so significant as to create a compelling presumption that earnings are no longer needed in the foreign business and are retained by the CFC primarily for tax reasons. Because the U.S. tax on a section 956A inclusion will be reduced by foreign tax credits, section 956A will have its greatest effect in cases where the underlying earnings were not subject to a significant foreign tax.

Prior to enactment of section 956A in 1993, it was possible to defer U.S. tax on large amounts of a CFC's non-subpart F earnings indefinitely, as long as the CFC paid no dividends and made no investment in U.S. property that would trigger a tax under section 956. For example, a CFC's return on its intangibles escaped U.S. tax not only in the year earned but in subsequent years, as long as those returns remained abroad. This

extended deferral of U.S. tax on active foreign income could effectively amount to a tax exemption for that income. The opportunity for extended deferral of tax enhanced the incentive to locate business operations abroad. It also created a distinct incentive to retain an amount of earnings in excess of the reasonable working capital and expansion needs of the foreign business.

In many cases, the retained earnings were sitting virtually idle in passive accounts. Treasury research done at the time section 956A was enacted indicated that the average percentage of passive assets for all CFCs was 13 percent. Breaking this figure down for tax havens and non-tax havens, we found that while the average percentage of passive assets for companies in non-tax haven countries was only 7 percent of total assets, the average for companies in tax haven countries was 30 percent. Thus, the CFCs with the most significant section 956A problems tend to be those in tax haven or low tax jurisdictions.

The excessive accumulations of passive assets under pre-1993 law were difficult to justify on competitiveness or other policy grounds. In fact, taxpayers generally have not argued that their competitiveness with other foreign-based multinationals is premised on their ability to hold passive investments in excess of the 25-percent threshold of section 956A. We are satisfied that the 25-percent threshold generously accommodates working capital needs of most CFCs.

Some have suggested that section 956A is an incentive for foreign over domestic investment because, to avoid taxation under section 956A, taxpayers can simply move excessive passive investments into active foreign operations. According to proponents of this argument, jobs will thus be taken from the United States.

We believe this result is unlikely. Before enactment of section 956A, careful consideration was given to its impact on decisions involving the location of new active business operations. By reducing the opportunity for extended deferral of tax on foreign earnings, section 956A was intended to reduce the tax incentives for the transfer of capital--and the attendant jobs--from the United States for investment abroad. There was a greater incentive for investment in tax havens under pre-1993 law because it allowed taxpayers to escape U.S. tax not only in the year foreign earnings were generated but in subsequent years as well, as long as those earnings were retained in the low-taxed foreign country. Section 956A limits the extended deferral of tax on these earnings without completely denying the benefits of deferral. Taxpayers continue to enjoy the same pre-1993 benefits of deferral as long as they do not excessively accumulate earnings in passive assets.

Moreover, section 956A did not create a new incentive to choose active foreign over active U.S. investment of a CFC's earnings. Before enactment of section 956A, taxpayers who responded to the deferral incentive were not repatriating their earnings to invest directly in U.S. jobs or take advantage of U.S. business opportunities. To enjoy deferral, they left their foreign earnings in the CFC. Section 956A did create a new incentive to choose active investments over passive foreign investments of a CFC's earnings. The choice of an active foreign investment, however, depends not only on the tax results but also on the availability and suitability of investment opportunities and business objectives. Those taxpayers that chose passive over active foreign investments before enactment of section 956A may not have had active investment opportunities; given the relatively low rates of return on passive versus active assets, one could assume that CFCs would have exploited any genuine opportunities for active investments rather than passively investing an amount of earnings that far exceeds the reasonable needs of the business and that now exceeds the section 956A threshold.

In sum, section 956A clearly reduces the tax incentive to transfer abroad capital (and associated jobs) currently located in the United States. Congress struck a reasonable balance in 1993 by maintaining deferral while minimizing tax-motivated business location decisions and insuring that our tax laws do not jeopardize the competitiveness of U.S. industry. Consequently, we would strongly oppose any changes at this time to section 956A.

Passive Foreign Investment Companies

While the subpart F rules are the most significant exception from deferral for foreign subsidiaries of U.S. corporations, the PFIC regime is of most importance to U.S. persons holding portfolio investments in foreign corporations that earn primarily passive income.

Congress enacted the PFIC rules in 1986 to remove an incentive for U.S. persons to invest in passive assets through foreign corporations rather than domestic investment funds. Both the domestic and foreign investment funds can be structured to avoid a corporate-level tax on the passive income (in the case of domestic corporations, through the regulated investment company rules and, in the foreign context, by locating in a tax haven). However, investors in domestic funds generally are subject to tax currently on their share of the fund's income while, before 1986, U.S. investors in foreign investment funds generally were able both to avoid current taxation and to convert ordinary income to capital gain income.

To address these concerns, the PFIC rules provide that a U.S. person who owns stock of a PFIC must include in income currently the shareholder's pro rata share of the income of the PFIC, or be subject to additional tax upon disposition of the stock of the PFIC or receipt of "excess distributions" from the PFIC. The latter "interest charge" regime is intended to approximate the economic effect of current taxation of the investment income. A foreign corporation is a PFIC for any taxable year if 75 percent or more of its gross income for the taxable year is passive income or at least 50 percent of its assets produce passive income or are held for the production of passive income.

Because the purpose of the PFIC rules generally is to distinguish between "active" and "passive" companies, while the purpose of the subpart F rules is to prevent the deferral of taxation on income that is easily movable and therefore responsive to tax considerations, there are significant differences between "passive income" for PFIC purposes and "subpart F" income. For example, the "easily movable" subpart F income that arises from active businesses, such as shipping, generally is not covered by the PFIC rules. Similarly, income earned in the active conduct of a banking or insurance business by most foreign banks and insurance companies also is not passive under the PFIC rules. A similar exception applies to securities brokers and dealers that are also CFCs. Moreover, although both the subpart F and PFIC rules provide "look-through" rules that treat certain, otherwise passive, income or assets of a foreign corporation as active to the extent attributable to active income or assets of related persons, the PFIC rules do not include the subpart F requirement that the related person be organized in the same country. On the other hand, the PFIC rules provide no "high-tax" exception to the definition of passive income.

Although the PFIC rules use a narrower definition of "tainted" income than the subpart F rules, they apply to more shareholders. The PFIC rules apply to U.S. persons who own even a single share of the stock of a PFIC (or options to acquire such stock, including convertible debt), regardless of whether the PFIC as a whole is U.S.-controlled. This rule reflects the difference between subpart F's orientation toward foreign subsidiaries of U.S. companies and PFIC's orientation toward passive investments of individual U.S. investors. The rule also was intended to prevent taxpayers from avoiding the PFIC regime in the same ways that they avoid the other anti-deferral regimes.

For example, the subpart F current inclusion rules apply only to "U.S. shareholders" (that is, those who own 10 percent or more of the voting stock of the foreign corporation) and then only if more than 50 percent of the equity of the corporation (by vote or value) is concentrated in the hands of such U.S. shareholders. Accordingly, a less than 10-percent shareholder

can avoid current recognition of income under subpart F. Similarly, the personal holding company rules and foreign personal holding company rules, which subject foreign corporations or their U.S. shareholders to either a penalty tax or current taxation on passive income, apply only if five or fewer individuals own (directly or indirectly) more than 50 percent in value of the stock of a foreign corporation. Thus, these provisions can be avoided by dispersing majority ownership among more than five individuals.

Congress enacted the broad PFIC provisions to limit tax incentives to invest in passive assets abroad. Prior anti-deferral regimes, which generally applied only to closely-held corporations, were inadequate to deal with the increasing problem of deferral by individuals. The PFIC rules are even more important now than they were in 1986, since more U.S. investors have become comfortable with the idea of investing outside the United States. Without the PFIC rules, every well-advised U.S. taxpayer would have substantial tax incentives to hold all of his investments in stocks or securities (other than stock in U.S. companies that currently pay dividends) through offshore corporations. Accordingly, the PFIC rules were not intended to affect overall U.S. savings levels, but rather to ensure that we do not inappropriately encourage U.S. persons to invest those savings overseas.

We recognize that the PFIC rules are complex. As noted above, we look forward to continuing to work with the Committee to simplify the PFIC rules and the other anti-deferral regimes.

Overview of Foreign Sales Corporations Provisions

The final topic that Treasury has been asked to testify on is the tax treatment of Foreign Sales Corporations.

Foreign Sales Corporations (FSCs) are foreign corporations that earn income from participating in U.S. export transactions. See Code sections 921-927. The FSC provisions provide a limited exemption from U.S. tax for income arising from certain export transactions. The FSC rules were added to the Code in 1984 to replace the domestic international sales corporation (DISC) rules, which were phased out in response to criticism by U.S. trading partners that DISCs violated the General Agreement on Tariffs and Trade (GATT). The FSC rules were designed to provide a tax treatment of income arising from export transactions that is compatible with the GATT.

Generally a FSC either purchases U.S. goods and sells them abroad (a buy-sell FSC), or it is paid a commission for participating in a sale or lease (a commission FSC). Although a FSC may purchase from (or provide services to) unrelated suppliers, generally a U.S. exporter forms its own FSC. That FSC

will either buy and sell exclusively the exporter's property or function as an exclusive commission agent for the exporter. A FSC also must satisfy certain requirements (designed to make the FSC rules compatible with the GATT) including requirements that the FSC be managed outside the United States and that it carry on certain economic processes outside the United States.

FSC benefits are generally limited to income from the sale or lease outside of the United States of goods manufactured in the United States. Income from licenses of intangible property, including copyrights, is generally not entitled to FSC benefits but a statutory carve-out extends FSC benefits to licenses of films, tapes, and records. Treasury is aware of legislative proposals to extend FSC benefits to licenses of computer software for reproduction abroad. Treasury would not oppose such a proposal, assuming that appropriate offsetting revenue measures can be identified.

The "exempt foreign trade income" earned by a FSC is not taxed by the United States because it is characterized as foreign source income that is not effectively connected with the conduct of a U.S. trade or business. This income approximates the portion of the FSC's income that is deemed allocable to the foreign activities of the FSC. The income also is excluded from taxation under subpart F. See sections 951(e) and 954(d) and (e). Also, no U.S. tax is imposed on the exempt income when it is paid to U.S. corporate shareholders because they are allowed a 100-percent dividends-received deduction for dividends attributable to exempt foreign trade income. The only corporate-level tax that such exempt foreign trade income bears is foreign income tax, which ordinarily is minimal because a FSC is usually formed in a low-tax country or in a country or U.S. possession that exempts FSC income from tax. Other income earned by a FSC generally is taxed under regular U.S. rules. Accordingly, other FSC income is taxed either in the year in which it is earned or in a later year when it is repatriated as a dividend.

Virtually every FSC (whether a commission FSC or a buy-sell FSC) that deals with a related party determines its foreign trade income under one of two administrative pricing rules; i.e., rules that determine the price that the FSC is deemed to pay its related supplier or the commission it is deemed to earn. One administrative pricing rule (the 23-percent rule) determines a transfer price (or commission) such that the taxable income of the FSC attributable to the sale (or lease) does not exceed 23 percent of the combined taxable income of the FSC and the related person that is attributable to foreign trading gross receipts, the receipts from the export transaction (or group of transactions). The other rule (the 1.83-percent rule) determines a transfer price (or commission) such that the taxable income of the FSC attributable to the sale (or lease) does not exceed 1.83 percent of the FSC's foreign trading gross receipts from the

transaction (or group of transactions). In each case, the FSC is allowed to treat 15/23 (65.22 percent) of its foreign trade income (gross income attributable to foreign trading gross receipts) as exempt.

Treasury is required to submit quadrennial reports to Congress on the operation and effect of the FSC program. The first such report was submitted in January, 1993 and covered FSC operations for the period from January 1, 1985 through June 30, 1988. This report discussed the history and operation of the FSC provisions, the effect of FSCs on U.S. trade and U.S. tax revenues. The report used a standard econometric trade model to calculate the effect of FSCs on U.S. trade and estimated the reduction in exports that would occur if FSCs were repealed. The report estimated that, overall, the FSC program increased U.S. exports by about $1.5 billion (or 7 tenths of one percent) in 1985 and 1986, and by 1.2 billion (or one-half of one percent) in 1988. The next report will be submitted by 1997 and will cover the operation of the FSC program up to June 30, 1992.

The FSC provisions should be considered in conjunction with the rules for determining the source of income for export sales, which also provide for the tax treatment of income arising from export transactions. Depending on a taxpayer's circumstances, the sales source rules may cause the greater tax savings to be realized by exporting directly rather than utilizing a FSC. In the case of inventory property that is purchased in the United States for export abroad, the source of income is determined under the title passage rule of section 862(a)(6), which generally sources such income entirely from the country in which the seller's right, title, and interest in the goods pass to the purchaser.

As described above, to avoid double taxation of foreign source income, U.S. taxpayers are permitted to claim a credit for foreign taxes, to the extent that the foreign tax does not exceed the U.S. tax that would be imposed on the taxpayer's foreign source income. No credit is allowed to the extent that a taxpayer has paid foreign taxes in excess of the amount of U.S. taxes that would be imposed on its foreign source income; such a taxpayer is said to have "excess foreign tax credits." Taxpayers with excess foreign tax credits will seek to increase their foreign source income at the expense of their domestic source income in order to reduce their U.S. tax liability. The sales source rules, which allow taxpayers the opportunity to plan the source of their export sales income, are a significant means by which taxpayers with excess foreign tax credits reduce their U.S. taxes.

Consequently, a taxpayer with excess foreign tax credits will generally prefer to export directly, without utilizing a FSC, in order to maximize its foreign source income and thereby

minimize its U.S. tax liability. A taxpayer that does not have excess foreign tax credits will probably realize the greatest tax savings by exporting through a FSC.

Conclusion

The current U.S. international tax rules are the result of a series of compromises and of long experience with the incentives created by residence-based taxation coupled with a general system of deferral. The various anti-deferral rules, which were responses to specific abusive situations, involve complex and occasionally overlapping rules that may warrant simplification and rationalization but that generally reflect an effort to strike a middle ground between current taxation of all foreign source income and complete deferral of tax on that income.

DEPARTMENT OF THE TREASURY

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FOR IMMEDIATE RELEASE
July 20, 1995

Attached is a statement by Treasury General Counsel Edward S. Knight.

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STATEMENT BY TREASURY GENERAL COUNSEL EDWARD S. KNIGHT

In the course of the Congressional hearings on Waco, members have referred several times to an electronic mail message dated April 14, 1993, from Robert McNamara, Associate Chief Counsel (Enforcement) entitled Preliminary Investigative Plan. They also referred to a message from Mr. McNamara dated April 9, 1993 titled Waco Press Release.

The April 14 Message

The April 14 message is being taken out of context. In particular, Mr. McNamara's message states that the Justice Department did not want the Treasury Review to conduct any investigative interviews with potential witnesses in the criminal case. He notes that there would be potential problems for the Treasury Review if witness interviews were delayed: "At some point we are going to have to interview the crucial witnesses and perhaps may have to take statements; while we may be able to wait for some of them to have testified in the criminal trial, the passage of time will dim memories."

In questioning this morning, a member of Congress added the word "hopefully" before reading "the passage of time will dim memories." The addition of the word "hopefully" -- which is not in the Treasury document -- is simply incorrect.

A full, fair and accurate reading of Mr. McNamara's message shows that he was pointing out that delaying interviews was not desireable. Mr. McNamara's message underscores his concern that the Treasury Review be searching and comprehensive. He is pointing out that certain actions preliminarily requested by the Justice Department could potentially limit Treasury's ability to get to the truth.

The Treasury Review made many pointed criticisms of the ATF investigation of David Koresh. Mr. McNamara's message was part of the early thought process that ultimately lead to the Treasury Review. Throughout the planning and conduct of the Review, two ideas were paramount: (1) to produce a thorough, unbiased review of ATF's conduct and (2) to ensure that the actions of the Treasury Review did not jeopardize the Justice Department's criminal case against those who murdered four ATF agents. To those ends, the Treasury Review employed independent outside reviewers, had the Treasury Inspector General oversee the investigative plan, and undertook appropriate coordination with the Justice Department. Mr. McNamara's message raised several issues that were relevant to the planning and execution of the plan, and notified the Treasury Office of Enforcement of issues that needed to be coordinated with the Justice Department.

The April 9 Message

The message indicates that the Treasury Department was planning to issue a press statement. Once again, a full, fair, and accurate reading of Mr. McNamara's message makes clear that the Treasury Department coordinated this press statement with the Justice Department to ensure that the ongoing murder investigation and the negotiations with the Branch Davidians were not compromised. The Justice Department expressed concern that criticisms of ATF might hinder the investigation and the negotiations. The coordination between the Treasury and Justice Departments on this issue was entirely appropriate. Here again, to suggest that this message is evidence of a cover-up is simply incorrect.

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For Immediate Release
As Prepared for Delivery
July 21, 1995

STATEMENT OF LAWRENCE H. SUMMERS NOMINEE FOR DEPUTY SECRETARY OF THE TREASURY BEFORE THE SENATE FINANCE COMMITTEE

Mr. Chairman, I am grateful for this opportunity to appear before you today in connection with my nomination to be Deputy Secretary of the Treasury. I am deeply honored by the trust that Secretary Rubin has shown in recommending me for this position, and that the President has demonstrated in nominating me.

For the past two and a half years, I have served as Under Secretary for International Affairs at the Treasury Department. It has been my privilege to work first with Secretary Bentsen, then with Secretary Rubin on a wide range of economic and financial issues facing our nation. I believe that the President and the Congress, working in a spirit of bipartisan cooperation, have achieved real progress over these past two and a half years toward increasing America's export potential, opening foreign markets to our goods and services, and reintegrating the transition economies of the former Soviet Union and Eastern Europe into the world economy.

My experience before coming to Treasury was as an economist working on policy questions, first as a professor at Harvard, and then as Chief Economist and Vice President at the World Bank. At Harvard I taught and conducted research on a range of economic issues, including tax policy, unemployment, and the role of financial markets. At the Bank I had responsibilities for managing the organization's research, statistical, and training programs, and participating in its lending decisions.

If confirmed as Deputy Secretary, I look forward to working very closely with Secretary Rubin and assisting him in the fulfillment of the Treasury Department's broad array of responsibilities. I believe that there is nothing more important for the future of our country than successful economic policies that allow market forces to harness the tremendous economic energy of the American people. Appropriate public policies in support of a sound financial system are crucial to attaining this objective.

In particular, I would highlight four areas which should be priorities for the Treasury

Department in advancing the continued economic success of the American people over the months and years ahead.

One is the need to increase our national savings and investment rates -- both of which lay the foundation for our nation's future. Cutting government spending and balancing the budget, considering tax and other measures that can increase private savings, and furthering critical public investments can all play an essential role in achieving rising standards of living for the American people.

A second priority must be continued support for international economic cooperation. We must work with other countries to ensure that the process of opening markets, furthering market-oriented reforms in developing countries, and safeguarding the functioning of international financial markets goes forward.

Third, the United States must maintain a modern and effective financial system as the basis for our prosperity. Such a system is essential to provide funds and capital for our industries, channel investments to their most efficient use, offer high returns for the American people, and allow our financial services firms to compete effectively overseas.

Fourth, Treasury -- like other agencies with law enforcement responsibilities -- must work to improve its capacity to meet those responsibilities. Narcotics trafficking, money laundering, tax evasion, and other crimes all represent a threat to the rule of law in our society, and the economic progress that we work for.

Many of these issues are complex. While we have made progress over the last several years, much more must be done. Clearly, there will be some disagreement as to how best to achieve our aims. I strongly believe that it is very important to discuss key issues fully and openly.

In conclusion, let me say that the Treasury Department has a long and proud tradition of professionalism, integrity, and public service. If confirmed, I will do my utmost to maintain that tradition, by remaining fully responsive to the Congress, and serving Secretary Rubin and President Clinton to the best of my abilities. Let me offer you my personal assurance that I will continue to do everything in my power to work closely and cooperatively with the members of this Committee and all the members of Congress in the weeks and months ahead.

Thank you once again Mr. Chairman for bringing me before this Committee. Now I would be pleased to respond to any questions which you or the Committee may have.

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FOR IMMEDIATE RELEASE
Text as Prepared for Delivery
July 21, 1995

STATEMENT OF RONALD K. NOBLE
UNDER SECRETARY OF THE TREASURY
(ENFORCEMENT)
BEFORE THE SENATE JUDICIARY COMMITTEE

Mr. Chairman, Senator Biden, and members of the Judiciary Committee:

I appear before the Committee today to discuss the most disturbing of issues: racism. The specific matter giving rise to the issue is the report of racist activity at an event attended by Treasury law enforcement officers and known as the "Good Ol' Boys Roundup." My purpose is two-fold: first, to re-state our policy that racism, anti-semitism and sexism will not be tolerated at the Department; and second, to describe the measures that Treasury will take to investigate this particular matter and to better ensure that it does not take place again.

As you know, there is a pending investigation by the Treasury Department's Office of Inspector General into this matter. Inspector General Valerie Lau, who is conducting the factual inquiry into the Roundup, directed that the Office of Enforcement and all Treasury enforcement bureaus refrain from discussing any matters that might jeopardize her investigation. ATF Director John Magaw will discuss the results of his preliminary fact finding. And I am able to discuss today the steps taken by Treasury to get to the bottom of this matter, as well as the process for reviewing relevant issues raised by the event and other racially questionable matters.

We at Treasury share the Committee's outrage. As Secretary Rubin has stated time and again, and well before this incident came to light, there is no place at Treasury for discrimination or racism of any kind. This principle has been, and will continue to be, our guide at Treasury Enforcement as we address issues of race, including those raised by this ugly gathering.

To take any other attitude would call into question the moral and legal authority upon which law enforcement rests. Just as, in the words of Martin Luther King, Jr., "injustice

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anywhere is a threat to justice everywhere," racist sentiment anywhere within law enforcement is a threat to right minded, legitimate law enforcement everywhere. If left unchecked, the racism, anti-semitism or sexism of even a few officers would cast doubt on the essential functions performed and missions carried out by the entire law enforcement community.

Imagine, if you will, the following hypothetical scenarios: a Secret Service protective detail for an African or Israeli head of state being mistrusted because of racist or anti-semitic sentiments ascribed to a few agents; every Customs check at the border becoming suspect because a few inspectors had previously singled people out based upon the color of their skin; or the Drug Enforcement Administration or local law enforcement authorities being doubted every time they made a drug bust because other officials from the same groups had previously made "bad busts" that originated from racial bias, rather than objectively determined probable cause.

Such skepticism would provide confirmation to cynics in our society who believe, erroneously, that law enforcement is not there to work for all Americans, thereby making them even less willing to put their trust in the public servants sworn to protect them. An even more extreme, but entirely possible, result would be continuation of the current dangerous trend among certain individuals who go beyond skepticism and, again erroneously, view law enforcement as the enemy. We must not step foot on that slippery slope.

For these reasons, the manner in which Treasury reviews the Good Ol' Boy Roundup is of vital importance. It must begin, of course, with a review of what has happened thus far. As noted, the Inspector General has directed us not to discuss any matters relating to, or affecting the pending investigation beyond that to which we agreed with the Chair. As Under Secretary for Enforcement, I was prepared to recruit investigators and legal staff for the specific purpose of investigating the facts and analyzing policy. But, in light of concerns over independence, the Inspector General has decided to generate the factual report on her own. Her task is quite difficult; I believe that a joint investigation would have been appropriate, but I respect her independence and her decision.

Secretary Rubin and the Office of the Under Secretary for Enforcement responded immediately upon learning of this event. On July 11, 1995, ATF Director John Magaw advised us that upon learning of it four weeks before, he initiated an internal investigation. In response to questioning from Senator Moseley-Braun at a hearing of the Senate Banking Committee, Secretary Rubin stated that the Department would "take all actions within our purview to deal with" those from Treasury who attended the Good Ol' Boys Roundup. This sentiment was repeated and made more explicit in a public written statement from the Secretary issued shortly thereafter.

In a speech last week to the National Association of Blacks in Criminal Justice, I pledged that there would be a full investigation of the matter and that appropriate actions would be taken within Treasury Enforcement. I repeated this pledge most recently at a

briefing that I gave on the issue to members of this Committee and to members of the Congressional Black Caucus.

Finally, Director Magaw, who had moved expeditiously to investigate the incident when he first learned of it, released a statement immediately upon publication of newspaper reports, stating that he abhorred what the Roundup represented and would do everything in his power to discipline those found to be in violation of the law or Departmental rules.

Of course, however strongly we signalled our disgust, two facts remained clear. First, given the reportedly few ATF agents present in a gathering of several hundred law enforcement officers, there was a possibility that agents from other bureaus, within and outside of Treasury, also participated in the Roundup. Second, actions speak louder than words: Treasury had to take definite steps to investigate the issue thoroughly, take necessary and proper actions against those who violated any laws or internal policies, and take any necessary and appropriate actions to prevent such behavior from occurring again.

Each of these facts was confronted directly. First, Secretary Rubin and I directed all of the law enforcement bureaus at the Department of the Treasury to conduct internal investigations and determine whether any of their personnel had attended the event. These inquiries were coordinated by Treasury's Office of the Inspector General, and in less than a week revealed that employees from the Secret Service, United States Customs Service, Internal Revenue Service, and Federal Law Enforcement Training Center had attended at least one of the Good Ol' Boys Roundups.

The disclosure that personnel from other bureaus attended the Good Ol' Boys Roundup led to the decision by Secretary Rubin that a broader review would be needed. As a result, Secretary Rubin announced on Monday the formation of an independent review of the Good Ol' Boys Roundup.

As I stated earlier, the Inspector General will be solely responsible for the factual investigation and report of the Good Ol' Boys Roundup. As Under Secretary, I will be responsible for determining what laws, policies, and regulations may have been implicated by the disclosed facts. I also will be responsible for drafting recommendations as to any changes that should be made to such laws, policies, and regulations

To further ensure that this review is independent and impartial, Secretary Rubin also announced that the oversight function assigned to the Inspector General and me would be extended to an independent Citizens Review Panel composed of prominent citizens with unquestioned expertise and integrity on matters relating to race, the law, and law enforcement. The members of the Citizens Review Panel will separately examine the completed Inspector General investigation and report and will provide oversight for the Office of Enforcement's work in reviewing and formulating appropriate laws, policies and regulations.

The members of the Citizens Review Panel are: Julius L. Chambers, Chancellor of North Carolina Central University and former Executive Director of the N.A.A.C.P. Legal Defense and Educational Fund; Norman Dorsen, Stokes Professor of Law at New York University School of Law, former President of the American Civil Liberties Union, and former President of the Society of American Law Teachers; Helene L. Kaplan, Partner at the law firm of Skadden, Arps, Slate, Meagher & Flom, and former Chair of the Board of Trustees of the Carnegie Foundation and Barnard College; Rex E. Lee, President of Brigham Young University and Solicitor General of the United States under President Reagan; Patrick V. Murphy, Director of the Police Policy Board of the United States Conference of Mayors, former Commissioner of the New York City Police Department, and former President of the Police Foundation; and Fred Thomas, Director of Public Safety for Prince Georges County, Maryland, and recently retired Chief of the Metropolitan Police Department of Washington, D.C.

The role played by the members of the Citizens Review Panel is of vital importance. We believe that the surest way to promote confidence in an investigation of members of our bureaus is by having the process and recommendations reviewed by those who have no institutional stake in the matter, and who can dispassionately offer advice on the methods employed, the conclusions reached, and the recommendations issued. Such is the approach that we at Treasury adopted in previous reviews of its policies and actions.

Secretary Rubin has requested that this investigation is expected to be complete within 120 days. Moreover, Treasury will continue to move quickly once the investigators have the facts. Information developed through the investigation concerning the actions of specific individuals will be forwarded to the relevant agencies for appropriate action. Disciplinary action will be meted out to those for whom it is warranted. In this regard, we will explore all aspects of the law. Moreover, as noted earlier, we would seek appropriate changes to present rules, regulations, and laws to meet this serious problem in the future. We must not, however, run afoul of civil liberties such as freedom of association and speech protected by the United States Constitution. These are complex issues that must be addressed and resolved with great care.

Mr. Chairman, I would like to make one last point before closing. Contrary to some earlier reports, the facts as presently reported do not implicate a large number of agents of any of the Treasury enforcement bureaus. In this regard, some of the accounts of ATF's involvement may have been particularly exaggerated. Still, one person in attendance at an expressly discriminatory and racist event is one too many, and the Inspector General's investigation will determine the actual number of Treasury law enforcement agents in attendance. And I assure you that the Under Secretary of Enforcement will make clear that there is no place within the Department of the Treasury for law enforcement officers who engage in racist, anti-semitic, or sexist behavior.

A racist law enforcement officer can not effectively enforce the laws of our society while ensuring the essential civil rights of its citizens. Such a person therefore should have

no place in law enforcement. The Treasury Department's independent review constitutes the Department's pledge to do everything in its power to examine this ugly gathering and to ensure that appropriate action is taken and enforceable rules, regulations, and policies are formulated.

Thank you, Mr. Chairman.

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FOR IMMEDIATE RELEASE
July 21, 1995

Attached is a copy of a letter to Speaker of the House Newt Gingrich from the independent reviewers of the Treasury Department's investigation of the Bureau of Alcohol, Tobacco and Firearms' actions at Waco in 1993 .

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May 25, 1995

Speaker Newt Gingrich
United States House of Representatives
U.S. Capitol
Washington, DC 20515

Dear Speaker Gingrich:

The undersigned, who served as independent reviewers of the Treasury Department's investigation of the Bureau of Alcohol, Tobacco and Firearms' actions at Waco in 1993, write respectfully concerning the decision of the leaders of the House of Representative to authorize hearings into the tragedy.

As you have decided to go forward with the hearings, our hope is that you will ensure that they become a forum for truth and fairness as opposed to a means for airing the myths and lies that the National Rifle Association and a few other groups are perpetrating That is our concern.

One of many falsehoods being circulated is that ATF's actions at Waco never were investigated fully. Quite, the contrary: the Treasury's critique was thorough, unsparing and honest. More than 30 attorneys, investigators and support staff joined 10 experts in firearms, explosives and tactical operations, in a five-month probe to learn the truth. The experts were not paid, nor were we. We oversaw the investigation and participated in writing the report which The Wall Street Journal characterized as "extensively detailed" and the Los Angeles Times said was a "courageous, candid evaluation."

The facts, detailed in the 501-page report, speak clearly and without dispute. David Koresh, the Branch Davidian leader, was not investigated because of his religious beliefs. He was the target of a lawful investigation which the ATF initiated after the Sheriff's Office in McLennan County, Texas was concerned that Koresh was violating federal firearms laws. The ATF investigation confirmed that Koresh and the Davidians had accumulated a formidible arsenal -- more than 100 assault rifles, kits to make illegal machine guns, thousands of rounds of ammunition rifle grenades and explosives.

The weapons and explosives violations lie at the core of the ATF's legal authority. It would have been irresponsible for the ATF not to have investigated and similarly irresponsible for ATF not to have sought to enforce the law. The investigation convinced the U.S. Attorney's office in Austin that there was probable cause to arrest Koresh and search the Davidian premises and a U.S. magistrate issued warrants to that effect.

The review reported that the ATF made serious mistakes and misjudgments in seeking to serve the warrants with a show of force. The review showed that in view of events immediately preceding the raid, it should not have gone forward.

The ATF and the Treasury faced up to the errors in leadership, judgment and tactics and acted upon the review's recommendations, all of which provided information and guidelines that would be useful in preventing these errors from being repeated. The ATF has moved forward. Therefore, we hope the hearings will not impugn the reputations of ATF agents who bravely sought to uphold the law -- especially the four who died -- Conway LeBleu, Todd McKeehan, Robert Williams and Steven Willis. To do so not only would be unfair, but deeply troubling to those of us who honor and respect the role of law enforcement in protecting our rights, our property and our freedom.

We are enclosing a copy of the Treasury Review for your persusal and we urge you to ask other members to study it. Anyone who does, we believe, will conclude that the actions of the Treasury and the ATF in the aftermath of the dreadful outcome at Waco, were forthcoming, professional and responsible.

Sincerely,

Willie L. Williams Henry S. Ruth Jr. Edwin O. Guthman

DEPARTMENT OF THE TREASURY

WASHINGTON

GENERAL COUNSEL

Statement by Treasury General Counsel Edward S. Knight

Counsel to Mr. Sarabyn misrepresented the content of settlement negotiations. ATF did not seek the destruction of any records related to the personnel action. Copies of all of the evidence has been preserved and provided to the Subcommittees.

Copies of the entire official disciplinary file were provided to the Subcommittees on July 7th.

During settlement negotiations, counsel to the employees sought the removal of references to the disciplinary actions from certain other personnel files. The agreements have been implemented in a fashion that is entirely consistent with the requirements of Office of Personnel Management directives. Copies of all expunged documents exist in the official disciplinary files provided to the Subcommittees.

The agreement also provides, at the suggestion of the Merit Systems Protection Board Administrative Judge, for the return of the appeal records to the agency. His suggestion was offered because of the sensitivity of the underlying evidence and his concern that the MSPB would be making disclosure decisions, instead of the Department, on FOIA requests for these documents. Counsel to the employees concurred in this.

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FOR IMMEDIATE RELEASE
July 21, 1995

Attached are two updates based on testimony in today's Waco hearings.

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ALLEGATION: Memos from the Treasury Department show a Department of Justice "cover-up" of internal reviews of ATF conduct at Waco.

FACT: There was no cover-up -- the allegations distort long-standing Justice Department policy.

BACKGROUND:

Under long-standing policy, the Justice Department asked that any internal investigation be delayed while criminal investigations went forward on the killing of the ATF agents.

-- This policy has been in force under the previous two administrations, and was in force during the first year of the current administration.

-- The reason is simple. Parallel investigations can contaminate criminal investigations. And interviews conducted for criminal investigations can always be used in internal investigations afterward.

-- The decision to postpone an internal investigation also insured that interviews of ATF agents would be conducted by the independent Texas Rangers -- rather than by the Treasury Department whose interviews of ATF agents would be assailed as tainted in the heated atmosphere following the raid.

-- Last year, Attorney General Reno loosened the policy to permit some internal affairs investigations to go forward simultaneously -- though an exception remains for critical situations such as the one in Waco.

McCollum

Assertion: ATF had no written raid plan. There should have been better intelligence. Commanders never developed photos taken at the undercover house. One of these pictures shows a woman holding a rifle. This evidence planners should have considered to appreciate the possibility of armed resistance from women within the compound. The videotapes produced by the undercover house were never viewed.

Fact:

- The Treasury review reported two years ago that ATF lacked a finalized written raid plan on the day of the raid. (p.207-208)
- The Treasury review reported two years ago that photographs taken at the undercover house were never developed. (p.52)
- The Treasury review reported two years ago that ATF planners wrongfully ignored the possibility of armed resistance from women resident in the compound. (147-8)
- The Treasury review reported two years ago that the videotapes produced by the undercover house were never viewed. (p.52)

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

FOR IMMEDIATE RELEASE
July 21, 1995

Contact: David Icikson
(202) 622-2960

MEDIA ADVISORY

The Treasury Department has released a joint Waco Review Team and Bureau of Alcohol, Tobacco and Firearms analysis of the video, Waco, the Big Lie. Those interested in receiving a copy of the Department's responses to various false accusations in the video should contact the Office of Public Affairs at (202) 622-2960.

-30-

RR-459

DEPARTMENT OF THE TREASURY

TREASURY NEWS

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FOR IMMEDIATE RELEASE
July 21, 1995

Waco Update

Attached is an update based on testimony in today's Waco hearings.

-30-

RR-460
4:30pm EST

The Washington Post

Assertion: ATF contended that the compound housed an illegal methamphetamine lab.

Fact:

- ATF presented the National Guard and the Department of Defense with evidence of <u>possible</u> drug activity on the compound.

Reliff

Assertion: ATF "essentially lied" about the evidence of drug activity on the compound.

Fact:

- The military aid was legal.
- Helicopters would have been used with or without evidence of drug activity on the compound.
- The medical training provided by the military came in handy due to the ambush.
- Representatives from the U.S. military and the Texas National Guard determined that ATF's information concerning possible drug activity at the compound was sufficient to warrant assistance on a nonreimbursable basis.

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

FOR IMMEDIATE RELEASE
July 21, 1995

Contact: Howard Schloss
(202) 622-2960

STATEMENT OF TREASURY SECRETARY ROBERT E. RUBIN

Mr. Brewster simply misunderstood the call. I did ask him to seek the truth, like the rest of us, and not to join any effort to undermine law enforcement. Calls like this are made by administrations all the time.

-30-

RR-461

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

FOR IMMEDIATE RELEASE
July 24, 1995

Waco Update

Attached is an update based on recent testimony in the House Waco hearings. The update notes that many of the items raised in recent congressional testimony have already been investigated and discussed.

References in the update are to the Treasury Department's study of the actions of the Bureau of Alcohol, Tobacco and Firearms at Waco in 1993. To receive copies of the pages cited in the update, please contact the Office of Public Affairs at (202) 622-2960.

-30-

RR-462
11:00am

Old "New" Facts

- Treasury oversight inadequate.

  See Part Two, Section 5, pp. 177-183:
  Concludes inadequate and delineates steps taken to improve oversight.

- Secretary Bentsen not informed of the raid in advance.

  Page 178, paragraph two.

- Agents responsible for making the decision to go forward didn't think the raid was compromised.

  Pages 166-167; 89-92.

  Review fully explains the flaws in their judgment and concludes that they had sufficient information to understand that the raid was compromised.

- Shooting review conducted by ATF personnel was halted at the request of the local U.S. Attorney's office.

  Page 197.

- In conducting its administrative review, Treasury coordinated with the Department of Justice in order not to interfere with ongoing investigations and prosecutions.

  Page 2.

- Intelligence gathering (including undercover operation) was inadequate and existing intelligence was not adequately evaluated by the raid planners and decisionmakers.

  Pages 51-53; 143-148; 168-170; 186-188.

- ATF didn't adequately consider option of arresting Koresh off the compound.

  Pages 134-142.

- No complete written raid plan in advance of the operation.

  Pages 207-208.

- Some experts didn't believe that dynamic entry was a good idea.

  Appendix B.

Monthly Treasury Statement

of Receipts and Outlays
of the United States Government

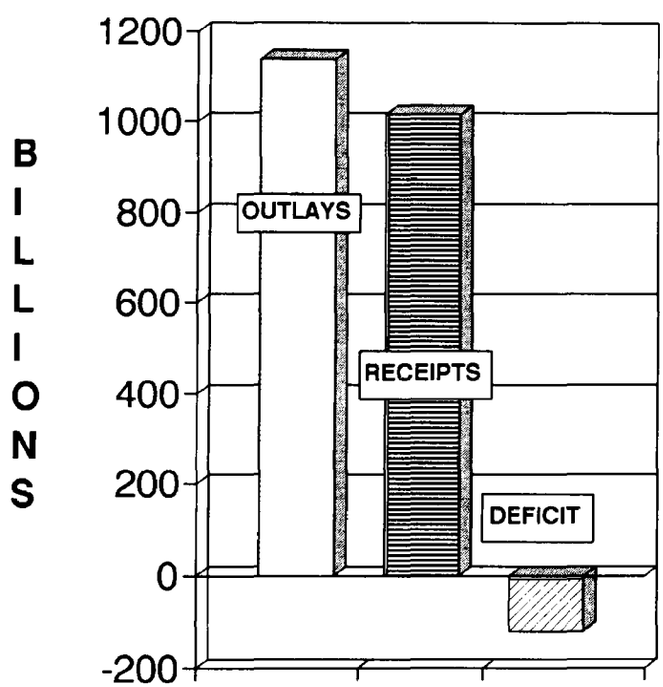
For Fiscal Year 1995 Through **June 30, 1995,** and Other Periods

Highlight

Military active duty pay, veterans benefits, and supplemental security income payments for July 1, 1995 were accelerated to June 30, 1995.

This issue includes the semi-annual interest payment to trust funds investing in government securities.

RECEIPTS, OUTLAYS, AND SURPLUS/DEFICIT THROUGH JUNE 1995



Contents

Compiled and Published by

Department of the Treasury
Financial Management Service

Introduction

The *Monthly Treasury Statement of Receipts and Outlays of the United States Government (MTS)* is prepared by the Financial Management Service, Department of the Treasury, and after approval by the Fiscal Assistant Secretary of the Treasury, is normally released on the 15th workday of the month following the reporting month. The publication is based on data provided by Federal entities, disbursing officers, and Federal Reserve banks.

Audience

The *MTS* is published to meet the needs of: Those responsible for or interested in the cash position of the Treasury; Those who are responsible for or interested in the Government's budget results; and individuals and businesses whose operations depend upon or are related to the Government's financial operations.

Disclosure Statement

This statement summarizes the financial activities of the Federal Government and off-budget Federal entities conducted in accordance with the Budget of the U.S. Government, i.e., receipts and outlays of funds, the surplus or deficit, and the means of financing the deficit or disposing of the surplus. Information is presented on a modified cash basis: receipts are accounted for on the basis of collections; refunds of receipts are treated as deductions from gross receipts; revolving and management fund receipts, reimbursements and refunds of monies previously expended are treated as deductions from gross outlays; and interest on the public debt (public issues) is recognized on the accrual basis. Major information sources include accounting data reported by Federal entities, disbursing officers, and Federal Reserve banks.

Triad of Publications

The *MTS* is part of a triad of Treasury financial reports. The *Daily Treasury Statement* is published each working day of the Federal Government. It provides data on the cash and debt operations of the Treasury based upon reporting of the Treasury account balances by Federal Reserve banks. The *MTS* is a report of Government receipts and outlays, based on agency reporting. The *U.S. Government Annual Report* is the official publication of the detailed receipts and outlays of the Government. It is published annually in accordance with legislative mandates given to the Secretary of the Treasury.

Data Sources and Information

The Explanatory Notes section of this publication provides information concerning the flow of data into the *MTS* and sources of information relevant to the *MTS*.

Table 1. Summary of Receipts, Outlays, and the Deficit/Surplus of the U.S. Government, Fiscal Years 1994 and 1995, by Month

[$ millions]

Period	Receipts	Outlays	Deficit/Surplus (−)
FY 1994			
October	78,662	124,085	45,422
November	83,102	121,483	38,381
December	125,403	133,108	7,705
January	122,961	107,713	−15,248
February	73,186	114,752	41,566
March	93,107	125,422	32,315
April	141,321	123,867	−17,454
May	83,541	115,597	32,057
June	138,119	123,269	−14,850
July	84,822	118,020	33,198
August	97,333	121,608	24,275
September	135,895	131,796	−4,099
Year-to-Date	**[1]1,257,452**	**[1]1,460,721**	**[1]203,269**
FY 1995			
October	89,024	120,365	31,342
November	87,673	124,915	37,242
December	130,810	134,941	4,130
January	131,801	115,171	−16,629
February	82,544	120,527	37,983
March	92,532	142,458	49,927
April	165,392	115,673	−49,720
May	90,405	129,355	38,950
June	147,868	134,296	−13,571
Year-to-Date	**1,018,048**	**1,137,702**	**119,654**

[1]The receipt, outlay and deficit figures differ from the *FY 1996 Budget*, released by the Office of Management and Budget on February 6, 1995, by $100 million due mainly to revisions in the data following the release of the Final September Monthly Treasury Statement.

Table 2. Summary of Budget and Off-Budget Results and Financing of the U.S. Government, June 1995 and Other Periods

[$ millions]

Classification	This Month	Current Fiscal Year to Date	Budget Estimates Full Fiscal Year[1]	Prior Fiscal Year to Date (1994)	Budget Estimates Next Fiscal Year (1996)[1]
Total on-budget and off-budget results:					
Total receipts	147,868	1,018,048	1,346,414	939,401	1,415,456
On-budget receipts	115,998	751,934	995,158	686,129	1,045,095
Off-budget receipts	31,870	266,114	351,256	253,272	370,361
Total outlays	134,296	1,137,702	1,538,920	1,089,296	1,612,128
On-budget outlays	119,478	931,546	1,246,936	889,828	1,307,105
Off-budget outlays	14,818	206,156	291,984	199,468	305,023
Total surplus (+) or deficit (−)	+13,571	−119,654	−192,506	−149,895	−196,671
On-budget surplus (+) or deficit (−)	−3,480	−179,613	−251,778	−203,699	−262,010
Off-budget surplus (+) or deficit (−)	+17,051	+59,958	+59,272	+53,804	+65,338
Total on-budget and off-budget financing	−13,571	119,654	192,506	149,895	196,671
Means of financing:					
Borrowing from the public	8,491	151,208	207,936	147,888	217,151
Reduction of operating cash, increase (−)	−34,312	−24,598	−4,058	1,515	.....
By other means	12,250	−6,955	−11,372	492	−20,480

[1]These figures are based on the *FY 1996 Budget*, released by the Office of Management and Budget on February 6, 1995.

... No Transactions.
Note: Details may not add to totals due to rounding.

Figure 1. Monthly Receipts, Outlays, and Budget Deficit/Surplus of the U.S. Government, Fiscal Years 1994 and 1995

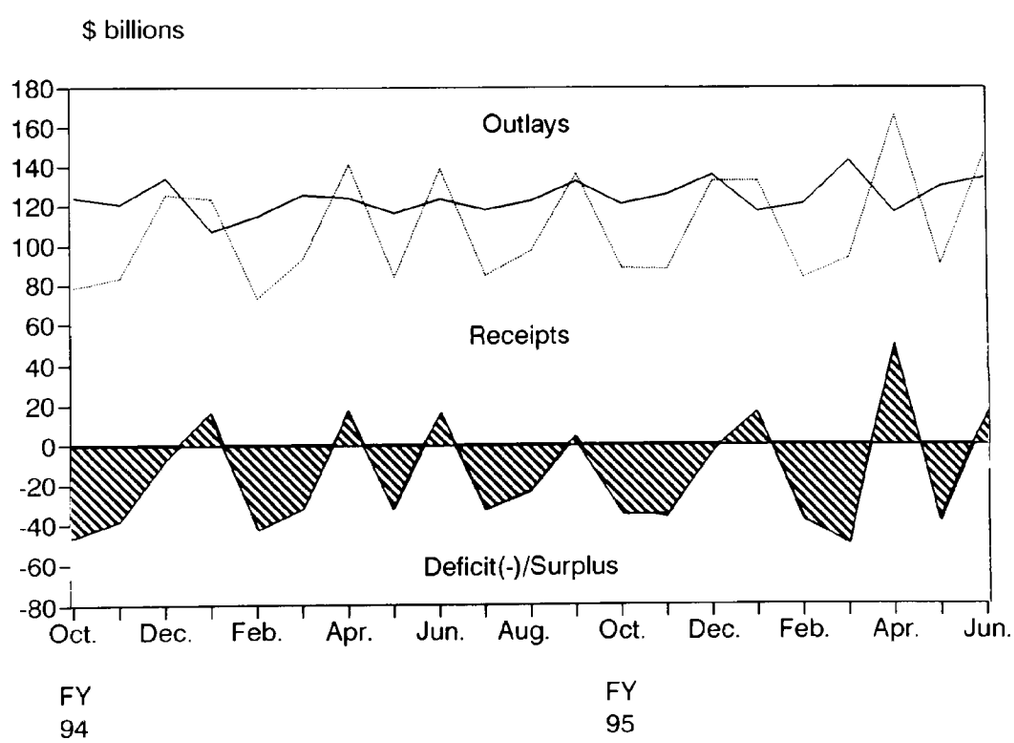


Figure 2. Monthly Receipts of the U.S. Government, by Source, Fiscal Years 1994 and 1995

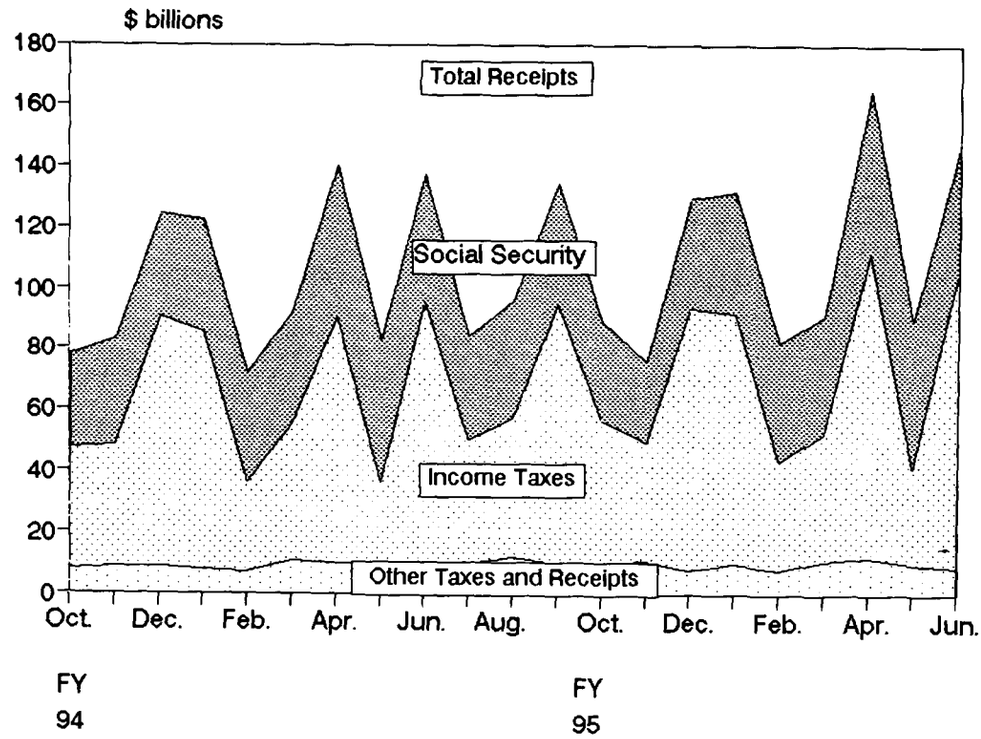


Figure 3. Monthly Outlays of the U.S. Government, by Function, Fiscal Years 1994 and 1995

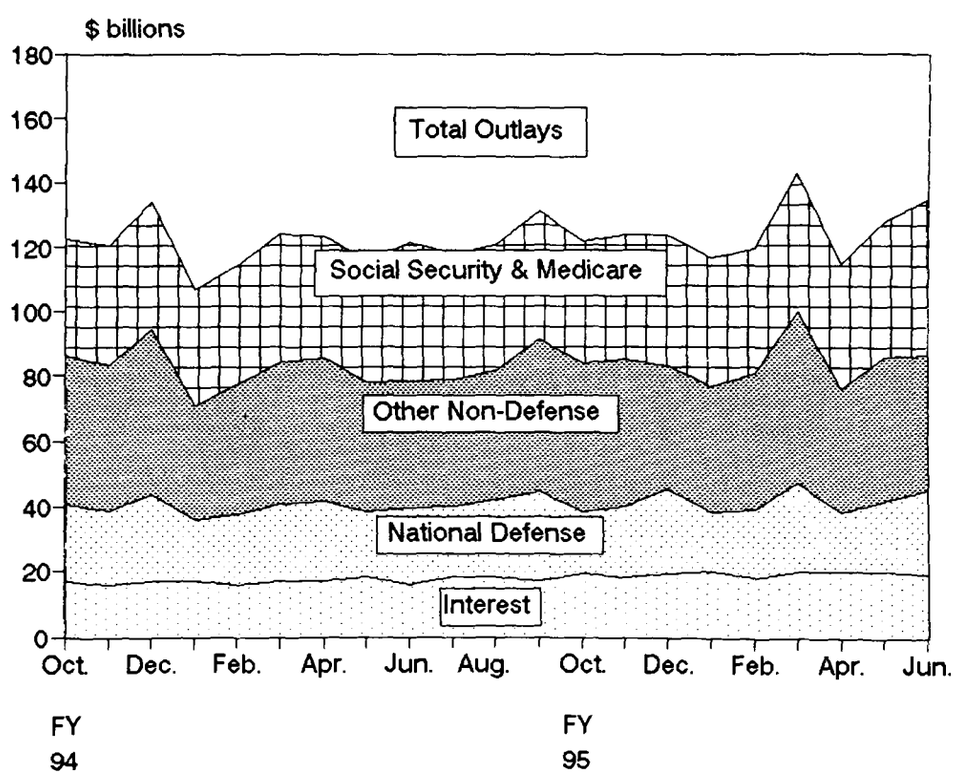


Table 3. Summary of Receipts and Outlays of the U.S. Government, June 1995 and Other Periods

[$ millions]

Classification	This Month	Current Fiscal Year to Date	Comparable Prior Period	Budget Estimates Full Fiscal Year[1]
Budget Receipts				
Individual income taxes	61,457	442,307	404,549	588,460
Corporation income taxes	35,876	118,200	106,207	150,864
Social insurance taxes and contributions:				
Employment taxes and contributions (off-budget)	31,870	266,114	253,272	351,256
Employment taxes and contributions (on-budget)	8,736	76,201	69,681	100,538
Unemployment insurance	320	22,553	21,379	28,057
Other retirement contributions	416	3,400	3,434	4,558
Excise taxes	4,897	41,829	39,544	57,600
Estate and gift taxes	1,040	10,939	11,671	15,587
Customs duties	1,583	14,269	14,479	20,913
Miscellaneous receipts	1,674	22,235	15,185	28,581
Total Receipts	**147,868**	**1,018,048**	**939,401**	**1,346,414**
(On-budget)	**115,998**	**751,934**	**686,129**	**995,158**
(Off-budget)	**31,870**	**266,114**	**253,272**	**351,256**
Budget Outlays				
Legislative Branch	185	2,019	1,942	2,793
The Judiciary	336	2,144	1,874	3,101
Executive Office of the President	14	159	156	192
Funds Appropriated to the President	669	8,796	9,025	10,860
Department of Agriculture	3,493	46,830	47,661	62,313
Department of Commerce	286	2,570	2,179	3,601
Department of Defense—Military	25,035	190,481	198,403	260,269
Department of Defense—Civil	2,639	23,508	22,615	31,207
Department of Education	2,630	23,217	17,460	32,888
Department of Energy	1,580	13,048	12,965	16,135
Department of Health and Human Services	28,535	226,762	207,623	301,439
Department of Housing and Urban Development	2,795	21,998	19,516	26,854
Department of the Interior	482	5,367	4,990	7,329
Department of Justice	875	7,783	7,435	11,821
Department of Labor	2,871	24,258	28,965	31,942
Department of State	397	4,196	4,002	6,272
Department of Transportation	3,425	28,299	26,600	37,992
Department of the Treasury:				
Interest on the Public Debt	59,355	268,992	240,416	333,704
Other	496	15,297	11,335	18,112
Department of Veterans Affairs	4,540	28,416	26,970	38,231
Environmental Protection Agency	542	4,682	4,222	6,274
General Services Administration	387	870	393	1,131
National Aeronautics and Space Administration	1,166	9,910	10,004	14,241
Office of Personnel Management	3,647	30,831	28,634	40,308
Small Business Administration	59	639	483	703
Social Security Administration	36,248	271,325	257,391	363,419
Other independent agencies:				
Resolution Trust Corporation	−521	−8,080	3,911	−6,753
Other	−4,794	460	2,543	15,399
Undistributed offsetting receipts:				
Interest	−39,948	−91,602	−84,870	−91,465
Other	−3,127	−25,474	−25,549	−41,392
Total outlays	**134,296**	**1,137,702**	**1,089,296**	**1,538,920**
(On-budget)	**119,478**	**931,546**	**889,828**	**1,246,936**
(Off-budget)	**14,818**	**206,156**	**199,468**	**291,984**
Surplus (+) or deficit (−)	**+13,571**	**−119,654**	**−149,895**	**−192,506**
(On-budget)	**−3,480**	**−179,613**	**−203,699**	**−251,778**
(Off-budget)	**+17,051**	**+59,958**	**+53,804**	**+59,272**

[1]These figures are based on the *FY 1996 Budget*, released by the Office of Management and Budget on February 6, 1995.

Note: Details may not add to totals due to rounding.

Table 4. Receipts of the U.S. Government, June 1995 and Other Periods

[$ millions]

Classification	This Month			Current Fiscal Year to Date			Prior Fiscal Year to Date		
	Gross Receipts	Refunds (Deduct)	Receipts	Gross Receipts	Refunds (Deduct)	Receipts	Gross Receipts	Refunds (Deduct)	Receipts
Individual income taxes:									
Withheld	[1]40,901			380,440			348,678		
Presidential Election Campaign Fund	8			60			62		
Other	[1]23,053			141,411			127,428		
Total—Individual income taxes	**63,962**	**2,505**	**61,457**	**521,911**	**79,604**	**442,307**	**476,168**	**71,619**	**404,549**
Corporation income taxes	**36,645**	**768**	**35,876**	**132,943**	**14,743**	**118,200**	**116,623**	**10,416**	**106,207**
Social insurance taxes and contributions:									
Employment taxes and contributions:									
Federal old-age and survivors ins. trust fund:									
Federal Insurance Contributions Act taxes	[1]24,483	.....	24,483	197,296	.....	197,296	214,450	.....	214,450
Self-Employment Contributions Act taxes	[1]2,583	.....	2,583	14,710	.....	14,710	14,357	.....	14,357
Deposits by States	(* *)	.....	(* *)	1	.....	1	−45	.....	−45
Other	(* *)	.....	(* *)	(* *)	.....	(* *)	(* *)	.....	(* *)
Total—FOASI trust fund	27,066	.....	27,066	212,007	.....	212,007	228,763	.....	228,763
Federal disability insurance trust fund:									
Federal Insurance Contributions Act taxes	[1]4,354	.....	4,354	50,902	.....	50,902	22,973	.....	22,973
Self-Employment Contributions Act taxes	[1]450	.....	450	3,204	.....	3,204	1,536	.....	1,536
Receipts from railroad retirement account	.....	.....	.....	.....	.....	.....	.....	.....	.....
Deposits by States	(* *)	.....	(* *)	(* *)	.....	(* *)	(* *)	.....	(* *)
Other	.....	.....	.....	.....	.....	.....	.....	.....	.....
Total—FDI trust fund	4,804	.....	4,804	54,107	.....	54,107	24,509	.....	24,509
Federal hospital insurance trust fund:									
Federal Insurance Contributions Act taxes	[1]7,396	.....	7,396	66,982	.....	66,982	61,748	.....	61,748
Self-Employment Contributions Act taxes	[1]999	.....	999	5,982	.....	5,982	4,869	.....	4,869
Receipts from Railroad Retirement Board	359	.....	359	359	.....	359	394	.....	394
Deposits by States	(* *)	.....	(* *)	(* *)	.....	(* *)	(* *)	.....	(* *)
Total—FHI trust fund	8,754	.....	8,754	73,323	.....	73,323	67,011	.....	67,011
Railroad retirement accounts:									
Rail industry pension fund	194	(* *)	194	1,814	15	1,799	1,726	29	1,696
Railroad Social Security equivalent benefit	−212	.....	−212	1,079	.....	1,079	974	.....	974
Total—Employment taxes and contributions	40,605	(* *)	40,605	342,330	15	342,315	322,982	29	322,953
Unemployment insurance:									
State taxes deposited in Treasury	319	.....	319	17,890	.....	17,890	16,981	.....	16,981
Federal Unemployment Tax Act taxes	9	7	1	4,721	76	4,645	4,425	80	4,345
Railroad unemployment taxes	(* *)	.....	(* *)	18	.....	18	21	.....	21
Railroad debt repayment	.....	.....	.....	.....	.....	.....	32	.....	32
Total—Unemployment insurance	327	7	320	22,629	76	22,553	21,459	80	21,379
Other retirement contributions:									
Federal employees retirement − employee contributions	408	.....	408	3,332	.....	3,332	3,359	.....	3,359
Contributions for non-federal employees	8	.....	8	69	.....	69	76	.....	76
Total—Other retirement contributions	416	.....	416	3,400	.....	3,400	3,434	.....	3,434
Total—Social insurance taxes and contributions	**41,348**	**8**	**41,341**	**368,359**	**90**	**368,269**	**347,876**	**109**	**347,767**
Excise taxes:									
Miscellaneous excise taxes[2]	2,716	252	2,464	21,795	1,002	20,793	23,339	699	22,640
Airport and airway trust fund	593	.....	593	4,111	21	4,091	3,760	24	3,737
Highway trust fund	1,628	−162	1,789	16,824	341	16,483	13,032	327	12,704
Black lung disability trust fund	50	.....	50	462	.....	462	463	.....	463
Total—Excise taxes	**4,987**	**90**	**4,897**	**43,192**	**1,363**	**41,829**	**40,594**	**1,050**	**39,544**
Estate and gift taxes	**1,071**	**31**	**1,040**	**11,230**	**291**	**10,939**	**11,941**	**270**	**11,671**
Customs duties	**1,752**	**169**	**1,583**	**15,588**	**1,318**	**14,269**	**15,118**	**639**	**14,479**
Miscellaneous Receipts:									
Deposits of earnings by Federal Reserve banks	1,426	.....	1,426	19,175	.....	19,175	12,612	.....	12,612
All other	248	1	247	3,069	9	3,060	2,588	15	2,573
Total — Miscellaneous receipts	**1,675**	**1**	**1,674**	**22,244**	**9**	**22,235**	**15,200**	**15**	**15,185**
Total — Receipts	**151,440**	**3,572**	**147,868**	**1,115,466**	**97,419**	**1,018,048**	**1,023,520**	**84,118**	**939,401**
Total — On-budget	**119,571**	**3,572**	**115,998**	**849,352**	**97,419**	**751,934**	**770,248**	**84,118**	**686,129**
Total — Off-budget	**31,870**	.....	**31,870**	**266,114**	.....	**266,114**	**253,272**	.....	**253,272**

[1]In accordance with the provisions of the Social Security Act as amended, "Individual Income Taxes Withheld" have been increased and "Federal Insurance Contribution Act Taxes" correspondingly decreased by $1,910 million to correct estimates for the quarter ending June 30, 1994. "Individual Income Taxes Other" have been decreased and "Self Employment Contributions Act Taxes" correspondingly increased by $195 million to correct estimates for calendar year 1992 and prior.

[2]Includes amounts for the windfall profits tax pursuant to P.L. 96-223.

... No Transactions.

(* *) Less than $500,000.

Note: Details may not add to totals due to rounding.

Table 5. Outlays of the U.S. Government, June 1995 and Other Periods

[$ millions]

Classification	This Month			Current Fiscal Year to Date			Prior Fiscal Year to Date		
	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays
Legislative Branch:									
Senate	36	(* *)	36	321	1	320	320	1	319
House of Representatives	55	(* *)	55	540	2	539	566	14	552
Joint items	6	.....	6	57	.....	57	58	.....	58
Congressional Budget Office	1	.....	1	15	.....	15	16	.....	16
Architect of the Capitol	13	1	12	135	7	128	147	6	140
Library of Congress	25	.....	25	536	.....	536	396	.....	396
Government Printing Office:									
Revolving fund (net)	5	.....	5	17	.....	17	32	.....	32
General fund appropriations	8	.....	8	73	.....	73	72	.....	72
General Accounting Office	33	.....	33	303	.....	303	320	.....	320
United States Tax Court	2	.....	2	23	.....	23	23	.....	23
Other Legislative Branch agencies	3	.....	3	26	.....	26	23	.....	23
Proprietary receipts from the public	.....	1	−1	.....	10	−10	.....	4	−4
Intrabudgetary transactions	−1	.....	−1	−9	.....	−9	−8	.....	−8
Total—Legislative Branch	**188**	**2**	**185**	**2,038**	**19**	**2,019**	**1,967**	**25**	**1,942**
The Judiciary:									
Supreme Court of the United States	3	.....	3	19	.....	19	19	.....	19
Courts of Appeals, District Courts, and other judicial services	321	(* *)	321	2,041	4	2,037	1,773	2	1,771
Other	12	.....	12	88	.....	88	84	.....	84
Total—The Judiciary	**336**	**(* *)**	**336**	**2,148**	**4**	**2,144**	**1,876**	**2**	**1,874**
Executive Office of the President:									
Compensation of the President and the White House Office	2	.....	2	27	.....	27	29	.....	29
Office of Management and Budget	4	.....	4	41	.....	41	42	.....	42
Other	8	.....	8	91	.....	91	85	.....	85
Total—Executive Office of the President	**14**	**.....**	**14**	**159**	**.....**	**159**	**156**	**.....**	**156**
Funds Appropriated to the President:									
International Security Assistance:									
Foreign military loan program	94	72	22	680	461	219	681	462	219
Foreign military financing program	20	.....	20	2,685	.....	2,685	3,523	.....	3,523
Economic support fund	167	.....	167	2,464	.....	2,464	2,468	.....	2,468
Peacekeeping Operations	9	.....	9	63	.....	63	57	.....	57
Other	4	.....	4	24	.....	24	36	.....	36
Proprietary receipts from the public	.....	51	−51	.....	481	−481	.....	466	−466
Total—International Security Assistance	294	123	172	5,915	942	4,974	6,767	929	5,838
International Development Assistance:									
Multilateral Assistance:									
Contribution to the International Development Association	.....	.....	.....	743	.....	743	637	.....	637
International organizations and programs	26	.....	26	469	.....	469	128	.....	128
Other	10	.....	10	277	.....	277	327	.....	327
Total—Multilateral Assistance	36	.....	36	1,490	.....	1,490	1,092	.....	1,092
Agency for International Development:									
Sustainable development assistance program	112	.....	112	976	.....	976	1,025	.....	1,025
Assistance for eastern europe and the baltic States	25	.....	25	263	.....	263	188	.....	188
Assistance for the new independent States of the former soviet union	73	.....	73	624	.....	624	177	.....	177
Development fund for Africa	72	.....	72	557	.....	557	488	.....	488
Operating expenses	32	.....	32	363	.....	363	384	.....	384
Payment to the Foreign Service retirement and disability fund	.....	.....	.....	45	.....	45	44	.....	44
Other	10	6	3	168	37	131	189	46	143
Proprietary receipts from the public	.....	132	−132	.....	658	−658	.....	572	−572
Intrabudgetary transactions	.....	.....	.....	.....	.....	.....	−2	.....	−2
Total—Agency for International Development	324	138	186	2,997	695	2,303	2,493	618	1,875
Overseas Private Investment Corporation	5	18	−13	36	200	−164	58	167	−110
Peace Corps	17	.....	17	166	.....	166	149	.....	149
Other	7	(* *)	7	72	2	70	67	3	64
Total—International Development Assistance	389	156	233	4,761	897	3,865	3,859	788	3,070
International Monetary Programs	233	.....	233	−702	.....	−702	−236	.....	−236
Military Sales Programs:									
Special defense acquisition fund	21	10	11	129	128	1	137	234	−97
Foreign military sales trust fund	1,168	.....	1,168	9,888	.....	9,888	9,997	.....	9,997
Kuwait civil reconstruction trust fund	(* *)	.....	(* *)	(* *)	.....	(* *)	(* *)	.....	(* *)
Proprietary receipts from the public	.....	1,150	−1,150	.....	9,255	−9,255	.....	9,599	−9,599
Other	3	.....	3	26	.....	26	51	.....	51
Total—Funds Appropriated to the President	**2,108**	**1,439**	**669**	**20,018**	**11,222**	**8,796**	**20,575**	**11,550**	**9,025**

Table 5. Outlays of the U.S. Government, June 1995 and Other Periods—Continued

[$ millions]

Classification	This Month			Current Fiscal Year to Date			Prior Fiscal Year to Date		
	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays
Department of Agriculture:									
Agricultural Research Service	63	.....	63	558	.....	558	541	.....	541
Cooperative State Research Education and Extension Service:									
Cooperative state research activities	35	.....	35	322	.....	322	309	.....	309
Extension Service	37	.....	37	331	.....	331	326	.....	326
Other	4	.....	4	31	.....	31	35	.....	35
Animal and Plant Health Inspection Service	41	.....	41	375	.....	375	355	.....	355
Food Safety and Inspection Service	40	.....	40	386	.....	386	380	.....	380
Agricultural Marketing Service	36	.....	36	546	.....	546	511	1	510
Farm Service Agency:									
Salaries and expenses	66	.....	66	697	.....	697	739	.....	739
Conservation programs	19	.....	19	1,847	.....	1,847	1,881	.....	1,881
Federal crop insurance corporation fund	30	1	29	544	451	92	1,321	350	971
Commodity Credit Corporation:									
Price support and related programs	407	1,112	−705	16,097	7,982	8,115	15,812	5,509	10,303
National Wool Act Program	2	.....	2	104	.....	104	204	.....	204
Agricultural credit insurance fund	121	76	45	1,022	1,152	−130	1,614	1,498	116
Other	(* *)	.....	(* *)	2	.....	2	2	.....	2
Total—Farm Service Agency	646	1,189	−543	20,314	9,585	10,729	21,574	7,358	14,216
Natural Resources Conservation Service:									
Conservation operations	46	.....	46	422	.....	422	448	.....	448
Watershed and flood prevention operations	21	.....	21	208	.....	208	195	.....	195
Other	6	.....	6	59	.....	59	61	.....	61
Rural Utilities Service:									
Rural electrification and telephone fund	395	430	−35	1,905	2,315	−410	2,162	2,857	−695
Rural development insurance fund	89	45	45	676	354	322	739	435	304
Other	41	12	29	313	146	167	311	377	−67
Rural housing and Community Development Service:									
Rural housing insurance fund	321	212	109	2,749	1,891	858	2,898	2,461	437
Other	100	.....	100	227	.....	227	150	.....	150
Foreign Agricultural Service	57	.....	57	772	.....	772	935	.....	935
Food and Consumer Service:									
Food stamp program	2,107	.....	2,107	19,439	.....	19,439	19,133	.....	19,133
State child nutrition programs	739	.....	739	6,283	.....	6,283	5,840	.....	5,840
Women, infants and children programs	278	.....	278	2,649	.....	2,649	2,442	.....	2,442
Other	25	.....	25	339	.....	339	381	.....	381
Total—Food and Consumer Service	3,149	.....	3,149	28,709	.....	28,709	27,796	.....	27,796
Forest Service:									
National forest system	118	.....	118	988	.....	988	1,013	.....	1,013
Forest and rangeland protection	32	.....	32	795	.....	795	239	.....	239
Forest service permanent appropriations	17	.....	17	489	.....	489	281	.....	281
Other	87	.....	87	278	.....	278	653	.....	653
Total—Forest Service	253	.....	253	2,550	.....	2,550	2,186	.....	2,186
Other	57	3	54	393	29	364	357	27	330
Proprietary receipts from the public	.....	54	−54	.....	697	−697	.....	1,093	−1,093
Intrabudgetary transactions	(* *)	.....	(* *)	(* *)	.....	(* *)	.....	.....	.....
Total—Department of Agriculture	**5,438**	**1,945**	**3,493**	**61,846**	**15,016**	**46,830**	**62,271**	**14,610**	**47,661**
Department of Commerce:									
Economic Development Administration	33	1	33	259	10	249	204	13	192
Bureau of the Census	30	.....	30	248	.....	248	197	.....	197
Promotion of Industry and Commerce	29	.....	29	281	.....	281	240	.....	240
Science and Technology:									
National Oceanic and Atmospheric Administration	160	(* *)	160	1,453	15	1,438	1,413	11	1,401
National Institute of Standards and Technology	41	.....	41	327	.....	327	96	.....	96
Other	3	3	(* *)	77	24	53	99	25	73
Total—Science and Technology	204	3	200	1,857	40	1,818	1,608	37	1,571
Other	4	.....	4	68	(* *)	68	69	.....	69
Proprietary receipts from the public	.....	10	−10	.....	93	−93	.....	90	−90
Intrabudgetary transactions	(* *)	.....	(* *)	(* *)	.....	(* *)	(* *)	.....	(* *)
Offsetting governmental receipts	.....	.....	.....	.....	.....	.....	.....	.....	.....
Total—Department of Commerce	**301**	**15**	**286**	**2,713**	**142**	**2,570**	**2,318**	**139**	**2,179**

Table 5. Outlays of the U.S. Government, June 1995 and Other Periods—Continued

[$ millions]

Classification	This Month			Current Fiscal Year to Date			Prior Fiscal Year to Date		
	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays
Department of Defense—Military:									
Military personnel:									
Department of the Army	3,336	.....	3,336	19,318	.....	19,318	19,817	.....	19,817
Department of the Navy	2,549	.....	2,549	18,711	.....	18,711	19,514	.....	19,514
Department of the Air Force	2,417	.....	2,417	14,452	.....	14,452	13,351	.....	13,351
Total—Military personnel	8,302	.....	8,302	52,481	.....	52,481	52,681	.....	52,681
Operation and maintenance:									
Department of the Army	1,933	.....	1,933	16,675	.....	16,675	15,483	.....	15,483
Department of the Navy	1,911	.....	1,911	16,065	.....	16,065	16,723	.....	16,723
Department of the Air Force	1,892	.....	1,892	17,619	.....	17,619	18,061	.....	18,061
Defense agencies	1,772	.....	1,772	14,535	.....	14,535	14,458	.....	14,458
Total—Operation and maintenance	7,508	.....	7,508	64,895	.....	64,895	64,726	.....	64,726
Procurement:									
Department of the Army	543	.....	543	5,550	.....	5,550	6,152	.....	6,152
Department of the Navy	2,046	.....	2,046	16,108	.....	16,108	19,542	.....	19,542
Department of the Air Force	1,438	.....	1,438	15,672	.....	15,672	17,680	.....	17,680
Defense agencies	375	.....	375	2,940	.....	2,940	3,137	.....	3,137
Total—Procurement	4,403	.....	4,403	40,270	.....	40,270	46,512	.....	46,512
Research, development, test, and evaluation:									
Department of the Army	422	.....	422	3,785	.....	3,785	4,263	.....	4,263
Department of the Navy	614	.....	614	6,514	.....	6,514	5,808	.....	5,808
Department of the Air Force	1,067	.....	1,067	9,381	.....	9,381	9,631	.....	9,631
Defense agencies	746	.....	746	5,977	.....	5,977	6,270	.....	6,270
Total—Research, development, test and evaluation	2,849	.....	2,849	25,657	.....	25,657	25,972	.....	25,972
Military construction:									
Department of the Army	66	.....	66	695	.....	695	651	.....	651
Department of the Navy	72	.....	72	624	.....	624	416	.....	416
Department of the Air Force	114	.....	114	975	.....	975	798	.....	798
Defense agencies	279	.....	279	2,511	.....	2,511	1,567	.....	1,567
Total—Military construction	531	.....	531	4,805	.....	4,805	3,432	.....	3,432
Family housing:									
Department of the Army	116	.....	116	885	.....	885	947	.....	947
Department of the Navy	117	.....	117	832	.....	832	588	.....	588
Department of the Air Force	91	.....	91	779	.....	779	807	.....	807
Defense agencies	15	5	10	118	38	79	82	25	57
Revolving and management funds:									
Department of the Army	46	.....	46	4	.....	4	154	.....	154
Department of the Navy	−34	.....	−34	168	.....	168	271	.....	271
Department of the Air Force	.....	.....	.....	.....	.....	.....	.....	.....	.....
Defense agencies:									
Defense business operations fund	906	.....	906	318	.....	318	2,479	.....	2,479
Other	−26	(* *)	−26	−131	3	−133	−261	5	−266
Trust funds:									
Department of the Army	(* *)	.....	(* *)	(* *)	(* *)	(* *)	(* *)	.....	(* *)
Department of the Navy	4	.....	4	21	3	18	27	11	16
Department of the Air Force	(* *)	(* *)	(* *)	1	(* *)	(* *)	6	6	(* *)
Defense agencies	14	.....	14	174	.....	174	136	.....	136
Proprietary receipts from the public:									
Department of the Army	.....	10	−10	.....	221	−221	.....	88	−88
Department of the Navy	.....	−129	129	.....	74	−74	.....	124	−124
Department of the Air Force	.....	−113	113	.....	605	−605	.....	354	−354
Defense agencies	.....	41	−41	.....	285	−285	.....	204	−204
Intrabudgetary transactions:									
Department of the Army	1	.....	1	16	.....	16	155	.....	155
Department of the Navy	6	.....	6	442	.....	442	484	.....	484
Department of the Air Force	−4	.....	−4	117	.....	117	120	.....	120
Defense agencies	5	.....	5	−140	.....	−140	−92	.....	−92
Offsetting governmental receipts:									
Department of the Army	.....	1	−1	.....	2	−2	.....	6	−6
Defense agencies	.....	(* *)	(* *)	.....	(* *)	(* *)	.....	(* *)	(* *)
Total—Department of Defense—Military	**24,850**	**−184**	**25,035**	**191,712**	**1,231**	**190,481**	**199,227**	**824**	**198,403**

Table 5. Outlays of the U.S. Government, June 1995 and Other Periods—Continued

[$ millions]

Classification	This Month			Current Fiscal Year to Date			Prior Fiscal Year to Date		
	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays
Department of Defense—Civil									
Corps of Engineers:									
Construction, general	79	.....	79	764	.....	764	665	.....	665
Operation and maintenance, general	105	.....	105	999	.....	999	794	.....	794
Other	94	.....	94	1,029	.....	1,029	1,175	.....	1,175
Proprietary receipts from the public	.....	16	−16	.....	103	−103	.....	127	−127
Total—Corps of Engineers	278	16	263	2,792	103	2,688	2,634	127	2,508
Military retirement:									
Payment to military retirement fund	.....	.....	.....	11,470	.....	11,470	11,908	.....	11,908
Military retirement fund	2,368	.....	2,368	20,703	.....	20,703	19,932	.....	19,932
Intrabudgetary transactions	.....	.....	.....	−11,470	.....	−11,470	−11,908	.....	−11,908
Education benefits	2	.....	2	68	.....	68	131	.....	131
Other	8	(* *)	8	61	3	57	57	3	53
Proprietary receipts from the public	.....	1	−1	.....	9	−9	.....	8	−8
Total—Department of Defense—Civil	**2,656**	**17**	**2,639**	**23,624**	**115**	**23,508**	**22,754**	**139**	**22,615**
Department of Education:									
Office of Elementary and Secondary Education:									
Education for the disadvantaged	728	.....	728	5,485	.....	5,485	5,459	.....	5,459
Impact aid	56	.....	56	708	.....	708	725	.....	725
School improvement programs	167	.....	167	1,109	.....	1,109	1,158	.....	1,158
Other	23	.....	23	100	.....	100	68	.....	68
Total—Office of Elementary and Secondary Education	974	.....	974	7,402	.....	7,402	7,409	.....	7,409
Office of Bilingual Education and Minority Languages Affairs	20	.....	20	166	.....	166	169	.....	169
Office of Special Education and Rehabilitative Services:									
Special education	307	.....	307	2,494	.....	2,494	2,423	.....	2,423
Rehabilitation services and disability research	201	.....	201	1,771	.....	1,771	1,714	.....	1,714
Special institutions for persons with disabilities	12	.....	12	108	.....	108	96	.....	96
Office of Vocational and Adult Education	182	.....	182	1,208	.....	1,208	1,087	.....	1,087
Office of Postsecondary Education:									
College housing loans	.....	2	−2	14	54	−39	1	39	−38
Student financial assistance	271	.....	271	5,308	.....	5,308	5,482	.....	5,482
Federal family education loans	454	.....	454	3,054	.....	3,054	−2,149	.....	−2,149
Higher education	75	.....	75	597	.....	597	549	.....	549
Howard University	15	.....	15	156	.....	156	156	.....	156
Other	59	.....	59	426	.....	426	72	.....	72
Total—Office of Postsecondary Education	874	2	871	9,555	54	9,501	4,111	39	4,072
Office of Educational Research and Improvement	33	.....	33	306	.....	306	323	.....	323
Departmental management	40	.....	40	336	.....	336	286	.....	286
Proprietary receipts from the public	.....	10	−10	.....	74	−74	.....	120	−120
Total—Department of Education	**2,642**	**12**	**2,630**	**23,345**	**128**	**23,217**	**17,619**	**159**	**17,460**
Department of Energy:									
Atomic energy defense activities	1,022	.....	1,022	9,011	.....	9,011	8,822	.....	8,822
Energy programs:									
General science and research activities	95	.....	95	1,050	.....	1,050	1,062	.....	1,062
Energy supply, R and D activities	285	.....	285	2,429	.....	2,429	2,284	.....	2,284
Uranium supply and enrichment activities	13	.....	13	86	.....	86	264	.....	264
Fossil energy research and development	37	.....	37	325	.....	325	308	.....	308
Energy conservation	58	.....	58	487	.....	487	425	.....	425
Strategic petroleum reserve	18	.....	18	158	.....	158	213	.....	213
Clean coal technology	.....	.....	.....	.....	.....	.....	.....	.....	.....
Nuclear waste disposal fund	24	.....	24	252	.....	252	209	.....	209
Other	103	(* *)	103	756	1	755	664	2	663
Total—Energy programs	632	(* *)	632	5,545	1	5,544	5,429	2	5,427
Power Marketing Administration	122	129	−7	1,283	1,489	−206	1,294	1,262	32
Departmental administration	32	.....	32	350	.....	350	328	.....	328
Proprietary receipts from the public	.....	96	−96	.....	1,282	−1,282	.....	1,269	−1,269
Intrabudgetary transactions	−3	.....	−3	−361	.....	−361	−266	.....	−266
Offsetting governmental receipts	.....	(* *)	(* *)	.....	9	−9	.....	109	−109
Total—Department of Energy	**1,806**	**225**	**1,580**	**15,828**	**2,780**	**13,048**	**15,607**	**2,641**	**12,965**

Table 5. Outlays of the U.S. Government, June 1995 and Other Periods—Continued

[$ millions]

Classification	This Month			Current Fiscal Year to Date			Prior Fiscal Year to Date		
	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays
Department of Health and Human Services:									
Public Health Service:									
Food and Drug Administration	71	(* *)	70	622	4	618	574	3	571
Health Resources and Services Administration	238	.....	238	1,871	.....	1,871	1,838	.....	1,838
Indian Health Services	175	.....	175	1,587	.....	1,587	1,296	.....	1,296
Centers for Disease Control and Prevention	187	.....	187	1,361	.....	1,361	1,109	.....	1,109
National Institutes of Health	951	.....	951	8,129	.....	8,129	7,734	.....	7,734
Substance Abuse and Mental Health Services Administration	226	.....	226	1,813	.....	1,813	1,815	.....	1,815
Agency for Health Care Policy and Research	−1	.....	−1	81	.....	81	84	.....	84
Assistant secretary for health	48	.....	48	211	.....	211	190	.....	190
Total—Public Health Service	1,894	(* *)	1,893	15,675	4	15,672	14,640	3	14,637
Health Care Financing Administration:									
Grants to States for Medicaid	8,277	.....	8,277	66,999	.....	66,999	61,539	.....	61,539
Payments to health care trust funds	4,442	.....	4,442	36,015	.....	36,015	30,996	.....	30,996
Federal hospital insurance trust fund:									
Benefit payments	11,357	.....	11,357	84,758	.....	84,758	75,246	.....	75,246
Administrative expenses	82	.....	82	926	.....	926	907	.....	907
Interest on normalized tax transfers	.....	.....	.....	.....	.....	.....	.....	.....	.....
Total—FHI trust fund	11,440	.....	11,440	85,685	.....	85,685	76,152	.....	76,152
Federal supplementary medical insurance trust fund:									
Benefit payments	5,841	.....	5,841	46,586	.....	46,586	42,319	.....	42,319
Administrative expenses	144	.....	144	1,266	.....	1,266	1,262	.....	1,262
Total—FSMI trust fund	5,985	.....	5,985	47,852	.....	47,852	43,581	.....	43,581
Other	24	.....	24	45	.....	45	8	.....	8
Total—Health Care Financing Administration	30,168	.....	30,168	236,597	.....	236,597	212,277	.....	212,277
Administration for children and families:									
Family support payments to States	1,186	.....	1,186	12,863	.....	12,863	12,393	.....	12,393
Low income home energy assistance	64	.....	64	1,245	.....	1,245	1,935	.....	1,935
Refugee and entrant assistance	95	.....	95	342	.....	342	280	.....	280
Payments to States for the job opportunities and basic skills training program	62	.....	62	708	.....	708	612	.....	612
State legalization impact assistance grants	181	.....	181	324	.....	324	626	.....	626
Payments to States for the child care and development block grant	87	.....	87	704	.....	704	613	.....	613
Social services block grant	220	.....	220	2,132	.....	2,132	2,073	.....	2,073
Children and families services programs	295	.....	295	3,720	.....	3,720	3,269	.....	3,269
Payments to States for foster care and adoption assistance	248	.....	248	2,397	.....	2,397	2,281	.....	2,281
Other	5	.....	5	20	.....	20	(* *)	.....	(* *)
Total—Administration for children and families	2,443	.....	2,443	24,454	.....	24,454	24,082	.....	24,082
Administration on aging	102	.....	102	706	.....	706	642	.....	642
Departmental management	137	.....	137	350	.....	350	185	.....	185
Proprietary receipts from the public	.....	1,766	−1,766	.....	15,001	−15,001	.....	13,203	−13,203
Intrabudgetary transactions:									
Payments for health insurance for the aged:									
Federal hospital insurance trust fund	.....	.....	.....	.....	.....	.....	.....	.....	.....
Federal supplementary medical insurance trust fund	−3,890	.....	−3,890	−32,063	.....	−32,063	−29,296	.....	−29,296
Payments for tax and other credits:									
Federal hospital insurance trust fund	−552	.....	−552	−3,953	.....	−3,953	−1,700	.....	−1,700
Other	.....	.....	.....	.....	.....	.....	.....	.....	.....
Total—Department of Health and Human Services	**30,301**	**1,766**	**28,535**	**241,767**	**15,005**	**226,762**	**220,829**	**13,206**	**207,623**

Table 5. Outlays of the U.S. Government, June 1995 and Other Periods—Continued

[$ millions]

Classification	This Month			Current Fiscal Year to Date			Prior Fiscal Year to Date		
	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays
Department of Housing and Urban Development:									
Housing programs:									
Public enterprise funds	14	7	8	133	94	39	116	97	19
Credit accounts:									
Federal housing administration fund	−90	−60	−29	4,909	5,248	−339	4,446	4,836	−391
Housing for the elderly or handicapped fund	−18	47	−65	522	488	34	690	527	162
Other	62	.....	62	445	.....	445	333	(* *)	333
Rent supplement payments	12	.....	12	119	.....	119	57	.....	57
Homeownership assistance	10	.....	10	89	.....	89	80	.....	80
Rental housing assistance	56	.....	56	489	.....	489	494	.....	494
Rental housing development grants	.....	.....	.....	(* *)	.....	(* *)	5	.....	5
Low-rent public housing	43	.....	43	568	.....	568	592	.....	592
Public housing grants	350	.....	350	2,766	.....	2,766	2,448	.....	2,448
College housing grants	2	.....	2	14	(* *)	14	14	.....	14
Lower income housing assistance	944	.....	944	7,569	.....	7,569	7,888	.....	7,888
Section 8 contract renewals	633	.....	633	3,900	.....	3,900	2,533	.....	2,533
Other	19	.....	19	132	.....	132	49	.....	49
Total—Housing programs	2,037	−7	2,044	21,655	5,830	15,825	19,743	5,461	14,282
Public and Indian Housing programs:									
Low-rent public housing—Loans and other expenses	2	3	−1	261	200	61	294	199	95
Payments for operation of low-income housing projects	238	.....	238	2,028	.....	2,028	1,919	.....	1,919
Community Partnerships Against Crime	23	.....	23	131	.....	131	123	.....	123
Other	4	.....	4	19	.....	19	.....	.....	.....
Total—Public and Indian Housing programs	267	3	265	2,438	200	2,238	2,336	199	2,137
Government National Mortgage Association:									
Management and liquidating functions fund	(* *)	.....	(* *)	(* *)	(* *)	(* *)	(* *)	1	−1
Guarantees of mortgage-backed securities	17	47	−30	250	572	−321	760	1,119	−359
Total—Government National Mortgage Association	17	47	−30	250	572	−322	760	1,120	−360
Community Planning and Development:									
Community Development Grants	392	.....	392	3,184	.....	3,184	2,619	.....	2,619
Home investment partnerships program	115	.....	115	863	.....	863	527	.....	527
Other	27	8	19	241	86	154	214	95	119
Total—Community Planning and Development	534	8	526	4,288	86	4,202	3,360	95	3,265
Management and Administration	25	.....	25	356	.....	356	364	.....	364
Other	4	.....	4	42	.....	42	30	.....	30
Proprietary receipts from the public	.....	37	−37	.....	338	−338	.....	197	−197
Offsetting governmental receipts	.....	.....	.....	.....	5	−5	.....	5	−5
Total—Department of Housing and Urban Development	**2,883**	**88**	**2,795**	**29,030**	**7,031**	**21,998**	**26,593**	**7,078**	**19,516**
Department of the Interior:									
Land and minerals management:									
Bureau of Land Management:									
Management of lands and resources	50	.....	50	541	.....	541	493	.....	493
Other	22	.....	22	291	.....	291	176	.....	176
Minerals Management Service	45	.....	45	507	.....	507	567	.....	567
Office of Surface Mining Reclamation and Enforcement	23	.....	23	230	.....	230	225	.....	225
Total—Land and minerals management	140	.....	140	1,568	.....	1,568	1,461	.....	1,461
Water and science:									
Bureau of Reclamation:									
Construction program	5	.....	5	204	.....	204	226	.....	226
Operation and maintenance	17	.....	17	186	.....	186	200	.....	200
Other	22	18	4	300	134	166	347	114	233
Central utah project	(* *)	.....	(* *)	26	.....	26	20	.....	20
United States Geological Survey	46	.....	46	418	.....	418	448	.....	448
Bureau of Mines	13	3	11	129	19	109	146	21	125
Total—Water and science	104	21	83	1,262	153	1,109	1,387	135	1,252
Fish and wildlife and parks:									
United States Fish and Wildlife Service	97	.....	97	937	.....	937	917	.....	917
National Biological Survey	18	.....	18	104	.....	104	72	.....	72
National Park Service	128	.....	128	1,138	.....	1,138	1,075	.....	1,075
Total—Fish and wildlife and parks	243	.....	243	2,179	.....	2,179	2,063	.....	2,063

Table 5. Outlays of the U.S. Government, June 1995 and Other Periods—Continued

[$ millions]

Classification	This Month			Current Fiscal Year to Date			Prior Fiscal Year to Date		
	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays
Department of the Interior:—Continued									
Bureau of Indian Affairs:									
Operation of Indian programs	96	.....	96	1,088	.....	1,088	1,020	.....	1,020
Indian tribal funds	28	.....	28	216	.....	216	211	.....	211
Other	62	(* *)	62	342	8	334	349	7	342
Total—Bureau of Indian Affairs	186	(* *)	186	1,645	8	1,637	1,580	7	1,573
Territorial and international affairs	7	.....	7	377	.....	377	228	.....	228
Departmental offices	−4	.....	−4	74	.....	74	105	.....	105
Proprietary receipts from the public	.....	131	−131	.....	1,364	−1,364	.....	1,473	−1,473
Intrabudgetary transactions	−41	.....	−41	−209	.....	−209	−219	.....	−219
Offsetting governmental receipts	.....	.....	.....	.....	3	−3	.....	(* *)	(* *)
Total—Department of the Interior	**634**	**152**	**482**	**6,896**	**1,529**	**5,367**	**6,606**	**1,615**	**4,990**
Department of Justice:									
Legal activities	194	.....	194	1,976	.....	1,976	1,872	.....	1,872
Federal Bureau of Investigation	156	.....	156	1,503	.....	1,503	1,529	.....	1,529
Drug Enforcement Administration	66	.....	66	576	.....	576	568	.....	568
Immigration and Naturalization Service	159	.....	159	1,279	.....	1,279	1,117	.....	1,117
Federal Prison System	247	10	237	2,097	95	2,002	1,782	88	1,694
Office of Justice Programs	77	.....	77	523	.....	523	658	.....	658
Other	45	.....	45	584	.....	584	427	.....	427
Intrabudgetary transactions	−7	.....	−7	−45	.....	−45	−27	.....	−27
Offsetting governmental receipts	.....	54	−54	.....	615	−615	.....	404	−404
Total—Department of Justice	**938**	**64**	**875**	**8,493**	**710**	**7,783**	**7,926**	**492**	**7,435**
Department of Labor:									
Employment and Training Administration:									
Training and employment services	466	.....	466	3,293	.....	3,293	2,964	.....	2,964
Community Service Employment for Older Americans	39	.....	39	299	.....	299	292	.....	292
Federal unemployment benefits and allowances	18	.....	18	157	.....	157	117	.....	117
State unemployment insurance and employment service operations	29	.....	29	67	.....	67	207	.....	207
Payments to the unemployment trust fund	.....	.....	.....	.....	.....	.....	.....	.....	.....
Advances to the unemployment trust fund and other funds	.....	.....	.....	619	.....	619	2,547	.....	2,547
Unemployment trust fund:									
Federal-State unemployment insurance:									
State unemployment benefits	1,720	.....	1,720	16,591	.....	16,591	21,837	.....	21,837
State administrative expenses	253	.....	253	2,388	.....	2,388	2,300	.....	2,300
Federal administrative expenses	11	.....	11	161	.....	161	142	.....	142
Veterans employment and training	18	.....	18	138	.....	138	139	.....	139
Repayment of advances from the general fund	.....	.....	.....	.....	.....	.....	.....	.....	.....
Railroad unemployment insurance	4	.....	4	49	.....	49	52	.....	52
Other	2	.....	2	14	.....	14	15	.....	15
Total—Unemployment trust fund	2,008	.....	2,008	19,341	.....	19,341	24,485	.....	24,485
Other	8	.....	8	64	.....	64	67	.....	67
Total—Employment and Training Administration	2,568	.....	2,568	23,840	.....	23,840	30,679	.....	30,679
Pension Benefit Guaranty Corporation	75	18	57	1,056	1,204	−147	916	1,188	−273
Employment Standards Administration:									
Salaries and expenses	21	.....	21	181	.....	181	172	.....	172
Special benefits	150	.....	150	155	.....	155	182	.....	182
Black lung disability trust fund	49	.....	49	432	.....	432	451	.....	451
Other	10	.....	10	104	.....	104	97	.....	97
Occupational Safety and Health Administration	24	.....	24	221	.....	221	219	.....	219
Bureau of Labor Statistics	24	.....	24	206	.....	206	205	.....	205
Other	38	.....	38	352	.....	352	357	.....	357
Proprietary receipts from the public	.....	(* *)	(* *)	.....	5	−5	.....	2	−2
Intrabudgetary transactions	−69	.....	−69	−1,079	.....	−1,079	−3,121	.....	−3,121
Total—Department of Labor	**2,889**	**19**	**2,871**	**25,467**	**1,209**	**24,258**	**30,156**	**1,191**	**28,965**

Table 5. Outlays of the U.S. Government, June 1995 and Other Periods—Continued

[$ millions]

Classification	This Month			Current Fiscal Year to Date			Prior Fiscal Year to Date		
	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays
Department of State:									
Administration of Foreign Affairs:									
Diplomatic and consular programs	170	.....	170	1,191	.....	1,191	1,249	.....	1,249
Acquisition and maintenance of buildings abroad	55	.....	55	399	.....	399	422	.....	422
Payment to Foreign Service retirement and disability fund	.....	.....	.....	129	.....	129	125	.....	125
Foreign Service retirement and disability fund	38	.....	38	335	.....	335	301	.....	301
Other	33	.....	33	366	.....	366	208	.....	208
Total—Administration of Foreign Affairs	295	.....	295	2,421	.....	2,421	2,305	.....	2,305
International organizations and Conferences	23	.....	23	1,334	.....	1,334	1,183	.....	1,183
Migration and refugee assistance	66	.....	66	526	.....	526	558	.....	558
Other	13	.....	13	97	.....	97	132	.....	132
Proprietary receipts from the public	.....	.....	.....	.....	.....	.....	.....	.....	.....
Intrabudgetary transactions	(* *)	.....	(* *)	−182	.....	−182	−176	.....	−176
Offsetting governmental receipts	.....	.....	.....	.....	.....	.....	.....	.....	.....
Total—Department of State	**397**	**.....**	**397**	**4,196**	**.....**	**4,196**	**4,002**	**.....**	**4,002**
Department of Transportation:									
Federal Highway Administration:									
Highway trust fund:									
Federal-aid highways	1,810	.....	1,810	13,567	.....	13,567	12,847	.....	12,847
Other	19	.....	19	138	.....	138	106	.....	106
Other programs	18	.....	18	145	.....	145	163	.....	163
Total—Federal Highway Administration	1,847	.....	1,847	13,850	.....	13,850	13,117	.....	13,117
National Highway Traffic Safety Administration	23	.....	23	201	.....	201	191	.....	191
Federal Railroad Administration:									
Grants to National Railroad Passenger Corporation	(* *)	.....	(* *)	708	.....	708	425	.....	425
Other	19	1	18	170	8	162	280	10	270
Total—Federal Railroad Administration	19	1	18	878	8	870	705	10	696
Federal Transit Administration:									
Formula grants	204	.....	204	643	.....	643	96	.....	96
Discretionary grants	187	.....	187	1,519	.....	1,519	1,196	.....	1,196
Other	39	.....	39	1,245	.....	1,245	1,573	.....	1,573
Total—Federal Transit Administration	429	.....	429	3,407	.....	3,407	2,865	.....	2,865
Federal Aviation Administration:									
Operations	123	.....	123	1,417	.....	1,417	1,914	.....	1,914
Airport and airway trust fund:									
Grants-in-aid for airports	124	.....	124	1,288	.....	1,288	1,136	.....	1,136
Facilities and equipment	213	.....	213	1,962	.....	1,962	1,628	.....	1,628
Research, engineering and development	18	.....	18	169	.....	169	156	.....	156
Operations	204	.....	204	1,933	.....	1,933	1,625	.....	1,625
Total—Airport and airway trust fund	559	.....	559	5,352	.....	5,352	4,546	.....	4,546
Other	(* *)	1	−1	(* *)	2	−2	(* *)	1	−1
Total—Federal Aviation Administration	682	1	682	6,770	2	6,768	6,460	1	6,459
Coast Guard:									
Operating expenses	258	.....	258	1,898	.....	1,898	1,821	.....	1,821
Acquisition, construction, and improvements	28	.....	28	191	.....	191	248	.....	248
Retired pay	42	.....	42	394	.....	394	373	.....	373
Other	29	(* *)	28	223	4	219	260	4	256
Total—Coast Guard	357	(* *)	357	2,707	4	2,703	2,701	4	2,697
Maritime Administration	65	5	60	524	191	332	642	271	371
Other	19	1	18	261	7	254	258	5	253
Proprietary receipts from the public	.....	3	−3	.....	6	−6	.....	7	−7
Intrabudgetary transactions	.....	.....	.....	(* *)	.....	(* *)	10	.....	10
Offsetting governmental receipts	.....	6	−6	.....	79	−79	.....	51	−51
Total—Department of Transportation	**3,443**	**17**	**3,425**	**28,597**	**298**	**28,299**	**26,951**	**350**	**26,600**

Table 5. Outlays of the U.S. Government, June 1995 and Other Periods—Continued

[$ millions]

Classification	This Month			Current Fiscal Year to Date			Prior Fiscal Year to Date		
	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays
Department of the Treasury:									
Departmental offices:									
Exchange stabilization fund	−348	2	−350	−2,192	16	−2,208	−1,054	9	−1,063
Other	44	.....	44	161	.....	161	131	.....	131
Financial Management Service:									
Salaries and expenses	13	.....	13	175	.....	175	167	.....	167
Payment to the Resolution Funding Corporation	.....	.....	.....	1,751	.....	1,751	1,751	.....	1,751
Claims, judgements, and relief acts	262	.....	262	742	.....	742	407	.....	407
Net interest paid to loan guarantee financing accounts	11	.....	11	777	.....	777	2	.....	2
Other	7	.....	7	70	.....	70	116	.....	116
Total—Financial Management Service	293	.....	293	3,516	.....	3,516	2,444	.....	2,444
Federal Financing Bank	553	.....	553	338	.....	338	337	.....	337
Bureau of Alcohol, Tobacco and Firearms:									
Salaries and expenses	26	.....	26	277	.....	277	282	.....	282
Internal revenue collections for Puerto Rico	15	.....	15	150	.....	150	148	.....	148
United States Customs Service	120	.....	120	1,315	.....	1,315	1,421	.....	1,421
Bureau of Engraving and Printing	−12	.....	−12	−12	.....	−12	−9	.....	−9
United States Mint	−2	.....	−2	−112	.....	−112	21	.....	21
Bureau of the Public Debt	47	.....	47	239	.....	239	220	.....	220
Internal Revenue Service:									
Processing, assistance, and management	149	.....	149	1,345	.....	1,345	1,362	.....	1,362
Tax law enforcement	333	.....	333	3,064	.....	3,064	2,791	.....	2,791
Information systems	145	.....	145	1,161	.....	1,161	912	.....	912
Payment where earned income credit exceeds liability for tax	437	.....	437	14,689	.....	14,689	10,768	.....	10,768
Health insurance supplement to earned income credit	.....	.....	.....	.....	.....	.....	745	.....	745
Refunding internal revenue collections, interest	191	.....	191	2,220	.....	2,220	1,922	.....	1,922
Other	−1	.....	−1	1	(* *)	1	−2	.....	−2
Total—Internal Revenue Service	1,253	.....	1,253	22,480	(* *)	22,480	18,498	.....	18,498
United States Secret Service	48	.....	48	396	.....	396	367	.....	367
Comptroller of the Currency	29	2	27	302	201	101	281	227	54
Office of Thrift Supervison	15	2	13	123	83	41	134	89	45
Interest on the public debt:									
Public issues (accrual basis)	19,716	.....	19,716	173,941	.....	173,941	153,840	.....	153,840
Special issues (cash basis)	39,639	.....	39,639	95,051	.....	95,051	86,576	.....	86,576
Total—Interest on the public debt	59,355	.....	59,355	268,992	.....	268,992	240,416	.....	240,416
Other	7	.....	7	41	.....	41	42	.....	42
Proprietary receipts from the public	.....	389	−389	.....	3,260	−3,260	.....	2,349	−2,349
Receipts from off-budget federal entities	.....	.....	.....	.....	.....	.....	.....	.....	.....
Intrabudgetary transactions	−1,124	.....	−1,124	−7,380	.....	−7,380	−8,668	.....	−8,668
Offsetting governmental receipts	.....	74	−74	.....	785	−785	.....	584	−584
Total—Department of the Treasury	**60,320**	**469**	**59,851**	**288,633**	**4,345**	**284,289**	**255,009**	**3,258**	**251,752**

Table 5. Outlays of the U.S. Government, June 1995 and Other Periods—Continued

[$ millions]

Classification	This Month			Current Fiscal Year to Date			Prior Fiscal Year to Date		
	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays
Department of Veterans Affairs:									
Veterans Health Administration:									
Medical care	1,466	.....	1,466	11,947	.....	11,947	11,208	.....	11,208
Other	60	23	37	524	204	319	512	201	311
Veterans Benefits Administration:									
Public enterprise funds:									
Guaranty and indemnity fund	85	45	40	713	393	320	1,164	541	624
Loan guaranty revolving fund	41	38	3	355	308	47	453	367	86
Other	12	33	−20	133	107	26	285	192	94
Compensation and pensions	2,904	.....	2,904	13,368	.....	13,368	12,854	.....	12,854
Readjustment benefits	106	.....	106	977	.....	977	906	.....	906
Post-Vietnam era veterans education account	5	.....	5	49	.....	49	65	.....	65
Insurance funds:									
National service life	108	.....	108	940	.....	940	926	.....	926
United States government life	2	.....	2	14	.....	14	14	.....	14
Veterans special life	11	75	−64	109	169	−61	99	169	−70
Other	9	.....	9	33	.....	33	(* *)	.....	(* *)
Total—Veterans Benefits Administration	3,285	190	3,095	16,689	977	15,712	16,766	1,268	15,498
Construction	50	.....	50	467	(* *)	467	498	(* *)	498
Departmental administration	−15	.....	−15	738	.....	738	739	.....	739
Proprietary receipts from the public:									
National service life	.....	22	−22	.....	204	−204	.....	259	−259
United States government life	.....	(* *)	(* *)	.....	(* *)	(* *)	.....	(* *)	(* *)
Other	.....	70	−70	.....	547	−547	.....	996	−996
Intrabudgetary transactions	(* *)	.....	(* *)	−17	.....	−17	−28	.....	−28
Total—Department of Veterans Affairs	**4,845**	**305**	**4,540**	**30,349**	**1,933**	**28,416**	**29,695**	**2,725**	**26,970**
Environmental Protection Agency:									
Program and research operations	70	.....	70	656	.....	656	627	.....	627
Abatement, control, and compliance	78	.....	78	1,026	.....	1,026	958	.....	958
Water infrastructure financing	217	.....	217	1,780	.....	1,780	1,444	.....	1,444
Hazardous substance superfund	146	.....	146	1,086	.....	1,086	1,030	.....	1,030
Other	45	(* *)	45	598	(* *)	597	575	3	573
Proprietary receipts from the public	.....	12	−12	.....	206	−206	.....	153	−153
Intrabudgetary transactions	.....	.....	.....	−250	.....	−250	−250	.....	−250
Offsetting governmental receipts	.....	2	−2	.....	8	−8	.....	7	−7
Total—Environmental Protection Agency	**556**	**14**	**542**	**4,896**	**214**	**4,682**	**4,385**	**163**	**4,222**
General Services Administration:									
Real property activities	336	.....	336	398	.....	398	197	.....	197
Personal property activities	38	.....	38	228	.....	228	36	.....	36
Other	14	.....	14	243	.....	243	163	.....	163
Proprietary receipts from the public	.....	(* *)	(* *)	.....	(* *)	(* *)	.....	3	−3
Total—General Services Administration	**387**	**(* *)**	**387**	**870**	**(* *)**	**870**	**396**	**3**	**393**
National Aeronautics and Space Administration:									
Human space flight	479	.....	479	2,239	.....	2,239	.....	.....	.....
Science, aeronautics and technology	329	.....	329	1,619	.....	1,619	.....	.....	.....
Mission support	164	.....	164	1,441	.....	1,441	.....	.....	.....
Research and development	160	.....	160	2,966	.....	2,966	4,866	.....	4,866
Space flight, control and data communications	3	.....	3	1,300	.....	1,300	3,611	.....	3,611
Construction of facilities	29	.....	29	239	.....	239	301	.....	301
Research and program management	1	.....	1	95	.....	95	1,213	.....	1,213
Other	1	.....	1	11	.....	11	12	.....	12
Total—National Aeronautics and Space Administration	**1,166**	**.....**	**1,166**	**9,910**	**.....**	**9,910**	**10,004**	**.....**	**10,004**
Office of Personnel Management:									
Government payment for annuitants, employees health and life insurance benefits	334	.....	334	2,992	.....	2,992	2,874	.....	2,874
Payment to civil service retirement and disability fund	.....	.....	.....	.....	.....	.....	.....	.....	.....
Civil service retirement and disability fund	3,253	.....	3,253	28,696	.....	28,696	27,039	.....	27,039
Employees life insurance fund	265	139	126	1,335	1,928	−593	1,024	1,937	−913
Employees and retired employees health benefits fund	1,340	1,400	−60	11,695	11,984	−289	11,367	11,818	−450
Other	−2	.....	−2	50	.....	50	110	.....	110
Intrabudgetary transactions:									
Civil service retirement and disability fund:									
General fund contributions	.....	.....	.....	.....	.....	.....	.....	.....	.....
Other	−3	.....	−3	−25	.....	−25	−25	.....	−25
Total—Office of Personnel Management	**5,186**	**1,539**	**3,647**	**44,743**	**13,912**	**30,831**	**42,389**	**13,755**	**28,634**

Table 5. Outlays of the U.S. Government, June 1995 and Other Periods—Continued

[$ millions]

Classification	This Month			Current Fiscal Year to Date			Prior Fiscal Year to Date		
	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays
Small Business Administration:									
Public enterprise funds:									
Business loan fund	53	43	10	311	307	4	408	308	100
Disaster loan fund	29	16	13	384	177	207	175	216	−41
Other	1	2	−1	15	11	3	17	10	7
Other	37	(* *)	37	426	1	425	417	(* *)	417
Total—Small Business Administration	**120**	**61**	**59**	**1,136**	**496**	**639**	**1,017**	**534**	**483**
Social Security Administration:									
Payments to Social Security trust funds	19	.....	19	3,871	.....	3,871	4,152	.....	4,152
Special benefits for disabled coal miners	59	.....	59	542	.....	542	584	.....	584
Supplemental security income program	4,204	.....	4,204	19,543	.....	19,543	18,082	.....	18,082
Office of the Inspector General	1	.....	1	1	.....	1	.....	.....	.....
Federal old-age and survivors insurance trust fund (off-budget):									
Benefit payments	24,281	.....	24,281	215,657	.....	215,657	206,459	.....	206,459
Administrative expenses	146	.....	146	1,303	.....	1,303	1,209	.....	1,209
Payment to railroad retirement account	4,052	.....	4,052	4,052	.....	4,052	3,420	.....	3,420
Other	.....	.....	.....	.....	.....	.....	.....	.....	.....
Total—FOASI trust fund	28,479	.....	28,479	221,012	.....	221,012	211,087	.....	211,087
Federal disability insurance trust fund (off-budget):									
Benefit payments	3,431	.....	3,431	29,854	.....	29,854	27,312	.....	27,312
Administrative expenses	77	.....	77	796	.....	796	735	.....	735
Payment to railroad retirement account	68	.....	68	68	.....	68	106	.....	106
Other	.....	.....	.....	.....	.....	.....	.....	.....	.....
Total—FDI trust fund	3,576	.....	3,576	30,717	.....	30,717	28,152	.....	28,152
Proprietary receipts from the public:									
On-budget	.....	72	−72	.....	484	−484	.....	508	−508
Off-budget	.....	1	−1	.....	9	−9	.....	10	−10
Intrabudgetary transactions:									
On-budget	.....	.....	.....	.....	.....	.....	.....	.....	.....
Off-budget[1]	−17	.....	−17	−3,870	.....	−3,870	−4,147	.....	−4,147
Total—Social Security Administration	**36,321**	**73**	**36,248**	**271,817**	**492**	**271,325**	**257,910**	**518**	**257,391**
Other independent agencies:									
Board for International Broadcasting	29	.....	29	182	.....	182	144	.....	144
Corporation for National and Community Service	40	.....	40	310	.....	310	146	.....	146
Corporation for Public Broadcasting	.....	.....	.....	286	.....	286	275	.....	275
District of Columbia:									
Federal payment	.....	.....	.....	714	.....	714	698	.....	698
Other	(* *)	.....	(* *)	5	12	−7	1	12	−11
Equal Employment Opportunity Commission	21	(* *)	21	179	1	178	170	(* *)	169
Export-Import Bank of the United States	203	299	−96	1,041	973	68	838	1,610	−773
Federal Communications Commission	20	5	15	127	38	88	105	28	77
Federal Deposit Insurance Corporation:									
Bank insurance fund	114	2,309	−2,195	1,722	9,159	−7,437	2,227	8,565	−6,338
Savings association insurance fund	54	435	−381	88	1,013	−925	19	557	−537
FSLIC resolution fund	18	288	−270	1,628	955	673	1,670	2,523	−853
Affordable housing and bank enterprise	(* *)	.....	(* *)	4	.....	4	3	.....	3
Total—Federal Deposit Insurance Corporation	185	3,031	−2,846	3,441	11,126	−7,685	3,920	11,645	−7,725
Federal Emergency Management Agency:									
Public enterprise funds	132	32	100	432	266	166	309	306	3
Disaster relief	148	.....	148	1,773	.....	1,773	2,807	.....	2,807
Emergency management planning and assistance	31	.....	31	215	.....	215	157	.....	157
Other	26	2	23	229	16	212	195	.....	195
Federal Trade Commission	8	.....	8	63	.....	63	65	.....	65
Interstate Commerce Commission	3	.....	3	28	.....	28	31	.....	31
Legal Services Corporation	34	.....	34	329	.....	329	297	.....	297
National Archives and Records Administration	8	(* *)	8	164	(* *)	163	163	(* *)	163
National Credit Union Administration:									
Credit union share insurance fund	1	28	−27	12	266	−254	−19	223	−242
Central liquidity facility	.....	.....	.....	5	5	(* *)	54	54	(* *)
Other	7	1	6	−4	4	−8	32	48	−17

Table 5. Outlays of the U.S. Government, June 1995 and Other Periods—Continued

[$ millions]

Classification	This Month			Current Fiscal Year to Date			Prior Fiscal Year to Date		
	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays
Other independent agencies:—Continued									
National Endowment for the Arts	13	.....	13	131	.....	131	129	.....	129
National Endowment for the Humanities	15	.....	15	123	.....	123	120	.....	120
National Labor Relations Board	12	.....	12	128	.....	128	127	.....	127
National Science Foundation	260	.....	260	1,969	.....	1,969	1,876	.....	1,876
Nuclear Regulatory Commission	41	3	37	396	384	12	397	346	51
Panama Canal Commission	48	50	−2	416	465	−49	389	421	−32
Postal Service:									
Public enterprise funds (off-budget)	4,770	[2]4,584	186	37,289	41,261	−3,972	35,037	37,116	−2,079
Payment to the Postal Service fund	.....	.....	.....	107	.....	107	107	.....	107
Railroad Retirement Board:									
Federal windfall subsidy	21	.....	21	190	.....	190	204	.....	204
Federal payments to the railroad retirement accounts	(* *)	.....	(* *)	172	.....	172	38	.....	38
Rail industry pension fund:									
Benefit payments	235	.....	235	2,112	.....	2,112	2,124	.....	2,124
Advances from FOASDI fund	−92	.....	−92	−824	.....	−824	−814	.....	−814
OASDI certifications	92	.....	92	824	.....	824	814	.....	814
Administrative expenses	7	.....	7	54	.....	54	54	.....	54
Interest on refunds of taxes	(* *)	.....	(* *)	16	.....	16	15	.....	15
Other	1	.....	1	5	.....	5	5	.....	5
Intrabudgetary transactions:									
Payments from other funds to the railroad retirement trust funds	−4,120	.....	−4,120	−4,120	.....	−4,120	−3,526	.....	−3,526
Other	227	.....	227	55	.....	55	194	.....	194
Supplemental annuity pension fund:									
Benefit payments	7	.....	7	68	.....	68	71	.....	71
Interest on refund of taxes	(* *)	.....	(* *)	1	.....	1	.....	.....	.....
Railroad Social Security equivalent benefit account:									
Benefit payments	408	.....	408	3,671	.....	3,671	3,590	.....	3,590
Interest on refund of taxes	(* *)	.....	(* *)	(* *)	.....	(* *)	.....	.....	.....
Other	(* *)	.....	(* *)	1	.....	1	2	.....	2
Total—Railroad Retirement Board	−3,213	.....	−3,213	2,226	.....	2,226	2,773	.....	2,773
Resolution Trust Corporation	149	670	−521	3,959	12,039	−8,080	14,859	10,948	3,911
Securities and Exchange Commission	4	.....	4	89	.....	89	41	.....	41
Smithsonian Institution	36	.....	36	317	.....	317	291	.....	291
Tennessee Valley Authority	631	492	139	6,971	5,754	1,217	7,291	6,298	992
United States Information Agency	84	.....	84	830	(* *)	830	872	(* *)	872
Other	279	143	137	2,080	1,572	508	1,847	1,034	813
Total—Other independent agencies	**4,025**	**9,340**	**−5,315**	**66,560**	**74,181**	**−7,621**	**76,546**	**70,092**	**6,454**
Undistributed offsetting receipts:									
Other interest	.....	(* *)	(* *)	.....	(* *)	(* *)	.....	(* *)	(* *)
Employer share, employee retirement:									
Legislative Branch:									
United States Tax Court:									
Tax court judges survivors annuity fund	.....	.....	.....	(* *)	.....	(* *)	(* *)	.....	(* *)
The Judiciary:									
Judicial survivors annuity fund	.....	.....	.....	.....	.....	.....	.....	.....	.....
Department of Defense—Civil:									
Military retirement fund	−1,030	.....	−1,030	−9,187	.....	−9,187	−9,602	.....	−9,602
Department of Health and Human Services:									
Federal hospital insurance trust fund:									
Federal employer contributions	−152	.....	−152	−1,366	.....	−1,366	−1,343	.....	−1,343
Postal Service employer contributions	−48	.....	−48	−419	.....	−419	−395	.....	−395
Payments for military service credits	.....	.....	.....	.....	.....	.....	.....	.....	.....
Department of State:									
Foreign Service retirement and disability fund	−9	.....	−9	−81	.....	−81	−82	.....	−82
Office of Personnel Management:									
Civil service retirement and disability fund	−920	.....	−920	−7,365	.....	−7,365	−7,326	.....	−7,326
Social Security administration (off-budget):									
Federal old-age and survivors insurance trust fund:									
Federal employer contributions	−456	.....	−456	−3,872	.....	−3,872	−4,056	.....	−4,056
Payments for military service credits	.....	.....	.....	17	.....	17	.....	.....	.....
Federal disability insurance trust fund:									
Federal employer contributions	−81	.....	−81	−692	.....	−692	−436	.....	−436
Payments for military service credits	.....	.....	.....	−17	.....	−17	.....	.....	.....
Independent agencies:									
Court of veterans appeals retirement fund	(* *)	.....	(* *)	(* *)	.....	(* *)	(* *)	.....	(* *)
Total—Employer share, employee retirement	−2,696	.....	−2,696	−22,981	.....	−22,981	−23,241	.....	−23,241

Table 5. Outlays of the U.S. Government, June 1995 and Other Periods—Continued

[$ millions]

Classification	This Month			Current Fiscal Year to Date			Prior Fiscal Year to Date		
	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays	Gross Outlays	Applicable Receipts	Outlays
Undistributed offsetting receipts:—Continued									
Interest received by trust funds:									
The Judiciary:									
Judicial survivors annuity fund	.....	.....	.....	−14	.....	−14	−13	.....	−13
Department of Defense—Civil:									
Corps of Engineers	−7	.....	−7	−21	.....	−21	−13	.....	−13
Military retirement fund	63	.....	63	−10,727	.....	−10,727	−10,147	.....	−10,147
Education benefits fund	(* *)	.....	(* *)	−35	.....	−35	−41	.....	−41
Soldiers' and airmen's home permanent fund	(* *)	.....	(* *)	−6	.....	−6	−8	.....	−8
Other	.....	.....	.....	−1	.....	−1	−1	.....	−1
Department of Health and Human Services:									
Federal hospital insurance trust fund	−5,407	.....	−5,407	−10,814	.....	−10,814	−10,560	.....	−10,560
Federal supplementary medical insurance trust fund	−811	.....	−811	−1,795	.....	−1,795	−2,058	.....	−2,058
Department of Labor:									
Unemployment trust fund	−1,240	.....	−1,240	−2,683	.....	−2,683	−2,466	.....	−2,466
Department of State:									
Foreign Service retirement and disability fund	−311	.....	−311	−611	.....	−611	−570	.....	−570
Department of Transportation:									
Highway trust fund	−490	.....	−490	−1,116	.....	−1,116	−1,372	.....	−1,372
Airport and airway trust fund	−332	.....	−332	−742	.....	−742	−821	.....	−821
Oil spill liability trust fund	(* *)	.....	(* *)	−6	.....	−6	−7	.....	−7
Department of Veterans Affairs:									
National service life insurance fund	−531	.....	−531	−1,071	.....	−1,071	−1,078	.....	−1,078
United States government life Insurance Fund	−4	.....	−4	−9	.....	−9	−10	.....	−10
Environmental Protection Agency	(* *)	.....	(* *)	−2	.....	−2	−1	.....	−1
National Aeronautics and Space Administration	(* *)	.....	(* *)	−1	.....	−1	−1	.....	−1
Environmental Protection Agency	.....	.....	.....	.....	.....	.....	.....	.....	.....
Civil service retirement and disability fund	−13,955	.....	−13,955	−27,992	.....	−27,992	−26,072	.....	−26,072
Social Security administration (off-budget):									
Federal old-age and survivors insurance trust fund	−15,878	.....	−15,878	−31,301	.....	−31,301	−28,379	.....	−28,379
Federal disability insurance trust fund	−989	.....	−989	−1,859	.....	−1,859	−664	.....	−664
Independent agencies:									
Railroad Retirement Board	−41	.....	−41	−595	.....	−595	−456	.....	−456
Other	−1	.....	−1	−16	.....	−16	−11	.....	−11
Other	−11	.....	−11	−187	.....	−187	−122	.....	−122
Total—Interest received by trust funds	−39,948	.....	−39,948	−91,602	.....	−91,602	−84,870	.....	−84,870
Rents and royalties on the outer continental shelf lands	.....	431	−431	.....	1,882	−1,882	.....	2,308	−2,308
Sale of major assets	.....	.....	.....	.....	.....	.....	.....	.....	.....
Spectrum auction proceeds	.....	.....	.....	.....	610	−610	.....	.....	.....
Total—Undistributed offsetting receipts	**−42,644**	**431**	**−43,075**	**−114,584**	**2,492**	**−117,076**	**−108,111**	**2,308**	**−110,419**
Total outlays	**152,105**	**17,808**	**134,296**	**1,292,207**	**154,505**	**1,137,702**	**1,236,672**	**147,376**	**1,089,296**
Total on-budget	**132,702**	**13,223**	**119,478**	**1,044,782**	**113,236**	**931,546**	**1,000,078**	**110,249**	**889,828**
Total off-budget	**19,403**	**4,585**	**14,818**	**247,425**	**41,270**	**206,156**	**236,594**	**37,126**	**199,468**
Total surplus (+) or deficit			**+13,571**			**−119,654**			**−149,895**
Total on-budget			**−3,480**			**−179,613**			**−203,699**
Total off-budget			**+17,051**			**+59,958**			**+53,804**

MEMORANDUM

Receipts offset against outlays [$ millions]

	Current Fiscal Year to Date	Comparable Period Prior Fiscal Year
Proprietary receipts	37,409	35,669
Receipts from off-budget federal entities	.....	.....
Intrabudgetary transactions	179,424	170,880
Governmental receipts	2,516	1,513
Total receipts offset against outlays	219,349	208,063

[1]Includes FICA and SECA tax credits, non-contributory military service credits, special benefits for the aged, and credit for unnegotiated OASI benefit checks.

[2]The Postal Service accounting is composed of thirteen 28-day accounting periods. To conform with the MTS calendar-month reporting basis used by all other Federal agencies, the MTS reflects USPS results through June 23rd and estimates for $406 million through June 30th.

... No Transactions.

(* *) Less than $500,000

Note: Details may not add to totals due to rounding

Table 6. Means of Financing the Deficit or Disposition of Surplus by the U.S. Government, June 1995 and Other Periods

[$ millions]

Assets and Liabilities Directly Related to Budget Off-budget Activity	Net Transactions (−) denotes net reduction of either liability or asset accounts			Account Balances Current Fiscal Year		
	This Month	Fiscal Year to Date		Beginning of		Close of This month
		This Year	Prior Year	This Year	This Month	
Liability accounts:						
Borrowing from the public:						
Public debt securities, issued under general Financing authorities:						
Obligations of the United States, issued by:						
United States Treasury	47,446	258,622	234,313	4,677,750	4,888,926	4,936,372
Federal Financing Bank	.....	.....	.....	15,000	15,000	15,000
Total, public debt securities	47,446	258,622	234,313	4,692,750	4,903,926	4,951,372
Plus premium on public debt securities	−8	−71	−17	1,333	1,269	1,262
Less discount on public debt securities	1,247	3,183	−9,366	78,631	80,568	81,814
Total public debt securities net of Premium and discount	46,192	255,368	243,662	4,615,453	4,824,629	4,870,821
Agency securities, issued under special financing authorities (see Schedule B. for other Agency borrowing, see Schedule C)	198	−1,324	2,432	28,185	26,663	26,861
Total federal securities	46,390	254,044	246,094	4,643,638	4,851,292	4,897,682
Deduct:						
Federal securities held as investments of government accounts (see Schedule D)	37,962	103,476	86,211	1,213,104	1,278,619	1,316,581
Less discount on federal securities held as investments of government accounts	63	640	−11,995	1,684	2,261	2,324
Net federal securities held as investments of government accounts	37,899	102,836	98,206	1,211,421	1,276,358	1,314,257
Total borrowing from the public	8,491	151,208	147,888	3,432,218	3,574,934	3,583,426
Accrued interest payable to the public	9,204	1,424	−1,248	43,287	35,508	44,712
Allocations of special drawing rights	−35	497	147	7,189	7,721	7,686
Deposit funds	4,583	3,244	−749	7,327	5,988	10,571
Miscellaneous liability accounts (includes checks Outstanding etc.)	−6,724	672	152	4,938	12,334	5,610
Total liability accounts	**15,519**	**157,045**	**146,190**	**3,494,959**	**3,636,485**	**3,652,004**
Asset accounts (deduct)						
Cash and monetary assets:						
U.S. Treasury operating cash:[1]						
Federal Reserve account	16,331	14,129	−7,933	6,848	4,646	20,977
Tax and loan note accounts	17,981	10,469	6,418	29,094	21,582	39,563
Balance	34,312	24,598	−1,515	35,942	26,228	60,540
Special drawing rights:						
Total holdings	−54	1,898	528	9,971	11,923	11,869
SDR certificates issued to Federal Reserve banks	.....	.....	.....	−8,018	−8,018	−8,018
Balance	−54	1,898	528	1,953	3,905	3,851
Reserve position on the U.S. quota in the IMF:						
U.S. subscription to International Monetary Fund:						
Direct quota payments	.....	.....	.....	31,762	31,762	31,762
Maintenance of value adjustments	−190	2,689	795	7,163	10,042	9,852
Letter of credit issued to IMF	−2,614	−1,384	−134	−25,923	−24,693	−27,307
Dollar deposits with the IMF	−45	−1	4	−96	−53	−98
Receivable/Payable (−) for interim maintenance of value adjustments	2,706	762	−578	−837	−2,781	−75
Balance	−143	2,066	86	12,069	14,277	14,135
Loans to International Monetary Fund	.....	.....	.....	(* *)	(* *)	(* *)
Other cash and monetary assets	−3,725	7,028	−675	21,416	32,169	28,444
Total cash and monetary assets	30,390	35,590	−1,576	71,379	76,579	106,969
Net activity, guaranteed loan financing	−374	−1,734	−2,369	−9,806	−11,166	−11,540
Net activity, direct loan financing	99	4,542	3,398	12,726	17,169	17,268
Miscellaneous asset accounts	−945	−482	−2,657	−1,386	−922	−1,868
Total asset accounts	**29,170**	**37,916**	**−3,204**	**72,914**	**81,660**	**110,830**
Excess of liabilities (+) or assets (−)	**−13,651**	**+119,129**	**+149,394**	**+3,422,045**	**+3,554,825**	**+3,541,174**
Transactions not applied to current year's surplus or deficit (see Schedule A for Details)	79	525	501	.....	446	525
Total budget and off-budget federal entities (financing of deficit (+) or disposition of surplus (−))	**−13,571**	**+119,654**	**+149,895**	**+3,422,045**	**+3,555,271**	**+3,541,699**

[1]Major sources of information used to determine Treasury's operating cash income include Federal Reserve Banks, the Treasury Regional Finance Centers, the Internal Revenue Service Centers, the Bureau of the Public Debt and various electronic systems. Deposits are reflected as received and withdrawals are reflected as processed.

... No Transactions.
(* *) Less than $500,000
Note: Details may not add to totals due to rounding

Table 6. Schedule A—Analysis of Change in Excess of Liabilities of the U.S. Government, June 1995 and Other Periods

[$ millions]

Classification	This Month	Fiscal Year to Date	
		This Year	Prior Year
Excess of liabilities beginning of period:			
Based on composition of unified budget in preceding period	3,554,825	3,422,146	3,218,965
Adjustments during current fiscal year for changes in composition of unified budget:			
Revisions by federal agencies to the prior budget results	(* *)	−101	526
Excess of liabilities beginning of period (current basis)	3,554,825	3,422,045	3,219,491
Budget surplus (−) or deficit:			
Based on composition of unified budget in prior fiscal yr	−13,571	119,654	149,895
Changes in composition of unified budget	.....	.....	.....
Total surplus (−) or deficit (Table 2)	−13,571	119,654	149,895
Total-on-budget (Table 2)	3,480	179,613	203,699
Total-off-budget (Table 2)	−17,051	−59,958	−53,804
Transactions not applied to current year's surplus or deficit:			
Seigniorage	−79	−525	−501
Profit on sale of gold	(* *)	(* *)	(* *)
Total-transactions not applied to current year's Surplus or deficit	−79	−525	−501
Excess of liabilities close of period	**3,541,174**	**3,541,174**	**3,368,885**

Table 6. Schedule B—Securities Issued by Federal Agencies Under Special Financing Authorities, June 1995 and Other Periods

[$ millions]

Classification	Net Transactions (−) denotes net reduction of liability accounts			Account Balances Current Fiscal Year		
	This Month	Fiscal Year to Date		Beginning of		Close of This month
		This Year	Prior Year	This Year	This Month	
Agency securities, issued under special financing authorities:						
Obligations of the United States, issued by:						
Export-Import Bank of the United States	.....	.....	.....	(* *)	(* *)	(* *)
Federal Deposit Insurance Corporation:						
FSLIC resolution fund	.....	−32	−145	189	158	158
Obligations guaranteed by the United States, issued by:						
Department of Defense:						
Family housing mortgages	.....	.....	(* *)	6	6	6
Department of Housing and Urban Development:						
Federal Housing Administration	3	−31	−75	112	78	81
Department of the Interior:						
Bureau of Land Management	.....	.....	.....	13	13	13
Department of Transportation:						
Federal Transit Administration	.....	.....	−547	.....	.....	.....
Coast Guard:						
Family housing mortgages	.....	.....	.....	(* *)	(* *)	(* *)
Obligations not guaranteed by the United States, issued by:						
Legislative Branch:						
Architect of the Capitol	1	3	12	184	185	187
Independent agencies:						
Farm Credit System Financial Assistance Corporation	.....	.....	.....	1,261	1,261	1,261
National Archives and Records Administration	.....	−2	.....	298	296	296
Tennessee Valley Authority	194	−1,263	3,188	26,121	24,665	24,858
Total, agency securities	**198**	**−1,324**	**2,432**	**28,185**	**26,663**	**26,861**

... No Transactions.
(* *) Less than $500,000.
Note: Details may not add to totals due to rounding.

Table 6. Schedule C (Memorandum)—Federal Agency Borrowing Financed Through the Issue of Public Debt Securities, June 1995 and Other Periods

[$ millions]

Classification	Transactions			Account Balances Current Fiscal Year		
	This Month	Fiscal Year to Date		Beginning of		Close of This month
		This Year	Prior Year	This Year	This Month	
Borrowing from the Treasury:						
Funds Appropriated to the President:						
International Security Assistance:						
Foreign military loan program	9	345	405	413	750	759
Agency for International Development:						
International Debt Reduction	.....	.....	.....	315	315	315
Housing and other credit guaranty programs	.....	.....	.....	125	125	125
Private sector revolving fund	.....	.....	.....	1	1	1
Overseas Private Investment Corporation	1	23	8	16	38	39
Department of Agriculture:						
Farm Service Agency:						
Federal crop insurance corporation fund	.....	.....	−113	.....	.....	.....
Commodity Credit Corporation	−537	−8,107	−9,087	16,909	9,339	8,802
Agricultural credit insurance fund	.....	−1,748	−1,225	4,028	2,280	2,280
Natural Resources Conservation Service	.....	.....	.....	4	4	4
Rural Utilities Service:						
Rural electrification and telephone revolving fund	−235	453	27	8,193	8,881	8,646
Rural Telephone Bank	−2	83	−202	586	670	668
Rural development insurance fund	.....	715	561	2,091	2,806	2,806
Rural communication development fund	.....	.....	.....	25	25	25
Rural housing and Community Development Service:						
Rural housing insurance fund	20	1,212	2,036	4,497	5,689	5,709
Self-help housing land development fund	.....	1	1	(* *)	1	1
Rural Business and Cooperative Development Service:						
Rural development loan fund	.....	40	29	21	61	61
Rural economic development loan fund	3	11	10	19	27	30
Foreign Agricultural Service	.....	97	385	583	680	680
Department of Education:						
Federal direct student loan program	.....	4,868	291	433	5,302	5,302
Federal family education loan program	.....	.....	.....	1,605	1,605	1,605
College housing and academic facilities fund	.....	18	14	162	181	181
College housing loans	.....	.....	(* *)	411	411	411
Department of Energy:						
Isotope production and distribution fund	.....	−14	.....	14	.....	.....
Bonneville power administration fund	.....	35	266	2,617	2,652	2,652
Department of Housing and Urban Development:						
Housing programs:						
Federal Housing Administration	.....	−21	.....	783	762	762
Housing for the ederly and handicapped	.....	−770	−475	8,484	7,714	7,714
Public and Indian housing:						
Low-rent public housing	.....	−135	25	135	.....	.....
Department of the Interior:						
Bureau of Reclamation Loans	.....	2	6	11	13	13
Bureau of Mines, Helium Fund	.....	.....	.....	252	252	252
Bureau of Indian Affairs:						
Revolving funds for loans	.....	8	9	26	34	34
Department of Justice:						
Federal prison industries, incorporated	.....	.....	.....	20	20	20
Department of Transportation:						
Federal Highway Administration:						
High priority quarters loan fund	.....	21	.....	.....	21	21
Federal Railroad Administration:						
Railroad rehabilitation and improvement financing funds	−1	−1	1	1	1	(* *)
Amtrak corridor improvement loans	.....	(* *)	.....	2	3	3
Other	.....	.....	.....	(* *)	(* *)	(* *)
Federal Aviation Administration:						
Aircraft purchase loan guarantee program	.....	(* *)	(* *)	(* *)	(* *)	(* *)
Minority business resource center fund	.....	14	8	13	27	27
Department of the Treasury:						
Federal Financing Bank revolving fund	−2,101	−18,719	−13,726	94,357	77,739	75,638
Department of Veterans Affairs:						
Guaranty and indemnity fund	.....	586	612	181	767	767
Loan guaranty revolving fund	.....	903	1,158	1,107	2,011	2,011
Direct loan revolving fund	.....	(* *)	(* *)	1	1	1
Native american veteran housing fund	.....	12	7	1	13	13
Vocational rehabilitation revolving fund	.....	(* *)	1	2	2	2

Table 6. Schedule C (Memorandum)—Federal Agency Borrowing Financed Through the Issue of Public Debt Securities, June 1995 and Other Periods—Continued

[$ millions]

Classification	Transactions			Account Balances Current Fiscal Year		
	This Month	Fiscal Year to Date		Beginning of		Close of This month
		This Year	Prior Year	This Year	This Month	
Borrowing from the Treasury:—Continued						
Environmental Protection Agency:						
Abatement, control, and compliance loan program	.....	11	10	26	37	37
Small Business Administration:						
Business loan and revolving fund	.....	.....	114	293	293	293
Disaster loan fund	.....	.....	2,350	6,996	6,996	6,996
Independent agencies:						
District of Columbia	147	147	.....	.....	.....	147
Export-Import Bank of the United States	(* *)	30	811	2,632	2,662	2,662
Federal Emergency Management Agency:						
National insurance development fund	.....	.....	.....	3	3	3
Disaster assistance loan fund	.....	169	47	84	253	253
Pennsylvania Avenue Development Corporation:						
Land aquisition and development fund	.....	.....	9	85	85	85
Railroad Retirement Board:						
Rail industry pension fund	.....	.....	.....	2,128	2,128	2,128
Social Security equivalent benefit account	−2,503	−720	−642	2,781	4,564	2,061
Smithsonian Institution:						
John F. Kennedy Center parking facilities	.....	.....	.....	20	20	20
Tennessee Valley Authority	.....	.....	.....	150	150	150
Other	(* *)	(* *)	(* *)	.....	.....	(* *)
Total agency borrowing from the Treasury financed through public debt securities issued	**−5,200**	**−20,430**	**−16,272**	**163,642**	**148,412**	**143,212**
Borrowing from the Federal Financing Bank:						
Funds Appropriated to the President:						
Foreign military financing program	−31	−205	−195	3,785	3,612	3,581
Department of Agriculture:						
Farm Service Agency:						
Agriculture credit insurance fund	−755	−3,365	−1,675	6,063	3,453	2,698
Rural Utilities Service:						
Rural electrification and telephone revolving fund	−56	−60	−296	21,916	21,912	21,856
Rural development insurance fund	.....	.....	.....	3,675	3,675	3,675
Rural housing and Community Development Service:						
Rural housing insurance fund	.....	−760	−945	24,391	23,631	23,631
Department of Defense:						
Department of the Navy	.....	.....	.....	1,624	1,624	1,624
Defense agencies	.....	−47	−49	−145	−192	−192
Department of Education:						
Federal family education loan program	.....	.....	−4,790	.....	.....	.....
Department of Health and Human Services:						
Medical facilities guarantee and loan fund	.....	−23	−10	63	40	40
Department of Housing and Urban Development:						
Low rent housing loans and other expenses	.....	−58	−54	1,747	1,689	1,689
Community Development Grants	.....	−14	−16	110	96	96
Department of Interior:						
Territorial and international affairs	.....	−1	−1	22	21	21
Department of Transportation:						
Federal Railroad Administration	4	(* *)	−2	15	11	15
Federal Transit Administration	.....	−665	488	665	.....	.....
Department of the Treasury:						
Financial Management Service	.....	.....	−30	.....	.....	.....
General Services Administration:						
Federal buildings fund	−11	102	253	1,780	1,893	1,882
Small Business Administration:						
Business loan fund	−20	−135	−74	581	465	445
Independent agencies:						
Export-Import Bank of the United States	−504	−1,280	−1,411	3,926	3,150	2,646
Pennsylvania Avenue Development Corporation	12	91	75	250	328	340
Postal Service	.....	−1,358	−258	8,973	7,615	7,615
Resolution Trust Corporation	−741	−10,742	−2,785	26,519	16,518	15,777
Tennessee Valley Authority	.....	−200	−1,950	3,400	3,200	3,200
Total borrowing from the Federal Financing Bank	**−2,101**	**−18,720**	**−13,726**	**109,360**	**92,741**	**90,639**

Note: This table includes lending by the Federal Financing Bank accomplished by the purchase of agency financial assets, by the acquisition of agency debt securities, and by direct loans on behalf of an agency. The Federal Financing Bank borrows from Treasury and issues its own securities and in turn may loan these funds to agencies in lieu of agencies borrowing directly through Treasury or issuing their own securities.

... No Transactions.
(* *) Less than $500,000
Note: Details may not add to totals due to rounding

Table 6. Schedule D—Investments of Federal Government Accounts in Federal Securities, June 1995 and Other Periods

[$ millions]

Classification	Net Purchases or Sales (−)			Securities Held as Investments Current Fiscal Year		
	This Month	Fiscal Year to Date		Beginning of		Close of This month
		This Year	Prior Year	This Year	This Month	
Federal funds:						
Department of Agriculture	−1	(* *)	(* *)	.....	1	(* *)
Department of Commerce	(* *)	3	3	13	16	16
Department of Defense—Military:						
Defense cooperation account	.....	−4	−4	5	1	1
Department of Energy	−30	444	410	4,527	5,001	4,971
Department of Housing and Urban Development:						
Housing programs:						
Federal housing administration fund	510	−160	479	5,742	5,072	5,582
Government National Mortgage Association:						
Management and liquidating functions fund:						
Public debt securities	.....	.....	−9	.....	.....	.....
Agency securities	.....	.....	−4	16	16	16
Guarantees of mortgage-backed securities:						
Public debt securities	28	351	346	3,713	4,036	4,064
Agency securities	.....	.....	(* *)	1	1	1
Other	−29	−38	−6	193	184	154
Department of the Interior	−54	633	462	2,722	3,409	3,355
Department of Labor	−58	178	−11,783	5,330	5,566	5,508
Department of Transportation	1	46	13	974	1,019	1,019
Department of the Treasury	819	−5,598	1,652	7,452	1,036	1,854
Department of Veterans Affairs:						
Canteen service revolving fund	.....	6	3	37	43	43
Veterans reopened insurance fund	19	12	14	524	517	536
Servicemen's group life insurance fund	(* *)	−38	−108	41	4	4
Independent agencies:						
Export-Import Bank of the United States	−125	51	83	57	233	108
Federal Deposit Insurance Corporation:						
Bank insurance fund	2,316	7,549	6,421	13,972	19,206	21,522
Savings association insurance fund	379	929	538	2,493	3,042	3,422
FSLIC resolution fund	206	−705	1,316	1,649	739	945
Federal Emergency Management Agency:						
National flood insurance fund	.....	−152	−71	200	48	48
National Credit Union Administration	20	264	259	3,052	3,296	3,316
Postal Service	−515	2,601	2,430	1,271	4,387	3,872
Tennessee Valley Authority	.....	−2,712	502	3,954	1,242	1,242
Other	20	217	82	1,017	1,214	1,234
Other	96	335	−202	2,626	2,865	2,961
Total public debt securities	3,601	4,212	2,830	61,564	62,175	65,776
Total agency securities	.....	.....	−4	17	17	17
Total Federal funds	**3,601**	**4,212**	**2,826**	**61,581**	**62,192**	**65,793**
Trust funds:						
Legislative Branch:						
Library of Congress	(* *)	9	3	4	13	13
United States Tax Court	.....	(* *)	(* *)	5	5	5
Other	(* *)	5	1	27	31	31
The Judiciary:						
Judicial retirement funds	−1	38	27	245	284	283
Department of Agriculture	(* *)	18	195	273	291	291
Department of Commerce	(* *)	(* *)	(* *)	(* *)	.....	(* *)
Department of Defense—Military:						
Voluntary separation incentive fund	−19	−9	−37	763	772	753
Other	−1	−67	7	157	91	90
Department of Defense—Civil:						
Military retirement fund	−1,307	11,208	11,987	105,367	117,882	116,575
Other	−9	81	31	1,307	1,397	1,388

Table 6. Schedule D—Investments of Federal Government Accounts in Federal Securities, June 1995 and Other Periods—Continued

[$ millions]

Classification	Net Purchases or Sales (−)			Securities Held as Investments Current Fiscal Year		
	This Month	Fiscal Year to Date		Beginning of		Close of This month
		This Year	Prior Year	This Year	This Month	
Trust Funds—Continued						
Department of Health and Human Services:						
Federal hospital insurance trust fund	4,337	6,843	5,520	128,716	131,222	135,559
Federal supplementary medical insurance trust fund	452	−589	289	21,489	20,448	20,900
Other	21	127	139	836	941	963
Department of the Interior	103	173	26	234	304	407
Department of Justice	−7	49	52	.....	56	49
Department of Labor:						
Unemployment trust fund	−413	6,918	2,419	39,788	47,119	46,706
Other	−8	−25	−30	59	42	34
Department of State:						
Foreign Service retirement and disability fund	283	557	478	7,179	7,453	7,737
Other	.....	−15	12	50	35	35
Department of Transportation:						
Highway trust fund	221	1,684	−1,648	17,694	19,157	19,378
Airport and airway trust fund	338	−514	−144	12,206	11,354	11,692
Other	−22	202	−100	1,683	1,907	1,885
Department of the Treasury	−28	−98	−50	247	176	149
Department of Veterans Affairs:						
General post fund, national homes	.....	−1	(* *)	38	37	37
National service life insurance	428	323	384	11,852	11,748	12,176
United States government life Insurance Fund	(* *)	−7	−7	115	108	109
Veterans special life insurance fund	61	58	66	1,509	1,506	1,567
Environmental Protection Agency	47	680	528	6,250	6,883	6,930
National Aeronautics and Space Administration	(* *)	(* *)	1	16	16	16
Office of Personnel Management:						
Civil service retirement and disability fund	12,027	9,966	9,801	338,889	336,828	348,854
Employees life insurance fund	−124	589	923	14,929	15,642	15,519
Employees and retired employees health benefits fund	58	295	581	7,573	7,810	7,868
Social Security Administration:						
Federal old-age and survivors insurance trust fund	14,997	32,718	54,164	413,425	431,146	446,143
Federal disability insurance trust fund	2,396	26,652	−2,183	6,100	30,356	32,751
Independent agencies:						
Harry S. Truman memorial scholarship trust fund	(* *)	1	1	53	54	54
Japan-United States Friendship Commission	(* *)	(* *)	(* *)	17	17	17
Railroad Retirement Board	531	1,266	−150	12,203	12,938	13,469
Other	−1	129	101	226	357	356
Total public debt securities	34,361	99,264	83,384	1,151,523	1,216,427	1,250,788
Total trust funds	**34,361**	**99,264**	**83,384**	**1,151,523**	**1,216,427**	**1,250,788**
Grand total	**37,962**	**103,476**	**86,211**	**1,213,104**	**1,278,619**	**1,316,581**

... No Transactions
(* *) Less than $500,000.

Note: Investments are in public debt securities unless otherwise noted.
Note: Details may not add to totals due to rounding.

Table 7. Receipts and Outlays of the U.S. Government by Month, Fiscal Year 1995

[$ millions]

Classification	Oct.	Nov.	Dec.	Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	Fiscal Year To Date	Comparable Period Prior F.Y.
Receipts:														
Individual income taxes	43,659	37,414	53,736	79,162	33,863	26,846	76,441	29,729	61,457				442,307	404,549
Corporation income taxes	3,055	1,497	31,915	3,258	2,060	14,863	23,482	2,193	35,876				118,200	106,207
Social insurance taxes and contributions:														
Employment taxes and contributions	31,263	33,786	35,708	38,990	35,667	38,646	50,423	37,226	40,605				342,315	322,953
Unemployment insurance	1,073	3,249	230	1,069	2,630	320	3,061	10,601	320				22,553	21,379
Other retirement contributions	351	352	420	383	357	413	354	355	416				3,400	3,434
Excise taxes	4,272	5,518	4,587	4,555	3,485	5,143	4,602	4,770	4,897				41,829	39,544
Estate and gift taxes	1,202	1,220	1,092	1,005	916	1,218	1,906	1,339	1,040				10,939	11,671
Customs duties	1,848	1,827	1,747	1,539	1,435	1,470	1,349	1,471	1,583				14,269	14,479
Miscellaneous receipts	2,300	2,811	1,375	1,839	2,131	3,612	3,774	2,719	1,674				22,235	15,185
Total—Receipts this year	**89,024**	**87,673**	**130,810**	**131,801**	**82,544**	**92,532**	**165,392**	**90,405**	**147,868**				**1,018,048**	.....
(On-budget)	**65,384**	**62,083**	**103,860**	**101,036**	**54,405**	**61,970**	**126,170**	**61,027**	**115,998**				**751,934**	.....
(Off-budget)	**23,639**	**25,590**	**26,950**	**30,765**	**28,139**	**30,562**	**39,222**	**29,378**	**31,870**				**266,114**	.....
Total—Receipts prior year	*78,662*	*83,102*	*125,403*	*122,961*	*73,186*	*93,107*	*141,321*	*83,541*	*138,119*				.....	*939,401*
(On budget)	*55,858*	*58,695*	*99,709*	*94,390*	*47,191*	*64,611*	*104,306*	*55,361*	*106,008*				.....	*686,129*
(Off budget)	*22,804*	*24,407*	*25,694*	*28,571*	*25,995*	*28,497*	*37,015*	*28,179*	*32,110*				.....	*253,272*
Outlays														
Legislative Branch	354	217	333	222	174	166	178	191	185				2,019	1,942
The Judiciary	184	169	303	214	188	348	202	200	336				2,144	1,874
Executive Office of the President	18	17	26	21	15	16	18	15	14				159	156
Funds Appropriated to the President:														
International Security Assistance	3,255	310	271	203	101	213	221	227	172				4,974	5,838
International Development Assistance	726	367	443	471	427	327	575	296	233				3,865	3,070
Other	−381	452	18	94	133	−372	−749	498	265				−42	116
Department of Agriculture:														
Commodity Credit Corporation and Foreign Agricultural Service	1,760	2,983	1,869	1,115	745	966	244	−44	−646				8,991	11,442
Other	5,839	3,850	3,637	4,191	3,521	4,547	3,960	4,155	4,139				37,839	36,219
Department of Commerce	305	300	304	308	262	291	227	287	286				2,570	2,179
Department of Defense:														
Military:														
Military personnel	3,713	5,701	8,203	3,280	5,914	8,404	3,138	5,826	8,302				52,481	52,681
Operation and maintenance	6,118	7,837	7,312	6,720	7,566	7,915	6,749	7,169	7,508				64,895	64,726
Procurement	4,254	4,754	4,727	4,984	4,715	4,744	4,399	3,288	4,403				40,270	46,512
Research, development, test, and evaluation	2,501	2,896	3,211	2,752	2,675	3,389	2,417	2,965	2,849				25,657	25,972
Military construction	425	537	436	575	505	719	514	564	531				4,805	3,432
Family housing	247	242	305	277	275	324	267	305	334				2,574	2,399
Revolving and management funds	147	−311	942	−757	−1,373	78	−251	990	892				357	2,638
Other	275	−222	42	−284	21	−212	−405	10	216				−558	43
Total Military	17,680	21,435	25,178	17,548	20,298	25,361	16,828	21,117	25,035				190,481	198,403
Civil	2,638	2,656	2,553	2,592	2,542	2,674	2,592	2,621	2,639				23,508	22,615
Department of Education	1,949	2,322	3,888	2,764	2,593	2,691	1,974	2,406	2,630				23,217	17,460
Department of Energy	1,683	1,330	1,743	1,328	1,255	1,588	1,188	1,353	1,580				13,048	12,965
Department of Health and Human Services:														
Public Health Service	1,603	1,588	1,761	1,824	1,829	1,726	1,646	1,802	1,893				15,672	14,637
Health Care Financing Administration:														
Grants to States for Medicaid	6,622	7,545	7,321	7,215	6,694	8,448	7,239	7,637	8,277				66,999	61,539
Federal hospital ins. trust fund	7,834	8,942	9,757	8,630	8,838	11,171	8,680	10,394	11,440				85,685	76,152
Federal supp. med. ins. trust fund	4,799	5,290	5,837	5,014	4,712	5,987	4,527	5,701	5,985				47,852	43,581
Other	3,055	3,092	3,015	4,950	3,796	4,467	5,405	3,815	4,466				36,061	31,004
Administration for children and families	2,728	2,519	2,812	3,151	2,524	2,781	2,639	2,858	2,443				24,454	24,082
Other	−4,508	−4,490	−4,473	−6,540	−5,462	−6,021	−7,083	−5,415	−5,969				−49,961	−43,372
Department of Housing and Urban Development	2,903	2,426	2,394	2,009	2,227	2,694	2,707	1,843	2,795				21,998	19,516
Department of the Interior	883	582	557	567	553	671	499	574	482				5,367	4,990
Department of Justice	908	818	749	1,094	730	915	920	774	875				7,783	7,435
Department of Labor:														
Unemployment trust fund	1,650	1,854	2,001	2,543	2,330	2,762	2,131	2,062	2,008				19,341	24,485
Other	702	−170	469	653	621	331	768	679	863				4,918	4,480
Department of State	488	841	664	201	488	411	371	335	397				4,196	4,002
Department of Transportation:														
Highway trust fund	1,797	1,765	1,418	1,183	1,351	1,307	1,245	1,810	1,829				13,705	12,954

Table 7. Receipts and Outlays of the U.S. Government by Month, Fiscal Year 1995—Continued

[$ millions]

Classification	Oct.	Nov.	Dec.	Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	Fiscal Year To Date	Comparable Period Prior F.Y.
Outlays—Continued														
Other	1,647	1,734	1,637	1,905	1,463	1,902	1,326	1,383	1,596				14,594	13,647
Department of the Treasury:														
Interest on the public debt	19,732	24,912	57,320	20,069	19,259	20,693	20,883	26,769	59,355				268,992	240,416
Other	34	−308	1,336	145	3,010	4,375	3,732	2,476	496				15,297	11,335
Department of Veterans Affairs:														
Compensation and pensions	105	1,457	2,824	81	1,492	2,894	93	1,518	2,904				13,368	12,854
National service life	64	70	83	71	79	106	94	81	86				736	667
United States government life	1	1	2	1	1	2	1	1	2				13	14
Other	1,528	1,784	1,344	1,827	1,429	1,614	1,640	1,584	1,548				14,298	13,436
Environmental Protection Agency	438	474	538	520	429	678	493	571	542				4,682	4,222
General Services Administration	−651	639	462	−717	431	544	−767	540	387				870	393
National Aeronautics and Space Administration	845	1,143	1,203	926	1,072	1,284	1,028	1,245	1,166				9,910	10,004
Office of Personnel Management	3,410	3,118	3,460	3,324	3,337	3,556	3,548	3,431	3,647				30,831	28,634
Small Business Administration	65	145	64	58	64	77	53	55	59				639	483
Social Security Administration:														
Federal old-age and survivors ins. trust fund (off-budget)	23,413	23,368	23,810	24,392	24,220	24,310	24,495	24,525	28,479				221,012	211,087
Federal disability ins. trust fund (off-budget)	3,289	3,244	3,348	3,417	3,415	3,492	3,460	3,476	3,576				30,717	28,152
Other	287	2,157	4,079	78	2,201	4,255	126	2,219	4,193				19,595	18,152
Independent agencies:														
Fed. Deposit Ins. Corp.:														
Bank insurance fund	−127	−208	−496	−1,193	−1,977	−536	−305	−398	−2,195				−7,437	−6,338
Savings association insurance fund	−2	−13	(* *)	−91	−361	−37	−15	−24	−381				−925	−537
FSLIC resolution fund	−87	430	33	−149	331	−16	−14	416	−270				673	−853
Affordable housing and bank enterprise	(* *)	.....	1	1	.....	1	(* *)	(* *)	(* *)				4	3
Postal Service:														
Public enterprise funds (off-budget)	−467	−326	101	−396	−494	−1,268	−706	−602	186				−3,972	−2,079
Payment to the Postal Service fund	61	.....	.....	23	.....	.....	23	(* *)	.....				107	107
Resolution Trust Corporation	−471	−1,502	−2,001	−1,078	−699	−348	−436	−1,024	−521				−8,080	3,911
Tennessee Valley Authority	265	239	119	142	92	42	24	156	139				1,217	992
Other independent agencies	2,720	1,647	1,710	1,260	1,572	1,452	1,461	1,244	−2,273				10,793	11,247
Undistributed offsetting receipts:														
Employer share, employee retirement	−2,442	−2,416	−2,564	−2,557	−2,491	−2,671	−2,554	−2,590	−2,696				−22,981	−23,241
Interest received by trust funds	−611	−5,727	−38,216	−95	−634	−251	−596	−5,524	−39,948				−91,602	−84,870
Rents and royalties on outer continental shelf lands	−154	−160	−106	−353	−197	−158	43	−366	−431				−1,882	−2,308
Other	(* *)	(* *)	(* *)	.....	.....	.....	−610	.....	(* *)				−610	(* *)
Totals this year:														
Total outlays	**120,365**	**124,915**	**134,941**	**115,171**	**120,527**	**142,458**	**115,673**	**129,355**	**134,296**				**1,137,702**	.....
(On-budget)	**95,307**	**99,464**	**123,643**	**89,889**	**94,050**	**116,507**	**90,628**	**102,581**	**119,478**				**931,546**	.....
(Off-budget)	**25,059**	**25,452**	**11,297**	**25,282**	**26,478**	**25,951**	**25,045**	**26,773**	**14,818**				**206,156**	.....
Total-surplus (+) or deficit (−)	**−31,342**	**−37,242**	**−4,130**	**+16,629**	**−37,983**	**−49,927**	**+49,720**	**−38,950**	**+13,571**				**−119,654**	.....
(On-budget)	**−29,922**	**−37,381**	**−19,783**	**+11,147**	**−39,644**	**−54,537**	**+35,542**	**−41,554**	**−3,480**				**−179,613**	.....
(Off-budget)	**−1,420**	**+138**	**+15,653**	**+5,483**	**+1,661**	**+4,610**	**+14,178**	**+2,604**	**+17,051**				**+59,958**	.....
Total borrowing from the public	**32,457**	**40,528**	**−13,316**	**13,337**	**38,964**	**13,645**	**−27,638**	**44,740**	**8,491**				**151,208**	**147,888**
Total-outlays prior year	*124,085*	*121,483*	*133,108*	*107,713*	*114,752*	*125,422*	*123,867*	*115,597*	*123,269*				.....	*1,089,296*
(On-budget)	*100,562*	*96,719*	*121,425*	*83,521*	*88,835*	*100,259*	*100,620*	*89,726*	*108,161*				.....	*889,828*
(Off-budget)	*23,523*	*24,764*	*11,683*	*24,192*	*25,917*	*25,164*	*23,247*	*25,871*	*15,108*				.....	*199,468*
Total-surplus (+) or deficit (−) prior year	*−45,422*	*−38,381*	*−7,705*	*+15,248*	*−41,566*	*−32,315*	*+17,454*	*−32,057*	*+14,850*				.....	*−149,895*
(On-budget)	*−44,704*	*−38,024*	*−21,717*	*+10,869*	*−41,644*	*−35,648*	*+3,686*	*−34,365*	*−2,152*				.....	*−203,699*
(Off-budget)	*−719*	*−357*	*+14,012*	*+4,379*	*+77*	*+3,333*	*+13,768*	*+2,308*	*+17,002*				.....	*+53,804*

... No transactions.
(* *) Less than $500,000.
Note: Details may not add to totals due to rounding.

Table 8. Trust Fund Impact on Budget Results and Investment Holdings as of June 30, 1995

[$ millions]

Classification	This Month			Fiscal Year to Date			Securities held as investments Current Fiscal Year		
							Beginning of		Close of This Month
	Receipts	Outlays	Excess	Receipts	Outlays	Excess	This Year	This Month	
Trust receipts, outlays, and investments held:									
Airport	925	559	366	4,832	5,352	−520	12,206	11,354	11,692
Black lung disability	50	49	1	465	432	34	.....	.....	.....
Federal disability insurance	5,877	3,576	2,300	56,930	30,717	26,213	6,100	30,356	32,751
Federal employees life and health	.....	65	−65	.....	−882	882	22,503	23,452	23,387
Federal employees retirement	15,612	3,293	12,319	39,681	29,043	10,638	346,317	344,570	356,879
Federal hospital insurance	14,999	11,440	3,559	90,607	85,685	4,922	128,716	131,222	135,559
Federal old-age and survivors insurance	43,416	28,479	14,937	250,786	221,012	29,774	413,425	431,146	446,143
Federal supplementary medical insurance	6,377	5,985	393	48,096	47,852	244	21,489	20,448	20,900
Highways	2,280	2,030	250	17,599	16,255	1,345	17,694	19,157	19,378
Military advances	1,150	1,168	−18	9,255	9,888	−633	.....	.....	.....
Railroad retirement	3,917	659	3,257	7,539	5,929	1,610	12,203	12,938	13,469
Military retirement	967	2,368	−1,401	31,383	20,703	10,680	105,367	117,882	116,575
Unemployment	1,628	2,008	−380	26,307	19,341	6,966	39,788	47,119	46,706
Veterans life insurance	558	46	512	1,285	893	393	13,477	13,362	13,852
All other trust	428	416	12	4,353	3,097	1,255	12,240	13,420	13,497
Total trust fund receipts and outlays and investments held from Table 6-D	**98,183**	**62,141**	**36,043**	**589,120**	**495,317**	**93,802**	**1,151,523**	**1,216,427**	**1,250,788**
Less: Interfund transactions	51,085	51,085	.....	171,934	171,934	.....			
Trust fund receipts and outlays on the basis of Tables 4 & 5	47,099	11,056	36,043	417,185	323,383	93,802			
Total Federal fund receipts and outlays	**104,028**	**126,499**	**−22,471**	**626,609**	**840,066**	**−213,457**			
Less: Interfund transactions	248	248	.....	483	483	.....			
Federal fund receipts and outlays on the basis of Table 4 & 5	103,780	126,251	−22,471	626,126	839,583	−213,457			
Less: offsetting proprietary receipts	3,011	3,011	.....	25,264	25,264	.....			
Net budget receipts & outlays	**147,868**	**134,296**	**13,571**	**1,018,048**	**1,137,702**	**−119,654**			

... No transactions.

Note: Interfund receipts and outlays are transactions between Federal funds and trust funds such as Federal payments and contributions, and interest and profits on investments in Federal securities. They have no net effect on overall budget receipts and outlays since the receipts side of such transactions is offset against bugdet outlays. In this table, Interfund receipts are shown as an adjustment to arrive at total receipts and outlays of trust funds respectively.

Note: Details may not add to totals due to rounding.

Table 9. Summary of Receipts by Source, and Outlays by Function of the U.S. Government, June 1995 and Other Periods

[$ millions]

Classification	This Month	Fiscal Year To Date	Comparable Period Prior Fiscal Year
RECEIPTS			
Individual income taxes	61,457	442,307	404,549
Corporation income taxes	35,876	118,200	106,207
Social insurance taxes and contributions:			
Employment taxes and contributions	40,605	342,315	322,953
Unemployment insurance	320	22,553	21,379
Other retirement contributions	416	3,400	3,434
Excise taxes	4,897	41,829	39,544
Estate and gift taxes	1,040	10,939	11,671
Customs	1,583	14,269	14,479
Miscellaneous	1,674	22,235	15,185
Total	**147,868**	**1,018,048**	**939,401**
NET OUTLAYS			
National defense	26,148	200,174	207,936
International affairs	818	12,575	13,044
General science, space, and technology	1,521	12,929	12,940
Energy	601	3,618	3,556
Natural resources and environment	1,698	17,486	16,367
Agriculture	−328	10,809	14,204
Commerce and housing credit	−3,041	−17,905	−4,820
Transportation	3,432	28,153	26,260
Community and Regional Development	1,035	7,858	7,171
Education, training, employment and social services	4,480	39,251	32,370
Health	10,543	86,161	80,090
Medicare	15,663	118,568	106,576
Income security	16,426	168,394	162,987
Social Security	32,058	251,723	239,234
Veterans benefits and services	4,552	28,560	27,171
Administration of justice	1,419	11,857	11,277
General government	1,781	10,586	8,747
Interest	18,617	172,381	149,735
Undistributed offsetting receipts	−3,127	−25,473	−25,548
Total	**134,296**	**1,137,702**	**1,089,296**

Note: Details may not add to totals due to rounding.

Explanatory Notes

1. Flow of Data Into Monthly Treasury Statement

The Monthly Treasury Statement (MTS) is assembled from data in the central accounting system. The major sources of data include monthly accounting reports by Federal entities and disbursing officers, and daily reports from the Federal Reserve banks. These reports detail accounting transactions affecting receipts and outlays of the Federal Government and off-budget Federal entities, and their related effect on the assets and liabilities of the U.S. Government. Information is presented in the *MTS* on a modified cash basis.

2. Notes on Receipts

Receipts included in the report are classified into the following major categories: (1) budget receipts and (2) offsetting collections (also called applicable receipts). Budget receipts are collections from the public that result from the exercise of the Government's sovereign or governmental powers, excluding receipts offset against outlays. These collections, also called governmental receipts, consist mainly of tax receipts (including social insurance taxes), receipts from court fines, certain licenses, and deposits of earnings by the Federal Reserve System. Refunds of receipts are treated as deductions from gross receipts.

Offsetting collections are from other Government accounts or the public that are of a business-type or market-oriented nature. They are classified into two major categories: (1) offsetting collections credited to appropriations or fund accounts, and (2) offsetting receipts (i.e., amounts deposited in receipt accounts). Collections credited to appropriation or fund accounts normally can be used without appropriation action by Congress. These occur in two instances: (1) when authorized by law, amounts collected for materials or services are treated as reimbursements to appropriations and (2) in the three types of revolving funds (public enterprise, intragovernmental, and trust); collections are netted against spending, and outlays are reported as the net amount.

Offsetting receipts in receipt accounts cannot be used without being appropriated. They are subdivided into two categories: (1) proprietary receipts—these collections are from the public and they are offset against outlays by agency and by function, and (2) intragovernmental funds—these are payments into receipt accounts from Governmental appropriation or funds accounts. They finance operations within and between Government agencies and are credited with collections from other Government accounts. The transactions may be intrabudgetary when the payment and receipt both occur within the budget or from receipts from off-budget Federal entities in those cases where payment is made by a Federal entity whose budget authority and outlays are excluded from the budget totals.

Intrabudgetary transactions are subdivided into three categories: (1) interfund transactions, where the payments are from one fund group (either Federal funds or trust funds) to a receipt account in the other fund group; (2) Federal intrafund transactions, where the payments and receipts both occur within the Federal fund group; and (3) trust intrafund transactions, where the payments and receipts both occur within the trust fund group.

Offsetting receipts are generally deducted from budget authority and outlays by function, by subfunction, or by agency. There are four types of receipts, however, that are deducted from budget totals as undistributed offsetting receipts. They are: (1) agencies' payments (including payments by off-budget Federal entities) as employers into employees retirement funds, (2) interest received by trust funds, (3) rents and royalties on the Outer Continental Shelf lands, and (4) other interest (i.e., interest collected on Outer Continental Shelf money in deposit funds when such money is transferred into the budget).

3. Notes on Outlays

Outlays are generally accounted for on the basis of checks issued, electronic funds transferred, or cash payments made. Certain outlays do not require issuance of cash or checks. An example is charges made against appropriations for that part of employees' salaries withheld for taxes or savings bond allotments — these are counted as payments to the employee and credits for whatever purpose the money was withheld. Outlays are stated net of offsetting collections (including receipts of revolving and management funds) and of refunds. Interest on the public debt (public issues) is recognized on the accrual basis. Federal credit programs subject to the Federal Credit Reform Act of 1990 use the cash basis of accounting and are divided into two components. The portion of the credit activities that involve a cost to the Government (mainly subsidies) is included within the budget program accounts. The remaining portion of the credit activities are in non-budget financing accounts. Outlays of off-budget Federal entities are excluded by law from budget totals. However, they are shown separately and combined with the on-budget outlays to display total Federal outlays.

4. Processing

The data on payments and collections are reported by account symbol into the central accounting system. In turn, the data are extracted from this system for use in the preparation of the *MTS*.

There are two major checks which are conducted to assure the consistency of the data reported:

1. Verification of payment data. The monthly payment activity reported by Federal entities on their Statements of Transactions is compared to the payment activity of Federal entities as reported by disbursing officers.
2. Verification of collection data. Reported collections appearing on Statements of Transactions are compared to deposits as reported by Federal Reserve banks.

5. Other Sources of Information About Federal Government Financial Activities

- *A Glossary of Terms Used in the Federal Budget Process, January 1993* (Available from the U.S. General Accounting Office, P.O. Box 6015, Gaithersburg, Md. 20877). This glossary provides a basic reference document of standardized definitions of terms used by the Federal Government in the budgetmaking process.

- *Daily Treasury Statement* (Available from GPO, Washington, D.C. 20402, on a subscription basis only). *The Daily Treasury Statement* is published each working day of the Federal Government and provides data on the cash and debt operations of the Treasury.

- *Monthly Statement of the Public Debt of the United States* (Available from GPO, Washington, D.C. 20402 on a subscription basis only). This publication provides detailed information concerning the public debt.

- *Treasury Bulletin* (Available from GPO, Washington, D.C. 20402, by subscription or single copy). Quarterly. Contains a mix of narrative, tables, and charts on Treasury issues, Federal financial operations, international statistics, and special reports.

- *Budget of the United States Government, Fiscal Year 19 __* (Available from GPO, Washington, D.C. 20402). This publication is a single volume which provides budget information and contains:

  -Appendix, The Budget of the United States Government, FY 19 __
  -The United States Budget in Brief, FY 19 __
  -Special Analyses
  -Historical Tables
  -Management of the United States Government
  -Major Policy Initiatives

- *United States Government Annual Report and Appendix* (Available from Financial Management Service, U.S. Department of the Treasury, Washington, D.C. 20227). This annual report represents budgetary results at the summary level. The appendix presents the individual receipt and appropriation accounts at the detail level.

Scheduled Release

The release date for the July 1995 Statement will be 2:00 pm EST August 21, 1995.

For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (202) 512-1800. The subscription price is $35.00 per year (domestic), $43.75 per year (foreign).
No single copies are sold.

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FOR IMMEDIATE RELEASE
July 24, 1995

STATEMENT BY TREASURY SECRETARY ROBERT E. RUBIN

"I met today with Deputy Prime Minister and Finance Minister of Poland Grzegroz Kolodko to discuss Poland's continued strong economic performance. Since the conclusion of its Paris and London Club debt reduction agreements, Poland has rapidly rebuilt its credit reputation. The government's recent successful $250 million Eurobond issue marks another milestone in the restoration of the international financial community's confidence in Poland.

The United States Government has actively supported Poland since it implemented its bold steps toward a market economy in 1990. We helped mobilize the support of the international financial institutions and contributed to the Polish Stabilization Fund and the Polish Bank Privatization Fund.

We urge the Polish Government to finish the job of macroeconomic stabilization and set privatization on a fast track as it strives for OECD and European Union membership."

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DEPARTMENT OF THE TREASURY

TREASURY NEWS

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FOR IMMEDIATE RELEASE
July 24, 1995

STATEMENT BY TREASURY SECRETARY ROBERT E. RUBIN

"I met this morning with Sir Leon Brittan. He updated me on the efforts to encourage other countries in the World Trade Organization to maintain their offers on financial services. I welcomed these efforts, but reiterated that the United States' position on financial services is unchanged. Our commitment will remain those that we submitted on June 30. We do look forward to continued participation in the multilateral process in Geneva."

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DEPARTMENT OF THE TREASURY

TREASURY NEWS

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Korea's Global Reach
Remarks by Assistant Secretary of the Treasury
Jeffrey Shafer
U.S.-Korea Business Council
July 24, 1995

Introduction

I am delighted to be here to speak with you this afternoon, on the eve of President Kim's visit to the United States. Our countries have come a long way together over the past few years, and I feel confident in saying that our bilateral relationship is as strong as ever. Economic and commercial relations are a pillar of that relationship. While we in government play a role, you as corporate leaders are the primary agents in building bilateral economic ties. It is a special privilege to share with you my thoughts about where Korea's economy is headed.

Two years ago Under Secretary Summers addressed your group, and outlined a few of the issues he believed would be important as Korea continues its leap toward top-tier economic status. I think it is appropriate today to pause and take stock of some of the transformations that have occurred over the last few years, and discuss some of the challenges Korea still faces as that transformation continues. In particular, I want to highlight what I -- and what I know many Koreans believe is essential for the nation's and its private sector's continued success: *segyehwa*, or as it is translated into English, globalization.

Economic Success

The speed with which South Korea has climbed from developing status to near the top tier of economic might is, to put it mildly, breathtaking. Only three decades ago Korea's per capita income amounted to a bare $100. Today it is $8,500, and rising steadily. For over 30 years, Korea's real economic growth has averaged above 8 percent. Korean exports have climbed from only $43 million in 1962 to $96.4 billion last year, a full $20 billion more than three years ago. Perhaps most remarkable, a nation that only 45 years was emerging from a century of foreign domination has become the eleventh largest economy in the world, with one of the most impressive industrial bases in Asia. In fact, preliminary data indicate that Korea's GNP is now larger than Russia's.

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Despite these successes, I think it is fair to say that when Under Secretary Summers first addressed this audience two years ago, both our nations were experiencing a moment of some uncertainty. Both were pulling out of recession, with prospects for economic growth still uncertain. New leaders committed to change and reform had taken the helm in both Korea and the United States.

The past two years have brought much good. Korea, like the United States, has enjoyed a strong economic recovery, with real GDP growth at 8.4 percent in 1994 and 9.9 percent over the first quarter of this year. President Clinton made his first bilateral visit outside the G-7 countries to Korea, and our two countries have anchored their regional cooperation through joint participation in APEC, where Korea assumes a very high profile.

On the security front Korea has successfully navigated a difficult period with North Korea, suffering no economic loss of confidence or significant depreciation of the won. The United States and Korea have not wavered in their joint security commitments, as we continue to meet the challenges posed by Korea's neighbor.

Korea faces domestic political challenges as well. The defeat of the ruling party in local elections means that power must now be shared between local and central authorities, for the first time in 35 years. Perhaps that situation is not so dissimilar from what now exists in the United States. It is difficult. But it is part of public life in a vigorous democracy.

Globalization and Integration

In short, Korea appears to have weathered recent challenges successfully, while laying a very strong foundation for continued political and economic success. But despite these past achievements -- or perhaps because of them -- a basic challenge remains. The time has come for Korea to choose how it can best make the leap forward into the ranks of the major economic players. It is time for Korea to choose how it can attain its proper economic role both in Asia, and worldwide.

Events over the past two years suggest that Koreans have in fact decided how such a leap can be achieved. The answer suggested by the actions both of Korea's government and its private sector, is globalization -- *segyehwa*. The time is ripe for Korean industry and finance to become fully integrated in a world economy that is ever more driven by free flows of trade and capital. And the time is ripe for Korea to open itself fully to the world.

Korea's government has over the past several years taken a number of steps to signal its recognition that the way forward lies through global integration.

- Average tariff levels have dropped considerably over the past decade, from 21.9 percent in 1984 to 7.9 percent last year. Imports have risen in parallel.

- Half the sectors on Korea's "import diversification" list are due to be liberalized over the next five years, with cars among them. Telecommunications and construction should be largely open to foreigners by 1998.

- Perhaps most indicative of Korea's aspirations, the government submitted an application to join the OECD in March of this year. That application is now being considered, and we look forward to the membership process as providing a very fruitful arena for continued progress in Korean liberalization and integration.

Private Sector Invigoration

The actions taken by Korea's government would offer little hope of success were they not matched by Korean businesses' determination to expand their global reach. That is why I think it is so encouraging that scarcely a week goes by without reports that Korean industries have set their sites on new global goals:

- Hyundai looks set for a record year of exports and is undertaking important overseas acquisitions.

- Daewoo has announced a world management strategy to establish 600 companies overseas, and has already embarked on a host of overseas projects, from a $1.5 billion auto-parts plant in China's Shandong province to automotive facilities in Uzbekistan and Romania.

- Samsung's chairman has announced that he would like overseas sales to rise to 30 percent from their present 20 percent by the year 2000. Samsung too is embarking on important overseas ventures.

- Korean firms have even ventured into the most exciting realms of the U.S. entertainment industry. Cheil Foods and Chemicals has announced it will take an 11 percent stake in DreamWorks, the new Hollywood studio, in the hope of becoming the first major multimedia entertainment group in Asia.

- All told, it is estimated that Korea's *Chaebol* (conglomerates) -- which today have less than 5 percent of their assets outside Korea -- will spend more than $20 billion by the year 2000 to set up overseas production bases and acquire interests in foreign firms. That is a major restructuring by Korea's most important industrial giants, and an important indicator of the nation's new global orientation.

The Importance of Liberalization

The private sector's global determination shows a recognition that the route toward first-tier economic status lies outward, not inward. Korea can and should enjoy the same success over this last lap of development that it has enjoyed over the past 45 years. And yet, I believe Korea faces an important danger -- the danger of believing that this final burst of industrialization can be engineered using yesterday's tools. It would be a serious mistake for Korea to seek to manipulate the same policy levers, and follow the same policy prescriptions that the nation depended upon to accomplish its initial burst of development.

Korean industries over the past four decades have relied to some degree on protected domestic markets as a secure source of profits. Industries were offered easy access to directed credit by a government intent on concentrating industrialization in sectors deemed appropriate. Cheap labor allowed firms to grow rapidly, without worrying about other factors for competitiveness.

Economists debate the extent to which the success Korea has enjoyed over the past forty years resulted directly from such forms of economic regimentation and control, or whether other factors were at work. Whatever the answer for the past, I am convinced that such policy stances are no longer appropriate. They can only act as a drag on a private sector that is poised for growth, and ready to attain top-tier status if the last economic shackles are removed.

Change is never easy. Weaknesses bred by the very policy levers relied upon in the past now threaten to hamper the Korean march forward. Cheap credit for larger firms allowed them to expand -- perhaps too easily -- to the detriment of smaller firms. That has left Korea with an unhealthy concentration of industrial power -- some 20 percent of the country's manufacturing output in the hands of 10 firms -- far more than in the rest of Asia. The dearth of small firms means that Korea's major manufacturing conglomerates cannot turn to a rich domestic subcontracting network, as can Japan's, but must import many of their inputs.

More broadly, there are indications that Korea is falling behind its Asian neighbors in terms of overall competitiveness. The Swiss International Management Development Institute, for example, rated Korea as only the 24th most competitive out of 41 countries -- as compared to Singapore, which came in 2nd, Hong Kong, which was 4th, and Taiwan, Malaysia and Thailand, all of which were deemed more competitive. I would not make too much of these economic beauty contests. But they are at least a signal to take stock of whether Korea has got all the elements in place that it will need to continue its advance.

The challenges are apparent. If Korea's firms are to reach outward, then Korea must have the foresight to allow far greater competition at home, and thereby strengthen the domestic base. Liberalization, across all sectors, will foster the kind of competition that will invigorate Korea's private sector. That is the only way to ensure a solid foundation from which the private sector can venture abroad. Without such a foundation, globalization will be seriously weakened from the start.

Financial Sector Liberalization

In my remaining time, I would like to focus on the sector which most concerns the Treasury Department, and whose liberalization is absolutely crucial for Korea's continued success: financial services. Decontrol of the financial sector is essential, if Korea's businesses are to gain access to the capital needed to fund their expansion abroad, while benefitting from the investment and financing techniques which only a deep financial sector can provide. This sector is a key part of the infrastructure that supports the entire economy.

The problems posed by Korea's still stilted financial sector are apparent. After years of pursuing state-mandated "policy loans," Korea's banks are among the least efficient in the world, with a return on equity that has averaged half or even one-third that of other fast growing Asian states. Domestic firms face a high cost of capital, raising costs and harming their ability to expand and compete globally. Restrictions on access to offshore financing compound the problem, and build further inefficiencies into the economy. The overall weakness of Korea's financial sector will continue, unless it is exposed to more foreign competition, and entry by the best global firms.

The Korean government has taken some important steps over the past two years on the road to financial liberalization. Progress has been made on decontrolling domestic interest rates, and cutting reliance on "window guidance." The ceiling on foreign ownership of South Korean securities has been lifted from 10 percent of firm equity in 1992 to a scheduled 15 percent this month. Two South Korean firms were listed on the New York stock exchange this year. Limits on off shore bond issuance by South Korean firms are being raised, and are scheduled to be eliminated by the year 2000

These are, as I have said, important first steps. But they are not nearly as far as I believe Korea should go if its private sector is to benefit from far easier access to capital, and a first-class financial system able to support an industrial giant.

We continue to engage Korea in bilateral financial policy talks, as we did in the context of the GATS financial services discussions. The OECD process will provide another useful forum for making further progress. In that context, I want to focus on some steps that Korea should be considering in the context of removing the shackles from the financial system.

In my view, a key concern for Korea's economic authorities should be the development of long-term capital markets. On the equities side, one step that we have discussed at length with the Ministry of Finance and Economy is foreign participation in the stock market. The current 3% individual and 15% aggregate caps on foreign ownership of listed shares should be abolished sooner rather than later.

Broadening and deepening the Korean stock exchange through expanded foreign competition will bring a number of beneficial effects. Removing the equity caps will send a signal to foreign investors that Korea is opening its doors for the long-term. Rather than the "hot money" which the Bank of Korea and Ministry of Finance and Economy fear, I think you will see an influx of capital from investors who are interested in Korea's long-term growth prospects. Expanded access for foreign investors will also aid in meeting Korea's heavy capital demand in the coming decade -- particularly in areas such as infrastructure finance.

In the bond market as well, Korea should move to lift current restrictions. We welcomed measures to open convertible bonds issued by small and medium-size enterprises last year. However, the most important part of the market -- bonds issued by blue chip Korean firms -- is still closed to foreign investment. Bonds, along with stocks, have become

an increasingly important source of financing for Korean firms. In 1993, for example, corporations raised $23.5 billion through stocks and bonds, compared with $1.1 billion in 1980. Opening the bond market will help to continue the trend away from an unhealthy over-reliance on indirect financing from banks.

Unfortunately, Korea's latest 5-year financial sector plan gave no indication that bonds issued by large Korean firms will be opened to foreign investors in the near future. There is an explanation for this. Part and parcel of further opening will be further decontrol of interest rates. Officials from MFE have informed us that the interest rate differential is now too great to allow foreign investors access to the most sought-after Korean bonds -- for fear that the more attractive rates in Korea would bring an unwanted influx of foreign capital. We hope to see progress on this underlying problem soon. Interest rates on the bulk of deposits are scheduled for liberalization in 1996-97. Korea has made good progress so far, and has even accelerated decontrol of some interest rates. We look to Korea to continue this.

Steps like these will not be easy. They may pose near-term difficulties for weak banks. There can be no guarantee against stockmarket volatility and perhaps currency pressure. On the other hand, over the long-run, liberalization is the only way to ensure that Korea's global industrial expansion rests on a solid foundation. These steps are critical, if Korea is to have a financial sector worthy of a nation aspiring to global industrial might.

The Uruguay Round

As you know, our bilateral talks on financial services with Korea have been matched by efforts to achieve a multilateral agreement on financial services through the GATS. We tried hard for a good agreement, but the offers many other countries put on the table did not constitute a sufficient basis for our accepting a full MFN obligation.

Let me emphasize that the commitment that the United States did ultimately make in the GATS will guarantee foreign firms already established on our soil the right to maintain all current operations. On the other hand, our MFN exemption will permit us to differentiate among countries going forward, depending on how much access they are willing to accord to us. Let me emphasize that while we may choose to differentiate among countries, we are not required to do so. We have long had the most open financial markets in the world, and will continue to seek to keep them open to those who open further to our own firms.

Conclusion

In conclusion, let me say that the need for further steps by Korea must not obscure just how far Korea and the United States have come. If Korea's growing economic power has risen global expectations of Korea, that is a good thing, not a negative. It shows how much economic potential Korea now enjoys, and just how close Korea is to completing its final leap into the top ranks of global economic powers. I am convinced that through cooperation and dialogue on trade, progress on Korea's OECD membership, and continued mutual cooperation on security, the U.S.-Korea relationship will prosper, even as Korea succeeds in its last economic leap forward.

DEPARTMENT OF THE TREASURY

TREASURY NEWS

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Statement of
RONALD K. NOBLE
Under Secretary of the Treasury for Enforcement
Before The
Subcommittee on Crime
Committee of the Judiciary
and the
Subcommittee on National Security, International Affairs,
and Criminal Justice,
Committee on Government Reform
House of Representatives

Monday, July 24, 1995

RR-466

MR. CHAIRMAN, I HAVE A LONGER STATEMENT THAT I WOULD LIKE TO SUBMIT FOR THE RECORD.

I SPEAK TODAY IN BEHALF OF THE BRAVE MEN AND WOMEN OF ATF.

AFTER THE FAILED RAID, THE DEATHS OF 4 ATF AGENTS, AND THE TRAGIC FIRE AT WACO, PRESIDENT CLINTON DIRECTED THAT TREASURY AND JUSTICE CONDUCT VIGOROUS AND THOROUGH EXAMINATIONS OF WHAT HAD LED TO THE LOSS OF LAW ENFORCEMENT AND CIVILIAN LIVES.

SECRETARY BENTSEN DESIGNATED ME TO LEAD THE TREASURY DEPARTMENT'S REVIEW. HE DEMANDED THAT THE INVESTIGATION BE HONEST, UNCOMPROMISING, AND COMPREHENSIVE.

SECRETARY BENTSEN APPOINTED THREE INDEPENDENT REVIEWERS TO PROVIDE AN ASSESSMENT OF THE TREASURY DEPARTMENT'S INVESTIGATION AND REPORT ON ATF'S INVESTIGATION OF DAVID KORESH AND RAID OF HIS COMPOUND ON FEBRUARY 28, 1993.

(MORE)

PART I: ASSESSMENT OF TREASURY'S REPORT

HERE'S WHAT THE INDEPENDENT REVIEWERS SAID ABOUT THE TREASURY DEPARTMENT'S INVESTIGATION AND REPORT IN LETTERS SUBMITTED TO SECRETARY BENTSEN IN 1993.

PULITZER PRIZE WINNING JOURNALIST EDWIN O. GUTHMAN STATED, "IN APPOINTING THE PANEL OF INDEPENDENT REVIEWERS YOU SAID YOU EXPECTED A "THOROUGH, COMPREHENSIVE AND UNCOMPROMISING" CRITIQUE AND THAT, SIR, IS WHAT HAS BEEN GIVEN TO YOU." . . . "IT WAS A PRIVILEGE TO PARTICIPATE IN THE REVIEW AND IN SO DOING, I MUST SAY I GAINED A ENORMOUS RESPECT FOR THE PROFESSIONALISM AND DEDICATION WITH WHICH THE INVESTIGATIVE TEAM LEADERS AND THEIR AGENTS CONDUCTED THEMSELVES AT ALL TIMES."

HENRY RUTH, A FORMER CHIEF WATERGATE PROSECUTOR, STATED: "THE REPORT INSIGHTFULLY FULFILLS THE PURPOSE OF THIS SELF-EVALUATION. THE IMPARTIALITY, INTEGRITY, THOROUGHNESS AND KNOWLEDGE OF THE INTERNAL REVIEW TEAM MEMBERS HAVE BEEN EVIDENT THROUGHOUT THE FIVE MONTH, INTENSIVE INVESTIGATIVE PROCESS. . . . MR. RUTH CONCLUDES "IT IS MY HEARTFELT HOPE THAT YOU, [SECRETARY BENTSEN] AS A NATIONAL LEADER, CAN LEAD THE CHANGE OF ORIENTATION, THOUGHT AND ACTION SO THAT NO MORE MEN, WOMEN AND CHILDREN NEED DIE IN THESE MOST DIFFICULT OF CIRCUMSTANCES."

CHIEF WILLIE WILLIAMS OF THE LOS ANGELES CITY POLICE DEPARTMENT STATED: "I HAVE FOUND THAT THE INVESTIGATIVE TEAM WHICH YOU ASSEMBLED IS OF THE HIGHEST QUALITY AND INTEGRITY. THESE MEN AND WOMEN HAVE WORKED TIRELESSLY TO UNCOVER THE FACTS SURROUNDING THE EVENTS WHICH LED UP TO AND INCLUDED THE RAID ON DAVID KORESH'S RESIDENCE NEAR WACO, TEXAS ON THE 28TH OF FEBRUARY 1993."

THE VIEW OF THE REVIEWERS HAS BEEN HEARD AND ECHOED BY THE INDEPENDENT INSPECTOR GENERAL'S OFFICE, MEMBERS OF CONGRESS FROM TREASURY'S OVERSIGHT COMMITTEES AND MAJOR NEWS PUBLICATIONS THROUGHOUT THIS COUNTRY. I WOULD ASK THE COMMITTEE TO INCLUDE IN THE RECORD THE LETTERS FROM THE THREE REVIEWERS TO SECRETARY BENTSEN.

TREASURY'S OFFICE OF THE INSPECTOR GENERAL DETERMINED THAT THE REPORT "PROVIDES AN ACCURATE ACCOUNT OF THE EVENTS."

THEN ARIZONA SENATOR DENNIS DECONCINI FOUND IT "THOROUGH, IMPARTIAL, AND SELF-EFFACING." REPRESENTATIVE JIM LIGHTFOOT OF IOWA DESCRIBED THE REPORT AS "THOROUGH IN ITS FINDINGS."

THE WALL STREET JOURNAL CHARACTERIZED IT AS "EXTENSIVELY DETAILED." THE WASHINGTON POST SAID IT WAS A "THOROUGH AND CANDID ACCOUNT." THE LOS ANGELES TIMES WROTE, "[D]ESPITE ALL THAT WENT WRONG WITH THE RAID BY THE [ATF] ON THE BRANCH DAVIDIAN COMPOUND LAST FEBRUARY, THE THOROUGH AND COMPLETE REPORT RELEASED . . . BY THE TREASURY DEPARTMENT SHOWS THAT MUCH IN ITS AFTERMATH IS GOING RIGHT." THE NEW YORK TIMES CALLED IT "BRUTALLY DETAILED." AND JUST LAST WEEK, TIME MAGAZINE STATED:

> PERHAPS THE HARSHEST CRITIC OF THE ATF'S WACO RAID WAS THE BUREAU'S OWN MASTER, THE TREASURY DEPARTMENT. IN THE RAID'S AFTERMATH, THE DEPARTMENT LAUNCHED AN INVESTIGATION BY VETERAN AGENTS FROM ITS OTHER LAW ENFORCEMENT AGENCIES, BACKED UP BY INDEPENDENT OUTSIDE REVIEWERS, INCLUDING WILLIE WILLIAMS, THE LOS ANGELES CHIEF OF POLICE. THE RESULT WAS A 500-PAGE INDICTMENT THAT PULLED NO PUNCHES, YET WHOSE DETAILS, SURPRISINGLY, WENT LARGELY UNREPORTED.

YET, AT THESE HEARINGS, THE VERY PEOPLE WHO ARE MOST CRITICIZED IN THE REPORT HAVE BALDLY ASSERTED THAT THE REPORT IS ONLY 70% ACCURATE. CERTAIN MEMBERS OF THIS COMMITTEE HAVE ACCEPTED THAT FIGURE AS GOSPEL WITHOUT ANY CONSIDERATION OF THE SOURCE OR EVIDENCE TO SUPPORT THAT NUMBER. INDEED, NONE OF THOSE CRITICIZED ARTICULATED WHAT, IF ANY, FACTS IN THE REPORT WERE INACCURATE, NOR WHAT ANALYSIS IS FLAWED. AS SECRETARY BENTSEN OBSERVED, IT IS NOT SURPRISING THAT MR. SARABYN, MR. CHOJNACKI, AND MR. HARTNETT DISAGREE WITH SOME OF THE CONCLUSIONS OF THE REPORT, BECAUSE THEY ARE AMONG THOSE WHO WERE CRITICIZED AND WERE DETRIMENTALLY AFFECTED AS A RESULT OF THE REVIEW'S FINDINGS. AT TODAY'S HEARING I HAVE WITH ME ALMOST ALL OF THOSE WHO WORKED ON THE REPORT; THEY ARE THE FINEST GROUP OF AGENTS AND COLLEAGUES WITH WHOM I EVER HAVE BEEN ASSOCIATED. THEIR DEDICATION, COMPETENCE AND INTEGRITY COMBINED TO GENERATE WHAT MANY CONSIDER THE FINEST EXAMINATION OF A LAW ENFORCEMENT ACTION EVER PRODUCED. WE STAND BY THE REPORT'S FACTS, ANALYSIS AND CONCLUSIONS, AS DO OUR INDEPENDENT, OUTSIDE REVIEWERS. IF THE REPORT IS ONLY 70% ACCURATE AS THOSE CRITICIZED HAVE ASSERTED, SHOW US THE 30%

INACCURACIES. IN REALITY, IT IS ACCURATE AND THERE HAS BEEN NO COVER-UP.

FOR THE RECORD, NONE OF THE MEMBERS OF THE TEAM THAT GENERATED THE TREASURY DEPARTMENT'S REPORT ON WACO WERE INTERVIEWED PRIOR TO THIS HEARING TO DETERMINE WHAT THEY THOUGHT ABOUT THE REPORT. SO LET ME NOW ASK THE AGENTS, LAWYERS AND INDIVIDUALS WHO GATHERED THE FACTS AND PERFORMED THE ANALYSIS FOR THE DEPARTMENT OF THE TREASURY'S REPORT ON ATF'S INVESTIGATION OF DAVID KORESH TO STAND.

THANK YOU.

THE AMERICAN PUBLIC HAS A RIGHT TO KNOW THAT ONE OF ITS MAJOR DEPARTMENTS, THE TREASURY DEPARTMENT, ALREADY HAS EXAMINED ISSUES CONFRONTED BY THIS HEARING AND THAT TREASURY'S EXAMINATION WAS COMPREHENSIVE, CANDID AND ACCURATE. BY RECOGNIZING THIS FACT, THESE HEARINGS CAN HELP TO RESTORE CONFIDENCE IN THIS COUNTRY'S PUBLIC SERVANTS. TO IGNORE OR DENY THE QUALITY OF THE TREASURY DEPARTMENT'S SELF EXAMINATION COULD FEED THE PARANOIA AND SUSPICION OF A SMALL SEGMENT OF THE AMERICAN PUBLIC.

PART II: MAJOR FINDINGS IN TREASURY'S REPORT

WHAT DID THE TREASURY DEPARTMENT REPORT FIND BACK IN SEPTEMBER, 1993?

THE TREASURY REPORT CONCLUDED THAT ATF AT THE REQUEST OF THE LOCAL SHERIFF PROPERLY INITIATED AN INVESTIGATION INTO DAVID KORESH AND HIS FOLLOWERS BASED ON INFORMATION PROVIDED BY THE SHERIFF. THIS INVESTIGATION WAS PREDICATED ON EVIDENCE THAT FEDERAL CRIMINAL FIREARMS AND EXPLOSIVES LAWS WERE BEING VIOLATED. IT WAS NOT BASED ON KORESH'S RELIGIOUS BELIEFS.

THE TREASURY REPORT CONCLUDED THAT THERE WAS PROBABLE CAUSE TO BELIEVE THAT PEOPLE INSIDE THE BRANCH DAVIDIAN COMPOUND WERE MANUFACTURING ILLEGAL MACHINE GUNS AND EXPLOSIVE DEVICES, AND CONCLUDED -- AS DID THE MAGISTRATE-JUDGE WHO REVIEWED AND APPROVED THE WARRANT. NO FACTS HAVE EMERGED THAT UNDERMINE THAT CONCLUSION.

INDEED, AFTER THE APRIL 19 FIRE, THE TEXAS RANGERS RECOVERED 48 ILLEGAL MACHINE GUNS, ILLEGAL EXPLOSIVE DEVICES, AND ILLEGAL SILENCERS AND HUNDREDS OF THOUSANDS OF ROUNDS OF AMMUNITION FROM THE COMPOUND.

SINCE THE TREASURY REPORT WAS ISSUED, ELEVEN BRANCH DAVIDIANS WERE BROUGHT TO TRIAL AND EIGHT WERE CONVICTED OF THE VERY FIREARMS OFFENSES THAT ATF INVESTIGATED. AT THAT TRIAL, NONE OF THE DEFENSE LAWYERS CHALLENGED THE VALIDITY OF THE SEARCH WARRANT. INDEED, I UNDERSTAND THAT ONE OF THOSE DEFENSE LAWYERS TESTIFIED LAST FRIDAY THAT THE WARRANT WAS LEGALLY SUFFICIENT.

THE TREASURY REVIEW TEAM AND THE SIX TACTICAL OPERATIONS EXPERTS, ALL CONCLUDED THAT ATF'S RAID PLANNING WAS SERIOUSLY FLAWED. SPECIFICALLY, ALMOST TWO YEARS AGO THE REPORT CONCLUDED THAT:

FIRST, INTELLIGENCE-SYSTEM FLAWS, INCLUDING AN IMPROPERLY CONDUCTED UNDERCOVER OPERATION, SERIOUSLY COMPROMISED THE PLANNING FOR WARRANT SERVICE.

SECOND, BECAUSE OF THE FLAWED INTELLIGENCE GATHERING AND PROCESSING SYSTEM, THE PLANNERS DID NOT GIVE SUFFICIENT ATTENTION TO OTHER OPTIONS, SUCH AS, TRYING TO ARREST KORESH

AWAY FROM THE COMPOUND.

THIRD, ATF SHOULD HAVE CONSULTED WITH EXPERTS IN ORDER TO BETTER UNDERSTAND KORESH'S LIKELY RESPONSE TO DIFFERENT LAW ENFORCEMENT OPTIONS.

FOURTH, THE PLANNERS DID NOT DEVELOP A MEANINGFUL CONTINGENCY PLAN. DESPITE THE FLAWS IN THE PLANNING PROCESS, FOUR OF THE REVIEW'S FIVE TACTICAL EXPERTS WHO ADDRESSED THIS ISSUE CONCLUDED THAT THE PLAN HAD A REASONABLE CHANCE OF SUCCESS IF ALL OF THE PLANNERS' MAJOR FACTUAL ASSUMPTIONS HAD BEEN CORRECT.

THE TREASURY REPORT CONCLUDED THAT THE ATF DID NOT MISLEAD THE U.S. MILITARY OR THE TEXAS NATIONAL GUARD IN OBTAINING THEIR ASSISTANCE. NEVERTHELESS, THE REVIEW FOUND THAT THE STANDARDS FOR NON-REIMBURSABLE MILITARY SUPPORT WERE UNCLEAR, AND THAT MORE PRECISELY DEFINED CRITERIA NEEDED TO BE DEVELOPED. ALTHOUGH I HAVE NOT WATCHED ALL THE TESTIMONY, IT IS MY UNDERSTANDING THAT THE MILITARY WITNESSES TESTIFIED THAT THE ASSISTANCE PROVIDED ATF WAS LEGAL AND APPROPRIATE AND NONE TESTIFIED THAT ATF HAD LIED TO THE MILITARY. I ALSO UNDERSTAND THAT CONGRESSMAN MCCOLLUM IN EFFECT TOOK THE MILITARY-RELATED CHARGES OFF THE TABLE IN HIS STATEMENT THIS MORNING.

THE TREASURY REPORT ALSO FOUND THAT THE TREASURY DEPARTMENT IN WASHINGTON, D.C., DID NOT REQUIRE SUFFICIENT ADVANCE NOTICE OF SIGNIFICANT ENFORCEMENT OPERATIONS TO EXERCISE MEANINGFULLY ITS OVERSIGHT OF THESE OPERATIONS. NEVERTHELESS, WHEN INFORMED OF THE PLAN IN THIS CASE, THE OFFICE OF ENFORCEMENT STOPPED THE OPERATION UNTIL ATF DIRECTOR HIGGINS GAVE CERTAIN ASSURANCES ABOUT THE RAID PLAN.

THE REPORT ALSO CONCLUDED THAT THE RAID SHOULD NOT HAVE GONE FORWARD ONCE ATF LEARNED THAT KORESH KNEW THAT ATF WAS COMING 45 MINUTES IN ADVANCE OF THE RAID. THE REPORT FOUND THAT THE RAID COMMANDERS FAILED TO APPRECIATE THE SIGNIFICANCE OF THE INFORMATION PROVIDED BY THE UNDERCOVER AGENT ON THE MORNING OF THE RAID AND THE DANGERS OF PROCEEDING WHEN SURPRISE AND THE DAVIDIANS' CONDUCT WERE NOT AS PLANNED.

THE REPORT ALSO STATED THAT THE FLAWED DECISION TO GO FORWARD WAS NOT SOLELY A QUESTION OF INDIVIDUAL RESPONSIBILITY

ON THE PART OF THE RAID PLANNERS. IT WAS ALSO THE RESULT OF SERIOUS DEFICIENCIES IN THE INTELLIGENCE GATHERING AND PROCESSING STRUCTURE, POOR PLANNING AND PERSONNEL DECISIONS, AND A GENERAL FAILURE OF ATF MANAGEMENT TO CHECK THE MOMENTUM OF THE OPERATION AS THE CIRCUMSTANCES DEMANDED. MOREOVER, IT FOUND THAT ATF AND TREASURY BORE RESPONSIBILITY FOR ATF'S LATE NOTIFICATION ON THE 26TH.

THE TREASURY REVIEW ALSO UNCOVERED AND REPORTED DISTURBING EVIDENCE OF MISLEADING STATEMENTS AND OF DELIBERATE ATTEMPTS BY THE RAID COMMANDERS, PHIL CHOJNACKI AND CHUCK SARABYN, TO SHIFT BLAME TO THE UNDERCOVER AGENT, ROBERT RODRIGUEZ.

FINALLY, THE REPORT CONCLUDED THAT ATF AGENTS WERE BRAVE, LOYAL AND DISCIPLINED FOLLOWING DAVID KORESH'S MURDEROUS AMBUSH. THEY RISKED THEIR OWN LIVES TO SAVE ONE ANOTHER AND TO REDUCE THE CHANCE THAT INNOCENT DAVIDIANS WOULD BE KILLED.

PART III: IMPORTANCE OF TREASURY'S REPORT TO ME

WHY DO I CARE ABOUT THE TREASURY DEPARTMENT'S REPORT?

I FEEL VERY STRONGLY ABOUT THE TREASURY REPORT, AND I'D LIKE TO TELL YOU WHY. I DON'T BELIEVE A DAY HAS PASSED SINCE FEBRUARY 28, 1993 THAT I HAVEN'T THOUGHT ABOUT THE MURDERS OF CONWAY LEBLEU, TODD MCKEEHAN, ROB WILLIAMS AND STEVE WILLIS. I WAS IN A POSITION TO INFLUENCE THE ACTING ASSISTANT SECRETARY FOR ENFORCEMENT NOT TO PERMIT THE RAID TO PROCEED -- NO MATTER WHAT ASSURANCES ATF'S THEN DIRECTOR, STEVE HIGGINS, GAVE HIM. I GAVE THE SAME ADVICE -- FIRST, TO STOP THE RAID, THEN TO PERMIT IT TO GO FORWARD -- THAT I WOULD HAVE FOLLOWED, HAD I BEEN THE ASSISTANT SECRETARY FOR ENFORCEMENT. I HAVE NEVER SHIED AWAY FROM TAKING RESPONSIBILITY FOR MY ADVICE, NOR DO I NOW.

IN EARLY MARCH 1993, I ATTENDED FUNERALS OF THREE OF THE FOUR MURDERED AGENTS. TWO WERE HELD THE SAME DAY IN DIFFERENT STATES, SO I COULD ONLY ATTEND THREE. I DO NOT HAVE THE VOCABULARY TO DESCRIBE THE IMPACT OF ATTENDING THE FUNERAL OF A LAW ENFORCEMENT OFFICER SLAIN IN THE LINE OF DUTY. POLICE OFFICERS FROM THROUGHOUT THE COUNTRY -- STATE, LOCAL AND FEDERAL -- ATTEND OR SEND FLOWERS IN RECOGNITION OF THE UNITY OF LAW ENFORCEMENT. MOREOVER, I FELT THAT THE SURVIVING FAMILY MEMBERS GAVE ME MORE COMFORT THAN I GAVE THEM.

I REMEMBER HOLDING CONWAY LEBLEU'S SON CAMERON'S HAND WHILE I KNELT BEFORE HIM. HE WAS 18 MONTHS OLD. I REMEMBER ROB WILLIAMS' MOTHER HOLDING ME IN HER ARMS FOR A LONG TIME AND TELLING ME THAT EVERYTHING WOULD BE O.K. I REMEMBER STEVE WILLIS'S FATHER'S STRENGTH. HE SAID THAT HE WAS PROUD OF HIS SON BECAUSE HE DIED DOING WHAT MADE HIM HAPPY. WHILE I WASN'T ABLE TO ATTEND TODD MCKEEHAN'S FUNERAL, I LATER SPOKE WITH HIS FATHER WHO SAID: "PLEASE SEND ME A COPY OF YOUR REPORT OF WHAT HAPPENED AT WACO BEFORE IT'S MADE PUBLIC; I WANT TO KNOW THE TRUTH."

THREE FUNERALS IN THREE STATES IN THREE DAYS. I AM REMINDED EVERY DAY OF THE DANGEROUS WORLD IN WHICH LAW ENFORCEMENT OPERATES.SINCE JOINING TREASURY I HAVE ATTENDED 14 FUNERALS OF TREASURY AGENTS AND EMPLOYEES KILLED IN THE LINE OF DUTY AND 8 FUNERALS AND MEMORIAL SERVICES OF NON-TREASURY AGENTS. I DO NOT FORGET THAT FOUR ATF AGENTS WERE MURDERED; THREE WIVES ARE WIDOWED; CHILDREN ARE WITHOUT A FATHER AND

PARENTS, BROTHERS AND SISTERS ARE WITHOUT A LOVED ONE. DURING THE WACO FUNERALS I SAW AND MET ATF AGENTS FOR WHOM I WOULD ONE DAY BE RESPONSIBLE. I SAW THE BOND AMONG THEM. MEN AND WOMEN CRIED OPENLY AND PROUDLY AS THEY LAID THEIR BRETHREN TO REST. BLACK AND WHITE AGENTS HELD EACH OTHER. FEMALE AND MALE AGENTS HELD EACH OTHER.

I DON'T BELIEVE THAT CONWAY LEBLEU HAD BEEN BURIED BEFORE PRESS REPORTS SURFACED THAT ATF WENT FORWARD WITH THE RAID AFTER LEARNING THAT KORESH HAD BEEN TIPPED TO THE PLANNED RAID ON RAID DAY. ATF MANAGEMENT DID NOT CONFIRM THIS FACT; IT DENIED IT PUBLICLY AND FREQUENTLY.

I COMMITTED MYSELF TO FIND THE TRUTH USING THE MOST COMPREHENSIVE AND AUTHORITATIVE REVIEW PROCESS POSSIBLE. AND, SINCE I DON'T DO THE WORK OF THE BRAVE AND GOOD ATF AGENTS WHO RISK THEIR LIVES EACH AND EVERY DAY ENFORCING THE LAW AGAINST THE COUNTRY'S MOST DANGEROUS CRIMINALS, I COMMITTED MYSELF TO ENSURING THAT THEY HAVE THE LEADERSHIP, TRAINING, RESOURCES, AND SUPPORT NECESSARY FOR THE WORK THEY DO.

BY SETTING OUT THE TRUTH, THE TREASURY REPORT HONORED THE MEMORIES OF THE ATF AGENTS KILLED AT WACO. BY INSTITUTING REFORMS, TREASURY AND ATF HAVE WORKED TO ENSURE THAT A TRAGEDY OF THIS KIND NEVER AGAIN OCCURS. THERE HAS BEEN A LOT OF DISCUSSION AT THESE HEARINGS ABOUT THE NEED TO RESTORE FAITH IN FEDERAL LAW ENFORCEMENT. I DO NOT BELIEVE THE AMERICAN PEOPLE NEED THEIR FAITH RESTORED; THEY HAVE FAITH IN FEDERAL LAW ENFORCEMENT. LAST WEEK AS THESE HEARINGS CONTINUED, EVERYDAY WORK CONTINUED FOR LINE AGENTS OF THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS. THAT WORK OFTEN PLACES THEM IN THE MOST DANGEROUS NEIGHBORHOODS PURSUING THE COUNTRY'S MOST VIOLENT CRIMINALS.

ON THE MONDAY BEFORE THESE HEARINGS BEGAN, AN UNDERCOVER ATF AGENT SHOT AND KILLED A SUSPECTED MEMBER OF A MURDEROUS CRACK DISTRIBUTION RING IN A CRIME RIDDEN NEW ORLEANS NEIGHBORHOOD WHO, WHILE POINTING A BERETTA 9 MM SEMI-AUTOMATIC PISTOL, THREATENED TO "BLOW THE HEADS OFF" OF BOTH THE AGENT AND ANOTHER PERSON. THE AGENT, A WACO VETERAN, WAS WORKING ON A DRUG ENFORCEMENT ADMINISTRATION TASK FORCE ALONG WITH OFFICERS FROM THE NEW ORLEANS POLICE AND THE JEFFERSON PARISH SHERIFF'S OFFICE. THE TASK FORCE TARGETS VIOLENT NARCOTICS OFFENDERS. WE THUS MUST REMEMBER THE

VIOLENT WORLD IN WHICH ATF AGENTS OPERATE.

WHEN THE NEW ORLEANS TIMES-PICAYUNE REPORTED ON THE EPISODE ON THE FRONT PAGE, IT DID NOT MENTION WACO. THE PEOPLE OF NEW ORLEANS, KNOW THAT WHATEVER MISTAKES ATF MADE TWO YEARS AGO, IT CARRIES OUT A CRITICAL, DIFFICULT AND DANGEROUS LAW ENFORCEMENT MISSION, FIGHTING VIOLENT NARCOTICS OFFENDERS, AND ARMED CAREER CRIMINALS, GANGS, ILLEGAL GUN TRAFFICKERS, ARSONISTS, AND BOMB-MAKERS. ATF AGENTS DAILY PLACE THEIR LIVES ON THE LINE TO HELP MAKE OUR CITIZENS SAFER. IF THE AMERICAN PEOPLE ARE REMINDED OF THAT DURING THESE HEARINGS, I BELIEVE THE MISSION OF LAW ENFORCEMENT AND ATF WILL BE STRENGTHENED AS A RESULT.

PART IV: CHANGES AT TREASURY AND ATF SINCE WACO

WHAT HAS CHANGED SINCE THE REPORT WAS RELEASED?

FIRST, ATF HAS NEW LEADERSHIP. DIRECTOR HIGGINS ANNOUNCED HIS INTENTION TO RETIRE BEFORE PUBLICATION AND WITHOUT READING THE TREASURY REPORT. SECRETARY BENTSEN SELECTED JOHN MAGAW, THEN DIRECTOR OF THE SECRET SERVICE TO BECOME THE NEW ATF DIRECTOR. AFTER ISSUING THE REPORT, SECRETARY BENTSEN PLACED FIVE ATF OFFICIALS ON ADMINISTRATIVE LEAVE, INCLUDING MR. HARTNETT, MR.CHOJNACKI, AND MR SARABYN.

MR. HARTNETT AND MR. CONROY RETIRED RATHER THAN CHALLENGE THE REPORT'S FINDINGS. MR. TROY ACCEPTED A DEMOTION IN LIGHT OF THE REPORT'S FINDINGS. MR. SARABYN AND MR. CHOJNACKI WERE FIRED BECAUSE THEY REFUSED TO ACCEPT GIVING UP THEIR GUNS, BADGES AND ABILITY TO ENFORCE FEDERAL CRIMINAL LAW. EVENTUALLY THEY APPEALED THE FIRING AND ULTIMATELY AGREED TO GIVE UP THEIR GUNS, BADGES AND RANK. ATF DIRECTOR MAGAW BELIEVED THAT IT WAS IN THE BEST INTEREST OF HIS BUREAU THAT ATF SETTLE WITH THEM TO AVOID THE POSSIBILITY THAT THE MSPB WOULD LATER REINSTATE THEM WITH GUNS AND BADGES DESPITE THE VALIDITY OF THE REPORT'S FINDINGS.

THE SECOND CHANGE IS THAT I ISSUED A DIRECTIVE IN AUGUST, 1993, REQUIRING THAT THE OFFICE OF ENFORCEMENT BE INFORMED OF ANY SIGNIFICANT OPERATIONAL MATTERS THAT AFFECT ANY OF THE BUREAUS' MISSIONS, INCLUDING MAJOR, HIGH-RISK LAW ENFORCEMENT OPERATIONS.

THIRD, I INSTITUTED NEW GUIDELINES FOR SENSITIVE UNDERCOVER OPERATIONS. ATF, CUSTOMS, AND SECRET SERVICE NOW HAVE ALL SENSITIVE UNDERCOVER OPERATIONS REVIEWED BY A MULTI-AGENCY COMMITTEE TO ENSURE MAXIMUM PLANNING AND OVERSIGHT. THE MULTI-AGENCY COMMITTEE INCLUDES NOT ONLY REPRESENTATIVES FROM ALL TREASURY ENFORCEMENT BUREAUS, BUT ALSO REPRESENTATIVES FROM THE DEPARTMENT OF JUSTICE'S CRIMINAL DIVISION. THIS PROCEDURAL SAFEGUARD SHOWS THE INCREASED OVERSIGHT BY TREASURY OFFICIALS OVER THE MOST SENSITIVE AND DANGEROUS LAW ENFORCEMENT OPERATIONS OF THE BUREAUS. INDEED, HAD THE UNDERCOVER GUIDELINES BEEN IN PLACE IN 1992 AND EARLY 1993, THE INVESTIGATION OF KORESH WOULD HAVE COME UNDER CLOSE SCRUTINY BY A SIZABLE GROUP OF AGENTS AND LAWYERS FROM A

BROAD SPECTRUM OF ENFORCEMENT AGENCIES.

FOURTH, WE TOOK STEPS TO IMPROVE OVERSIGHT, INCLUDING FORMAL AND INFORMAL COMMUNICATION BETWEEN TREASURY'S LAW ENFORCEMENT BUREAUS AND TREASURY. TO THAT END, I ESTABLISHED A WEEKLY MEETING BETWEEN THE UNDER SECRETARY'S OFFICE AND THE HEADS OF EACH OF THE TREASURY ENFORCEMENT BUREAUS AND KEY OFFICES. I ALSO HAVE PERIODIC ONE ON ONE MEETINGS WITH EACH OF THESE BUREAU HEADS WHERE POLICY MATTERS ARE DISCUSSED IN GREATER DETAIL. OF COURSE, I ALSO SPEAK REGULARLY AND INFORMALLY WITH THE BUREAU HEADS ON BOTH SIGNIFICANT AND MORE ROUTINE MATTERS.

FINALLY, I REACTIVATED THE TREASURY ENFORCEMENT COUNCIL (TEC). THE TEC CONSISTS OF ALL THE BUREAU HEADS. THERE ALSO ARE TEC WORKING GROUPS THAT FOCUS ON MORE SPECIFIC SUBJECT MATTERS.

BASED ON THESE REFORMS, AN OPERATION CONTEMPLATED BY ANY TREASURY BUREAU OF THE SCOPE AND COMPLEXITY OF THE WACO RAID WILL COME TO THE ATTENTION OF A VARIETY OF LAW ENFORCEMENT AUTHORITIES AS WELL AS MY OFFICE WELL IN ADVANCE OF THE PLANNED ACTION. ORDINARILY, OPERATIONAL MATTERS ARE THE DOMAIN OF LAW ENFORCEMENT BUREAU HEADS. THE JOB OF TREASURY IS TO ENSURE THAT THE BUREAUS HAVE STRONG LEADERSHIP AND HIGH STANDARDS FOR PERSONNEL, INSTITUTE PROPER TRAINING, ARE SUPPORTED WITH ADEQUATE RESOURCES, AND ENFORCE THE LAWS IMPARTIALLY.

DEPARTMENT OF THE TREASURY

TREASURY NEWS

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July 24, 1995

Monthly Release of U.S. Reserve Assets

The Treasury Department today released U.S. reserve assets data for the month of June 1995.

As indicated in this table, U.S. reserve assets amounted to $90,063 million at the end of June 1995, down from $90,549 million in May 1995.

U.S. Reserve Assets
(in millions of dollars)

End of Month	Total Reserve Assets	Gold Stock 1/	Special Drawing Rights 2/3/	Foreign Currencies 4/	Reserve Position in IMF 2/
1995					
May	90,549	11,054	11,923	53,294	14,278
June	90,063	11,054	11,869	52,864	14,276

1/ Valued at $42.2222 per fine troy ounce.

2/ Beginning July 1974, the IMF adopted a technique for valuing the SDR based on a weighted average of exchange rates for the currencies of selected member countries. The U.S. SDR holdings and reserve position in the IMF also are valued on this basis beginning July 1974.

3/ Includes allocations of SDRs by the IMF plus transactions in SDRs.

4/ Includes holdings of Treasury and Federal Reserve System; beginning November 1978, these are valued at current market exchange rates or, where appropriate, at such other rates as may be agreed upon by the parties to the transactions.

RR-467

PUBLIC DEBT NEWS

Department of the Treasury • Bureau of the Public Debt • Washington, DC 20239

FOR IMMEDIATE RELEASE
July 24, 1995

CONTACT: Office of Financing
202 219 3350

RESULTS OF TREASURY'S AUCTION OF 13-WEEK BILLS

Tenders for $13,269 million of 13-week bills to be issued July 27, 1995 and to mature October 26, 1995 were accepted today (CUSIP: 912794V43).

RANGE OF ACCEPTED COMPETITIVE BIDS:

	Discount Rate	Investment Rate	Price
Low	5.44%	5.61%	98.625
High	5.47%	5.64%	98.617
Average	5.47%	5.64%	98.617

Tenders at the high discount rate were allotted 33%.
The investment rate is the equivalent coupon-issue yield.

TENDERS RECEIVED AND ACCEPTED (in thousands)

	Received	Accepted
TOTALS	$50,700,668	$13,269,067
Type		
Competitive	$45,794,322	$8,362,721
Noncompetitive	1,343,846	1,343,846
Subtotal, Public	$47,138,168	$9,706,567
Federal Reserve	3,162,500	3,162,500
Foreign Official Institutions	400,000	400,000
TOTALS	$50,700,668	$13,269,067

5.45 - 98.622 5.46 - 98.620

AUCTION RESULTS

PUBLIC DEBT NEWS

Department of the Treasury • Bureau of the Public Debt • Washington, DC 20239

FOR IMMEDIATE RELEASE
July 24, 1995

CONTACT: Office of Financing
202-219-3350

RESULTS OF TREASURY'S AUCTION OF 26-WEEK BILLS

Tenders for $13,255 million of 26-week bills to be issued July 27, 1995 and to mature January 25, 1996 were accepted today (CUSIP: 912794W75).

RANGE OF ACCEPTED COMPETITIVE BIDS:

	Discount Rate	Investment Rate	Price
Low	5.45%	5.70%	97.245
High	5.46%	5.71%	97.240
Average	5.46%	5.71%	97.240

Tenders at the high discount rate were allotted 43%.
The investment rate is the equivalent coupon-issue yield.

TENDERS RECEIVED AND ACCEPTED (in thousands)

	Received	Accepted
TOTALS	$54,710,036	$13,254,712
Type		
Competitive	$46,662,510	$5,207,186
Noncompetitive	1,321,626	1,321,626
Subtotal, Public	$47,984,136	$6,528,812
Federal Reserve	3,350,000	3,350,000
Foreign Official Institutions	3,375,900	3,375,900
TOTALS	$54,710,036	$13,254,712

RR-469

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

FOR IMMEDIATE RELEASE
July 24, 1995

Waco Update

Attached is an update based on recent testimony in the House Waco hearings.

-30-

RR-470
3:00pm

Statement of Edwin O. Guthman
July 24, 1995

It has been brought to my attention that during the testimony this morning, there was a suggestion that Ron Noble and the individuals who conducted the Treasury investigation and prepared the report were involved in "a coverup." Nothing could be further from the truth. As one of the three independent reviewers of that report, I worked closely with Mr. Noble and the review team. As I stated in my September 26, 1993, letter to Secretary Lloyd Bentsen, "I fully support the report's findings of fact and its conclusions and recommendations."

The other independent reviewers and I received prompt and complete access to all interview reports, evidence, expert reports, and other materials we requested. Every question that we asked was answered. In addition, we not only helped guide the course of the investigation but also participated in the interviews of the raid planners, including Charles Sarabyn. We were denied nothing, and there is no evidence that undermines the credibility and integrity of the review process.

Treasury Secretary Bentsen demanded a thorough, comprehensive, and uncompromising critique of the conduct of Treasury and ATF officials in connection with the February 28 tragedy near Waco. That is precisely what he received. The unsubstantiated charge of a coverup is just plain wrong. Every Congressional Committee has the responsibility to vouch for the accuracy of the witnesses on which it relies. That clearly has not been done here.

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REP. MCCOLLUM: Why do you believe those omissions and false statements are in that report?

MR. HARTNETT: I believe that they were concerned about the fallout from the media that they couldn't just say that management at the scene there made mistakes, but that wasn't the tone of the report. They felt that they had to write a scathing report, which made a lot of people suffer, like Chuck and some of those other people down there that were just doing their job, and it was, I think, very biased and unfairly written.

REP. MCCOLLUM: And you think that was a coverup of sorts for what?

MR. HARTNETT: I think they felt like -- and I don't know if coverup is a term that I would use. I would say that they felt that they had to, at least when it came to the press, show that they were taking some very strong action, and they weren't responsible for

anything, and those managers down there had done this intentionally, and that just was not the case.

REP. MCCOLLUM: You said earlier that the element of surprise, the first time you ever heard of it was when that -- after the day of the raid?

MR. HARTNETT: That's correct.

REP. MCCOLLUM: Is that part of your concern?

MR. HARTNETT: Certainly it is because I think that the media picked up on it and I would have to say that I used it, too, we all started using it after the raid, and it was a foolish thing to do. I sort of got trapped by the media, trapped myself. But it throws a whole different perspective on what those commanders did down there, and I just -- I think it is three weeks ago I saw the Assistant Secretary Noble on a national broadcast say that Treasury and ATF had ordered those commanders not to go forward if they lost the element of surprise, and I am the only person who was giving principally direct orders to those commanders, and I never gave such an order, and I never received such an order.

Now we did talk about safety. I mean we must have talked about safety 100 times. The Director called me the night before the raid and said, be sure to mention it again to them. If anything isn't

until the media started using it, our own public affairs, after the raid.

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REP. MCCOLLUM: Thank you very much.

We will undoubtedly pursue questioning along these lines further as the hearings progress. Thank you, Mr. Hartnett.

MR. AGUILERA: Sir, if I may interject, I attended a meeting with Mr. Higgins, Mr. Hartnett, Chuck Sarabyn, and I was asked the same question, and I told them that I didn't recall quite clearly, but I do believe that the element of surprise was asked by Mr. Higgins. If the element of surprise was going to be lost, don't continue on the raid.

REP. MCCOLLUM: When was this meeting that you attended, Mr. Aguilera?

MR. AGUILERA: This was the meeting that I went up to headquarters with Chuck Sarabyn and Mr. Hartnett.

REP. MCCOLLUM: When, what date?

MR. AGUILERA: I don't recall. I don't have my notes with me.

REP. MCCOLLUM: Before the --

MR. AGUILERA: It was prior to the raid.

REP. MCCOLLUM: How long before, roughly?

MR. AGUILERA: I would say maybe two to three weeks.

REP. MCCOLLUM: All right. We will have to come back and revisit this. Thank you very much.

REP. : Mr. Aguilera, Mr. Von testified that all rifle or all gun chambers were to be emptied by the ATF, and I would just like -- this is a pertinent question, and you have indicated that your weapon was loaded. Did you miss -- did you violate any rule by that?

MR. AGUILERA: I didn't violate any rules. I never heard of that until today.

REP. : Thank you very much.

REP. : Mr. Chairman, I appreciate your kindness

Concern for Children shown by ATF:

ATF referred information about Kiri Jewell to the Child Protective Services of Texas.

ATF assigned ATF agents to comfort children after the compound was secure. One of those agents was wounded.

ATF approved $6,000 dollars to provide food, shelter and transportation for those children and their parents who wished to escape David Koresh.

The lunch meal scheduled for February 28, 1993 for the children was McDonald's "Happy Meals." These meals were to be brought to the scene by a National Guard helicopter.

An ATF negotiator was responsible for the successful release of 21 persons.

Several agents had candy in their pockets for the children.

DEPARTMENT OF THE TREASURY

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FOR IMMEDIATE RELEASE
Text as Prepared for Delivery
July 24, 1995

TESTIMONY BY RONALD K. NOBLE
UNDER SECRETARY OF THE TREASURY FOR ENFORCEMENT
BEFORE THE
SUBCOMMITTEE ON CRIME
COMMITTEE OF THE JUDICIARY
AND THE
SUBCOMMITTEE ON NATIONAL SECURITY, INTERNATIONAL AFFAIRS AND CRIMINAL JUSTICE,
COMMITTEE ON GOVERNMENT REFORM
HOUSE OF REPRESENTATIVES

RR-471

TESTIMONY
by
RONALD K. NOBLE
Under Secretary of the Treasury for Enforcement
Before The
Subcommittee on Crime
Committee of the Judiciary
and the
Subcommittee on National Security, International Affairs, and Criminal Justice,
Committee on Government Reform
House of Representatives

Monday, July 24, 1995

I welcome the opportunity to testify on the tragic events at the Branch Davidian compound near Waco, Texas, as they involve ATF and the Department of the Treasury. My testimony will focus on the Treasury review, the investigative report on these events conducted by the Treasury Department, and on the policy issues that emerged from them. I would ask the Committees to consider making the full Treasury report, published in September 1993, entitled, "Report of the Department of the Treasury on the Bureau of Alcohol, Tobacco, and Firearms Investigation of Vernon Wayne Howell also known as David Koresh" part of the permanent record of these hearings.

* * * *

On February 28, 1993, four ATF agents were killed while serving lawful warrants for the arrest of David Koresh, and for a search for suspected illegal firearms and explosives at the Branch Davidian compound. After the siege conducted by the FBI, and the fire set by the Branch Davidians that ended it, the Texas Rangers found 48 illegal machine guns, seven illegal explosives of

various types, nine illegal silencers, and hundreds of thousands of rounds of ammunition in a search of the crime scene. A jury in Texas convicted eight of eleven Branch Davidian defendants of crimes relating to these firearms. Eight convicted defendants received sentences ranging from three to forty years, with seven of eight defendants serving sentences of forty years imprisonment.

As the Treasury Report recounted, and the trial record confirmed, David Koresh knew 45 minutes before ATF agents arrived that ATF agents were coming to serve warrants at Mt. Carmel. Rather than submitting to the search and arrest warrants, David Koresh armed himself and his followers, ambushed and killed the federal law enforcement officers. As a result of David Koresh's decision, ATF agents Conway C. LeBleu, Todd W. McKeehan, Robert J. Williams, and Steven D. Willis died. Had David Koresh not committed suicide, we may fairly surmise he would be in federal prison today, serving a prison sentence of at least forty years for firearms violations, and he would have been tried for murder along with his followers, and possibly for other crimes as well.

Any suggestion that David Koresh's murderous response to federal agents coming to serve a warrant -- a warrant for his own arrest on firearms charges based on evidence that was located with him in the compound -- was excusable, or reasonable, or even rational under our system of law is outrageous. And, to lay blame on law enforcement or the federal government for the murder of federal agents, and the deaths of innocent women and children and others, is to ignore the reality that Koresh and the Davidians used their illegally manufactured machine guns to ambush agents performing their duty. Indeed, Koresh is to blame for the deaths of almost one hundred people; it was his overreaction and decision to ambush agents that began this tragedy.

* * *

At the same time, a law enforcement operation in which four agents and as many as six others die must be viewed as a tragedy and a failure for law enforcement. Koresh's direct responsibility for those deaths, and the many more that followed, does not exempt law enforcement from scrutiny. We must ask the question, did so high a price have to be paid in order to carry out the government's responsibility to enforce the law? The Treasury Report on the Waco incident concluded that this price should never have been paid. The Report is the most exhaustive, comprehensive, and accurate study of the incident to date. As I will describe in detail below, we concluded that the ATF agents who were sent to execute the search and arrest warrants at the Davidian compound conducted themselves with dedication, discipline, and often heroism. We also concluded in great and unsparing detail that ATF made serious errors in its planning and execution of the raid, and that the Treasury Department's oversight role in law enforcement operations should be strengthened.

The Treasury Report was issued in September 1993. Shortly before its publication, ATF Director Steven Higgins announced his decision to retire. After issuing the Report, Secretary Bentsen placed five ATF officials on administrative leave -- the Associate Director for Law Enforcement, the Deputy Associate Director for Law Enforcement, and the Chief of the Intelligence Division, the operation's Incident Commander (Special Agent in Charge, ATF Houston Division) and the operation's Tactical Coordinator (Assistant Special Agent in Charge, Houston). The law enforcement officials, who occupied the most senior law enforcement positions in the bureau after the director, chose to retire. The intelligence chief agreed to take a downgrade to a position outside of the Senior Executive Service.

In sum, the entire top management of ATF dealing with law enforcement matters has been replaced.

Secretary Bentsen selected John Magaw, then Director of the Secret Service to become the new ATF director. Director Magaw will testify about the lessons learned from Waco and the changes he has made in ATF. And I will discuss changes in Treasury oversight.

These changes along with the passage of time have greatly strengthened ATF. ATF performs essential and often dangerous work on behalf of the American public every day. An ATF explosives expert, working with a member of the New York City Bomb Squad, discovered the key piece of evidence that enabled ATF, the FBI, and the New York City Police to identify and bring to justice the perpetrators of the World Trade Center bombing. ATF special agents and explosives experts have uncovered key evidence in the Oklahoma City bombing investigation. ATF routinely takes weapons off the street, out of the hands of criminals, making our communities safer. It is ATF that continues to investigate illegal conversion of weapons and seeks to stem the flow of illegal weapons to the streets of our cities.

My goal today is to provide both Committees with a thorough understanding of the Treasury's Report on what happened at Waco, of how Treasury and ATF have responded to that Report, and of the vitally important mission of ATF.

The Treasury Report

After the failed raid and the deaths of four ATF agents, and the fire at Waco, President Clinton directed the Treasury and Justice Departments to

conduct vigorous and thorough investigations of what had led to the loss of law enforcement and civilian lives.

Secretary Bentsen designated me to lead the Treasury Department's review of ATF's and Treasury's involvement. The Review was to extend from the beginning of the investigation through the unsuccessful effort to execute search and arrest warrants and its immediate aftermath. He demanded that the investigation be honest, uncompromising, and comprehensive.

As Secretary Bentsen testified on Friday, he appointed three independent reviewers of national prominence and the highest integrity -- Pulitzer Prize winning journalist Edwin Guthman, Watergate prosecutor Henry Ruth, and Los Angeles Police Chief Willie Williams. Their role was to provide independent guidance to the investigation, consider its findings, and assess the final report. They received no payment for their services. I hereby request consent to include the letters of the three reviewers to Secretary Bentsen in the record of these hearings. Treasury's office of the Inspector General monitored the work of the Review team to ensure that the Review was thorough and unbiased.

Assisted by the Project Director, Geoff Moulton, I assembled an investigative team of seventeen senior investigators from the Secret Service, the Customs Service, the IRS, and the Financial Crimes Enforcement Network. No ATF personnel took part in the Review.

Again to ensure independence, the review team consulted with ten non-Treasury experts in tactical operations, firearms, and explosives. Like the independent reviewers, these ten experts served without pay. By independent, I mean that they were asked to report their <u>own</u> views, not those of the Department of the Treasury. The reports of the independent experts are published as appendices to the Treasury Report.

We all know how difficult it is for any organization to judge its own. It can be especially painful in the law enforcement community where success, and sometimes survival, depends on camaraderie and loyalty. One of the senior executives in my office likened the Waco review to conducting open heart surgery on yourself, without anesthesia.

In choosing the members of the review team, my first priority was to assemble the best investigative team possible, composed of individuals with the integrity and the commitment to find out exactly what happened. I can assure you, the review team exceeded my highest hopes in this regard. At the same time, we also ensured that the investigation team reflected the diversity of this country by including people of color and women. Indeed, the Waco review team included 8 African-Americans, 7 women, 1 Hispanic-American, and 1 Asian-American. In my view Americans needed to know that their government was diverse and intent on conducting a thorough self-examination of itself.

Over a 5-month period, between May and October 1993, members of the team travelled the country and conducted over 500 interviews to determine what happened near Waco and why. We received unqualified cooperation from more than a hundred ATF agents who were interviewed. Without their support, our difficult task would have been rendered all but impossible.

There has been a question raised in this hearing whether Treasury engaged in a cover-up designed to hide exculpatory information and did not seek to find the truth. Both the ATF shooting review and the Treasury administrative review coordinated with the Justice Department and the Texas Rangers so that the murder case would not be compromised. This fact was not hidden. Pages 2 and 7 of the Treasury Report state that the Review was conducted carefully to avoid interfering with criminal prosecutions. The Texas

Rangers conducted a prompt, vigorous investigation and shared their investigative reports with Treasury. Any exculpatory information uncovered during the Treasury Review was shared with the Department of Justice so that it could be provided to defense counsel.

Secretary Bentsen issued the Report on September 30, 1993. It is 220 pages long, followed by extensive appendices by independent experts. Major newspapers praised the report for its candor and thoroughness.

I appeared before the House Appropriations Subcommittee on Treasury, Postal, and General Government on October 22, 1993, and testified on the Treasury Report.

A report of this complexity and length, with such significant consequences for a government agency, inevitably will have its detractors. But I believe the Treasury Report is the closest to a complete and truthful statement of the facts under examination that is humanly possible in an undertaking of this kind. In this Report, Treasury presented the full facts to the American people. In the two years since the Report was published, even with the renewed focus on Waco, I have heard nothing credible that has led me to question the Report's methodology, its findings, or its recommendations. The only testimony critical of the Report has come from the people who were responsible for the raid and for permitting misinformation to be spread following the failed raid.

To maintain public confidence in government, citizens must believe that government has the capacity to examine itself when necessary and to take appropriate action in response. Therefore, I look forward in the report of these subcommittees to a resounding affirmation of the Treasury Report.

* * *

The Treasury Report contains five sections of factual account and eight sections of analysis. The Treasury Review focused on the same issues raised in these hearings: (1) Was the investigation properly initiated and conducted? (2) Was there probable cause to seek arrest and search warrants? (3) How was the raid planned and were other alternatives adequately considered? (4) Was the use of the military appropriate? (5) Did Treasury provide adequate and appropriate oversight? (6) Was the raid properly executed, especially after ATF learned that Koresh knew that ATF was coming? (7) Did ATF officials lie or attempt to cover up the truth?

Today I will focus on the central conclusions of the Report and on the policy areas that have been the focus of questioning during these hearings.

The Propriety of Investigating Koresh and Seeking to Enforce Federal Firearms Laws

The Treasury Report concluded that ATF, at the request of the local Sheriff, properly initiated an investigation into David Koresh and his followers based on information provided by the Sheriff. This investigation was predicated on evidence that federal criminal explosives laws were being violated. It was not based on Koresh's religious beliefs.

ATF began its investigation of Koresh after receiving complaints from the McLennan County Sheriff's Department in May 1992. The Sheriff's Office was contacted by a United Parcel Service driver concerned about suspicious parcels, including inert grenade casings and a substantial quantity of black powder, that had been received by certain persons at the Branch Davidian compound. As the Report stated, "Because the residents of the Compound

were constructing what appeared to be a barracks-type cinder-block structure, had buried a school bus to serve as both a firing range and a bunker, and apparently were stockpiling arms and other weapons, Deputy Weyenberg asked ATF to investigate." Report at 17.

Before opening a formal investigative file, the ATF case agent debriefed the local officials, interviewed gun dealers, and searched national firearms registries. Based on this information he made a preliminary determination that violations of federal law might be occurring. This was not only proper; ATF would have been irresponsible had it not initiated an investigation.

ATF makes between 500-600 criminal gun cases a year. The average number of guns in each case is 21. Investigations that result in seizures of similar numbers of machine guns as were seized from the Davidian compound are extremely rare. Not more than one similar sized seizure has been made in several years. In 1993, ATF seized 520 guns converted to machine guns. The 48 machine guns that Koresh had amassed is almost 10% of an entire year's seizures. The rarity of such a seizure is compounded when hand grenades, explosives materials, and vast quantities of ammunition are also present. Thus, when the ATF case agent learned of the delivery of grenade casings, black powder, and large shipments of firearms, he had more than sufficient reason to begin a thorough and professional investigation.

Enforcement of the Law of the Land and Illegally Armed Religious and Other Groups

The Review examined, considered and rejected suggestions made by some that the religious beliefs of Koresh and his followers, or Koresh' sexual

conduct with minors, triggered ATF's investigation of Koresh. The Report stated, "While some have suggested that ATF targeted Koresh because of his religious beliefs and life-style, the Review has found no evidence of any such motivation." Report at 121. The Review also challenged those who believe that the government should be deterred from investigating potential unlawful activity because that activity is entangled with religious belief and practice. The Report stated:

> A review of the investigation makes it clear that the ATF inquiry into the activities of Koresh and his followers was consistent with the agency's congressional mandate to enforce federal laws regulating the possession and manufacture of automatic weapons and explosive devices. Indeed, ATF would have been remiss if it had permitted considerations of religious freedom to insulate the Branch Davidians from such an investigation.

Report at 120. It is worth reviewing the basic principles that apply when law enforcement and religion meet. That a practice has the sanction of a religious group does not mean it is lawful. Many religious practices and rituals have been found to be unlawful and without constitutional protection in particular situations. Polygamy is unlawful. The use of drugs associated with religious practice is not permissible where State law prohibits it. While some may quarrel with these decisions, they must be followed.

ATF generally encounters religious groups only where there are firearms violations to be investigated. Religious groups cannot receive an exemption from firearms laws based on their beliefs or practices. The government must investigate and enforce firearms laws impartially without regard to religion or ideology. There is no exemption for groups that attempt to violate firearms laws in the name of religion. There is also no such exemption for groups with survivalist, violent tax protester, "county supremacy," or for so-called

survivalist, violent tax protester, "county supremacy," or for so-called organized or unorganized militia or paramilitary groups with extreme Second Amendment ideologies that may stockpile unlawful weapons against a fantasized or feared federal or United Nations invasion.

On the contrary, it is essential to the American public that public safety be ensured and that all violations of firearms and explosives laws be investigated impartially, whether the investigation leads to the inner cities or mountain strongholds or religious communities.

The Probable Cause Investigation

The Treasury Report concluded that there was probable cause to believe that people inside the Branch Davidian compound were manufacturing illegal machine guns and explosive devices -- as did the Magistrate-Judge who reviewed the affidavit and approved the warrant. No facts have emerged that undermine that conclusion.

Various commentators have opined probable cause was lacking. Attacks have been based on technical legal quarrels with specifics of the firearms information in the warrant. Other attacks have been based on the suggestion that ATF improperly ignored information that David Koresh was a licensed firearms dealer, or that he may have intended to be, even though he technically was not. Attacks have also impugned the warrant as insufficient on the grounds that it contained extraneous material concerning Koresh's religious beliefs and his plural marriages with young girls and women at Mt. Carmel. Underlying these attacks is the common theme that law enforcement is hostile to lawful firearms owners, and incomprehending of and hostile toward religious interests.

These assertions and opinions are in error. I refer the Committees to pages 17 through 35 and 119 though 135 of the Treasury Report, which set forth the facts developed by ATF's case agent that established probable cause. In addition, the Treasury Report includes the analysis of two non-Treasury weapons experts who confirmed that ATF's case agent, the U.S. Attorney's office, and Judge Green had ample evidence to support searching the compound for evidence of the manufacture of illegal machine guns. Two non-Treasury explosives experts concluded that the evidence gathered by ATF established probable cause to believe that illegal explosives were being manufactured.

Indeed, after the April 19 fire, the Texas Rangers recovered 48 illegal machine guns, illegal explosive devices, and illegal silencers and hundreds of thousands of rounds of ammunition from the compound. Not only was there probable cause to search for illegal weapons, illegal weapons were actually found and used against federal agents possessing lawful search and arrest warrants.

I would like to emphasize that any suggestion that the probable cause determination by ATF, the U.S. Attorney's office, and the Magistrate-Judge is evidence that our legal system is hostile to religion is wholly unfounded. ATF had reason to fear Koresh's willingness to use violence. He had established his control over the Branch Davidian community in a gunfight ended by armed deputies. His rhetoric was threatening and his preaching concerned the approach of the apocalypse. In addition, he had extraordinary control over his followers who acquiesced to his sexual activities with numerous minor girls and married women at the compound. Based on these facts it was reasonable for ATF to believe that Koresh represented a greater threat than a gun collector who might decide to manufacture and sell unlawful weapons.

What these facts demonstrate is not hostility to religion, but rather that law enforcement cannot afford to assume that unlawful activities are benign merely because they are associated with a religious belief or unconventional lifestyle. Rather, as ATF did here, law enforcement must examine the totality of the circumstances.

Since the Treasury Report was issued, eleven Branch Davidians were brought to trial. At that trial, none of the defense lawyers challenged the validity of the search warrant. Several of the defendants were found guilty of the offenses referenced in the warrant. Indeed, I understand that one of those defense lawyers testified last Friday that the warrant was legally sufficient.

The Decisionmaking Process Leading to Forceful Execution of Warrants and Analysis of the Tactical Planning Effort

The Treasury Review team and the six tactical operations experts all concluded that ATF's raid planning was seriously flawed. Specifically the Report concluded that:

First, intelligence-system flaws, including an improperly conducted undercover operation, seriously compromised the planning for warrant service.

Second, because of the flawed intelligence gathering and processing system, the planners did not give sufficient attention to other options, such as trying to arrest Koresh away from the compound.

Third, ATF should have consulted with psychologists and other experts in order to better understand Koresh's likely response to different law enforcement options. The Report recommended improved access by law enforcement to experts in such fields as psychology, sociology, and theology when dealing with

barricade or hostage situations or with suspects with non-traditional belief systems or thought processes unlike those of a standard criminal target.

Fourth, the planners did not develop a meaningful contingency plan. Despite the flaws in the planning process, a majority of the Review's tactical experts concluded that the plan had a reasonable chance of success if all of the planners' major factual assumptions had been correct. The experts disagreed over whether the plan was a good one.

The Report did not take a position on what plan should have been followed, namely, a siege, a raid or dynamic entry, apprehension of David Koresh off the compound, or some other approach or combination of approaches. The Report concluded that the plan was based on inadequate intelligence. Without adequate intelligence it was impossible to determine the best approach in hindsight. Two years after the Report was completed, it remains impossible to retroactively determine the outcome of an alternative plan.

From a policy perspective, the chief conclusion to be drawn from this section of the Review is that there are special considerations in selecting a law enforcement strategy when dealing with firearms violations or any other crimes by religious or ideologically identified groups that are co-located with significant weapons and who may be willing to use violence against law enforcement and/or themselves. The loss of four ATF agents at the Branch Davidian compound was unacceptable. Law enforcement must therefore take a hard look at approaches to enforcing the law -- firearms laws, tax laws, or any other laws - against groups that may have the potential to take up arms or that are potentially suicidal. Other approaches, including negotiations and settlement, isolating the leader, or siege must be considered in each case,

before resorting to a dynamic entry.

Treasury Department bureaus have undertaken enforcement actions against members of religious or ideologically identified groups twice since Waco.

On July 27, 1994, the Roanoke, Virginia ATF office arrested two members and associates of a proclaimed militia organization known as the Blue Ridge Hunt Club. Three other persons were eventually arrested. All were charged with conspiracy, possession of unregistered silencers, obliterating serial numbers, and straw purchases of firearms. The group was involved with a plan to burglarize the National Guard Armory in Pulaski, Virginia, in order to obtain machine guns and other small arms for the group. The plan included the possible killing of police officers, the bombing of power plants, and the creation of diversions in order to slow police response. Because the organization was not co-located in an armed compound, the danger to law enforcement was less. ATF successfully arrested one member at his home and another during a traffic stop away from his home.

On June 3, 1994, the IRS restored the tax-exempt status of the Church Universal and Triumphant, in return for which the Church, headquartered on a 28,000-acre ranch near Corwin, Montana, agreed to stop stockpiling military style weapons, and divest itself of firearms, including two armored personnel carriers and thousands of rounds of ammunition. Under the agreement, the rights of individuals other than those convicted of a felony to own firearms are unrestricted.

These cases demonstrate that, when confronted with religious or ideologically identified groups involved with illegal weapons, Treasury bureaus are seeking solutions that enforce the law, minimize the risk to law

enforcement, and respect Constitutional requirements.

Responsible, restrained, and innovative law enforcement is not the full answer to the problems posed by armed groups such as the Branch Davidians. Congress, religious scholars, political scientists, and others must also give consideration to the causes and prevention of the amassing of illegal arsenals and the turning of those weapons on law enforcement, other government representatives, or one another. The Law Enforcement Steering Committee, composed of the Federal Law Enforcement Officer's Association, Fraternal Order of Police, National Association of Police Organizations, International Brotherhood of Police Officers' Organizations, Police Executive Research Forum, Police Foundation, National Organization of Black Law Enforcement Executives, National Troopers' Coalition, and the Major City Chiefs, in its July 14, 1995, letter to Rep. McCollum and Rep. Zeliff, identified some of the relevant areas of inquiry:

* the ease with which potentially violent groups amass weapons;
* the amassing of weapons and the threat they generate;
* weapons are being stockpiled for a purpose, what is it?
* the danger of internal terrorism caused by the activities of arsenal gathering groups.

The Posse Comitatus Statute and
The Policy of Military Support for Civilian Law Enforcement

The Treasury Report concluded that the ATF did not mislead the U.S. Military or the Texas National Guard in obtaining their assistance. Nevertheless, the Review found that the standards for non-reimbursable military support were unclear, and that more precisely defined criteria needed to be developed. Although I have not watched all the testimony, it is my understanding that the military witnesses testified that the assistance to ATF was legal and appropriate and none testified that ATF had lied to the military.

Because there has been a great deal of confusion about this subject, I will set forth some additional detail about the statutes that authorize military support for civilian law enforcement. I will then address the policy issue.

Law and Procedure

The Posse Comitatus Act, 18 U.S.C. § 1385, bars military forces from direct enforcement of civilian law. It does not prohibit all assistance to civilian law enforcement by the military. The support that ATF received did not constitute direct enforcement of civilian law.

The operations of the National Guard units that provided support to the ATF in Waco are not covered by the Posse Comitatus Act. The extent to which a State National Guard may assist civilian law enforcement is a function of that State's law. Federal law affects funding and whether such state-provided support needs to be reimbursed by the law enforcement entity. E.g. 32 U.S.C. § 112.

The extent of the assistance that federal military forces may provide to civilian law enforcement is governed by Chapter 18, Title 10 U.S.C. Congress has authorized the Department of Defense (DOD) to provide military equipment, including spare parts and supplies, and base facilities, to civilian law enforcement entities, for all (not just drug-related) law enforcement purposes. 10 U.S.C. § 372. The restrictions of the Posse Comitatus Act are incorporated by a prohibition on "direct participation in a search, seizure, arrest, or other similar activity." 10 U.S.C. § 375. All of the military support provided to ATF complied with this section.

DOD may provide training to civilian law enforcement in the operation and maintenance of § 372 equipment, and expert advice by DOD personnel, for all (not just drug-related) law enforcement purposes. DOD personnel may also actually operate § 372 equipment, to the extent such operation does not constitute direct participation in civilian law enforcement. 10 U.S.C. §§ 373, 374. The requirement for reimbursement for such equipment and services is waived if it is provided in the normal course of military operations or training, or if it results in a benefit to the military unit equivalent to what the unit would otherwise obtain from training or operations. 10 U.S.C. § 377(b).

Texas law provides a broad grant of authority to the Governor to use the Guard to support civilian law enforcement. The Governor may employ national guard assets "to assist civil authorities in executing law as the public interest or safety requires . . ." Texas Government Code, § 431.111(b). Congress has authorized federal funding for state National Guard operations done to further drug interdiction and other counter-drug enforcement activities, which results in provision of such support without a reimbursement requirement. 32 U.S.C. § 112. Provision of National Guard support to civilian law enforcement is

possible without a drug nexus, where the State is willing and able to provide the service, and the Department of Defense has vetted the request's legality, and provisions for reimbursement.

ATF initially approached the Texas National Guard, seeking aerial reconnaissance of the Davidian compound. The ATF representative was told that such support required a drug nexus. Shortly thereafter, ATF obtained information indicating that there had been a metamphetamine lab at the Davidian compound several years earlier, and that there had been a recent shipment of unspecified chemicals, instruments, and glassware to the compound, suggestive of a current operation. ATF later acquired additional information suggesting the possible presence of a methamphetamine lab at the compund, including a statement by Koresh to an undercover agent.

This information was provided to the Texas National Guard, and later to officials of the entities which regulated and provided Federal military support, Operation Alliance and Joint Task Force Six. The information was not fabricated and was accurately reported. All of the military entities concerned indicated that they were satisfied with the drug nexus identified by ATF. Thus, ATF uncovered and disclosed, in good faith, information indicative of potential narcotics violations at the Davidian compound. This information was accepted by the state and federal military entities.

Let me repeat what the Treasury Report concluded, what Wade Ishimoto, a former Special Forces intelligence officer who served as an independent expert to the Treasury Review, stated in his testimony here, and what the generals who also testified at this hearing stated: ATF did not lie to or mislead the military. ATF never asserted that the central purpose of their planned operation was to eliminate a meth lab. To the contrary, the National Guard and

the military were fully informed that the mission was principally focused on unlawful firearms, that ATF was only asserting the possibility of an active meth lab, and that ATF focused on that possibility in response to the Texas National Guard's inquiry.

This conclusion is supported by documentation from the military. ATF's written request for military assistance referred only to a "possible meth lab." DOD's own internal review sent to Commander, Forces Command, JTF 6, shows that DOD knew from ATF that 1989 was the last year for which evidence of a meth lab at the compound existed. And a "hot spot" discovered by military overflights confirmed the possibility of a meth lab.

That ATF did not lie or mislead the military is also confirmed by DEA documentation. DEA's coordinator for Operation Alliance attended the February 2, 1993, meeting of Operation Alliance that evaluated the information provided to ATF on a drug nexus, and that approved a request for military assistance based on that information. The DEA coordinator does not believe ATF lied to or mislead the military. Three DEA agents were present at the Command Center to assist ATF on the day of the raid.

From JTF-6, ATF obtained the following support, conducted at Ft. Hood, in Kileen, Texas, by a Special Forces unit which is maintained at JTF-6 to provide such assistance to civilian law enforcement: medical training; communications training; weapon calibration and practice on firing ranges; as well as some critiquing of ATF's rehearsal of the raid, and construction of a door and window frame. The type of support that was provided to ATF by the military, including training, could have been obtained with or without a drug nexus. From the Texas National Guard, ATF obtained the following: overflights that detected "hot spots" consistent with methamphetamine

production; tents, office equipment and other administrative support; and three helicopters that were to operate as a diversion at the start of the raid, two of which were specially configured for counterdrug work and funded by counterdrug funds.

The Treasury Report correctly concluded that ATF did not mislead U. S. military or Texas National Guard officials in obtaining their assistance. However, the Treasury Report also suggested that, neither the laws, nor the regulations and manuals of the military entities, provide a definition of the quantum of evidence necessary to establish a drug nexus, and that more precisely defined criteria should be developed.

Five independent experts analyzed ATF's use of military support for the Treasury Review. Several opined that ATF should have used helicopters provided by the U.S. Customs Service, which, because they have broader rules of engagement, could have assisted, for instance, in picking up wounded. At least two experts stated that the training ATF received at Fort Hood was excellent and well thought out.

Military Assistance to Treasury Law Enforcement

I would like to emphasize that Treasury's experience with the military has been a positive one. The military has provided vital assistance to the Customs Service in the nation's struggle against illegal drug trafficking. The DOD supports law enforcement along our country's borders by providing vehicles and shooting ranges, personnel and equipment to build border fences, air and marine detection and monitoring support, and research and development assistance. The National Guard has provided personnel to the Customs Service

at ports of entry, and has been directly responsible for many drug seizures and related arrests. Without these dedicated National Guard members and commitment and support of the military, Customs and our nation's counter-drug efforts would suffer greatly.

The military's role in selected law enforcement actions other than border interdiction of illegal drugs is also critical. The challenge posed by armed groups willing to use violence against the government or to commit suicide is relatively recent and very uncommon. By way of comparison, the two recent ATF investigations of comparable magnitude were a case in 1992 involving a buy-bust operation in Oregon that resulted in the seizure of 54 Mac-type machine guns. These machine guns were being manufactured for the purpose of selling them for profit, and were not in the custody of a large group occupying a compound whose beliefs included an inevitable violent confrontation with the government. ATF's largest comparable seizure in 1993 involved the execution of a search warrant at two storage lockers in Round Lake, Illinois, in which 15 machine guns, 11 silencers, 3 hand grenades, and approximately 31,000 rounds of ammunition were seized. An outlaw motorcycle organization was allegedly amassing these weapons for the protection of narcotics operations and protection against rival motorcycle gangs. Obviously, a seizure from a storage locker did not pose the extraordinary risks that ATF agents confronted at the Branch Davidian compound.

Where domestic law enforcement confronts groups using military style weapons, in military style settings, appropriate training and support equipment from the military can be very useful. By appropriate, I mean that civilian law enforcement must always define the goals of the operation, and the support it receives must comply with the law.

The Treasury Role On February 26

The Treasury Report concluded that the Treasury Department in Washington, D.C., did not require sufficient advance notice of significant enforcement operations to meaningfully exercise its oversight of these operations. Nevertheless, when informed of the plan in this case, the Office of Enforcement placed a hold on the operation which was removed only after ATF Director Higgins gave additional assurances about the raid plan. In that regard, ATF's maintaining surprise was critical to the raid's proceeding as planned. And, in conducting this analysis, the Treasury Report touches upon issues such as the danger of micro-managing bureaus by the Office of Enforcement and of the role of consultant, the position which I occupied at the time, in the review of such operations and in the decision-making process concerning such operations.

Secretary Bentsen was out of the country at an important international meeting. The Office of Enforcement notified the Deputy Secretary and the Secretary's Chief of Staff of the February 26 notice received from ATF.

Nothing I have heard in these hearings suggests that conclusions reached by the Treasury Report are flawed in this area. And, the suggestion from one session of these hearings that something was amiss because Secretary Bentsen had not been notified of the raid plan by Treasury officials or by ATF is plainly wrong. On the contrary, it would have been abnormal for the Secretary to have been involved at this stage of the operation. Indeed, in the prior 11 years, Main Treasury had not been asked to approve one raid, nor was ATF ever required to notify main Treasury under previous Administrations.

As a backdrop to the Committee's understanding of the role of Main

Treasury in the review of the raid plan, it must be understood that on February 26, 1993, the day on which the ATF liaison presented a one page notification of the proposed operation in the vicinity of Waco, the brutal bombing of the World Trade Center occurred. Understandably and appropriately, the Office of Enforcement, along with ATF, was responding to the emergency of that event and focusing on the investigation to determine the nature and placement of the explosives used in that tragedy and to assist, however possible, in apprehending the persons responsible for the bombing. Two other Treasury Enforcement bureaus, Customs and Secret Service, have offices in the World Trade Center building. I bring up these facts not to justify why more was not done when the one page notice was presented -- as I do not feel that more should have been done -- but to explain that the Office on that day was already operating under a crisis mode.

The facts uncovered by the Treasury Report demonstrate that Treasury officials, acting on their own judgment and discretion, and on the advice that I and a former director of the U.S. Marshall's Service, Stanley Morris, gave, raised serious concerns about the need for the dynamic entry plan and the risk it would pose to the safety of innocent women and children, the federal agents participating in the raid and others in the compound. Specifically, given the firepower believed to be possessed by the Davidians and their inclination, following the teachings of Koresh, to use force and violence to repel the ATF, it was feared by Treasury officials and myself that lives of innocent people would be in danger.

These concerns were communicated to Mr. Higgins, the Director of ATF, and the Acting Assistant Secretary for Enforcement directed that the raid not go forward. Later that evening, Mr. Higgins provided the factual basis for

the perceived need to proceed with the dynamic entry raid plan as soon as possible, the reasons why ATF believed that the raid should commence at 10:00 a.m. rather than at dawn, and the reasons why ATF believed that the raid could be executed without jeopardizing the safety of the women and children inside the Compound. Three factors were critical: the men being in the pit; the arms locked in the arms room; the women and children being in the dormitory. For these factors to be present, surprise was necessary. In addition, Mr. Higgins assured that the undercover agent would visit the Compound on Saturday and again on the morning of the raid to see if there was a change of routine, and he guaranteed that the raid would not go forward if things did not look right. On this basis and with the assurance that the raid would be aborted if the routine of the Davidians changed, because surprise was lost or because of fear of a raid, the Acting Assistant Secretary for Enforcement removed the barrier to the raid that he had placed previously. I agreed with that decision.

While the Office of Enforcement did not, by any practice, rule, regulation or guideline, need to approve the plan, once notified of the plan and the intention of ATF to execute it within days, it appropriately voiced its concern and in, exercising its oversight responsibilities of ATF, appropriately directed that the raid not go forward. Indeed, for the Office of Enforcement to have done otherwise would have been a gross neglect of its duty and responsibility. Do not misunderstand this comment. I do not believe, and I am not promoting as a matter of policy, that the Office of Enforcement micro-manage the Treasury law enforcement bureaus. To the contrary, the Office of Enforcement did not then and does not now possess the resources to address the complex, confusing, and potentially ever changing set of circumstances characterizing the raid plans and other enforcement operations of over 10,000

Treasury agents. That is not the role of the Office of Enforcement nor should it be.

The Assault on the Compound, The Flawed Decision to Go Forward With the Raid, and Other Issues

An overlooked finding in the Treasury report is one of its most important. "Rank and file agents of ATF who were sent to enforce federal firearms and explosives laws at the Branch Davidian Compound did their best to perform their assigned tasks and showed dedication and often spectacular courage in the face of murderous gunfire." Report at p. 7. Bill Buford, as we learned last week, lay helpless and exposed to Davidian gunfire when a member of his team dove on top of Buford's body to provide cover. The report describes another incident in which medic Tim Gabourie had his medical bag shot out of his hand by .50 caliber gunfire as he tried to assist Special Agent Willis. There were many more examples of bravery and heroism.

The Report also concluded that the raid should not have gone forward once ATF learned that Koresh knew that ATF was coming. The Report found that the raid commanders failed to appreciate the significance of the information provided by the undercover agent on the morning of the raid and the dangers of proceeding if the conditions were not as planned.

The Report also stated that the flawed decision to go forward was not solely a question of individual responsibility on the part of the raid planners. It was also the result of serious deficiencies in the intelligence gathering and processing structure, poor planning and personnel decisions, and a general

failure of ATF management to check the momentum of the operation as the circumstances demanded.

In connection with the loss of surprise, the Treasury Report explained that a cameraman for a local television station told a letter carrier that a raid was imminent. This individual was a member of Koresh's group, and gave the information to Koresh, who then prepared his ambush rather than submitting to ATF's legal authority. And this lead to the ensuing tragedy.

This event underscores the need for a high level of cooperation between law enforcement and the media, so that the interests of law enforcement effectiveness and safety, public safety, and the public's access to adequate information may be balanced. This is a complex area, but one I think is very important. The courts are beginning to look at it. Since the Report was published, a federal court of appeals held that a federal law enforcement agent is not immune from suit by individuals if the agent permitted the media to enter the individual's home without their permission.

Post-raid Events

The Treasury Report fully sets forth the facts of post-raid events. It describes the circumstances under which ATF agents withdrew from their positions around the compound, the retrieval of the dead and wounded agents, ATF's inability and deficiencies in maintaining the perimeter it had established so as to prevent the escape of Davidians who had participated in the ambush and murder of federal agents, and the chaos that resulted at the ATF command post and its resultant adverse effect on communications between commanders and line agents. I will not comment further on these issues other than to refer

these Committees to the pertinent sections of the Treasury Report and to say that nothing revealed during these hearings suggests in any way that the findings of the Report are in error.

Two post-raid matters, the decision to seek FBI assistance and the decision to cede control to the FBI, and the misstatements made by ATF management to the public, do require some comment. I will first address the decision to cede control to the FBI.

As noted in the Treasury Report, on March 1, 1993, the FBI, with the full cooperation and encouragement of ATF, took charge of the siege at the Compound. The request that the FBI take control of the siege came from four sources and demonstrates that federal law enforcement agencies can cooperate under the most difficult circumstances in an effort to achieve the goal of the operation.

Shortly after the cease-fire, as ATF assessed the situation and the news of the tragedy and deaths of the four ATF agents spread throughout the law enforcement community, at least one ATF supervisor suggested to his supervisor that the bureau seek assistance from the FBI's Hostage Rescue Team, known as the FBI HRT. This suggestion was based on the belief that a hostage situation had developed, that ATF did not have the expertise in dealing with hostage situations of this magnitude, and that the FBI did. At about the same time, Assistant United States Attorney Phinizy, one of the prosecutors who had worked on the affidavit supporting the search and arrest warrants, contacted the local office of the FBI and requested assistance. Still later, FBI Director Sessions contacted ATF Director Higgins, expressed his condolences for the casualties suffered by ATF and offered the FBI's assistance. And, on yet on another front, I contacted certain high-level FBI officials and, knowing

of the FBI HRT, requested that the FBI take control of the developing situation at the Compound. I was advised that the request for HRT's involvement had already been made and that the HRT was on its way to Waco.

The transfer of control from ATF to the FBI proceeded swiftly, efficiently, and almost without incident. While there was some dispute and discussion of which agency would actually control the site, ATF Director Higgins, following discussions with me, agreed to cede control to the FBI. And, given the tragedy that had occurred involving the murder of four ATF agents, some surviving ATF agents, acting out of pride for their agency and loyalty to their fallen comrades, to some degree resisted the FBI's insertion into the situation. These issues were resolved quickly and control was maintained over the site with the joint participation of FBI, ATF and the Texas Rangers.

Federal, state and local law enforcement can work together towards a common goal as was demonstrated in the days following the failed execution of the raid. ATF, though no longer in control of the crime scene or of the hostage situation, provided essential support to the FBI and the Texas Rangers under the most difficult of circumstances. Amidst the growing public criticism of the raid and mourning the deaths of four comrades gunned down in the ambush, ATF agents stood tall in the continued performance of their duty. In the most trying of times, ATF demonstrated that it is a first-class law enforcement agency.

Finally, the Treasury Review uncovered disturbing evidence of misleading statements and of deliberate attempts by the raid commanders to shift blame to the undercover agent. These ATF supervisors, who were involved in the flawed decision to proceed with the raid plan, notwithstanding their knowledge that the element of surprise had been lost, lied to the Treasury Review team, unfairly tried to place blame on a line agent, and altered

documentary evidence in an effort to mislead the Review. Others deceived the public and disregarded directives and requests from Treasury officials, the Justice Department and the Texas Rangers to refrain from further public comment concerning the raid until the full facts had been established by the Treasury Review.

This conduct, discussed fully in the Treasury Report, was inexcusable, reprehensible and served no purpose other than to undermine the credibility of ATF. Such conduct was not in the interest of ATF or of the many courageous line agents who risked their lives during the operation. Any desire on the part of these officials to somehow shield ATF from further criticism by making misleading statements or by lying demonstrated gross misjudgment that required action by the Treasury Department. Each of these officials was detrimentally affected or resigned. None of them carries a badge or gun today nor will they ever. The revelation in the Treasury Report of this conduct and the consequences that followed was painful but necessary to restore public, as well as line agent confidence in the bureau.

Treasury officials, when they learned that misstatements or half-truths had been spoken by ATF officials, directed that no further public comment be made by ATF management unless based on first hand knowledge. This directive initially was disregarded but eventually was followed. Treasury officials did not publicly correct the record until September, 1993, when the Treasury Report was released. While there can be debate over whether Treasury officials should have corrected the record more promptly, the fact of the matter is that to do so prior to conducting a full investigation could have led to inadvertent misstatements, thereby undermining the credibility of the ATF and the Treasury Department and further eroding public confidence. In

addition, Treasury officials were concerned that premature public statements might jeopardize the ongoing murder investigations being conducted by the Texas Rangers.

Under these circumstances, responsible conduct required that Treasury officials refrain from further public comment until a full investigation was completed. That investigation concluded in September, 1993.

Reactions to the Treasury Report

The public statement finally issued took the form of an over 500 page Report which candidly divulged the numerous errors, as well as acts of heroism, by ATF.

Here's what the independent reviewers said about the Treasury Department's investigation and report in letters submitted to Secretary Bentsen in 1993.

Pulitzer Prize winning journalist Edwin O. Guthman stated, "In appointing the panel of independent reviewers you said you expected a through, comprehensive and uncompromising critique and that, Sir, is what has been given to you. . . . It was a privilege to participate in the review and in so doing, I must say I gained enormous respect for the professionalism and dedication with which the investigative team leaders and their agents conducted themselves at all times."

Henry Ruth, a former Chief Watergate Prosecutor, stated: "The report insightfully fulfills the purpose of this self-evaluation. The impartiality, integrity, thoroughness and knowledge of the internal review team members have been evident throughout the five month, intensive investigative

process. Mr. Ruth concludes "It if my heartfelt hope that you, Secretary Bentsen as a national leader, can lead the change of orientation, thought and action so that no more men, women, and children need die in these most difficult of circumstances."

Chief Willie Williams of the Los Angeles City Police Department stated: "I have found that the investigative team which you assembled is of the highest quality and integrity. These men and women have worked tirelessly to uncover the facts surrounding the events which led up to and included the raid of David Koresh's Residence near Waco, Texas on the 28th of February 1993."

The view of the reviewers has been heard and echoed by the independent Inspector General's Office, members of Congress from Treasury's Oversight Committees and major news publications throughout the country. I would ask the committee to include in the record the letters from the three reviewers to Secretary Bentsen.

Treasury's Office of the Inspector General determined that the report "provides an accurate account of the events."

Then Arizona Senator Dennis Deconcini found it "thorough, impartial, and self-effacing."

The Treasury Report drew extensive praise when released in September 1993. Treasury's office of the Inspector General determined that the report "provides an accurate account of the events."

Members of Congress gave it high praise. Former Arizona Senator Dennis DeConcini found it "thorough, impartial, and self-effacing." Iowa Republican Jim Lightfoot described the report as "thorough in its findings."

Major newspapers praised Treasury's honesty and candor. The Wall Street Journal characterized it as "extensively detailed." The Washington Post

said it was a "thorough and candid account." The Los Angeles Times wrote, "[d]espite all that went wrong with the raid by the [ATF] on the Branch Davidian compound last February, the thorough and complete report released . . . by the Treasury Department shows that much in its aftermath is going right." The New York Times called it "brutally detailed." And just last week, Time Magazine stated:

> Perhaps the harshest critic of the ATF's Waco raid was the bureau's own master, the Treasury Department. In the raid's aftermath, the Department launched an investigation by veteran agents from its other law enforcement agencies, backed up by independent outside reviewers, including Willie Williams, the Los Angeles Chief of Police. The result was a 500-page indictment that pulled no punches, yet whose details, surprisingly, went largely unreported.

Yet, at these hearings, the very people who are most criticized in the report have badly asserted that the report is only 70% accurate. Certain members of this committee have accepted that figure as gospel without any consideration of the source or evidence to support that number. Indeed, none of those criticized articulated what, if any facts in the report are inaccurate, nor what analysis is flawed. As Secretary Bentsen observed, it is not surprising that Mr. Sarabyn, Mr. Chojnacki, and Mr. Hartnett disagree with some of the conclusions of the report, because they are among those who were criticized and were detrimentally affected as a result of the review's findings. At today's hearing I have with me almost all of those who worked on the report; they are the finest group of agents and colleagues with whom I ever have been associated. Their dedication, competence and integrity combined to generate what many consider the finest examination of a law enforcement action ever produced. We stand by the report's facts, analysis and conclusions, as do our

independent, outside reviewers. If the report is only 70% accurate as those criticized have asserted, show us the 30% inaccuracies. In reality, it is accurate and there has been no cover-up.

For the record, none of the members of the team that generated the Treasury Department's report on Waco were interviewed prior to this hearing to determine what they thought about the report. So let me now ask the agents, lawyers, and individuals who gathered the facts and performed the analysis for the Department of the Treasury's report on ATF's investigation of David Koresh to stand.

Thank You.

The American public has a right to know that one of its major departments, the Treasury Department, already has examined issues confronted by this hearing and that Treasury's examination was comprehensive, candid, and accurate. By recognizing this fact, these hearings can help to restore confidence in this country's public servants. To ignore or deny the quality of the Treasury Department's self-examination could feed the paranoia and suspicion of a small segment of the American public.

Post-Waco Changes: Personnel Changes and Policy Oversight

What has changed since the report was released? First, ATF has new leadership. Director Higgins announced his intention to retire shortly before publication of the Treasury Report. Secretary Bentsen selected John Magaw, then Director of the Secret Service to become the new ATF Director. After issuing the Report, Secretary Bentsen placed five ATF officials on administrative leave, including Mr. Hartnett, Mr. Chojnacki, and Mr. Sarabyn.

The five ATF officials were: the Associate Director for Law Enforcement (Dan Hartnett), the Deputy Associate Director for Law Enforcement (Dan Conroy), the Chief of the Intelligence Division (David Troy), Phillip Chojnacki, Special Agent in Charge of ATF's Houston Division, and incident commander at Waco, and Chuck Sarabyn, Assistant Special Agent in Charge in Houston, and the tactical commander on the ground at Waco. The Review found that these officials provided deliberately misleading statements in the aftermath of the raid. As the Treasury Review stated: "Any individual whose judgment or integrity cannot be trusted by those who must rely on those qualities must be removed from a position of discretionary authority." Report at 182-183.

Mr. Hartnett chose to retire. Mr. Sarabyn and Mr. Chojnacki were fired. They appealed the decision to the Merit Systems Protection Board. To avoid the possibility that they would be reinstated in their former jobs, to avoid re-opening the wounds of agents at ATF, and to permit the agency to move forward, ATF settled with Mr. Sarabyn and Mr. Chonajcki on terms that allowed them to be employed, but removed their law enforcement powers. Both were demoted and removed from their positions as special agents. They no longer carry guns or badges. The intelligence chief was removed from the Senior Executive Service ranks.

As a consequence, the entire top management of ATF dealing with law enforcement matters was replaced. Daniel Black of ATF Compliance Office was elevated to the newly created Deputy Director position. Charles Thompson, formerly Special Agent in Charge of ATF New York office, the largest and among the most successful ATF offices in the country, was chosen to head ATF Office of Criminal Enforcement.

I believe that the decision to terminate these agents was correct. While I would have preferred to see this decision hold, I believe that ATF Director John Magaw acted appropriately in deciding that the cases should be settled. The most important factor to me was that the agents would no longer hold law enforcement positions. As the Treasury Report stated, "Any individual whose judgement or integrity cannot be trusted by those who must rely on those qualities must be removed from a position of discretionary authority." Report at 182-183.

Treasury Reforms

The tragedy at Waco also demonstrated a serious deficiency in the way the Office of Enforcement supervised its bureaus and showed the need for the earliest possible notification of significant law enforcement actions such as the raid plan executed here. Earlier notification is necessary for the Office of Enforcement to exercise meaningful oversight of its bureaus.

After the personnel changes, the second change is that I issued a directive in August 1993, requiring that the Office of Enforcement be informed of any significant operational matters that affect any of the bureaus' missions, including major, high-risk law enforcement operations.

Third, I instituted new guidelines for sensitive undercover operations. Customs, and Secret Service now have all sensitive undercover operations reviewed by a multi-agency committee to ensure maximum planning and oversight. The multi-agency committee includes not only representatives from all Treasury enforcement bureaus, but also representatives from the Department of Justice's Criminal Division. This procedural safeguard shows the increased

oversight by Treasury Officials over the most sensitive and dangerous law enforcement operations of the bureaus. Indeed, had the undercover guidelines been in place in 1992 and early 1993, the investigation of Koresh would have come under close scrutiny by a sizable group of agents and lawyers from a broad spectrum of enforcement agencies.

Fourth, we took steps to improve oversight, including formal and informal communication between Treasury's law enforcement bureaus and Treasury. To that end, I established a weekly meeting between the Under Secretary's office and the heads of each of the Treasury Enforcement Bureaus and key offices. I also have periodic one on one meetings with each of these bureau heads where policy matters are discussed in greater detail. Of course, I also speak regularly and informally with the bureau heads on both significant and more routine matters.

Finally, I reactivated the Treasury Enforcement Council (TEC). The TEC consists of all the bureau heads. There also are TEC working groups that focus on more specific subject matters.

Based on these reforms, an operation contemplated by any Treasury bureau of the scope and complexity of the Waco raid will come to the attention of a variety of law enforcement authorities as well as my office well in advance of the planned action. Ordinarily, operational matters are the domain of law enforcement bureau heads. The job of Treasury is to ensure that the bureaus have strong leadership and high standards for personnel, institute proper training, are supported with adequate resources, and enforce the laws impartially.

For the reasons stated in the Treasury Report, tragedies such as the one at Waco never should happen and never should be permitted to happen again.

Under my direction, the Office of Enforcement, though it has improved its oversight, will continue to make strides to assure the American public that Treasury law enforcement agencies act responsibly and at the same time, carry out their critical mission in ensuring the safety of our communities.

The Importance of the Treasury Report

I don't believe a day has passed since February 28, 1993 that I haven't thought about the deaths of Conway LeBleu, Todd McKeehan, Rob Williams and Steve Willis. I was in a position to influence the Acting Assistant Secretary for Enforcement not to permit the raid to proceed -- no matter what assurances ATF's then Director, Steve Higgins, gave him. I gave the same advice -- first, to stop the raid, then to permit it to go forward -- that I would have followed, had I been the Assistant Secretary for Enforcement. I have never shied away from taking responsibility for my advice, nor do I now.

In early March I attended funerals of three of the four murdered agents. Two were held the same day in different states, so I could only attend three. I do not have the vocabulary to describe the impact of attending the funeral of a law enforcement officer slain in the line of duty. Police officers from throughout the country -- state, local and federal -- attend or send flowers in recognition of the unity of law enforcement. Moreover, I felt that the surviving family members gave me more comfort than I gave them.

I remember holding Conway LeBleu's son Cameron's hand while I knelt before him. He was eighteen months old. I remember Rob Williams' mother holding me in her arms for a long time and telling me that everything would be O.K. I remember Steve Willis' father's strength. He said that he was proud of

his son because he died doing what made him happy. While I wasn't able to attend Todd McKeehan's funeral, I later spoke with his father who said: "Please send me a copy of your report of what happened at Waco before it's made public; I want to know the truth."

Three funerals in three states in three days. I am reminded every day of the dangerous world in which law enforcement operates. Since joining Treasury I have attended 14 funerals of Treasury agents and employees killed in the line of duty and 8 funerals and memorial services of non-Treasury agents. I do not forget that four ATF agents were murdered; three wives are widowed; children are without a father; and parents, brothers and sisters are without a loved one. During the Waco funerals I saw and met ATF agents for whom I would one day be responsible. I saw the bond among them. Men and women cried openly and proudly as they laid their brethren to rest. Black and white agents held each other. Female and male agents held each other.

I don't believe that the Conway LeBleu had been buried before press reports surfaced that ATF went forward with the raid after learning that Koresh had been tipped to the planned raid on raid day. ATF management did not confirm this fact; it denied it publicly and frequently.

I committed myself to find the truth using the most comprehensive and authoritative review process possible. And, since I don't do the work of the brave and good ATF agents who risk their lives each and every day enforcing the law against the country's most dangerous criminals, I committed myself to ensuring that they have the leadership, training, resources, and support necessary for the work they do.

ATF's Law Enforcement Mission

The Treasury Department did a thorough, comprehensive, and unsparingly honest investigation of the tragic events at Waco insofar as they involved ATF and Treasury. Two years after the Treasury Report and the installation of new leadership at ATF, the ATF continues to perform essential and often dangerous work for the American people. At this time, the agency should be permitted to move on.

Let me review for you a few facts about the work ATF does every day for the American people:

* In FY 1994, ATF special agents forwarded 5,592 cases for prosecution involving alleged violations of the federal firearms, arson, and explosives laws. Of the nearly 9,500 suspects referred for prosecution in those cases, **47 percent were convicted felons, 49 percent were involved in narcotics trafficking, and 25 percent had violent criminal histories.**

* ATF operates **21 Achilles task forces** in 20 major cities with high violent crime rates. The task forces, comprised of ATF special agents and state and local law enforcement officers, target gang violence, drug trafficking, murder, rape and other violent crimes. From 1988 through 1994, ATF's Achilles program **took 6,251 violent criminal offenders off the streets.**

* **ATF National Response Team** has mobilized 310 times in response to explosives and arson-related crises, including the terrorist bombings in Oklahoma City and the World Trade Center. These incidents involved the loss of **431 lives, 2,324 injuries and over $3.5 billion in property damage.** ATF also has been called to respond to 10 international crises involving explosives

and arson.

* From 1989 to 1993, ATF arson investigations helped keep Americans' insurance costs down by **saving the insurance industry $187 million in fraudulent claims.**

* The Violent Crime Control Act of 1994 made firearms thefts from a federally licensed gun dealer a federal criminal offense. Since the law went into effect in September 1994, ATF has received **1,688 theft reports involving 13,173 firearms.**

By setting out the truth, the Treasury Report honored the memories of the ATF agents killed at Waco. By instituting reforms, Treasury and ATF have worked to ensure that a tragedy of this kind never again occurs. There has been a lot of discussion at these hearings about the need to restore faith in federal law enforcement. I do not believe the American people need their faith restored, they have faith in federal law enforcement. Last week as these hearings continued, everyday work continued for ATF line agents. That work often places them in the most dangerous neighborhoods pursuing the country's most violent criminals.

On the Monday before the hearings began, an undercover agent for ATF shot and killed a suspected member of a murderous crack distribution ring in a crime ridden New Orleans neighborhood who, while pointing a Beretta 9mm semi-automatic pistol, threatened to "blow the heads off" of both the agent and another person near him. The agent, a Waco veteran, was working on a Drug Enforcement Administration task force along with officers from the New

Orleans police and the Jefferson Parish Sheriff's Office. The task force targets violent narcotics offenders. We thus must remember the violent world in which ATF agents operate.

When the New Orleans Times-Picayune reported on the episode on the front page, it did not mention Waco. The people of New Orleans, know that whatever mistakes ATF made two years ago, it carries out a critical, difficult and dangerous law enforcement mission, fighting violent narcotics offenders, and armed career criminals, gangs, illegal gun traffickers, arsonists, and bomb-makers. ATF agents daily place their lives on the line to help make our citizens safer. If the American people are reminded of that during these hearings, I believe the mission of law enforcement and ATF will be strengthened as a result.

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

FOR IMMEDIATE RELEASE
July 24, 1994

Contact: Hamilton Dix
(202) 622-2960

RUBIN ANNOUNCES BUREAU OF ENGRAVING AND PRINTING DIRECTOR

Treasury Secretary Robert E. Rubin today appointed Larry E. Rolufs as director of the Bureau of Engraving and Printing (BEP).

Rolufs, 55, has served at the General Accounting Office since 1986, most recently as director of information management services in the Office of Information Management and Communication, a position he assumed in October 1992. From October 1990 to October 1992 he was director of policy and planning in the same office, and from April 1986 to October 1990 he served as director of the Office of Publishing and Communications.

"Larry's extensive background in management and the printing field make him an outstanding and highly qualified person for this important position," Secretary Rubin said. "His leadership will be important to the bureau in the coming years as we implement our program to redesign the U.S. paper currency."

Rolufs worked at the Treasury Department from December 1983 to April 1986 as director of special projects under the U.S. Treasurer. He was deputy director of the U.S. Mint from October 1982 until December 1983 and served as assistant director for operations at the BEP from November 1979 to October 1982.

Rolufs holds a B.S. in Printing Management from California State Polytechnic University and a M.S. in Printing Management/Telecommunications from South Dakota State University. He was born in Springfield, Mo., and is married to Lawanda Dawes.

The BEP, a bureau within the Treasury Department, has facilities in Washington, D.C. and Fort Worth, Texas. The BEP produces all U.S. paper currency, the majority of U.S. postage stamps and other security documents issued by the federal government.

Mr. Rolufs succeeds Peter H. Daly, who has served as BEP director since August 26, 1988. Mr. Daly will move to the Treasury Department to work on strategic issues involving cash systems.

RR-472

- 30 -

federal financing bank NEWS
WASHINGTON, D.C. 20220

Press 202-622-2960
FFB 202-622-2450

July 25, 1995

FEDERAL FINANCING BANK

Charles D. Haworth, Secretary, Federal Financing Bank (FFB), announced the following activity for the month of June 1995.

FFB holdings of obligations issued, sold or guaranteed by other Federal agencies totaled $90.6 billion on June 30, 1995, posting a decrease of $2,101.2 million from the level on May 31, 1995. This net change was the result of a decrease in holdings of agency debt of $1,244.6 million, in holdings of agency assets of $755.0 million, and in holdings of agency-guaranteed loans of $101.5 million. FFB made 17 disbursements during the month of June, and executed four repricings of RUS-guaranteed loans, and 94 maturity extensions of RUS-guaranteed loans. FFB also received 128 prepayments in June.

Attached to this release are tables presenting FFB June loan activity and FFB holdings as of June 30, 1995.

RR-473

FEDERAL FINANCING BANK
JUNE 1995 ACTIVITY

BORROWER	DATE	AMOUNT OF ADVANCE	FINAL MATURITY	INTEREST RATE
GOVERNMENT - GUARANTEED LOANS				
DEPARTMENT OF TRANSPORTATION				
New York S & W Railroad	6/27	$4,204,575.00	5/22/15	6.400% Qtr.
GENERAL SERVICES ADMINISTRATION				
Atlanta CDC Office Bldg.	6/1	$1,281,892.07	9/1/95	5.932% S/A
HCFA Headquarters	6/1	$704.68	6/30/95	5.931% S/A
HCFA Services	6/6	$92,761.00	6/30/95	5.806% S/A
Foley Services Contract	6/19	$177,160.18	12/11/95	5.830% S/A
Foley Services Contract	6/22	$122,314.50	12/11/95	5.779% S/A
Foley Square Courthouse	6/26	$806,822.00	12/11/95	5.733% S/A
HCFA Services	6/26	$93,223.00	6/30/95	5.667% S/A
HCFA Headquarters	6/26	$757.38	6/30/95	5.667% S/A
Memphis IRS Service Cent.	6/26	$1,923,398.06	1/2/96	5.732% S/A
HCFA Services	6/30	$1,635,827.65	7/1/25	6.730% S/A
HCFA Headquarters	6/30	$114,295,859.53	6/30/25	6.730% S/A
GSA/PADC				
ICTC Building	6/8	$2,500,000.00	11/2/26	6.624% S/A
ICTC Building	6/14	$9,641,158.58	11/2/26	6.635% S/A
RURAL UTILITIES SERVICE				
Carteret Electric #360	6/8	$2,000,000.00	12/31/25	6.560% Qtr.
Central Iowa Power #385	6/23	$5,168,000.00	12/31/14	6.310% Qtr.
Oglethorpe Power #335	6/23	$53,304,000.00	1/2/24	6.459% Qtr.
*Brazos Electric #917	6/30	$3,571,691.99	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$2,732,817.18	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$2,227,488.98	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$1,621,346.82	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$2,145,859.94	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$275,425.00	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$2,464,480.04	10/2/95	5.566% Qtr.

S/A is a Semi-annual rate: Qtr. is a Quarterly rate.
* maturity extension or interest rate reset

FEDERAL FINANCING BANK
JUNE 1995 ACTIVITY

BORROWER	DATE	AMOUNT OF ADVANCE	FINAL MATURITY	INTEREST RATE
GOVERNMENT - GUARANTEED LOANS				
RURAL UTILITIES SERVICE (continued)				
*Brazos Electric #917	6/30	$2,304,578.41	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$576,770.22	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$1,174,637.59	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$18,528.53	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$489,923.43	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$459,565.21	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$4,258,733.61	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$3,979,226.99	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$1,019,372.90	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$1,118,855.91	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$1,436,394.35	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$1,767,404.81	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$432,680.62	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$998,004.27	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$1,303,084.40	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$2,416,589.53	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$2,735,098.77	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$61,443.65	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$761,972.17	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$940,326.70	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$2,556,748.24	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$511,074.61	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$5,203,367.01	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$1,195,764.51	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$2,396,336.44	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$24,061,313.44	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$708,809.22	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$484,926.15	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$2,225,630.45	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$1,301,062.41	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$1,690,506.84	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$2,779,216.89	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$2,974,846.95	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$585,643.94	10/2/95	5.566% Qtr.

Qtr. is a Quarterly rate.
* maturity extension or interest rate reset

FEDERAL FINANCING BANK
JUNE 1995 ACTIVITY

BORROWER	DATE	AMOUNT OF ADVANCE	FINAL MATURITY	INTEREST RATE
GOVERNMENT - GUARANTEED LOANS				
RURAL UTILITIES SERVICE (continued)				
*Brazos Electric #917	6/30	$18,949.55	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$1,939,608.86	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$999,125.56	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$2,689,879.88	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$854,577.19	10/2/95	5.566% Qtr.
*Brazos Electric #917	6/30	$3,273,272.26	10/2/95	5.566% Qtr.
*Citizens Utilities #387	6/30	$2,356,273.61	6/30/05	6.342% Qtr.
*Citizens Utilities #387	6/30	$3,823,593.60	6/30/05	6.342% Qtr.
*Coop. Power Assoc. #070	6/30	$1,214,814.94	6/30/97	5.969% Qtr.
*Coop. Power Assoc. #130	6/30	$4,909,091.05	6/30/97	5.969% Qtr.
*Coop. Power Assoc. #156	6/30	$1,497,321.54	6/30/97	5.969% Qtr.
@East Kentucky Power #140	6/30	$469,606.95	1/3/17	6.591% Qtr.
@East Kentucky Power #140	6/30	$486,304.90	1/3/17	6.591% Qtr.
@East Kentucky Power #188	6/30	$5,734,239.35	1/3/17	6.591% Qtr.
@East Kentucky Power #188	6/30	$8,535,296.23	1/3/17	6.591% Qtr.
*Hoosier Energy Elec. #901	6/30	$39,220,058.04	7/2/02	5.932% Qtr.
*Hoosier Energy Elec. #901	6/30	$15,961,609.95	7/1/02	5.932% Qtr.
*Hoosier Energy Elec. #901	6/30	$9,805,014.50	7/1/02	5.932% Qtr.
*Kamo Electric #209	6/30	$1,526,204.16	12/31/15	6.502% Qtr.
*N. Dakota Central #278	6/30	$200,666.78	1/3/17	6.591% Qtr.
*Northwest Iowa Power #907	6/30	$7,756,053.55	10/2/95	5.566% Qtr.
*Oglethorpe Power #916	6/30	$40,032,761.57	7/1/96	5.545% Qtr.
*Plains Elec. #918	6/30	$6,153,626.74	10/2/95	5.566% Qtr.
*Plains Elec. #918	6/30	$9,495,638.26	10/2/95	5.566% Qtr.
*Plains Elec. #918	6/30	$10,232,202.59	10/2/95	5.566% Qtr.
*Plains Elec. #918	6/30	$7,379,417.90	10/2/95	5.566% Qtr.
*Plains Elec. #918	6/30	$7,508,175.41	10/2/95	5.566% Qtr.
*Plains Elec. #918	6/30	$3,492,259.81	10/2/95	5.566% Qtr.
*Plains Elec. #918	6/30	$13,447,033.04	10/2/95	5.566% Qtr.
*Plains Elec. #918	6/30	$5,968,805.29	10/2/95	5.566% Qtr.
*Plains Elec. #918	6/30	$3,092,824.57	10/2/95	5.566% Qtr.
*Plains Elec. #918	6/30	$926,249.04	10/2/95	5.566% Qtr.
*Plains Elec. #918	6/30	$1,653,514.21	10/2/95	5.566% Qtr.
*Plains Elec. #918	6/30	$586,040.46	10/2/95	5.566% Qtr.

Qtr. is a Quarterly rate.
@ interest rate buydown
* maturity extension or interest rate reset

FEDERAL FINANCING BANK
JUNE 1995 ACTIVITY

BORROWER	DATE	AMOUNT OF ADVANCE	FINAL MATURITY	INTEREST RATE
GOVERNMENT - GUARANTEED LOANS				
RURAL UTILITIES SERVICE (continued)				
*Saluda River Elec. #903	6/30	$2,341,111.32	7/1/02	5.935% Qtr.
*Saluda River Elec. #903	6/30	$884,798.45	7/1/02	5.935% Qtr.
*Saluda River Elec. #903	6/30	$1,403,619.27	7/1/02	5.935% Qtr.
*Saluda River Elec. #903	6/30	$9,878,655.98	7/1/02	5.935% Qtr.
*Saluda River Elec. #903	6/30	$3,260,843.72	7/1/02	5.935% Qtr.
*Saluda River Elec. #903	6/30	$2,648,404.94	7/1/02	5.935% Qtr.
*Saluda River Elec. #903	6/30	$11,045,413.98	7/1/02	5.935% Qtr.
*Saluda River Elec. #903	6/30	$1,044,942.40	7/1/02	5.935% Qtr.
*Seminole Electric #905	6/30	$12,091,521.43	1/3/17	6.303% Qtr.
*Seminole Electric #905	6/30	$12,269,060.33	1/3/17	6.303% Qtr.
*Seminole Electric #905	6/30	$23,710,936.95	1/3/17	6.303% Qtr.
*Seminole Electric #905	6/30	$39,965,689.66	1/2/18	6.322% Qtr.
*Seminole Electric #905	6/30	$39,981,563.14	10/2/95	5.566% Qtr.
*United Power Assoc. #911	6/30	$935,836.49	10/2/95	5.566% Qtr.
*United Power Assoc. #911	6/30	$11,230,036.69	10/2/95	5.566% Qtr.
*United Power Assoc. #911	6/30	$3,630,971.25	10/2/95	5.566% Qtr.
*United Power Assoc. #911	6/30	$3,059,527.22	10/2/95	5.566% Qtr.
*United Power Assoc. #911	6/30	$3,632,085.10	10/2/95	5.566% Qtr.
*United Power Assoc. #911	6/30	$3,866,727.23	10/2/95	5.566% Qtr.
*United Power Assoc. #911	6/30	$4,285,830.31	10/2/95	5.566% Qtr.
*United Power Assoc. #911	6/30	$1,201,820.48	10/2/95	5.566% Qtr.
*United Power Assoc. #911	6/30	$914,658.82	10/2/95	5.566% Qtr.
*Washington Electric #269	6/30	$301,512.45	6/30/97	5.969% Qtr.

Qtr. is a Quarterly rate.
* maturity extension or interest rate reset

FEDERAL FINANCING BANK
(in millions)

Program	June 30, 1995	May 31, 1995	Net Change 6/1/95-6/30/95	FY '95 Net Change 10/1/94-6/30/95
Agency Debt:				
Department of Transportation	$ 0.0	$ 0.0	$ 0.0	$ -664.7
Export-Import Bank	2,646.1	3,149.8	-503.8	-1,280.4
Resolution Trust Corporation	15,777.2	16,518.0	-740.8	-10,742.0
Tennessee Valley Authority	3,200.0	3,200.0	0.0	-200.0
U.S. Postal Service	7,614.7	7,614.7	0.0	-1,358.4
sub-total*	29,237.9	30,482.5	-1,244.6	-14,245.4
Agency Assets:				
FmHA-ACIF	2,698.0	3,453.0	-755.0	-3,365.0
FmHA-RDIF	3,675.0	3,675.0	0.0	0.0
FmHA-RHIF	23,631.0	23,631.0	0.0	-760.0
DHHS-Health Maintenance Org.	10.5	10.5	0.0	-14.8
DHHS-Medical Facilities	28.5	28.5	0.0	-7.2
Rural Utilities Service-CBO	4,598.9	4,598.9	0.0	0.0
Small Business Administration	0.7	0.7	0.0	-0.3
sub-total*	34,642.6	35,397.6	-755.0	-4,147.4
Government-Guaranteed Loans:				
DOD-Foreign Military Sales	3,580.8	3,612.0	-31.2	-204.6
DHUD-Community Dev. Block Grant	95.7	95.7	0.0	-14.2
DHUD-Public Housing Notes	1,688.5	1,688.5	0.0	-58.0
General Services Administration +	2,222.4	2,220.8	1.6	192.9
DOI-Virgin Islands	21.2	21.2	0.0	-0.7
DON-Ship Lease Financing	1,432.1	1,432.1	0.0	-47.4
Rural Utilities Service	17,256.8	17,313.1	-56.3	-59.8
SBA-Small Business Investment Cos.	16.8	16.8	0.0	-39.9
SBA-State/Local Development Cos.	428.0	447.7	-19.8	-95.1
DOT-Section 511	15.0	11.0	4.1	0.4
sub-total*	26,757.4	26,858.9	-101.5	-326.4
grand-total*	$ 90,637.9	$ 92,739.1	$-2,101.2	$-18,719.2

*figures may not total due to rounding
+does not include capitalized interest

AUCTION RESULTS

PUBLIC DEBT NEWS

Department of the Treasury • Bureau of the Public Debt • Washington, DC 20239

FOR IMMEDIATE RELEASE
July 25, 1995

CONTACT: Office of Financing
202-219-3350

RESULTS OF TREASURY'S AUCTION OF 2-YEAR NOTES

Tenders for $17,754 million of 2-year notes, Series AG-1997, to be issued July 31, 1995 and to mature July 31, 1997 were accepted today (CUSIP: 912827U59).

The interest rate on the notes will be 5 7/8%. All competitive tenders at yields lower than 5.955% were accepted in full. Tenders at 5.955% were allotted 43%. All noncompetitive and successful competitive bidders were allotted securities at the yield of 5.955%, with an equivalent price of 99.851. The median yield was 5.938%; that is, 50% of the amount of accepted competitive bids were tendered at or below that yield. The low yield was 5.882%; that is, 5% of the amount of accepted competitive bids were tendered at or below that yield.

TENDERS RECEIVED AND ACCEPTED (in thousands)

	Received	Accepted
TOTALS	$41,095,131	$17,753,551

The $17,754 million of accepted tenders includes $857 million of noncompetitive tenders and $16,897 million of competitive tenders from the public.

In addition, $868 million of tenders was awarded at the high yield to Federal Reserve Banks as agents for foreign and international monetary authorities. An additional $287 million of tenders was also accepted at the high yield from Federal Reserve Banks for their own account in exchange for maturing securities.

RR-474

DEPARTMENT OF THE TREASURY

TREASURY NEWS

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FOR IMMEDIATE RELEASE
July 25, 1995

Waco Update

Attached is an update based on recent testimony in the House Waco hearings.

Subjects covered include:

(1) The Davidians Fired First
(2) Shooting at the Dogs
(3) Videotape of the Raid
(4) Helicopters did not Fire
(5) The Front Door of the Compound
(6) ATF did not use Excessive Force
(7) ATF did not strafe the compound with automatic weapons fire.

-30-

RR-475
2:00pm

Dick DeGuerin

Assertion: The evidence suggests that ATF fired first on the compound.

- Three impartial reporters on the premises -- Mark Masferrar, Jim Mullony, Tommy Witherspoon -- testified at trial that persons inside the compound fired first.

- Agents participating in the raid testified under oath at trial and before Congress that the first shots came from within the compound.

- Koresh was alerted forty-five minutes before the raid was to take place that ATF was coming. Kathy Schroeder testified at trial that preparations were made within the compound to ambush the agents. Graeme Craddock gave corrobating testimony on Turning Point on Thursday night. Koresh's followers gathered firearms, ammunition, and grenades in anticipation of their arrival. Davidians were stationed in the windows and on the water tower when the agents arrived.

Dick DeGuerin

Assertion: The first shots may have been fired at the dogs. ATF's plan called for them to shoot the dogs.

Fact:

- ATF agents testified under oath, and three members of the media confirmed that the first shots were fired at ATF agents from within the compound. This testimony when unchallenged during yesterday's hearings.

- ATF agents protected themselves by shooting the dogs after the gunfight started.

- ATF's plan called for agents to discharge fire extinguishers at the dogs in order to hold them at bay. Shots were to be fired at the dogs only if the fire extinguishers failed. One agent managed to discharge his fire extinguisher before taking fire from within the compound.

Dick DeGuerin

Assertion: The videotape of the raid which was to be taken from the undercover house is missing.

Fact:

- ATF originally planned to make a videotape of the warrant execution from the undercover house. A camera was set up in the window and connected to a VCR recorder. However, in the period before arrival of the cattle trailers the agents found that, whenever they keyed their radio microphone, the tape ejected from the VCR. For this reason, the VCR was never turned on.

- If a videotape operation of the had been made, it would have confirmed evidence presented at trial by the ATF agents and the media -- that the Davidians fired first.

DeGuerin and Zimmerman

Assertion: The perfortions on the right side of the door were from incoming rounds. This evidence suggests that ATF fired first.

Fact:

- The defense attorneys' claims are not verifiable because the door they refer to was destroyed in the fire. The forensic evidence of the remaining part of the door shows clearly that most of the holes were made by outgoing rounds.
- Forensic evidence from the door is incapable of determining who fired first, only that both sides fired at each other.
- The incoming holes in the door were caused by ATF agents firing in self-defense after the Davidians opened fire.

DeGuerin

Assertion: The Davidians may have had the right to defend themselves against excessive deadly force.

Fact:

- The Davidians had no right to fire upon federal agents serving legally valid, properly issued warrants. No citizen has this right. The proper means to challenge the validity of a warrant is in court, not by taking up arms against law enforcement officers.

- If the fact that the agents were armed when they approached the compound constitutes "excessive force," then criminals present during any law enforcement raids will have the right to resist with deadly force.

- The Davidians knew that ATF was coming to the compound that morning before the agents even arrived, and were waiting in ambush. On Turning Point, Graeme Craddock, a Branch Davidian, admitted that members of the compound were lying in wait for Koresh's signal to shoot these officers. Howell/Koresh even told an FBI negotiator during the subsequent siege: "Ya'll guys didn't have a chance. We knew you were coming."

- The ATF agents were running toward the compound wearing uniforms and carrying equipment clearly marked as "POLICE -- ATF" and identified themselves as police with a warrant to serve.

- The Davidians were doing more than firing in self-defense; they were trying to kill the agents. Kenny King and Bill Buford were fired upon numerous times after they received their initial wounds.

DeGuerin

Assertion: ATF agents sprayed the compound with automatic weapons fire.

Fact

- No ATF agents carried fully automatic weapons.
- On the day of the raid ATF agents carried a total of 7 AR-15 (which are different from M-16s) and 15 MP-5 rifles. All of these weapons were semi-automatic. Five ATF agents carried an MP-5 that was capable of firing a two shot burst from a single pull of the trigger. In contrast, dozens of fully automatic machine guns were recovered from the Davidians' compound. Also recovered were hundreds of thousands of rounds of ammunition.

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

FOR RELEASE AT 2:30 P.M.
July 25, 1995

CONTACT: Office of Financing
202/219-3350

TREASURY'S WEEKLY BILL OFFERING

The Treasury will auction two series of Treasury bills totaling approximately $25,200 million, to be issued August 3, 1995. This offering will result in a paydown for the Treasury of about $800 million, as the maturing weekly bills are outstanding in the amount of $26,003 million.

Federal Reserve Banks hold $6,805 million of the maturing bills for their own accounts, which may be refunded within the offering amount at the weighted average discount rate of accepted competitive tenders.

Federal Reserve Banks hold $2,548 million as agents for foreign and international monetary authorities, which may be refunded within the offering amount at the weighted average discount rate of accepted competitive tenders. Additional amounts may be issued for such accounts if the aggregate amount of new bids exceeds the aggregate amount of maturing bills.

Tenders for the bills will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D. C. This offering of Treasury securities is governed by the terms and conditions set forth in the Uniform Offering Circular (31 CFR Part 356) for the sale and issue by the Treasury to the public of marketable Treasury bills, notes, and bonds.

Details about each of the new securities are given in the attached offering highlights.

oOo

Attachment

RR-476

HIGHLIGHTS OF TREASURY OFFERINGS OF WEEKLY BILLS TO BE ISSUED AUGUST 3, 1995

July 25, 1995

Offering Amount	$12,600 million	$12,600 million
Description of Offering:		
Term and type of security	91-day bill	182-day bill
CUSIP number	912794 V5 0	912794 W8 3
Auction date	July 31, 1995	July 31, 1995
Issue date	August 3, 1995	August 3, 1995
Maturity date	November 2, 1995	February 1, 1996
Original issue date	May 4, 1995	August 3, 1995
Currently outstanding	$12,299 million	- - -
Minimum bid amount	$10,000	$10,000
Multiples	$ 1,000	$ 1,000

The following rules apply to all securities mentioned above:

Submission of Bids:	
Noncompetitive bids	Accepted in full up to $1,000,000 at the average discount rate of accepted competitive bids
Competitive bids	(1) Must be expressed as a discount rate with two decimals, e.g., 7.10%. (2) Net long position for each bidder must be reported when the sum of the total bid amount, at all discount rates, and the net long position is $2 billion or greater. (3) Net long position must be determined as of one half-hour prior to the closing time for receipt of competitive tenders.
Maximum Recognized Bid at a Single Yield	35% of public offering
Maximum Award	35% of public offering
Receipt of Tenders:	
Noncompetitive tenders	Prior to 12:00 noon Eastern Daylight Saving time on auction day
Competitive tenders	Prior to 1:00 p.m. Eastern Daylight Saving time on auction day
Payment Terms	Full payment with tender or by charge to a funds account at a Federal Reserve Bank on issue date

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

FOR IMMEDIATE RELEASE
July 25, 1995

Contact: Hamilton Dix
(202) 622-2960

MEDIA ADVISORY

Treasury Deputy Secretary Frank Newman, U.S. Treasurer Mary Ellen Withrow, and Bureau of Engraving Director Larry E. Rolufs will accompany representatives of the National Council on Disabilities on a tour of the Bureau of Engraving and Printing (BEP) in Washington, D.C. on Wednesday, July 26.

The tour celebrates the fifth anniversary of the Americans with Disabilities Act. It will take place at 2:30 p.m. at BEP's production facility, 14th and C Streets, S.W., Washington, D.C.

The Bureau of Engraving and Printing has installed a number of features that make the tour easily accessible to those with disabilities, including open-caption screens, audio tapes and wheelchair access. In 1994, nearly 700,000 people took the currency production facility's guided tour.

All press who plan to attend the tour must call Dawn Haley, BEP Public Affairs, by 1 p.m. Wednesday at (202) 874-3913. Press should arrive by 2:15 p.m. and enter through the visitor's center on the 15th Street side of the building.

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RR-477

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

FOR IMMEDIATE RELEASE
July 26, 1995

STATEMENT BY TREASURY SECRETARY ROBERT E. RUBIN

"We welcome the consensus that is emerging in favor of an interim agreement on financial services in the World Trade Organization's Committee on Trade in Financial Services. We expect this to be confirmed on Friday. This agreement protects the capacity of the United States to respond to excessive foreign restrictions on access for U.S. firms."

The results will provide a basis for continued work to open financial services markets on a multilateral basis. We will participate in the negotiations that will take place before the expiration of this interim agreement in December 1997."

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RR-478

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

A LETTER BY LESLIE B. SAMUELS
ASSISTANT SECRETARY OF THE TREASURY
(TAX POLICY)
REGARDING THE S CORPORATION REFORM ACT
OF 1995
JULY 26, 1995

RR-479

DEPARTMENT OF THE TREASURY
WASHINGTON

ASSISTANT SECRETARY

July 25, 1995

The Honorable Orrin G. Hatch
United States Senate
Washington, D.C. 20510

Dear Senator Hatch:

Recently, the Administration testified before the Subcommittee on Taxation and Internal Revenue Service Oversight on the provisions of S. 758, the "S Corporation Reform Act of 1995" (the "Reform Act"). As stated in this testimony, we support the goal of the Reform Act to provide small businesses with needed S corporation reform and simplification. The Administration supports many of the technical and administrative provisions of the Reform Act, such as increasing the number of shareholders from 35 to 50, and applauds you and the Subcommittee for undertaking such needed reform and simplification. We believe, how ver, that appropriate revenue offsets must be provided for these legislative proposals to the extent they lose revenue.

We are also concerned that certain provisions of the Reform Act may unintentionally create undue complexity and provide increased opportunities for large taxable C corporations to escape corporate taxation by electing S corporation status. This seems to be an inappropriate consequence of a bill intended to benefit small businesses. In response to your request at the hearing, we have been considering several proposals that would address these concerns. In addition, as we stated in our testimony, we would be pleased to work with the Senate Finance Committee to produce a revenue neutral reform package for small business that could be enacted on a bipartisan basis.

During the hearing, we stated that there have been two recent developments that should strongly influence the shape of any S corporation reform. First, limited liability companies ("LLCs") have emerged as a tremendously popular alternative to S corporations. LLCs combine the flexibility of a partnership for tax purposes with the liability protection of an S corporation. LLCs, like S corporations and other forms of partnerships, are generally not subject to tax; the results of their operations flow through to the owners. Virtually all states have enacted some form of LLC legislation and, for most new enterprises seeking extended flow-through treatment, an LLC will likely become the preferred entity. Thus, as we consider S corporation reform, we should keep in mind that it can be expected generally to benefit only certain existing businesses.

Second, Treasury and the IRS have recently proposed a "check-the-box" system that would allow LLCs and other unincorporated entities to elect to be treated as partnerships for tax purposes simply by checking a box. This check-the-box system has been generally praised by taxpayers and tax practitioners. However, it would not apply to enterprises formed as corporations. We do not have the authority to extend the check-the-box system to non-publicly traded corporations--large or small--including S corporations.

In light of these developments, we believe that, as an alternative to some of the provisions of S. 758, we should consider allowing, at least for a limited period of time, certain S corporations to convert to a partnership on a tax-free basis under prescribed circumstances. As you know, there are currently several practical limitations on an S corporation's ability to convert to a partnership. In particular, such a conversion generally results in a tax liability that may be too steep a price for many S corporations to pay, as well as various transaction costs (lawyer and accountant fees, state transfer taxes, etc.). If adopted, this proposal would eliminate or reduce the tax cost of the conversion and enable certain S corporations to elect the more flexible partnership treatment.

As part of this proposal, we should also consider whether it would be appropriate to grant Treasury authority to extend the check-the-box proposal to converting S corporations. If Congress were to do so, we would be authorized to issue regulations that would allow S corporations to continue their existing corporate status while converting to partnership treatment for federal tax purposes. As a result, S corporations that wanted to be treated as a partnership for federal tax purposes would simply file an election to be treated as a flow-through partnership, rather than actually having to transfer assets to a new partnership entity. This proposal would enable S corporations to achieve partnership tax treatment without incurring the transaction costs involved in actually converting to a partnership (including an LLC.)

Finally, the dual concerns of providing appropriate revenue offsets to this legislation and targeting it to small business suggest that we explore another possible S corporation reform. Specifically, we should consider whether it is advisable to conform the tax treatment of the conversion of large existing C corporations to S corporations with the treatment of their conversion to a partnership (including an LLC.) This proposal (as applied to all converting C corporations, not just large C corporations) was suggested by the Joint Committee on Taxation in

1990 as a simplification measure.[1] Currently, electing S status rather than converting to a partnership generally enables large C corporations -- corporations that would not meet anyone's definition of small business -- to escape most corporate taxes. In light of the recent developments discussed above, now may be an appropriate time to review the Joint Committee's proposal.

I am also sending a similar letter to Mr. Pryor and the chairs and ranking members of the Senate Finance Committee and the House Ways and Means Committee. We look forward to working with the two committees to develop a reform package that provides the needed flexibility for small businesses.

Sincerely,

Leslie B. Samuels
Assistant Secretary
(Tax Policy)

cc: Senator Robert Packwood
Senator Daniel P. Moynihan
Representative Bill Archer
Representative Sam M. Gibbons

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[1] In a letter to Rep. Rostenkowski, the Joint Committee on Taxation recommended, as part of a simplification package, that "a shift from C corporation status to passthrough entity status where the passthrough entity is an S corporation [be] conformed to the present-law treatment where the passthrough entity is a partnership." See letter to Chairman Dan Rostenkowski from Ronald A. Pearlman, Chief of Staff of the Joint Committee on Taxation, reprinted in Committee on Ways and Means, Written Proposals on Tax Simplification, WMCP 101-27, May 25, 1990, p.20.

AUCTION RESULTS

PUBLIC DEBT NEWS

Department of the Treasury • Bureau of the Public Debt • Washington, DC 20239

FOR IMMEDIATE RELEASE
July 26, 1995

CONTACT: Office of Financing
202-219-3350

RESULTS OF TREASURY'S AUCTION OF 5-YEAR NOTES

Tenders for $11,501 million of 5-year notes, Series N-2000, to be issued July 31, 1995 and to mature July 31, 2000 were accepted today (CUSIP: 912827U67).

The interest rate on the notes will be 6 1/8%. All competitive tenders at yields lower than 6.219% were accepted in full. Tenders at 6.219% were allotted 96%. All noncompetitive and successful competitive bidders were allotted securities at the yield of 6.219%, with an equivalent price of 99.601. The median yield was 6.198%; that is, 50% of the amount of accepted competitive bids were tendered at or below that yield. The low yield was 6.180%; that is, 5% of the amount of accepted competitive bids were tendered at or below that yield.

TENDERS RECEIVED AND ACCEPTED (in thousands)

	Received	Accepted
TOTALS	$30,195,617	$11,500,577

The $11,501 million of accepted tenders includes $287 million of noncompetitive tenders and $11,214 million of competitive tenders from the public.

In addition, $550 million of tenders was awarded at the high yield to Federal Reserve Banks as agents for foreign and international monetary authorities. An additional $275 million of tenders was also accepted at the high yield from Federal Reserve Banks for their own account in exchange for maturing securities.

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

WRITTEN STATEMENT OF LESLIE B. SAMUELS
ASSISTANT SECRETARY (TAX POLICY)
DEPARTMENT OF THE TREASURY
BEFORE THE
HOUSE COMMITTEE ON WAYS AND MEANS

Mr. Chairman and Members of the Committee:

I am pleased to submit this statement presenting the views of the Administration on miscellaneous revenue issues as described in the July 10, 1995, pamphlet prepared by the Joint Committee on Taxation[1] ("JCT Pamphlet").

The Committee has before it over 250 proposals representing substantive changes to a wide range of tax provisions. Many of these proposals deal with complex provisions of the law. In many cases, the proposals raise questions whether existing law should be thoroughly reviewed and subject to hearings, considering, among other things simplification and rationalization. For instance, Treasury is studying the treatment of financial instruments and entities engaged in financial services transactions and ways to modernize their regulatory and tax treatment. Some proposals that are the subject of these hearings might more appropriately be considered in the context of such a modernization effort.

In developing our positions on the proposals before the Committee, we have relied on a number of tax policy principles. One such principle is tax simplification. Given the widespread interest that has been expressed in simplifying the tax code, we believe that in evaluating these proposals, great weight should be given to the extent that they may either simplify or complicate the tax laws. Many taxpayers have complained that one of the greatest sources of complexity in the tax laws is frequent change in the law. We urge the Committee in considering these miscellaneous proposals to bear in mind the additional complexity that may result from large numbers of even meritorious changes in the tax laws.

RR-481

[1] Joint Committee on Taxation, Description of Miscellaneous Tax Proposals (JCS-19-95), July 10, 1995.

The Administration strongly supports many of the simplification provisions contained in H.R. 3419, as it passed the House in the 103rd Congress and as proposed to be modified in the JCT Pamphlet. The Administration has recently announced additional tax simplification proposals.

For instance, last month the President announced a pension simplification package. A number of the miscellaneous tax proposals included in these hearings are the same as or similar to items in the Administration's pension simplification proposal. We believe that the complexity of the private pension system has raised the compliance and administrative costs of maintaining a plan to a level that discourages certain employers, particularly small employers, from providing any retirement plan for their employees. Accordingly, one of the principal elements of the Administration's proposed pension simplification package is a new, simple retirement plan for employers with 100 or fewer employees, known as the NEST (or National Employee Savings Trust). The NEST would combine the most attractive features of IRAs and 401(k) plans, and would not be subject to the top-heavy rules or to any other complex nondiscrimination rules. We look forward to working with Congress on a bipartisan basis to achieve this and other pension simplification this year.

In June, President Clinton also announced proposals, as part of the Administration's Reinvention of Government II (REGO II) initiative, to simplify the tax and wage reporting system, and to expand the Internal Revenue Service's partnership program with State tax authorities. We note that one of the simplification proposals in H.R. 3419 would permit IRS to enter into cooperative agreements with State tax authorities. The Administration supports this provision and is eager to work with the Committee to improve it.

In addition to tax simplification, the Administration has relied on several other tax principles in evaluating the miscellaneous proposals that are before the Committee. We oppose "rifleshot" measures that provide special tax relief to a targeted group of taxpayers. We generally oppose purely retroactive provisions that seek to supplant the judicial process. We favor equity among similarly situated taxpayers. We insist upon the administrability of each provision. Finally, to the extent that miscellaneous tax proposals represent tax expenditures, the relevant cost to taxpayers, and whether there are proposed revenue-raising offsets, are important factors to be considered.

The Administration's view with respect to many of the proposals under consideration today assumes that appropriate revenue measures will be proposed. Consequently, even for tax proposals that are meritorious, they must be offset by revenue-raising provisions that are compatible with the principles of

deficit reduction. Moreover, even if appropriate revenue-raising offsets can be identified, the Administration will want to work with the Committee and the Congress as a whole to set priorities for the use of those revenues.

The remainder of this statement is a detailed discussion of the Administration's positions on the miscellaneous tax proposals that are the subject of the hearing. The discussion follows the order of the proposals described in the JCT pamphlet.

ADMINISTRATION POSITION ON
MISCELLANEOUS TAX PROPOSALS

I. MISCELLANEOUS PROPOSALS

A. TAX ACCOUNTING PROVISIONS

1. Expensing of Certain Costs Associated with Natural Disasters

Administration Position. **Do not support.** The Administration is aware of concerns relating to lost or damaged crops. This proposal, however, goes well beyond allowing deductions to restore acreage to its pre-disaster condition by allowing deductions for capital investments.

2. Allow Installment Method of Reporting Income from Sale of Certain Residential Real Property

Administration Position. **Oppose.** Current law appropriately denies the installment method with respect to sales of real property by dealers. This provision would add significant complexity to the Internal Revenue Code and would be difficult for the Internal Revenue Service ("IRS") to monitor. Also, it is inconsistent with the narrow exceptions of current law, as it would not impose an interest charge on the deferred tax.

3. Eliminate "Look-Back Method" for Nonresidential Construction Contracts

Administration Position. **Oppose.** The look-back provisions serve to compensate either the government or the taxpayer for the under- or over-estimation that is inherent in the use of estimates. The narrow exceptions to the use of this method currently available serve to exclude those taxpayers for whom the calculations are overly burdensome.

4. Treatment of Contributions in Aid of Construction for Water Utilities

Administration Position. **Do not oppose.** Congress enacted the current statute in 1986 to prevent utilities from permanently excluding the income associated with these contributions. Congress believed that regulated utilities had the flexibility to recoup these expenditures (if they were incurred directly) through the ratemaking mechanism. It is not clear, however, that utilities have this flexibility. For example, many utilities are restricted to fixed-rate structures that do not permit them to earn a return on property of the type under consideration. Therefore, in these cases, there is no permanent exclusion of income as contemplated by Congress in the Tax Reform Act of 1986

("1986 Act"). It is unclear, however, from a tax policy perspective why this proposal should be limited to water utilities.

5. Allow Trading Partnerships and Corporations to Use a Mark-to-Market Method of Accounting for Securities

Administration Position. **Do not support.** The Treasury is studying the treatment of financial instruments and entities engaged in financial services transactions and ways to modernize their regulatory and tax treatment. This proposal is more appropriately considered in the context of the larger issues. Furthermore, there are a number of technical issues that will have to be addressed with this type of treatment, such as the character of gain or loss on a mark of a capital asset generating ordinary income flows.

6. Allow Partnerships and S Corporations to Elect Taxable Years Other than Required Taxable Years by Paying Estimated Taxes on Behalf of Their Owners

Administration Position. **Oppose.** This provision is extremely complex and will impose greater administrative and compliance burdens on the IRS. Furthermore, there are a number of technical problems. For example, the entity makes payments at the corporate rate, unless owners have income from the entity above a certain amount, or, if the entity is a partnership, it has income above a certain amount without regard to the number of partners. This may result in significant deferral of estimated payments by the owners, depending upon their tax brackets. As another example, the owners may find it difficult to determine the actual amount of credit against their own tax liabilities that is flowing from the entity if ownership is changing throughout the year.

7. Allow Deduction for Intrastate Operating Rights of Motor Carriers

Administration Position. **Oppose.** Allowing a current deduction for the adjusted basis of operating authorities would contravene long-standing cost recovery principles and is even more generous than the Economic Recovery Tax Act of 1981 provision affecting interstate operating rights.

8. Allow Taxpayers to Estimate Shrinkage for Inventory Accounting

Administration Position. **Oppose.** The Administration believes that the use of estimates based on historical data in this context does not result in a clear reflection of income.

9. Provide Exclusion for Certain Amounts Received by a Utility with Respect to Nuclear Decommissioning Costs

Administration Position. **Do not support.** The effect of this proposal is to allow the utility to exclude from income customer contributions to future decommissioning costs without reducing the amount the utility is permitted to deduct for contributions to a nuclear decommissioning fund.

10. Repeal Treasury Ruling Requirement for Nuclear Decommissioning Costs

Administration Position. **Do not support.** Taxpayers are required to obtain a ruling establishing the schedule of contributions to a nuclear decommissioning fund in order to prevent excess accumulations in the fund and to assure that contributions are not deducted more rapidly than level funding.

We believe that centralized administration, through a ruling procedure, is the most efficient method of achieving these purposes. The Internal Revenue Service's experience with the ruling requirement is that the schedules submitted by taxpayers in their ruling requests frequently require adjustments in order to prevent excessive or accelerated deductions. We are concerned that, if the ruling requirement is eliminated and enforcement of limitations on contributions is left to the audit process, errors in the schedule of contributions are more likely to escape detection. We also believe the Internal Revenue Service should not be deprived of its discretionary authority to disqualify a nuclear decommissioning fund if the fund's assets are not used for decommissioning or there is self-dealing between the fund and the utility.

We recognize that, under current rules, it is possible that taxpayers may be required to request a new ruling to reflect minor changes in the assumptions on which the taxpayer's original ruling was based. The Internal Revenue Service and Treasury are aware that in such cases, it is appropriate to streamline the procedures to ease administrative burdens on both taxpayers and the Internal Revenue Service.

11. Treatment of Certain Compensation Payable by Certain Personal Service Corporations Using an Accrual Method of Accounting

Administration Position. **Do not oppose, with possible modifications.** Provided the amount of compensation which may be deducted under this provision is limited in a manner similar to that proposed in H.R. 11 in the 102nd Congress, the mismatch that would result from this provision would not undermine the purposes of section 267.

12. Treatment of Livestock Sold on Account of Weather-Related Conditions

Administration Position. **Support.** This provision promotes the policy of allowing farmers to avoid unpredictable tax results due to events not within their control, and allows these taxpayers to associate expenses with income directly attributable to those expenses in the same manner as the natural business cycle.

13. Treatment of Certain Crop Insurance Proceeds and Disaster Assistance Payments

Administration Position. **Support.** This provision promotes the policy of allowing farmers to avoid unpredictable tax results due to events not within their control, and allows these taxpayers to associate expenses with income directly attributable to those expenses in the same manner as the natural business cycle.

14. Allow Certain Contractors to Use the Cash Method of Accounting

Administration Position. **Oppose.** The Administration does not believe that a statutory change is necessary.

B. ALTERNATIVE MINIMUM TAX

1. Allow Certain Investment Expenses to be Deducted for Alternative Minimum Tax Purposes

Administration Position. **Do not oppose, with modifications.** From a tax policy perspective, the AMT treatment of these expenses is inconsistent with one of the purposes of the AMT (to assure that economic income is subject to tax) and results in a mismeasurement of economic income. This relief should not be limited to individuals receiving distributive shares of section 212 expenses from partnerships. The economic distortion at issue applies no matter what form the taxpayer's investment takes.

2. Allow Energy Tax Credits Against Alternative Minimum Tax

Administration Position. **Oppose.** There is no reason that energy credits should be subject to substantially more favorable treatment than other tax credits, which generally are not allowed against the AMT. In addition, the purpose of the AMT, to assure that taxpayers with economic income are subject to tax, will be weakened if credits may be fully utilized against it.

C. BUSINESS EXPENSES

1. Any Period During Which a Federal Employee Is Certified By the Attorney General To Be Participating in a Federal Criminal Investigation Not Included in Computation of One-Year Limitation with Respect to Deductibility of Travel Expenses While Temporarily Away from Home

Administration Position. **Do not support.** It has not been established that the impact of the amendment of section 162(a) by the Energy Policy Act of 1992 upon federal investigators is unique or more burdensome than the impact upon State and local investigators or other governmental or business activities. Deduction of expenses for travel away from home may result in the deduction of personal expenses as business expenses. A universally applicable fixed time limit is appropriate and should minimize administrative disputes.

2. Deduction for Regularly Scheduled Air Transportation Limited to Normal Tourist Class Fare

Administration Position. **Oppose.** Imposing a new limitation on the deductibility of airline fares would create significant administrative burdens. In addition, it would be inappropriate to single out the airline industry in contrast to other forms of transportation by limiting deductions for airfare to a particular fare.

3. Increase Deductibility of Business Meal Expenses for Individuals Subject to Federal Hours of Service Limitations

Administration Position. **Oppose.** We are not persuaded that the circumstances of those individuals who would be affected by this proposal are sufficiently unique to warrant special treatment.

D. BUSINESS TAX CREDITS

1. Credit for the Rehabilitation of Certain Historic Homes

Administration Position. **Oppose.** The subsidy represented by the proposed credit is not warranted. Moreover, the transferability of the credit pursuant to rehabilitation mortgage credit certificates raises significant administrative concerns.

2. Increase Tax Credit and Modify Other Provisions with Respect to Electric Vehicles

Administration Position. **Do not support.** The current 10 percent credit (subject to a $4000 cap) for electric vehicles was enacted

in 1992, effective for vehicles placed in service after June 30, 1993. We are concerned that certain of the proposed modifications would create greater disparity in the tax incentives for electric vehicles and the special expensing allowed for other clean-fuel vehicles.

3. Tax Credit and Tax-Exempt Financing for Environmental Remediation Expenses

Administration Position. **Do not support.** Although the Administration fully supports the goal of environmental cleanup, the proposal would be complex and difficult to administer. In addition, the proposal would have significant revenue cost, and would not be the most efficient means of providing subsidies to finance cleanup costs.

E. CAPITAL GAINS

1. Ten Percent Alternative Tax on Gains Held Five Years

Administration Position. **Oppose.** This type of proposal is inconsistent with the principles of an income tax since taxpayers with the same amount of capital gain would pay greatly different amounts of tax in many cases. The proposal would be very complex due to its potential interaction with other provisions such as loss carryovers, the 28 percent maximum tax on capital gains, limits on the deduction of investment interest expense, and the alternative minimum tax. In addition, this proposal would lose significant revenue.

2. One-Time Exclusion of Gain on the Sale of a Principal Residence by an Individual Who Has Attained Age 55

(a). Allow Multiple Exclusions Where Two Otherwise Eligible Taxpayers Marry

Administration Position. **Do not oppose.** There are a number of anomalies in existing law, particularly with respect to individuals who remarry. It is clear that improvements to the current rules can be made for otherwise eligible taxpayers who marry. We are happy to work with Congress to develop proposals to simplify current law.

(b). Allow Multiple Exclusions in Certain Cases

Administration Position. **Do not support.** This proposal has the potential to allow two exclusions within a marriage for a total of up to $250,000 in excluded gains. There are a number of anomalies in existing law, particularly with respect to individuals who remarry. We are happy to work with Congress to develop proposals to simplify current law, but we are concerned

about the possibility in this proposal of allowing two exclusions within a marriage.

(c). Allow Multiple Exclusions in the Case of Certain Unemployed Persons

Administration Position. **Oppose.** This proposal raises significant administrative concerns.

(d). Treat Certain Disabled Persons as Satisfying the Age 55 Requirement

Administration Position. **Do not support.** It is unclear that this is an appropriate, targeted way to assist the disabled. In addition, we have concerns about the definitions used in the proposal.

3. Revise Targeted Capital Gains Exclusion for Small Business

Administration Position. **Do not support.** Section 1202 as currently drafted provides an appropriate incentive for investment in small business corporations. The Administration, however, recognizes the potential problems that can be created by the current provisions regarding shareholder redemptions and the amount of working capital that is treated as used in the active conduct of a trade or business. We would be happy to work with Congress to devise appropriate corrections to address these specific problems.

4. Exempt Tax-Exempt Bonds from Treatment as Market Discount Bonds

Administration Position. **Oppose.** Market discount on a tax-exempt bond is attributable to the time value of money and is appropriately treated as discount.

F. CHARITABLE DEDUCTION

1. Deduction for Commemorative Coins Purchased from U.S. Mint

Administration Position. **Oppose.** This proposal runs contrary to the fundamental tax policy principle which holds that a taxpayer makes a charitable contribution only to the extent the taxpayer's payment exceeds the value of anything provided in return. The U.S. mint sells commemorative coins for a set price per coin. A taxpayer who pays the set price for a commemorative coin has gotten back something of equivalent value, and therefore has not made any charitable contribution that would merit a deduction.

2. Charitable Deduction for Non-Itemizers

Administration Position. **Oppose.** A charitable contribution factor is already built into the standard deduction. Therefore, allowing taxpayers who do not itemize to claim a deduction for charitable contributions would effectively provide many taxpayers with a double deduction, and would pose significant budgetary and administrative problems.

3. Remove Charitable Deductions from Overall Limitation on Itemized Deductions

Administration Position. **Oppose.** There is no tax policy reason for distinguishing the charitable contribution deduction from any other itemized deduction that is subject to the reduction imposed by section 68.

4. Repeal Charitable Substantiation Rule for Contributions of $250 or More

Administration Position. **Oppose.** The substantiation requirement of section 170(f)(8) is intended to stop known abuse of the charitable contribution deduction by taxpayers seeking to deduct payments to charity that are actually payments for goods or services rather than contributions. Requiring written substantiation provides the IRS with an effective mechanism for verifying that a taxpayer's payment genuinely represents a charitable contribution.

5. Allocation of Basis to Sale Portion of Bargain Sales of Real Estate Interests to Charities or Governments

Administration Position. **Oppose.** By allowing a taxpayer to offset the gain from a bargain sale of real property to charity with the full basis in the property, this proposal removes an important check on the taxpayer's interest in inflating the value of the charitable contribution. It also increases the preference for using appreciated real property rather than cash to make charitable contributions. Furthermore, by preventing the IRS from considering negotiations and the actual sales prices when determining the fair market value of a restriction on use of real property that has been sold to a charity, the proposal creates an unwarranted exception to the general principles of fair market value. Arm's-length bargaining and sales prices are essential elements in any principled analysis of fair market value. Prohibiting their consideration would encourage taxpayers to claim unjustifiably that they have made bargain sales.

6. Enhanced Deduction for Corporate Contributions of Scientific Equipment for Design Research

Administration Position. **Oppose.** The special rule for contributions of scientific property for research was enacted in response to studies that showed that universities were unable to meet the rising costs of scientific equipment in such equipment-intensive research areas as physics, chemistry, and electrical engineering. This rationale does not apply to contributions of equipment for use in design research. Moreover, there is no evidence that the costs of the equipment used in design research are rising. In fact, the cost of computer equipment, one of the principal tools of design research, is generally falling.

G. CHILD CARE CREDIT

1. Extend Dependent Care Credit and Dependent Assistance Programs to Certain Overnight Camp Expenses

Administration Position. **Oppose.** Taxpayers may claim this credit for certain child-care costs incurred in order to enable the taxpayer to work, but generally may not deduct expenses which are predominately for the entertainment or education of their child. In addition, this provision appears to limit the amount of allowable expenses on a weekly basis, adding significant complexity to the calculation of the credit and exclusion amounts.

H. COMPLIANCE

1. Allow Offset of State Tax Liability with Overpayments of Federal Tax Law (H.R. 757)

Administration Position. **Do not oppose.** The Administration supports the goals of H.R. 757, but believes modifications are necessary to ensure that the IRS can continue to administer its refund offset program in an efficient manner. We would be pleased to work with the Committee in crafting the needed modifications.

2. Repeal of Information Reporting on Real Estate Transactions

Administration Position. **Oppose.** This information reporting requirement is important in enabling the IRS to monitor compliance. The Congressional concern underlying the enactment of this provision in 1986 remains valid.

3. Extend IRS Offset Authority for Undercover Operations

Administration Position. **Support.** When it was available, offset authority was used by the IRS to conduct effective undercover investigations of crimes such as money laundering and motor fuel excise tax fraud. The offset authority also was used to conduct undercover investigations that led to the indictment of major drug traffickers and organized crime figures, and the seizure of millions of dollars in illicitly derived assets. The authority should be extended.

I. CORPORATE

1. Certain Distributions by Alaska Native Corporations and Treatment of Certain Settlement Trusts

Administration Position. **Do not support.** Any changes to the taxation of Alaska Native Corporations ("ANCs") should be structured to minimize administrative burdens on the IRS. The proposal would increase the situations in which the determination of basis in shares of ANC stock becomes relevant, and thus would increase administrative complexity.

2. Lengthen Corporate Capital Loss Carryover From 5 to 15 Years

Administration Position. This proposal would permit capital losses to be carried forward 15 years instead of five. The current five-year carry-forward may be unduly short. We are concerned, however, about revenue effects and whether the proposed modification is appropriate for existing losses. We believe this proposal should be considered in light of the treatment of carryovers generally.

3. Repeal Rule that Accumulated Earnings Tax Applies Without Regard to the Number of Shareholders

Administration Position. **Do not support.** Changes to the accumulated earnings tax rules must be carefully considered, particularly with respect to their coordination with other anti-avoidance provisions in the Code, including the personal holding company and foreign personal holding company rules. Although changes in these rules may be justified, they should await a thorough review of these anti-avoidance provisions.

4. Modify Rules for Interest on Large Corporate Underpayments

Administration Position. **Do not support.** This proposal is inconsistent with the original design and intent of the 1990 legislation that imposes the higher rate of interest on large corporate underpayments.

J. DEPRECIATION AND AMORTIZATION

1. Normalization of Consolidated Tax Adjustments with Respect to Non-Regulated Subsidiary of a Regulated Public Utility

Administration Position. **Do not support.** The Administration is not convinced that regulatory commissions should be prohibited from allocating any of the consolidated tax benefits resulting from the accelerated use of losses incurred by unregulated affiliates to the customers of the utility against whose income the losses were applied. Moreover, if Congress wishes to restrict a regulatory commission's discretion, sanctions other than the loss of accelerated depreciation may be more appropriate.

2. Establish 15-Year Recovery Period for Small Retail Motor Fuel Outlet Stores

Administration Position. **Oppose.** The proposal is likely to lead to significant abuses and controversies.

3. Establish 3-Year Recovery Period for Semiconductor Manufacturing Equipment

Administration Position. **Do not support.** Changes in depreciable lives should be made only after detailed analysis of relevant economic and other evidence supporting a change.

4. Establish 3-Year Recovery Period for Property Subject to Certain Rental Purchase Agreements

Administration Position. **Oppose.** The Administration is unaware of any economic analysis that supports a shorter life for property subject to rent-to-own contracts.

5. Establish 10-Year Recovery Period for Commercial Improvement Property

Administration Position. **Oppose.** The Treasury is unaware of any economic analysis that supports this modification to the prohibition on component depreciation or the 10-year recovery period of this proposal.

6. Establish 10-Year Recovery Period for Certain Leasehold Improvements

Administration Position. **Oppose.** The Treasury is unaware of any economic analysis that supports this modification to the prohibition on component depreciation or the 10-year recovery period of this proposal.

7. Treatment of Intermodal Cargo Containers

Administration Position. **Oppose.** The investment tax credit and accelerated depreciation provisions were intended to stimulate investment in the United States. This proposal is inconsistent with that objective, and due to its retroactive nature, will not directly result in new investment. Moreover, the amendment of tax returns for many prior years presents significant administrative burdens for the IRS.

8. Exempt Acquisition of Software and Software Services Businesses from 15-Year Intangibles Amortization

Administration Position. **Do not support.** We are concerned that this proposal will lead to disputes over whether an acquisition qualifies for exemption from 15-year amortization and thus will undermine the goals of the 1993 intangibles legislation.

K. EITC

1. Advance Payment of the Earned Income Tax Credit through State Agencies

Administration Position. **Support, with modifications.** This proposal is very similar to a demonstration program proposed by the Administration in 1994 (section 741 of H.R. 4605, 103rd Congress). We would support this proposal if it were modified to conform to our proposal, primarily by addressing the critical issue of the States' responsibility for excessive payments and limiting the provision to a demonstration project involving a specified number of States for a limited duration with an agreement to share data for purposes of evaluating the program.

L. EDUCATION

1. Exclusion For Income Earned on State Prepaid Tuition Plans

Administration Position. **Support Administration's budget proposal.** The Administration strongly supports incentives for investing in and saving for education, but believes that the President's IRA and educational expense deduction proposals are a more flexible way to encourage savings and a more cost-effective means of helping middle- and lower-income individuals afford education. Moreover, the exemption under current law of interest on Series EE Savings Bonds used for education largely satisfies the needs addressed by this proposal for middle- and lower-income individuals saving for their children's education. In addition, we believe that the proposal has technical problems, and may have large revenue costs.

We understand, however, that the prepaid tuition plans currently in place in a number of States are appealing to individuals trying to save for their children's education. We also understand that uncertainty about the tax treatment of the plans under current law may discourage some from using the plans to save for college. We would be happy to work with Congress to create a less expensive, more targeted approach to dealing with this problem.

2. Adopt Education Savings Accounts

Administration Position. **Support Administration's budget proposal.** The Administration supports efforts to encourage savings and to promote investment in higher education. We believe, however, that our proposals to allow deductions for educational expenses and to expand IRAs is a preferable approach. The Administration's proposals are targeted on middle-income families and thus are a more cost-effective way to increase the savings rate in this country. Since there is no income limitation under this proposal, it may provide a tax windfall for higher-income individuals without increasing their overall rate of savings. The Administration's proposals are targeted to provide incentives for lower- and middle-income people who need help saving and paying for college. Finally, we prefer the Administration's IRA proposal because it is a more flexible approach to enhancing the savings rate.

3. Expand Section 108(f) To Provide That Cancellation of Private College Student Loans Is Not Taxable Income

Administration Position. **Do not oppose.** If Congress decides that the exclusion of cancellation of indebtedness income under section 108(f) should be extended to student loans from educational institutions under a program of an institution designed to encourage its students to serve in occupations or geographic areas with unmet needs, we would not oppose such a change on a revenue-neutral basis in the context of otherwise acceptable legislation. However, the Administration remains strongly committed to its prior proposal to clarify that debt forgiveness on Federal direct student loans with income-contingent repayment is excluded from income. The Administration sees its proposal as a priority.

M. EMPLOYMENT TAXES

1. Employment Tax Status of Certain Fishermen

Administration Position. **Do not oppose.** The proposal would take the traditional operation of fishing fleets into account in determining the employment tax status of crew members while ensuring that income paid to crew members is reported. We note

that a determination of crew size based on the preceding calendar year (rather than the preceding four quarters) would simplify compliance and administration burdens related to the provision.

2. FICA Exemption for Certain Seasonal Children Camp Employees

Administration Position. **Oppose.** The proposal would create disparities between full-time students employed by children's camps and other students or young adults employed in a trade or business.

3. Extend FICA Tip Credit

(a). Extend FICA Tip Credit to All Employees Who Receive Tips

Administration Position. **Oppose.** The FICA tip credit was intended to apply only to the employer FICA tax paid on tips received from customers in connection with the provision of food or beverages for consumption on the premises of a food or beverage establishment. The Administration does not believe it is appropriate to expand this special tax treatment to tips received by employees for other services.

(b). Effective Date of FICA Tip Credit

Administration Position. **Oppose.** We oppose the application of the FICA tip credit to taxes paid on tips that are not timely reported by employees. Under current law, employers are eligible for the credit only for taxes paid on tips that are timely reported to them by employees. The extension of the credit to taxes paid on unreported tips would provide a disincentive for employers to encourage employees to report tips.

We also oppose the retroactive application of the FICA tip credit to taxes paid after December 31, 1993 with respect to tips received for services performed before January 1, 1994. This proposal, in combination with the proposed extension of the credit to unreported tips, would provide a significant windfall to employers whose employees did not report all or a portion of their tips received before January 1, 1994 and to employers that did not pay FICA taxes on the tips that their employees did report before January 1, 1994. These employers would be eligible for a 100 percent credit, even for their delinquent FICA taxes. In contrast, employers that timely paid their FICA taxes on timely reported tips and employers that encouraged their employees to accurately report their tips would have only received a deduction for their share of FICA taxes attributable to pre-1994 tips. In addition, extending the availability of the credit in the manner proposed could result in an unanticipated drain on general revenues.

4. Repeal Presumption That Bakery Distributors are Employees for Employment Tax Purposes

Administration Position. **Do not support.** Bakery drivers have been treated as statutory employees for employment tax purposes since 1951. We do not believe that there is sufficient reason to change this longstanding provision and disrupt existing arrangements.

5. FUTA Exemption for Certain Religious Schools

Administration Position. **Do not support.** We do not believe that there is sufficient reason to reduce unemployment compensation coverage for this group of workers and their employers. In addition, an exception that is based on whether the employer has a "primary religious purpose" would increase administrative complexity in the statute.

6. Application of Common Paymaster Rules to Certain Agency Accounts at State Universities

Administration Position. **Do not support.** The current provision is a narrow exception that is specifically limited to faculty practice plans where at least 30 percent of the plan employees are also employed by a State university medical school. We understand that technical State law issues prevent certain medical schools from utilizing this provision, and we would not oppose a change more narrowly tailored to address that problem. However, we have concerns about the elements of this proposal that would expand the types of institutions qualifying for common paymaster treatment and that would eliminate the concurrent employment requirement.

7. Repeal Section 1706 of 1986 Tax Reform Act

Administration Position. Worker classification issues should not be addressed on a piecemeal basis. It would be preferable to develop a more comprehensive approach that appropriately deals with worker classification issues. We would be happy to work with Congress to develop such an approach.

N. EMPOWERMENT ZONES

1. Expand Number of Community Development Corporations (from 20 to 40) Eligible for Tax Credit and Increase Aggregate Amount of Contributions Eligible for Tax Credit

Administration Position. **Oppose.** The Administration believes that it is premature to modify these provisions until there is better evidence on how the 1993 provisions are working.

2. Tax Incentives for Economic Recovery in Designated Areas with Employment Loss in Financial and Real Estate Businesses

Administration Position. **Oppose.** This proposal, in contrast to the Empowerment Zone and Enterprise Community program authorized in 1993, is focused too narrowly on reductions in employment and includes a number of tax incentives that in and of themselves would be unlikely to improve economic conditions in distressed areas.

3. Allow 20-percent Tax Credit for Commercial Revitalization in Empowerment Zones and Other Specially Designated Areas

Administration Position. **Oppose.** This proposed credit is unlikely to be effective in overcoming the primary barriers to non-residential development in these distressed areas, is likely to adversely affect businesses already located in these areas, and would be extremely complex to administer.

O. ENERGY

1. Modifications to Tax Credit for Producing Fuels from Nonconventional Source

(a). Allow the Credit to Be Claimed Against the Alternative Minimum Tax

Administration Position. **Oppose.** There is no reason that energy credits should be subject to substantially more favorable treatment than other tax credits, which generally are not allowed against the alternative minimum tax ("AMT"). The purpose of the AMT, to assure that taxpayers with economic income are subject to tax, will be weakened if credits may be fully utilized against it.

(b). Unrelated Party Sale Requirement

Administration Position. **Oppose.** Under either proposal, a taxpayer would have the incentive to erect an electric plant, sell electricity produced from self-generated gas on the national grid, receive the credit, and buy back the electricity from the national grid rather than using its own self-generated electricity. Use of self-generated electricity is already a common practice for many industries without the credit; therefore, this proposal would expand use of the section 29 credit beyond what was originally intended. Moreover, absent an arm's-length transaction, the amount of section 29 gas "constructively" or "deemed" sold would not be verifiable. Finally, the number of potential taxpayers who could claim the section 29 credit under the proposal (and hence the amount of the associated revenue loss) is far greater than

originally estimated by Treasury in 1993, when the proposal was previously considered.

(c). Underground Coal Gasification

Administration Position. **Oppose.** The proposal would allow certain modules newly drilled within a coal production area to qualify for the section 29 credit if there is an existing above-ground gas transportation system to bring the gas generated from in-situ processing to an existing above-ground facility for further processing. This could expand the use of the credit virtually indefinitely for a given coal seam and would, therefore, disadvantage other facilities that would have to comply with the placed-in-service expiration date.

(d). Definition of Tar Sands

Administration Position. **Oppose.** The placed-in-service date for wells from tar sands to qualify for the section 29 credit expired at the end of 1992. The source of the definition of tar sand presently in use by the IRS is a ruling by the Federal Energy Administration. The Tax Court has determined that this definition is the proper definition for purposes of section 29 the Code. In addition, there is no tax policy justification for creating a windfall by recharacterizing a significant number of deposits as eligible for the credit, when the oil or gas has already been economically produced. Moreover, the Administration would anticipate substantial difficulty implementing any standard that requires measurement of a gas-free viscosity at original reservoir temperature.

2. Determination of Independent Oil and Gas Producer Status

(a). Increase Permitted Retail Sales

Administration Position. **Oppose.** Producers that are sufficiently integrated to sell at retail are most likely large companies of the type intended to be excluded from percentage depletion. Regulated public utilities, which tend to be relatively large companies, should not be given a favorable rule for purposes of determining whether they qualify as independent producers.

(b). Increase Permitted Refining Activity

Administration Position. **Oppose.** The current 50,000 barrels of production threshold was carefully considered. There is no tax policy reason for adjusting the threshold.

3. Tax Credit for Lubricating Oil Produced from Re-refined Oil

Administration Position. **Oppose.** Motor oil, like other materials, is recycled when dictated by environmental regulations or when economically profitable. Today, lubricating oil is being recycled without the credit. Moreover, this credit would be difficult to administer. Because used oil is frequently blended with other hydrocarbons as part of the re-refining process, determination of the amount of lubricating oil that is actually derived from used oil would be complex. Implementation would also require a precise definition of "lubricating oil."

4. Allow Geological and Geophysical Costs Incurred in Connection with Oil and Gas Development to be Expensed in the Year Incurred

Administration Position. The Administration believes that the objectives of any proposal to change the tax treatment of geological and geophysical (G&G) expenditures should be simplification and neutrality. This proposal, however, does not achieve these goals. Instead, under this proposal, G&G costs would be treated more favorably than intangible drilling costs. The proposal would not reduce complexity. The Administration would welcome the opportunity to work with Congress on a proposal for G&G that would reduce compliance burdens for the industry and provide more equal treatment for both types of expenditures.

5. Extend the Renewable Electricity Production Credit to Electricity from Certain Fuel-Cell Power Plants

Administration Position. **Oppose.** There is no tax policy justification to single out fuel-cell power plants for a tax credit, since fuel-cell power plants have been competing in the international marketplace for several years.

P. ESTATE AND GIFT TAX PROVISIONS

1. Exemption From Estate Tax For Qualified Historic Property Subject To Permanent Conservation Easement

Administration Position. **Oppose.** The Administration believes that the deduction allowed under current law for the grant of a charitable easement on historic properties is sufficient. The proposal would permit a complete exclusion for qualified historic property of unlimited value from the gross estate, rather than the value of the charitable easement alone. The proposal would be subject to abuse and would erode the tax base.

2. Exempt Certain Land Subject To Permanent Conservation Easement From Estate Tax

Administration Position. **Oppose.** The Administration believes that the deduction allowed under current law for the grant of a charitable easement is sufficient. The proposal would permit an exclusion for surrounding land of unlimited value from the gross estate, rather than the value of the charitable easement alone. The proposal would be subject to abuse and would erode the tax base.

3. Estate Tax Marital Credit For Certain Employees of International Organizations

Administration Position. **Support, with technical modifications.** The Administration believes that the proposal is consistent with the United States' special role as host to international organizations.

4. Relief From Retroactive Gift Tax Regulation On Disclaimers

Administration Position. **Oppose.** The proposal would open up the statute of limitations for certain disclaimers for a one-year period. The United States Supreme Court decided this issue in the cases of Jewett v. Commissioner and Irvine v. U.S. We believe that this issue was properly resolved by the courts.

5. Extend the "Predeceased Parent Exception" To Collateral Heirs and To Taxable Terminations and Distributions

Administration Position. **Do not oppose.** The policies that underlie the special rule for transfers to a grandchild whose parent is deceased (Code section 2612(c)(2)) generally would support the proposed expansion to cover collateral heirs and to apply the rule to taxable terminations and taxable distributions, as well as to direct skips. The bill (H.R. 1099), however, requires technical modifications.

6. Increase Special Use Valuation Limit to $1.5 Million

Administration Position. **Do not oppose.** If Congress decides that the maximum of $750,000 by which the value of real property may be reduced under section 2032A is not sufficient, we would not oppose an appropriate increase in the context of otherwise acceptable legislation.

7. Estate Tax Credit For Conservation Property Donated to Federal Government.

Administration Position. **Oppose.** The Administration believes that the deduction allowed under current law for transfers of

interests in property to the Federal Government for conservation purposes is sufficient. To the extent that this proposal is designed to assist taxpayers with liquidity problems, that issue is more appropriately addressed through the section 6166 installment payment provisions.

8. Proposals To Simplify and Improve Estate and Gift Tax

This proposal includes 33 specific proposed changes to "simplify and improve" the estate and gift tax. The proposals are discussed individually below. In some instances, the proposals are not sufficiently well developed at this time to permit the Administration to take a position.

(a). Equal Treatment For Individuals Who Utilize Revocable Trusts

Administration Position

(i) **Support,** with respect to the sixty-five day rule in proposal (2); and the equal treatment of individuals and revocable trusts with regard to amortization of reforestation proposal (10) (provided that in the case of proposal (10) the revocable trust and the grantor together are entitled to amortize a total of up to $10,000 of reforestation expenses). Proposal (2) would be beneficial to estates, would eliminate a distinction between wills and revocable trusts and would have no tax cost. Proposal (10) furthers the policy of treating the assets of a grantor trust as if they were owned directly by the grantor during the grantor's lifetime.

(ii) **Do not oppose,** with respect to the passive loss rule of proposal (4); the treatment as qualified shareholder for Subchapter S purposes in proposal (6); and the gifts from revocable intervivos trusts in proposal (8). Proposals (4) and (6) would eliminate differences between wills and revocable trusts and therefore are consistent with the goal of simplification. Proposal (8) furthers the policy of treating the assets of a grantor trust as if they were owned directly by the grantor during the grantor's lifetime.

(iii) **Do not support,** with respect to the set-aside deduction of proposal (1); the sales to related persons in proposal (5); and the taxable year of proposal (7). These proposals either create potential for abuse or create new complications not outweighed by their improvements.

(iv) While we share the goals of the separate share rule of proposal (3) and the equal generation skipping tax treatment of estates and revocable trusts following death of settlor in proposal (9), we need to study them further in order to make certain that they do not create opportunities for abuse.

(b). Eligibility for Ordinary Loss Deduction On Loss On Small Business Stock

Administration Position. **Do not oppose,** provided that the revocable trust and the grantor together are entitled to only one ordinary loss deduction. This proposal furthers the policy of treating the assets of a grantor trust as if they were owned directly by the grantor during the grantor's lifetime.

(c). Repeal of Income-Shifting Provisions (i.e., Throwback Rules (Code Secs. 665-668), Capital Gains (Code Sec. 644)

Administration Position. **Support,** but only for domestic trusts that have never been foreign trusts and only for accumulations after 1986. Limiting the application of these provisions would greatly simplify the income taxation of trusts and eliminate a confusing and burdensome requirement for taxpayers.

(d). Restore Unified Credit In Case of Split Gifts

Administration Position. **Support.** This proposal corrects a problem that leads to double taxation of lifetime gifts by allowing restoration of the surviving spouse's unified credit where the property is subsequently included in the deceased spouse's estate.

(e). Provide For Portability of Unified Credit and GST Exemption

Administration Position. This proposal has merit and may simplify estate planning by individuals. Particularly, this proposal would decrease the use of certain trusts that are now employed solely for their tax benefits. The Administration is concerned, however, that the proposal has some potential for abuse and believes that a more specific proposal must be developed before a position can be taken.

(f). Making Use of Unified Credit Optional

Administration Position. **Do not support.** This proposal creates new complications not outweighed by its benefits.

(g). Modification of Rules Relating To Marital Deduction

Administration Position. **Do not support.** Any proposal to allow reformations of QTIP trusts must include, at a minimum, limitations in terms of time and scope. The proposal to allow a surviving spouse to hold a limited power of appointment over the assets of a QTIP trust is contrary to the limited purpose for which QTIP trusts were established. QTIP trusts should remain devoted to the benefit of the surviving spouse for such spouse's lifetime.

(h). Provide For Federal Disclaimer Rules

Administration Position. **Support.** These technical changes to section 2518(c)(3), as well as the clarification that disclaimers are effective for income tax purposes, clarify and simplify federal disclaimer law. These proposals would conform provisions on transfer-type disclaimers to those that govern all other disclaimers.

(i). Provide That Disclaimer of Interests in Qualified Plans Do Not Violate the Spendthrift Restriction Applicable To Such Plans

Administration Position. **Support.** This proposal serves to increase taxpayers' flexibility in post-mortem planning without undermining the policy of prohibiting the assignment or alienation of qualified plan assets.

(j). Modify Rules For Qualified Domestic Trusts (QDOTs)

(1) Modification of Rules Relating To Trustee of a QDOT

Administration Position. **Do not support.** This proposal would allow taxpayers to comply with the QDOT trustee provisions of the Technical and Miscellaneous Revenue Act of 1988 ("TAMRA"), the Omnibus Budget Reconciliation Act of 1990 ("1990 Act"), or OBRA 93. We favor the proposal contained in H.R. 3419, 103rd Congress, which extends relief only to QDOTs executed before the 1990 Act that conform with the TAMRA requirements.

(2) Modify Non-Estate Tax Consequences of Transfers By Surviving Spouse to QDOT

Administration Position. **Oppose.** This proposal would make the decedent the transferor of a trust the terms of which are written by the surviving spouse after the decedent's death, with potential tax implications not envisioned by the decedent.

(3) Transfers In Civil Law Countries to QDOT

Administration Position. This proposal is not sufficiently developed for the Administration to take a position. The Government's interest in collecting estate tax on the surviving spouse's death must be adequately protected in any proposed alternative to a QDOT arrangement.

(4) Delete Requirement That U.S. Trustee Have Power To Approve Distributions From a QDOT

Administration Position. **Oppose.** The requirement that a QDOT have a U.S. trustee is critical to the Government's ability to collect the estate tax due on the death of the surviving spouse.

(5) Clarification of Who Is the Transferor For GST Purposes in Case of QDOT

Administration Position. **Support.** The Administration supports giving the surviving spouse the right to elect to be treated as the transferor of the QDOT for GST purposes. This would give an alien spouse an election equivalent to that available to estates and surviving spouses under section 2652(a)(3).

(k). Modification of Generation-Skipping Transfer Tax Rules

Administration Position. **Do not support.** Most of these proposed changes address issues arising from the proposed regulations. These regulations are on the Priorities Guidance List to be issued in final form this year. We believe that it is premature to address these issues legislatively when the regulations have not been finalized.

(l). Modification of Period of Limitations For Assessment and Collection Against Transferees

Administration Position. **Oppose.** The Administration believes that the additional one-year period for collection of tax from a transferee is necessary due to the transfer of the property.

(m). Extension of Tax-Free Transfers Between Former Spouses to All Types of Property and To Transfers At a Spouse's Death

Administration Position. **Oppose.** The Administration believes that this proposal is overly broad and would create opportunities for tax avoidance.

9. Required Notices To Charitable Beneficiaries of Charitable Remainder Trusts

Administration Position. **Do not support.** While in principle the Administration favors requiring notification to a charitable remainderman that a trust exists for its ultimate benefit, the proposal is too complicated and burdensome. The Administration is willing to work with the Committee to develop a less complicated and burdensome proposal.

Q. EXCISE TAXES

1. Modifications to Diesel Fuel Excise Tax Provisions

(a). Retail Collection of Tax on Recreational Boat Fuel

Administration Position. **Oppose.** The tax on diesel fuel used in pleasure boats would be unenforceable if collected at the retail level. Allowing the use of dyed fuel in pleasure boats would eliminate the utility of visual inspections, depriving the Internal Revenue Service of its primary enforcement mechanism under current law.

It appears that while many marinas carry both dyed and clear fuel, some marinas are carrying only dyed fuel for their commercial customers due to limited tankage. As a result, there have been complaints that pleasure boats are unable to buy clear fuel at all marinas. Many marinas, however, have already incurred the expense of adding a separate tank for clear, taxed diesel fuel in order to comply with current law. We are monitoring marinas in various areas and have found that clear diesel fuel is readily available in areas where recreational boating is popular. Moreover, availability has improved significantly since the summer of 1994, even in areas such as the Gulf Coast of Louisiana, where commercial boating predominates and retailers are least likely to accommodate recreational users. We believe that the availability of clear diesel fuel should continue to improve as the market adjusts to the new rules.

We are cognizant of safety concerns and want to receive more information about any area where the tax may have caused safety problems. We are also concerned, however, that uncertainty over the permanence of the new rules is retarding the adjustment process and may have discouraged some marina operators from installing the facilities needed to serve their pleasure boat customers.

(b). Penalty-Free Dilution of Dye Concentrations in Certain Cases

Administration Position. **Oppose.** The IRS currently permits the blending of kerosene with dyed diesel fuel after the fuel is removed from the terminal so long as the resulting blend continues to satisfy the generally applicable dye color and concentration requirements. Notice 94-21, 94-1 C.B. 339. The dye concentration requirements were adopted after extensive consultations with refiners, pipeline and terminal operators, and diesel fuel distributors. The Treasury Department made every effort to accommodate their concerns and set the concentration requirement at the lowest level consistent with effective enforcement of the tax. Thus, we are concerned that this

proposal would either impair enforcement of the tax or require an increase in generally applicable dye concentration requirements to offset post-terminal dilution.

The Committee should also note that the Administration supports proposal Q.2. below to treat kerosene as diesel fuel. If this proposal is adopted, untaxed kerosene will be dyed when it is removed from the terminal and there will be no need to blend clear kerosene with dyed diesel fuel.

(c). Refunds for Bad Debt and Casualty Losses

Administration Position. **Oppose.** Many products other than diesel fuel are subject to Federal excise taxes. In general, these taxes are not refunded when a casualty loss or bad debt loss is experienced with respect to a tax-paid article. We are aware of no reason for treating a loss with respect to tax-paid diesel fuel any differently than, for example, the total loss of a tax-paid luxury automobile in a traffic accident.

Property owners generally can protect themselves against casualty losses through insurance that compensates for losses attributable to excise taxes embedded in the cost of the property in the same manner as it compensates for other components of the property's cost. Although bad debt losses typically are not covered by insurance, creditors generally compensate for these losses by including a risk premium in the interest rates or prices they charge.

(d). Interest-Bearing Refunds for Certain Diesel Fuel Users

Administration Position. **Oppose.** Congress decided in 1993 that taxing fuels at the terminal rack and dyeing nontaxable diesel fuel are the best methods for ensuring compliance and preventing fraud. Current law reflects this decision. All nontaxable and partially exempt users of diesel fuel may purchase dyed diesel fuel on which no tax was imposed. Refunds are permitted when clear fuel is used for a nontaxable or partially exempt purpose, but these refunds are generally subject to strict limitations.

The proposed changes, by making the refund procedure easier and more attractive than under current law, would reduce the incentive to use only dyed fuel for nontaxable and partially exempt uses, and increase the extent to which the taxability of diesel fuel is determined after the terminal rack. We are concerned that the proposed changes would result in an increased volume of refund claims, thereby adding substantial administrative burdens and increasing opportunities for refund fraud.

(e). Exempt Alaska from Diesel Dyeing Requirement

Administration Position. **Support.** Alaska is the only State that is currently exempt from the Clean Air Act's dyeing requirements. The Administration believes the Clean Air Act and Internal Revenue Code dyeing requirements should be as harmonious as feasible, respecting the differences between the two statutes. Accordingly, we support a corresponding exemption from the Code's diesel dyeing requirements for diesel fuel sold in Alaska, subject to procedures established by the Treasury Department.

2. Treat Kerosene as a Diesel Fuel for Excise Tax Purposes

Administration Position. **Support, with modifications.** The Administration believes that the continuation of the present nontaxable treatment of kerosene would perpetuate the problems that Congress sought to correct in the Omnibus Budget Reconciliation Act of 1993 (OBRA 93), and that a change is essential if the new diesel fuel tax system is to function as Congress intended. We also believe, however, after consulting with the Consumer Product Safety Commission, that it is imperative to consider the consumer safety issues of adding dye to kerosene used in space heaters. Therefore, we would like to work with Congress, mindful of the differing needs of the consumer and the distributor, to devise a limited ultimate vendor refund rule in this specific case. We urge the Congress to address this issue as soon as possible.

3. Modify Rail Diesel Motor Fuel Tax Rate

(a). Equalize Diesel Fuel Taxes

Administration Position. **Oppose.** In OBRA 93, Congress decided to raise revenue for general fund purposes, and thus reduce the deficit, by increasing taxes on fuel used for transportation purposes. We are satisfied that Congress carefully considered the rates of tax that should apply to fuel used in various transportation modes, and we do not believe Congress should reconsider its decision at this time. It would be appropriate, however, to re-examine this issue in 1999 when the tax rate on railroad diesel fuel is scheduled to drop to 4.3 cents per gallon.

(b). Exempt AMTRAK

Administration Position. **Oppose.** We believe that any additional subsidies to AMTRAK should be provided through the appropriations process, where they will be subject to regular review, rather than through the tax code.

4. Expand Off-Highway Business Use Exemption from Motor Fuels Excise Taxes

Administration Position. **Oppose.** Allowing a refund for fuel used by a truck's engine while operating, for example, a power take-off on dump trucks, is unenforceable and would lead to widespread tax evasion. The courts have recently upheld the regulatory interpretation of the statute governing this provision, and we continue to support the position taken in the regulations.

5. Modify Gasoline Tax Refund Procedure for Gasoline Sold to States and Local Governments

Administration Position. **Oppose.** The IRS generally processes gasoline tax refunds within 45 days. Paying these claims within 20 days would require special manual processing and substantially increase processing costs.

The IRS is committed to providing quality customer service, including prompt payment of valid refund claims, and is moving toward this goal through its modernization effort. Customer service goals must be balanced, however, against the need to ensure the integrity of the tax administration system and improve overall compliance. Thus, the IRS carefully scrutinizes questionable claims to prevent the payment of fraudulent refunds. We believe Congress should take no action that might discourage such careful scrutiny.

Although gasoline wholesale distributors no longer have the opportunity to credit gasoline tax refunds against their diesel fuel tax liability, they are still treated more favorably than other claimants. In most cases, a person entitled to a payment with respect to a nontaxable use of gasoline is required to claim an income tax credit unless the payment to which the person is entitled exceeds a specified amount. In contrast, a wholesale distributor can file a claim for refund as soon as the gasoline is sold to a State or local government at a tax-excluded price.

6. Adjust Certain Fuels Tax Rates for BTU Equivalency to Gasoline

(a). Exempt LNG From Some Motor Fuels Taxes; Adjust the LNG Rate on Other Taxes

Administration Position. **Oppose.** There is no justification for exempting liquified natural gas (LNG) from the Highway Trust Fund component of the special motor fuels excise tax. The Highway Trust Fund portion of the special motor fuels excise tax applies to liquid fuels, and LNG is a liquid fuel. Under the OBRA 93 provisions, Congress maintained imposition of the Highway Trust

Fund portion of the tax and imposed the deficit reduction portion of the tax on LNG, and made compressed natural gas (CNG) subject only to the deficit reduction portion of the tax. We believe that this issue should not be reopened at this time. We also believe that this issue should be re-examined in 1999 when the Highway Trust Fund component of the tax expires.

(b). Reduce the Tax Rates on Certain Fuels Based on BTU Equivalence

Administration Position. **Do not support.** In 1993, Congress carefully considered and agreed to an allocation of the motor fuels taxes on a broad base of transportation fuels. We believe that piecemeal unravelling of the agreement would be a mistake, although we believe that this issue should re-examined when the Highway Trust Fund component of the tax expires in 1999.

(c). Adjust Tax Rate for Propane Based on BTU Equivalence

Administration Position. **Oppose.** There is no justification for adjusting only the propane tax rate to a rate based on propane's BTU equivalence to gasoline. If adjustments are to be made, they should be made to all fuels. We also believe that this issue should re-examined in 1999, when the Highway Trust Fund component of the tax expires.

7. Modifications to the Retail Truck Excise Tax

(a). Impose Tax on Manufacturer

Administration Position. **Do not oppose, if conforming changes included.** Imposing the heavy truck tax on sales by the manufacturer, rather than the first retail sale, is likely to improve the administration of the tax. Until its modification by the Surface Transportation Act of 1982, the heavy truck tax was imposed on manufacturer sales, with generally good results. At that time, although as many as 1500 small trailer manufacturers were required to file returns, approximately 10 to 15 major manufacturers accounted for most of the sales revenue subject to the tax. Under this system, the IRS was able to target its enforcement efforts efficiently and taxpayers were generally well aware of their obligations. The 1982 change resulted in thousands of additional, generally smaller and less well-informed taxpayers, and less-focused enforcement efforts by the IRS.

In 1982, Congress changed the heavy truck tax because it was concerned that a manufacturers tax was likely to create a financial hardship for retail dealers who carry inventories of tax-paid trucks for long periods before the trucks are sold at retail. This concern may be less significant now because interest rates are much lower than at that time. The Committee should also note that a manufacturers tax on heavy trucks is not

entirely free of administrative difficulties. In particular, the tax on subsequent additions of parts and accessories would apply much more frequently than under current law, offsetting to some extent the advantages of shifting the tax to the manufacturer.

If the proposal is adopted, certain conforming changes will be necessary. Under current law, the amount of tax is based on the retail sales price. If the tax is imposed on the manufacturer, the amount of tax should be based on the manufacturer's selling price and the tax rate should be increased to the extent necessary to avoid a revenue loss.

(b). Certain Activities Not Treated as Remanufacture

Administration Position. The meaning of "manufacture" is generally the same for purposes of the heavy truck excise tax as for all other manufacturers and retailers excise taxes. See Treas. Reg. §48.0-2(a)(4). In addition, however, the Code specifically provides that certain activities are not treated as manufacture for purposes of the heavy truck tax. We are willing to work with this Committee to develop appropriate bright-line tests in addition to those currently provided.

8. Consolidate Collection of Aviation Gasoline Excise Tax

Administration Position. **Support.** We believe that consolidation of the collection of the aviation gasoline excise tax at the terminal removal level, with the full 19.4 cents-per-gallon tax collected at that point, would improve efficiency and enforcement of the tax.

9. Expand Aviation Excise Tax Exemptions for Air Ambulances

Administration Position. **Oppose.** Aviation excise taxes support the Airport and Airway Trust Fund, which in turn provides funding for the maintenance and improvement of airports and airways. All users of airports and aviation services supported by the Airport and Airway Trust Fund should pay their appropriate share of the Fund's expenditures.

10. Reduce Harbor Maintenance Excise Tax

Administration Position. **Oppose.** The Administration is concerned that the proposed annual reductions in the ad valorem excise tax on cargos and passengers entering and leaving U.S. ports, followed by a rule that would trigger increases or decreases in the tax depending on the balance in the Harbor Maintenance Trust Fund, would be disruptive. The Administration has proposed that certain expenditures of the National Oceanic and Atmospheric Administration (NOAA) that aid commercial navigation be funded out of the Trust Fund. The Congress may

want to consider funding construction projects out of the Trust Fund rather than the General Fund.

11. Reduce Ethanol Fuel Tax Subsidy if Carbon Dioxide Produced as a Byproduct is Marketed by the Producer

Administration Position. **Do not support.** Adjusting excise tax rates on gasohol to reflect the circumstances under which the ethanol contained in the mixture was produced would impose substantial complexities and administrative costs. The excise tax on gasohol cannot, as a practical matter, be set at a rate that varies according to the quantity of carbon dioxide produced and marketed as a byproduct of ethanol production. The tax is paid downstream from the ethanol producer; therefore, the taxpayer will have no way of knowing how much carbon dioxide may have been produced as a byproduct of any particular batch of ethanol and whether the producer of that ethanol directly marketed the carbon dioxide.

12. Provide a Lower Rate of Tax on Certain Hard Ciders

Administration Position. **Oppose.** The excise taxes imposed on a particular alcoholic beverage should be revised only in the context of a general review of alcoholic beverage excise tax rates. The Committee should also be aware that some hard cider producers may object to the proposed change because they will lose part of the benefit of the credit for small domestic wine producers. For producers that currently receive the full credit, the tax would increase from 17 cents per gallon to 22.6 cents per gallon.

13. Wine Spirits -- Permit the Use of Other Agricultural Products

Administration Position. **Do not oppose, with modifications.** Under the proposal, the definition of wine spirits would be expanded to include spirits derived from agricultural wine (i.e., wine made from agricultural products other than fruit). Thus, agricultural products that currently are wasted could be used to make wine spirits to fortify nonstandard wines such as wine coolers.

To preserve the integrity of natural wine, the proposal should be clarified to provide that wine spirits made from agricultural products may not be used to fortify natural wine. In addition, to avoid inconsistency with the National Performance Review, which recommended repeal of the wine and flavor credit, the proposal should also be modified to provide that alcohol derived from agricultural products does not qualify for the credit.

14. Phased Repeal and Modifications of the Luxury Excise Tax on Automobiles

(a). Phase Out or Phase Down of Tax

Administration Position. **Oppose.** This proposal will have significant revenue costs. Congress decided in the Omnibus Budget Reconciliation Act of 1990 that it was appropriate to impose a tax on luxury automobiles for deficit reduction purposes. This decision was reaffirmed in OBRA 93, which repealed the taxes on other luxury goods and made minor changes to the luxury tax on automobiles. We believe it would be a mistake to revisit this issue.

(b). Exemption for Electric Cars

Administration Position. **Oppose.** Although the Administration supports limited tax incentives to encourage the use of electric automobiles, this proposal would provide an unlimited exemption from the luxury tax, unrelated to the additional cost attributable to the use of an electric propulsion system. This unlimited exemption is broader than necessary to encourage the use of electric automobiles and is inconsistent with the decision to raise revenues for deficit reduction purposes by imposing a tax on luxury automobiles.

15. Modifications to the Excise Tax on Ozone-Depleting Chemicals

(a). Exemption for Imported Recycled Chemicals

Administration Position. **Support, with modifications.** The Environmental Protection Agency is concerned that the tax imposed on imported recycled Halons, a group of ozone-depleting chemicals that the Montreal Protocol phased out of production at the end of 1993, is impeding the free flow of foreign stocks of recyclable Halons to essential uses in the United States. This may have adverse environmental consequences because foreign owners who are deprived of a market for recycled Halons will be more likely to vent unwanted Halons into the atmosphere.

The exemption for imported recycled ozone-depleting chemicals should be limited so as not to disadvantage domestic producers that are required to pay tax on the chemicals. Thus, we do not support an exemption for imports of chemicals other than Halons so long as domestic production of those chemicals is permitted under the Montreal Protocol.

(b). Exemption for Metered-Dose Inhalers

Administration Position. **Oppose.** The use of ozone-depleting chemicals in metered-dose inhalers already enjoys a substantial

tax advantage over all other uses of ozone-depleting chemicals. The base tax amount applicable to all other ozone-depleting chemicals is $5.35 per pound in 1995 and increases by 45 cents per pound in each year after 1995. The tax on chemicals used in metered-dose inhalers is permanently frozen at $1.67 per pound.

16. Exemption from Gas Guzzler Excise Tax for Limousines

Administration Position. **Oppose.** The Omnibus Budget Reconciliation Act of 1990 modified the treatment of limousines, including stretch limousines, to encourage a reduction in domestic consumption of petroleum products. In view of continuing concerns regarding the effects of inefficient fuel use on the environment and energy security, we do not think it is appropriate to modify the treatment of limousines at this time.

17. Allow In-Bond Transfers of Bottled Distilled Spirits Among Commonly Owned Distilled Spirits Plants

Administration Position. **Oppose.** The proposed change would adversely affect enforcement of the distilled spirits tax. The principal effect of the change would be to move the point at which tax is imposed downstream from the facility where the distilled spirits are produced. Currently there are approximately 117 tax collection points, but that number is likely to increase substantially if the collection point is moved downstream. This would greatly increase the administrative burden required for effective enforcement of the tax. In addition, permitting tax-free removals of bottled spirits, which can be more easily diverted than bulk spirits during a transfer, would provide increased opportunities for tax evasion.

The proposed change would result in revenue losses over the budget period because, in addition to increasing the potential for tax avoidance, it permits distillers to defer payment of taxes beyond the time at which payment would be required under current law.

18. Drawback of Distilled Spirits Tax on Spirits Used in Nonbeverage Products

Administration Position. **Oppose.** The current system for collecting the tax is simple and effective. It allows drawback of the tax only after distilled spirits have been used in a nonbeverage use, encourages accurate records, and avoids the need for controls to assure that distilled spirits withdrawn for a nonbeverage use are not subsequently diverted. The proposed change would reduce or negate these benefits and increase the potential for abuse and nonpayment of the tax.

The proposed change would result in revenue losses over the budget period because, in addition to increasing the potential

for tax avoidance, it permits nonbeverage users to obtain the benefit of the drawback before the time at which the drawback would be allowed under current law.

R. Exempt Organizations

1. Treatment of Certain Costs of Private Foundation in Removing Hazardous Substances.

Administration Position. **Oppose.** This proposal would present an opportunity for inurement or private benefit. Taxpayers owning property that requires environmental clean-up would donate the property to a private foundation. The proposal would allow the foundation to use money it receives in the form of deductible contributions to pay for clean-up costs that the donor would otherwise have been forced to incur. These payments would not serve charitable purposes, and, therefore, should not be treated as qualifying distributions.

2. Prevent Reclassification as UBTI of Certain Dues Paid to Agricultural or Horticultural Organizations.

Administration Position. **Do not support.** This proposal would allow dues paid to a special category of tax-exempt organizations to avoid taxation as unrelated trade or business income regardless of whether the dues payments were related to the organization's tax-exempt purpose. There is no clear tax policy basis for treating section 501(c)(5) agricultural and horticultural organizations more favorably than section 501(c)(5) labor organizations, let alone organizations exempt under other parts of section 501(c). Moreover, this proposal would allow agricultural and horticultural organizations to run businesses that compete directly with for-profit entities but do not pay income tax simply because they label the business's income as membership dues.

3. Private Foundations

(a). Modify Rules for Private Foundation Grants to Foreign Organizations

Administration Position. **Do not oppose.** This proposal would simplify international grant-making by U.S. private foundations to certain foreign charities. Requiring private foundations to accept expenditure responsibility for such grants would provide adequate safeguards to ensure that the grant is properly classified as a qualifying distribution.

(b). Extend Due Date for First-Quarter Estimated Tax by Private Foundations

Administration Position. **Support.** Changing this due date will reduce the number of filing deadlines a private foundation must remember. It will also improve the foundation's ability to calculate its estimated tax liability accurately so as to avoid additions to tax.

4. Common Investment Fund for Private Foundations

Administration Position. **Do not oppose.** Such a fund would enable small private foundations to expand their investment capabilities by banding together and accepting grants of seed money from large private foundations. Presumably, such a fund would eventually increase the amount of resources available to serve charitable purposes. Allowing such a fund to be a tax-exempt charitable organization would be consistent with the exemption that the Code already provides for similar college and university common funds (section 501(f)).

5. Exclusion from UBIT for Corporate Sponsorship Payments Received by Tax-Exempt Organizations in Connection with Public Events

Administration Position. **Oppose.** This proposal would give tax-exempt organizations a competitive advantage over taxable enterprises in offering advertising to businesses. It would also favor large organizations that obtain sponsors for a single sizeable event once a year over smaller organizations that solicit corporate sponsors for several small fundraisers each year.

6. Repeal 1986 Extension of UBIT to Games of Chance

Administration Position. **Oppose.** Tax-exempt organizations are not necessarily furthering charitable purposes by regularly carrying on gambling activities. Thus, there is no tax policy justification for exempting income from such activities from the unrelated business income tax, especially where the exemption is available only in States that had laws permitting nonprofits to conduct gambling as of October 5, 1983. The decision made by a number of States to subsidize nonprofit organizations by granting them exclusive rights to conduct gambling activities does not affect the determination as to the proper federal income tax treatment of the proceeds from those activities.

7. Clarify UBIT Treatment of Licensing of Olympic Trademarks

Administration Position. **Do not oppose, if revised.** There is a need for additional guidance on the scope of the UBIT exception

for royalties. However, it should apply to royalties received not only by qualified amateur sports organizations, but by all tax-exempt organizations. The proposed definition of "royalty" would include payments for which the right to use a trademark or similar item was a substantial part -- but not all -- of the consideration. This expansion of the definition would allow royalties to include income earned from unrelated trade or business activities conducted in direct competition with for-profit entities. We favor a proposal clarifying that the provision of certain types of services closely related to the use of a trademark or similar item will not cause a payment to cease to be a royalty.

8. Exception to Debt-Financed Rules (Sec. 514(c)(9)) For Private Foundation Debt to Improve Real Property

Administration Position. **Oppose.** The section 514(c)(9) exception to the debt-financed income rules was reviewed in 1993. There is no tax policy justification for creating an additional narrowly tailored category of organizations eligible to benefit from this exception.

9. Permit Tax-Free Liquidation of Certain Closely Held Corporations Whose Stock Is Given to Charity and Exempt Certain Assets from Section 514(c)(2) Debt Financed Rules

Administration Position. **Oppose.** In the wake of the repeal of General Utilities, the Treasury Department is studying the issues raised by conversions from taxable to tax-exempt status in a broader context than that presented by this proposal. We believe that these issues should be addressed on a comprehensive basis and not in response to discrete types of transactions.

The other aspect of the proposal concerns the debt-financed income rules. There is no tax policy basis for exempting a charity from UBIT on its income from debt-financed assets under these circumstances. Allowing charities to assume mortgages on property they receive not only as a bequest but also as a lifetime gift presents a significant opportunity for private benefit, since it may be a means of improving a donor's personal credit position.

10. Allow Conversion of Scholarship Funding Corporation to Taxable Corporation

Administration Position. **Do not support.** The proposal would enable taxable, for-profit corporations to obtain the benefit of tax-exempt financing. The benefit is equal to the built-in arbitrage of the difference between the tax-exempt interest rates on the debt issued by the qualified scholarship funding corporations and comparable taxable interest rates. For-profit entities should not be entitled to such benefit. The proposal

also creates an unwarranted exception to the excess business holdings rule. The excess business holdings rule was specifically created to prevent private foundations from controlling for-profit entities because there is the possibility that disqualified persons will use the foundation to run the business for their personal benefit rather than as a means of support for charitable purposes.

11. Treatment of Certain Amounts Received by Telephone Cooperatives

Administration Position. **Do not support.** This provision is inconsistent with the general tax treatment of cooperatives. It allows an organization to be treated as a tax-exempt cooperative even though it does not derive substantially all of its revenues from its members.

12. Clarify That Parent Holding Companies for Hospitals May Qualify as Public Charities Rather than Private Foundations

Administration Position. **Support.** The Administration supported this change as part of its proposal for health care reform. As health-care provider systems become increasingly sophisticated, it is common for them to form a nonprofit parent organization that coordinates and oversees the activities of the system as a whole. For the same reasons that a supporting organization is treated as a public charity rather than a private foundation, a health system parent organization that meets the criteria for tax exemption under section 501(c)(3) also should be treated as a public charity. This proposed addition to section 509(a) will eliminate technical questions that currently arise because the supporting organizations described in section 509(a)(3) have traditionally been expected to be subsidiaries of public charities rather than parents.

13. Treatment of Rural Electric Cooperatives

Administration Position. **Oppose.** The proposal is inconsistent with the general tax treatment of cooperatives and raises administrative concerns. It allows an organization to be treated as a tax-exempt cooperative even though it does not derive substantially all of its revenues from its members.

14. Codify IRS Directive Governing Calculation of UBIT Liability from Charitable Gambling

Administration Position. **Oppose.** Tax-exempt organizations are not necessarily furthering exempt purposes by regularly carrying on gambling activities. Therefore, they should be subject to unrelated business income tax on the profits from such activities. This fundamental principle is not affected by the legal rationale that enables certain non-charitable tax-exempt

organizations to take a deduction for the mandatory contribution of their gambling profits to charity. Nor is it affected by the decision of a number of States to subsidize nonprofit organizations by granting them exclusive rights to conduct gambling activities. Finally, appropriate policy on this legal question should not be tied to an IRS enforcement directive designed to allow for efficient administration of an IRS audit program.

15. Extend Private Inurement Rule to Section 501(c)(4) Organizations

Administration Position. **Support.** Current restructuring in the health care market is providing greater opportunities for insiders of nonprofit health care organizations to divert the resources of these organizations to their personal benefit. Under current law, health care organizations that want to avoid the inurement prohibition that applies to organizations exempt from tax under section 501(c)(3) may seek tax exemption under section 501(c)(4). Extending the prohibition against inurement to section 501(c)(4) organizations would deter insiders from seeking to take advantage of the restructuring of nonprofit health care organizations for their personal gain.

16. Permit Certain Corporate Conversions to Tax-Exempt Title Holding Company Without Asset Appreciation Tax Where Corporation is Wholly Owned by Tax-Exempt Entity that Received Stock as a Gift or Bequest

Administration position. **Oppose.** In the wake of the repeal of General Utilities, the Treasury Department is studying the issues raised by conversions from taxable to tax-exempt status in a broader context than that presented by this particular proposal. We believe that these issues should be addressed on a comprehensive basis and not in response to discrete types of transactions as contemplated by this proposal.

S. FINANCIAL INSTITUTIONS

1. Delete OBRA 1993 Denial of Losses Reimbursed by FSLIC Assistance for Failed Thrifts

Administration Position. **Oppose.** There is no tax policy justification for repealing this provision, which the Treasury concluded in a 1991 study was a clarification of existing law. Repeal would likely result in additional IRS and taxpayer resources being devoted to resolution of the issue.

2. Treat Small Commercial Finance Companies as Small Banks for Bad Debt Reserve Deductions

Administration Position. **Oppose.** The reserve method of accounting may allow taxpayers to claim deductions before a loss is realized. Treasury is studying the various tax and regulatory treatments of financial intermediaries and financial products. Any disparities in treatment of financial intermediaries operating similar businesses are more appropriately considered in the context of these larger issues.

T. Foreign

1. Increase in Section 911 Exclusion from $70,000 to $100,000 With Indexing

Administration Position. **Oppose.** The current exemption of $70,000 provides substantial simplification in tax filing for workers earning modest salaries abroad. Increasing the exclusion from $70,000 to $100,000 would not be appropriate in the context of our efforts to reduce the budget deficit.

2. Repeal of Limitation on Foreign Sales Corporation Exemption for Military Property

Administration Position. **Do not support.** At present, exports of military property through a foreign sales corporation (FSC) are entitled to only 50 percent of the FSC benefits that are available for other exports. Military property is defined as an arm, ammunition, or instrument of war designated in the Munitions List, established pursuant to 22 U.S.C. 2778. If Congress finds that U.S. exports of military property, either generally or specific items of military property, are facing increased competition, then it may be appropriate to repeal or partially repeal this limitation.

3. Inclusion of Computer Software as Foreign Sales Corporation Export Property

Administration Position. **Do not oppose.** Under current law, films, tapes, and records licensed for reproduction abroad qualify as export property for purposes of the foreign sales corporation provisions. However, technological developments are making the distinction between films, records, tapes and computer software less clear. Therefore, we would not oppose an extension of foreign sales corporation benefits to computer software licensed for reproduction abroad.

4. Recharacterization of Overall Domestic Loss for Foreign Tax Credit Limitation Purposes

Administration Position. **Do not support.** Allowing taxpayers to recharacterize overall domestic losses is expensive and complex and is not theoretically justified. Taxpayers can choose to defer certain foreign earnings while realizing foreign losses. Therefore, it is appropriate to require taxpayers who offset U.S. source income with foreign losses to recapture those losses out of future foreign earnings. The current overall foreign loss rules are necessary to prevent abuses, and should not necessarily be mirrored for domestic losses.

5. Election to Use Earnings and Profits Basis for Allocation of Interest Expense for Foreign Tax Credit Limitation Purposes

Administration Position. **Do not support.** This provision is intended to eliminate the disparity in the interest allocation regulations between the basis of foreign assets, computed under special U.S. rules that apply to foreign assets, and the basis of U.S. assets, computed under general U.S. rules. In particular, the accelerated depreciation allowed for U.S. assets tends to diminish their basis for purposes of interest allocation, while foreign assets are generally depreciated using straight-line depreciation. Using E&P basis would synchronize the computation of basis for U.S. and foreign assets. There are two significant problems, however. First, accelerated depreciation already provides taxpayers with substantial tax benefits; allowing taxpayers to use straight-line depreciation for interest allocation may be seen as providing an unwarranted additional benefit. Second, the proposal introduces additional complexity into an already complex area, as taxpayers would have to compute an E&P basis for each asset, along with the tax basis.

6. Extension and Modification of Special Allocation of Research and Experimental Expenditures to U.S. Source Income for Foreign Tax Credit Limitation Purposes

Administration Position. **Support permanent extension at 50 percent.** This proposal is similar to section 864(f) of the Internal Revenue Code, which generally expired on December 31, 1994. It differs from current section 864(f) in that it would increase the 50 percent exclusive apportionment percentage of section 864(f) to 64 percent. This proposal would also allow a taxpayer to elect not to utilize the place of performance rule under the sales method. As stated in the President's fiscal year 1996 budget, the Administration supports the permanent revenue-neutral extension of current section 864(f), which provides a 50 percent exclusive apportionment percentage. The Administration does not oppose the election to waive the place of performance rule under the sales method. However, the Administration does not

support increasing the exclusive apportionment percentage to 64 percent.

7. Repeal Foreign Tax Credit Basket for "10/50" Noncontrolled Corporations

Administration Position. **Oppose.** The proposal offers taxpayers an inappropriate opportunity to average foreign tax rates on different types of income earned through different 10/50 companies and also effectively applies an election (on a company-by-company basis) to apply a "look-through" approach. The proposal opens even more opportunities for abuse than would pure look-through. Although the Administration opposes this proposal, it is generally sympathetic to the burdens presented by the 10/50 basket and therefore does not oppose the alternative 10/50 proposal at item T.14., below.

8. Extension of Period to Which Excess Foreign Tax Credit May Be Carried

Administration Position: **Do not support.** The reason the Code permits the carryover of foreign taxes is that foreign and domestic tax accounting rules may differ, resulting in income being taxed in the United States and a foreign country in different years. The current carryover periods generally are appropriate to account for these differences. Moreover, the availability of deferral effectively allows taxpayers to choose when to begin the carryover periods. Extension of the carryforward period to 15 years would permit inappropriate averaging of high- and low-taxed foreign source income, which the foreign tax credit rules generally seek to limit. It also would have significant revenue losses outside the revenue-estimating window.

9. Expansion of De Minimis Exception to Subpart F Income Treatment

Administration Position. **Do not support.** The proposal would raise the ceiling of the subpart F de minimis exception from 5 to 10 percent and eliminate the $1 million limit of current law. The Administration would be pleased to work with the Committee to consider alternative methods of revising the de minimis exception in order to simplify the operation of subpart F. However, we believe that any exception should contain a dollar limit, as well as a percentage limit, to avoid excessive deferral of U.S. tax on income not subject to substantial foreign taxation.

10. Treatment of Foreign Base Company Sales and Services Income of Controlled Foreign Corporations in the European Union

Administration Position. **Oppose.** Although the European Union is moving towards economic integration, the lack of direct tax

harmonization creates inappropriate tax-planning opportunities. For example, the proposal would exempt income from taxation under subpart F even where it is subject to little or no foreign tax. Therefore, the European Union should not be treated as a single country for subpart F purposes at this point.

11. Exclusion of Foreign Base Company Shipping Income From Subpart F Income for Certain Controlled Foreign Corporations

Administration Position. **Oppose.** The proposal would reinstate prior law provisions granting deferral for certain shipping income. The Administration believes that the concerns regarding the absence of tax on such income, which motivated the Congress to curtail deferral in 1986, remain valid.

12. Limit Application of UNICAP Rules to Foreign Persons

Administration Position. **Do not oppose.** As we understand the proposal, it would exempt foreign persons from the uniform capitalization requirements of current law, except with respect to their U.S. effectively connected income and their subpart F income. Although this proposal would yield results that are somewhat less accurate from a theoretical perspective, we believe that it could achieve significant simplification for affected taxpayers.

13. Reporting of Foreign Corporation Earnings and Profits on a U.S. GAAP Basis

Administration Position. **Do not support.** Generally accepted accounting principles ("GAAP") are determined by the Financial Accounting Standards Board. In the interest of protecting shareholders and other stakeholders from aggressive accounting practices, GAAP earnings tend to accelerate losses and defer income. We believe, therefore, that it would be inappropriate to delegate the function of determining the amount of income to be picked up by controlled foreign corporations to an administrative body the interests of which may run counter to the tax system. However, we would be willing to work to with the Committee in an effort to identify limited opportunities where GAAP could be used to achieve simplification without adverse revenue consequences.

14. Permit Shareholder of a "10/50" Corporation to Elect to Treat It as a CFC for Foreign Tax Credit and Subpart F Purposes

Administration Position: **Do not oppose.** This proposal is a reasonable way to simplify the 10/50 basket rules. The proposal's coupling of foreign tax credit and subpart F consequences is consistent with Congressional intent as evidenced by the legislative history of the 10/50 rule (enacted in 1986).

That legislative history indicates a Congressional belief that a multiple separate-basket approach for 10/50 corporation dividends was appropriate, because 10/50 corporations, unlike CFCs, could not be considered part of the same economic unit as the U.S. shareholder. It would be consistent with this legislative history, however, to permit single-economic-unit (i.e., CFC) treatment for foreign tax credit purposes, if the taxpayers are required to apply CFC treatment for subpart F purposes as well.

The bill's consistency rule may preclude certain taxpayers from making the CFC election if they cannot obtain sufficient data from one or two 10/50 companies to apply the look-through or subpart F rules (e.g., due to substantial majority foreign ownership). The consistency rule properly prevents taxpayers from electing CFC treatment only with respect to 10/50 corporations that have, for example, no subpart F income. Treasury would be pleased to work with the Committee to consider other alternative reforms of the 10/50 basket rules if it appears that a consistency rule would limit too severely the utility of a CFC election.

15. Increase in Reporting Threshold for Stock Ownership of a Foreign Corporation

Administration Position. **Do not oppose.** Although the basic corporate information collected under section 6046 is valuable, the Administration believes that raising the reporting threshold to 10 percent would not significantly jeopardize that interest and would ease the filing burden of U.S. shareholders holding minority interests.

16. Modification of Excess Passive Assets Provision for Corporations with Active Financing Income

Administration Position. **Oppose.** The Administration believes that this proposal creates significant administrative difficulties because it differentiates between "active" financing income and "passive" income outside the context of regulated entities that qualify for the existing banking, insurance and securities exemptions. We believe that this line is very difficult to draw. Moreover, this form of relief is inappropriate because it treats corporations differently depending on the manner in which they finance their businesses, not on the basis of how active those businesses are.

17. Exception from Foreign Personal Holding Company Income and Foreign Base Company Services Income for Active Financing Income

Administration Position. **Oppose.** The proposal would reinstate, with modifications, pre-1987 law provisions granting deferral for certain income derived in the active conduct of a banking,

financing, or similar business or from certain investments made by insurance companies. The Administration believes that the concerns regarding the mobility of this income, which motivated the Congress to eliminate or curtail deferral for such income in 1986, remain valid.

18. Repeal of Excess Passive Assets Provision and Modification of Passive Foreign Investment Company Provisions

Administration Position. **Oppose.** The proposal would eliminate the excess passive assets provision and modifications to the passive foreign investment company assets test that were enacted in 1993 to prevent controlled foreign corporations from deferring tax indefinitely, as they were able to do before 1993 by managing their passive income and assets so as to avoid the passive foreign investment company thresholds. The third alternative proposal regarding passive foreign investment companies would make it even easier for a corporation to avoid treatment as a passive foreign investment company. In addition, the proposal to exempt controlled foreign corporations from the passive foreign investment company rules would allow less than 10-percent shareholders to achieve unlimited deferral of taxation on passive income. The Administration believes that the concerns regarding the ability of investors in foreign corporations to achieve unlimited deferral through the accumulation of passive assets abroad, which led to the passage of the passive foreign investment company rules in 1986 and the excess passive assets provision in 1993, remain valid.

19. Exemption of United States Shareholders of Controlled Foreign Corporations from Passive Foreign Investment Company Provisions

Administration Position. **Do not oppose.** The Administration believes that it may be possible to exempt the 10-percent United States shareholders of controlled foreign corporations from the passive foreign investment company provisions of the Code. We believe that this proposal could simplify the anti-deferral provisions of current law without significant detriment to the policy concerns underlying those provisions, because the provisions added to subpart F in 1993 now inhibit the accumulation by controlled foreign corporations of excessive passive assets abroad, as the asset test does in the case of passive foreign investment companies.

20. Valuation of Assets of a Controlled Foreign Corporation under the Passive Foreign Investment Company and Excess Passive Assets Provisions

Administration Position. **Oppose.** We understand that the proposal is intended to benefit certain service companies that have substantial amounts of self-generated intangibles. Because

it applies only to the extremely small number of controlled foreign corporations whose stock is publicly traded, it would not, however, benefit the vast majority of foreign service corporations. In addition, the proposal raises substantial problems, as well as associated administrative burdens, in determining valuations on an on-going basis.

21. Exempt Certain Income Derived by Insurance Brokers or Agents from PFIC Rules

Administration Position. **Oppose.** It is unclear that the situation of insurance brokers and agents is more similar to that of banks, insurance companies, and securities dealers, to whom the Congress has granted limited exceptions from the passive foreign investment company rules, than to that of service companies, to whom the Congress has not granted any exception. Moreover, the Administration believes that the proposed exemption is broader than necessary to achieve the stated purpose of treating insurance brokers and agents in a manner comparable to banks, insurance companies, and securities dealers. As drafted in H.R. 4626 (103rd Congress), the proposal would treat insurance brokers and agents more favorably.

22. Prizes and Awards Received from a Foreign Payor by a Nonresident Alien Relating to Competitions Held in the United States and Not Treated as Foreign Source Income

Administration Position. The staff of the Ways & Means Committee has advised Treasury that the explanation of this provision in the JCT pamphlet is incorrect. Treasury understands that this provision relates to compensation received by nonresident aliens in connection with Olympic competitions held in the United States. Treasury is concerned about creating a tax exemption for commercial activities related to the Olympics. However, Treasury is prepared to work with the Committee to ensure that the tax laws do not create an impediment to holding the Olympics in the United States.

23. Exempt Service Income of a Nonresident Alien Earned on International Ships or Aircraft from U.S. Tax

Administration Position. **Do not support.** Income earned within the United States should be subject to U.S. tax. Treasury would be willing to work with the Committee in order to evaluate whether the method of withholding tax applicable to international crew members is appropriate to the circumstances of international shipping.

The proposal also would exclude certain days spent within U.S. territory for purposes of determining residency under the substantial presence test of section 7701; this proposal is not acceptable as described. Treasury would be willing to work with

the Committee in order to identify the proper residence status for tax purposes of alien individuals who do not enter the United States for purposes of immigration law.

24. Repeal Portfolio Interest Exemption

Administration Position. **Oppose.** Repealing the portfolio interest exemption would substantially increase the cost of government and corporate borrowing in international markets.

25. Exempt Certain Short-Term OID Obligations Held by a Non-Resident Alien from U.S. Estate Tax

Administration Position. **Support.** As we understand it, the proposal would extend the estate tax exemption for OID obligations held by nonresidents who are not U.S. citizens to include certain short-term OID obligations described in Code section 871(g)(1)(B)(i). This would conform the estate and income tax treatment of such obligations and remove a disincentive to purchase them.

26. Carryover of Excess Possession Tax Credit

Administration Position. **Do not support.** We do not support the proposal because the carryback of the excess possession credit would provide a windfall for taxpayers. The economic activity limitation is intended to increase possession employment and investment. A carryforward of excess possession credit might have that effect, but a carryback would not.

27. Pass-Through Treatment for Certain Dividends Paid by a Regulated Investment Company ("RIC") to Foreign Persons

Administration Position. **Do not oppose in part.** We do not oppose the provisions of the proposal that would treat RIC dividends as "interest-related dividends" to the extent attributable to interest income that would be exempt from U.S. tax if earned directly by a foreign person or as "short-term capital gain dividends" to the extent attributable to the excess of short-term capital gains over long-term capital losses. We also do not oppose the proposed treatment of RIC shares for estate tax purposes with respect to the estates of decedents dying after the date of enactment, except to the extent described below relating to "taxable interest dividends." We believe that these provisions will enhance the ability of U.S. mutual funds to attract foreign investors and eliminate needless complications now associated with the structuring of vehicles for foreign investment in U.S. securities.

However, we oppose the provision that would treat RIC dividends as "taxable interest dividends" to the extent attributable to interest income that would be taxable if earned directly by a

foreign person. This provision would unilaterally extend to foreign investors in RICs the benefits of the reduced withholding rates for interest and estate tax treatment provided in our income and estate tax treaties, with no guarantee that comparable benefits will be provided for U.S. investors by our treaty partners.

28. Consolidate Income and Loss of Same Country Foreign Corporations That Elect To Be Taxed as Domestic Insurance Companies

Administration Position. **Oppose.** Current law provides specific "chain deficit" rules permitting U.S. shareholders of controlled foreign corporations in a chain to consolidate their income and loss from qualified activities, including insurance, in appropriate circumstances. Additional relief for certain insurance companies does not appear necessary or appropriate.

U. HOUSING COOPERATIVES

1. Tax Relief for Housing Coops on Interest on Reasonable Reserves and Income from Laundries and Parking; for Limited Equity Coops, Tax Relief for Commercial Rentals

Administration Position. **Do not support.** Although it may be appropriate to treat income from parking and laundry facilities (attributable to use by tenant-stockholders and their guests) as patronage-sourced, interest on reserves and rental income should not be treated as patronage-sourced.

2. Treatment of Coops Owning Only Land

Administration Position. **Do not oppose, if prospective.** The Administration is not aware of any reason why land cooperatives should not be entitled to the same treatment as housing cooperatives. However, the retroactive effective date (to December 31, 1987) is not appropriate.

V. INSURANCE

1. Treatment of Salvage and Subrogation of Property and Casualty Insurance Companies

Administration Position. **Do not oppose.** The Administration does not oppose a proposal that alters the statutory language contained in the 1990 Act to clarify Congressional intent.

2. Health Organizations Eligible for Benefits of Section 833

Administration Position. **Do not support.** Blue Cross/Blue Shield organizations receive special tax treatment that was granted in their transition to taxable status. These tax benefits include, among others, a special deduction, and the elimination of the 20 percent reduction in unearned premium reserves that applies generally to all property and casualty insurance companies. The scope of these special tax benefits should not be expanded on a retroactive basis.

3. Treatment of Certain Gains and Losses of Life Insurance Companies Under Section 818(b)

Administration Position. **Do not support.** Although life insurance companies do not get the benefit of section 1231 for depreciable property used in connection with a non-insurance business, this is one of the many features of the taxation of life insurance companies that do not conform to the taxation of non-insurance businesses. Any change in the taxation of life insurance companies should be considered in connection with the overall scheme of life insurance company taxation. In addition, the proposal would add complexity to the law by segregating the loss into capital and ordinary components on a percentage basis and allowing the ordinary portion to be deductible over five years.

4. Treatment of Certain Charitable Risk Pools

Administration Position. The laws of at least one State provide for the organization of charitable risk pools that provide insurance coverage to charitable organizations that are members of the pool. The courts have held that these charitable risk pools do not qualify for tax exemption under sections 501(c)(3) or 501(m).

The Administration would not oppose a provision under which a charitable risk pool could qualify as a section 501(c)(3) organization, notwithstanding section 501(m), provided that the charitable risk pool receives a sufficient amount of contributions from non-members that it uses to subsidize the coverage provided to members. The Administration believes that, in the absence of such subsidized coverage, the operations of a charitable risk pool would be virtually identical to a mutual insurance company, and as such should be subject to tax in accordance with the policies underlying section 501(m).

5. Deduction for Small Property and Casualty Insurance Companies

Administration Position. **Oppose.** The proposal would provide an additional tax-induced distortion favoring the sale of insurance through small firms, lose significant revenues, and create substantial additional complexity in the Code. Under present law, property and casualty insurance companies with net written premiums (or, if greater, direct written premiums) that do not exceed $350,000 are exempt from federal income tax. In addition, a property and casualty insurance company may elect to be taxed solely on taxable investment income for any taxable year its net written premiums (or, if greater, direct written premiums) exceed $350,000 but do not exceed $1.2 million. A special deduction for small property and casualty insurance companies in addition to the tax benefits available to these insurers under existing law is not necessary.

6. Treatment of Deposits Under Certain Perpetual Insurance Policies

Administration Position. **Oppose.** Under a perpetual insurance contract, a policyholder deposits a one-time payment with the insurer in return for casualty insurance that is provided until the policy is canceled and the deposit is refunded to the policyholder. The policyholder generally may cancel the insurance at any time. The investment earnings on the deposit are retained by the insurer to fund insurance costs. If a purchase of a perpetual insurance contract is not treated as a below-market loan, the policyholder avoids tax on the interest earned on the deposit, allowing casualty insurance to be purchased with pre-tax dollars.

7. Extend Section 130 Exclusion to Structured Settlements for Workmen's Compensation Payments

Administration Position. **Do not oppose.** There appears to be no policy justification, apart from revenue considerations, for allowing less favorable tax treatment for work-related physical injury claims than other physical injury claims.

8. Treatment of Certain Small Property Casualty Insurance Companies Under the Alternative Minimum Tax

Administration Position. **Oppose.** Applying the small company election to be taxed solely on taxable investment income in calculating alternative minimum tax liability would subvert the goal of the alternative minimum tax to measure the economic income of companies and impose some tax on that income. In addition, piecemeal amendments to the alternative minimum tax is

not desirable. Any revisions should be evaluated in the context of overall simplification of the alternative minimum tax.

9. Tax Treatment of Consolidations of Life Insurance Departments of Mutual Savings Banks

Administration Position. **Do not oppose.** The Administration does not oppose this proposal as long as it is limited to consolidation of life insurance departments of mutual savings banks under section 594 under requirement of State law, the provision applies only if policyholders have no rights to surplus and no voting rights prior to the consolidation, and their approval was not required in order for the consolidation to occur.

10. Extend Section 832(e) to Financial Guarantee Insurance

Administration Position. This proposal does not raise a significant federal income tax issue, but instead relates primarily to regulatory matters. Because a company that claims a deduction under section 832(e) must purchase "tax and loss", noninterest-bearing federal government bonds equal to the amount of the tax savings attributable to the deduction, the amount that the company pays the government in a given year is the same regardless of whether it claims the deduction. The principal effect of the provision is to allow the company to report an asset for regulatory purposes as a result of the payment.

11. Increased Dollar Limits for Burial Insurance

Administration Position. **Do not oppose.** Apart from revenue considerations, it may be appropriate to increase the dollar limits applicable in the case of an insurance contract to cover payments of burial expenses or in connection with prearranged funeral expenses to reflect inflation.

12. Foreign Companies Carrying on Insurance Business

Administration Position. **Do not oppose, subject to provision of a prospective effective date.** Although we do not believe that the provisions of current law violate our treaty obligations, we believe the proposed amendments, effective prospectively, could improve the operation of the statute.

W. LOW-INCOME HOUSING

1. Provide 15-year Depreciation and Other Tax Incentives to Encourage the Preservation of Low-Income Housing

Administration Position. **Oppose.** Generous tax advantages, including substantial credits and relief from the passive loss

rules, already exist for low-income housing. Shortening the depreciable life to 15 years, doubling the exception to the passive loss rules (from $25,000 to $50,000), and reducing the depreciable life for AMT purposes (from 40 years to 15 years) are not justified at this time.

2. Low-Income Housing Credit Provisions

(a). Allow HOME Funds To Be Used with 91% Credit

Administration Position. **Oppose.** Given the ceiling on tax credits, current law restrictions on combining federal subsidies are reasonable.

(b). Expand Community Service Area Costs Eligible for Credit

Administration Position. **Do not oppose, with modifications.** The low-income housing tax credit is a credit for housing and functionally related facilities. While there may be some justification for extending the credit to certain community service buildings, this proposal might allow financing of commercial-type facilities that allow as much as 49% of the use to be for persons other than residents. Any extension of the credit should provide a more targeted definition of community service buildings and use by residents.

(c). Change State Credit Authority Limitation Stacking Rule

Administration Position. **Do not support.** This change would effectively allow States to carry over unused authority for an unlimited period. Although this change should have little revenue impact, it could significantly reduce the flow of credits to the national pool. This could result in an inefficient use of the credit by benefiting States that could not use all of their credit authority at the expense of the States that did use all of their credit authority.

(d). Expand Credit to Lead Paint Removal

Administration Position. **Do not support.** The low-income housing tax credit is a credit for housing targeted to serve low income persons. It is an inappropriate vehicle to provide incentives for removal of lead paint in older buildings.

(e). Expand Credit to Certain Cooperative Housing

Administration Position. **Do not support.** The low-income housing tax credit was enacted to increase the stock of rental housing for low income families and individuals. Extending the credit to owner-occupied housing would dilute the goal of increasing rental property.

X. PARTNERSHIPS

1. Permanent Extension of Publicly Traded Partnership Grandfather Rule

Administration Position. **Oppose.** The effective date provisions of section 7704 provided existing partnerships with a generous 10-year period for preparing to comply with Section 7704. The debate regarding the effective date provisions of Section 7704 should not be reopened.

Y. PASSIVE LOSSES

1. Modify the Application of Passive Loss Rules to Timber Activities

Administration Position. **Do not support.** The current regulatory limitations on the facts-and-circumstances test for material participation are rules of administrative convenience designed to prevent disputes when there is little chance the taxpayer will prevail. Although the elimination of these limitations may increase the number of disputes between the Internal Revenue Service and taxpayers, taxpayers who are precluded from using the facts-and-circumstances test under current law (for example, because they do not participate in an activity for more than 100 hours) will still find it very difficult to establish, based on all the facts and circumstances, that their participation is regular, continuous, and substantial.

2. Modify the Application of Passive Loss Rules to Farming Activities

Administration Position. **Do not support.** The Administration position on this proposal is the same as its position on the similar proposal to modify the application of the passive loss rules to timber activities.

Z. PASS-THROUGH ENTITIES

1. Subchapter S Reform Proposals to Expand Availability of Subchapter S and Improve Its Operation

Administration Position. The Administration supports the goal of providing small business with needed S corporation reform and simplification. The Administration also supports many of the technical and administrative provisions of the proposals, such as increasing the number of shareholders from 35 to 50. We are concerned, however, that certain provisions of the proposals may unintentionally create undue complexity and provide increased opportunities for large taxable C corporations to escape

corporate taxation by electing S corporation status. This seems to be an inappropriate consequence of proposals intended to benefit small businesses. We would be pleased to work with the Committee to produce a revenue-neutral reform package that is more precisely targeted to small business and does not introduce additional complexity into the Code.

There have been two recent developments that should strongly influence the shape of any S corporation reform. First, limited liability companies ("LLCs") have emerged as a tremendously popular alternative to S corporations. LLCs combine the flexibility of a partnership for tax purposes with the liability protection of an S corporation. LLCs, like S corporations and other forms of partnerships, are generally not subject to tax; the results of their operations flow through to the owners. Virtually all States have enacted some form of LLC legislation and, for most new enterprises seeking extended flow-through treatment, an LLC will likely become the preferred entity. Thus, as we consider S corporation reform, we should keep in mind that it can be expected generally to benefit only certain existing businesses.

Second, Treasury and the IRS have recently proposed a "check-the-box" system that would allow LLCs and other unincorporated entities to elect to be treated as partnerships for tax purposes simply by checking a box. This check-the-box system has been generally praised by taxpayers and tax practitioners. However, it would not apply to enterprises formed as corporations. We do not have the authority to extend the check-the-box system to non-publicly traded corporations -- large or small -- including S corporations.

In light of these developments, we believe that, as an alternative to some of the proposals, we should consider allowing, at least for a limited period of time, certain S corporations to convert to a partnership on a tax-free basis under prescribed circumstances. There are currently several practical limitations on an S corporation's ability to convert to a partnership. In particular, such a conversion generally results in a tax liability that may be too steep a price for many S corporations to pay, as well as various transaction costs (lawyer and accountant fees, State transfer taxes, etc.). If adopted, this proposal would eliminate or reduce the tax cost of the conversion and enable certain S corporations to elect the more flexible partnership treatment.

As part of this proposal, consideration should be given to whether it would be appropriate to grant Treasury authority to extend the check-the-box proposal to converting S corporations. If Congress were to do so, we would be authorized to issue regulations that would allow S corporations to continue their existing corporate status while converting to partnership

treatment for federal tax purposes. As a result, S corporations that wanted to be treated as a partnership for federal tax purposes would simply file an election to be treated as a flow-through partnership, rather than actually having to transfer assets to a new partnership entity. This proposal would enable S corporations to achieve partnership tax treatment without incurring the transaction costs involved in actually converting to a partnership (including an LLC).

Finally, the dual concerns of providing appropriate revenue offsets to this proposal and targeting it to small business suggest that we explore another possible S corporation reform. Specifically, we should consider whether it is advisable to conform the tax treatment of the conversion of large existing C corporations to S corporations with the treatment of their conversion to a partnership (including an LLC). This proposal (as applied to all converting C corporations, not just large C corporations) was suggested by the Joint Committee on Taxation in 1990 as part of an earlier simplification package. The Joint Committee recommended that "a shift from C corporation status to passthrough entity status where the passthrough entity is an S corporation [be] conformed to the present-law treatment where the passthrough entity is a partnership." See letter to Chairman Dan Rostenkowski from Ronald A. Pearlman, Chief of Staff of the Joint Committee on Taxation, reprinted in Committee on Ways and Means, Written Proposals on Tax Simplification, WMCP 101-27, May 25, 1990, p.20. Currently, electing S status rather than converting to a partnership generally enables large C corporations -- corporations that would not meet anyone's definition of small business -- to escape most corporate taxes. In light of the recent developments discussed above, now may be an appropriate time to review the Joint Committee's proposal.

2. Subchapter S Corporations Eligible for Rules Applicable to Real Property Subdivided for Sale by Noncorporate Taxpayers

Administration Position. **Oppose.** The proposal would extend section 1237 treatment to S corporations and thereby equalize the treatment of S corporations and partnerships with regard to the sale of certain subdivided real property. The proposal, however, is to be effective for sales after January 1, 1992 and to sales before January 1, 1992 for purposes of characterizing post-1991 sales as falling under section 1237. While the Administration is generally sympathetic to equalizing the treatment of S corporations and partnerships, we oppose the proposal on the basis of this effective-date provision.

3. Treatment of Financial Asset Securitization Investment Trusts (FASITS)

Administration Position. **Do not oppose, with modifications.** The Administration did not support a similar proposal introduced in

1993. Since 1993, the proposal has been improved significantly. We still have concerns, however, about the complexity of the proposal and whether the safe harbor treatment of debt securities allows equity-like interests to be treated as debt. In addition, we have concerns about creating another special purpose tax entity rather than improving or expanding existing law. Finally, we are concerned about potential revenue losses outside the budget window. We believe that this proposal should be considered in the context of Treasury's study of the treatment of financial instruments and entities engaged in financial services transactions.

4. Treatment of Tax-Exempt Municipal Investment Conduits (TEMICS)

Administration Position. **Do not support.** We are not aware of the need for this proposal, which would introduce significant complexity into the tax law.

5. Modification of Rules For Real Estate Investment Trusts (REITS)

Administration Position. **Do not support.** The Administration is sympathetic to arguments that there are technical problems with the current REIT rules in the tax law. We are concerned, however, with the way this proposal addresses those problems. We look forward to working with the Committee to resolve these issues in an appropriate and revenue-neutral manner. We believe that the proposal should be considered in the context of Treasury's study of the treatment of financial instruments and entities engaged in financial services transactions.

6. Allow Bank Common Trust Funds To Be Transferred to More than One Mutual Fund without Taxing Trust Beneficiaries

Administration Position. **Do not oppose, with modifications.** This proposal would allow smaller banks that lack sufficient funds to create proprietary mutual funds to transfer their common trust funds to one or more larger mutual funds. We support this goal. We have, however, significant concerns about the complexity and effectiveness of the basis-pooling rules, and believe that this part of the proposal should be substantially revised.

AA. PEACE TAX FUND

1. Establish U.S. Peace Fund to Receive Conscientious Objectors' Income, Estate, or Gift Tax Payments To Be Used Only for WIC, Head Start, U.S. Institute of Peace, and Peace Corps

Administration Position. **Oppose.** The proposal would provide one category of individuals with more direct say over the way the government spends tax dollars, as opposed to the influence all taxpayers exert through the normal political processes and the ballot box. In this regard, it is similar to the provision in H.R. 1215 which we oppose regarding a Public Debt Reduction Trust Fund. The proposal also presents significant administrative problems.

BB. PENSIONS AND EMPLOYEE BENEFITS

A. PENSIONS

1. Nondiscrimination Rules

(a). Repeal Special Nondiscrimination Tests for Qualified Cash or Deferred Arrangements

Administration Position. **Oppose.** We oppose the repeal of the special nondiscrimination tests for qualified cash or deferred arrangements (known as the ADP test) and for employer matching contributions and employee after-tax contributions (known as the ACP test). These tests protect nonhighly compensated employees under a 401(k) or 401(m) arrangement by ensuring that they receive reasonable contributions (as a percentage of compensation) compared to highly compensated employees. However, the ADP and ACP tests, including the related correction procedures, can be complicated and costly to administer. The Administration's pension simplification package has proposed a simple "safe harbor" alternative that allows employers to avoid all ADP and ACP testing but that also protects nonhighly compensated employees. These design-based safe harbors -- which would apply both for 401(k) plans and for the Administration's proposed simple plan for small employers, the NEST (for National Employee Savings Trust) -- consist mainly of employer matching and nonmatching contributions designed to increase the likelihood that nonhighly compensated employees will have meaningful contributions.

(b). Modify Definition of Highly Compensated Employee to Eliminate 1-Officer Rule

Administration Position. **Support.** H.R. 3419 defines a highly compensated employee (HCE) as any employee who is a more-than-5 percent owner of the employer or who earns more than $50,000 ($66,000 as adjusted in 1995 for cost of living). The proposal would eliminate the additional rule in H.R. 3419 that, if no employee is an HCE under this definition, then the highest-paid officer is treated as an HCE. In its pension simplification package, the Administration has proposed to define an HCE simply as any employee who is a more-than-5 percent owner or who earns more than $80,000 (effective for 1996 and indexed for future years), without a highest-paid officer rule. Consistent with our simplification proposal, we support the proposed deletion of the highest-paid officer rule. We also believe that raising the dollar threshold to $80,000, as under the Administration's proposal, would prevent many middle-income taxpayers from being classified as HCEs who are prohibited from receiving better benefits than others.

(c). Repeal Top-Heavy Rules

Administration Position. **Oppose.** The top-heavy rules provide rank-and-file employees with important protection not currently provided by any other Code provision. However, the top-heavy rules may require complex calculations that deter small employers from adopting qualified plans. To address this problem, as well as many other concerns unique to small business, the Administration has proposed a new, simple plan for small employers -- the NEST. The NEST would be exempt from the top-heavy requirements (and other nondiscrimination testing rules); instead, the structure of the NEST itself is designed to promote meaningful contributions for all eligible employees.

(d). Modify Leased Employee Rules

Administration Position. **Oppose.** The proposal does not simplify or clarify the leased employee rules; it adds new layers that increase complexity. The proposed five-year graded vesting schedule is likely to result in reduced benefits for rank-and-file employees who remain with leasing organizations for a relatively short time. The safe harbor alternative would permit service recipients and qualified leasing organizations to circumvent the existing safe harbor limit on the percentage of leased employees. In addition, the safe harbor would require a qualified leasing organization to register with the IRS. It is not clear what the IRS's responsibilities would be under this requirement. If, for example, registration required the IRS to evaluate each leasing organization that applied for registration

and conduct a periodic review of the registrants, the provision could impose significant administrative burdens.

(e). Exempt State Judicial Plans From Nondiscrimination Requirements

Administration Position. **Do not support.** Tax-qualified plans of governmental employers generally are deemed to satisfy minimum participation, nondiscrimination and coverage requirements until plan years beginning on or after January 1, 1999. The delayed effective dates allow time for the development of appropriate nondiscrimination provisions for governmental plans. We do not believe that there is a sufficient tax policy justification for providing a total exemption from the nondiscrimination rules for any one class of employees.

(f). Repeal OBRA 1993 Provision Limiting Compensation Taken into Account to $150,000

Administration Position. **Oppose.** The OBRA 1993 reduction in the amount of compensation that may be taken into account under a qualified plan serves to reduce the extent to which employers can provide tax-qualified retirement benefits that favor the highly compensated employees. Reversal of that reduction would permit a larger share of the employer's tax-favored contributions to be allocated to employees who can better afford to save for their own retirement. In addition, the proposal would have significant revenue cost.

(g). Repeal for Pilots OBRA 1993 Provision Limiting Compensation Taken into Account to $150,000

Administration Position. **Oppose.** For the reasons noted above, we oppose the repeal of the OBRA 1993 reduction in the amount of compensation that may be taken into account under a qualified plan. Furthermore, we do not believe there is a legitimate tax policy reason to repeal the reduction (and thus have a different compensation definition) for one class of employees.

(h). Repeal Minimum Participation Rule

Administration Position. **Support, as applied to defined contribution plans.** As applied to defined benefit plans, the minimum participation rule prevents significant abuse. It prevents an employer from establishing individual defined benefit plans for highly compensated employees in order to provide those employees with more favorable benefits than those provided to lower paid employees under a separate plan. The rule also prevents an employer from favoring one small group of participants over another in other ways (for example, by covering them under two separate defined benefit plans and funding one plan better than the other). Accordingly, we oppose the repeal

of the minimum participation rule for defined benefit plans. However, as applied to defined contribution plans, the minimum participation rule adds complexity for employers without delivering commensurate benefits to the system. Thus, consistent with the Administration's pension simplification proposal, we support the repeal of the minimum participation requirement for defined contribution plans.

2. Distribution Rules

(a). Repeal 15-percent Excise Tax on Excess Distributions

Administration Position. **Do not support.** Both the 15 percent excess distribution penalty and the section 415(e) combined plan limit (which applies to any employee who participates in a qualified defined benefit plan and a qualified defined contribution plan of the same employer) were designed to safeguard against an individual accruing excessive tax-favored retirement benefits under multiple plans. There is considerable duplication in the application of the two provisions. Because the 415(e) combined limit is the far more complicated provision -- and because it, unlike the 15 percent excise tax, applies only to the plans of a single employer -- we believe, consistent with the Administration's simplification proposal, that the cause of simplification would be best served by repealing the combined limit rather than by repealing the 15 percent penalty.

(b). Provide that Pension Distributions are Taxed as Capital Gains

Administration Position. **Oppose.** Under existing law, qualified plans receive very favorable tax treatment. Employees are not taxed on contributions to these plans; the trusts do not pay taxes on their earnings; and employees are eligible for special tax treatment for certain types of distributions. We believe that the proposed additional tax incentive to provide compensation in the form of retirement benefits is not needed. In addition, the proposal would lose significant revenue.

(c). Reinstate Ten-Year Forward Averaging

Administration Position. **Oppose.** Reinstating ten-year averaging for lump sum distributions, which was generally repealed by the Tax Reform Act of 1986, would do nothing to simplify the taxation of lump sum distributions, and would lose substantial revenue. The application of ten-year averaging often involves difficult definitional determinations and complicated calculations.

(d). Permit Penalty-Free Withdrawals for Unemployed Individuals

Administration Position. **Support Administration's version of this legislation.** The Administration supports the objective of

allowing unemployed individuals to make penalty-free withdrawals from IRAs, as included in the Middle Class Bill of Rights, H.R. 980. The Administration believes that this change should be part of a comprehensive expansion of IRAs for middle-income taxpayers, as provided in H.R. 980. In addition, this change should be limited to individuals facing long-term unemployment.

3. Limits on Contributions and Benefits

(a). Modification of Interest and Mortality Rate Provisions of the Retirement Protection Act

Administration Position. **Oppose.** The change in the interest rates and the specification of the mortality table that may be used for purposes of applying the section 415 limitations contained in the Uruguay Round legislation reestablished the principle that a plan may not provide a benefit in the form of a lump sum that is worth more than the equivalent of the maximum single life annuity that would be permitted at the same age under section 415. The effective date of the changes need not be deferred, because the Uruguay Round legislation also provided that a plan may protect the benefit accrued prior to the effective date of the new provision.

(b). Eliminate Combined Plan Limit for Participants in Both a Defined Contribution Plan and a Defined Benefit Plan

Administration Position. **Support.** The repeal of this limit has also been proposed by the Administration. The combined limit is cumbersome, requiring information concerning a plan participant's entire work history, and is commonly determined incorrectly. The goal of the combined limit -- to safeguard against an individual accruing excessive retirement benefits on a tax-favored basis -- is also addressed by the 15 percent excise tax on excess distributions, which the Administration's proposal would retain.

4. Employee Stock Ownership Plans

(a). Modify Rules Relating to Deferral of Gain on Certain Sales of Stock to an ESOP (section 1042 exchanges)

Administration Position. **Oppose.** We do not believe that there is sufficient tax policy justification for this expansion of section 1042.

(b). Permit ESOP to be Beneficiary of Charitable Remainder Trust

Administration Position. **Oppose.** We do not believe that the current charitable estate tax deduction for charitable remainder trusts should be expanded to cover ESOPs.

(c). Treatment of Certain Securities Transferred to an ESOP From Terminated Defined Benefit Pension Plan

Administration Position. **Oppose.** The Treasury historically has not favored this type of retroactive provision that provides tax benefits to a narrow class of taxpayers.

(d). Permit Payment of Estate Tax Liability by an ESOP

Administration Position. **Oppose.** We do not believe that there is sufficient tax policy justification for reinstating this benefit, which Congress repealed in 1989.

5. Permit Permanently Disabled Persons to Contribute to Section 401(k) Plans

Administration Position. **Do not oppose.** To encourage contributions for disabled workers, plans should be allowed to permit disabled former employees, highly compensated as well as nonhighly compensated, to make elective contributions to 401(k) plans. We would support legislation that achieves this goal if technical issues relating to the implementation of the proposal are appropriately resolved. We would be happy to work with the Committee to that end.

6. Modify Sanctions for Failure to Comply with Qualification Requirements

Administration Position. **Oppose.** By effectively eliminating sanctions in all but the most egregious cases, the proposal reduces employers' incentives to adopt systems and procedures that assure operational compliance with plan qualification rules. Unlike the current IRS administrative programs, the proposal is not targeted to providing incentives for voluntary compliance, such as implementation of plan procedures that minimize future errors. As a consequence, adoption of the proposal might well have an adverse effect on participants' benefits and rights and could significantly increase the need for IRS examination and enforcement efforts. As current administrative programs evolve, Treasury and the IRS will continue to work to structure systems that reduce plan burdens while encouraging voluntary compliance.

7. Allow Prenuptial Waiver of Spousal Annuity Benefits

Administration Position. **Oppose.** The proposal could undermine the important Federal retirement policy of protecting a spouse's rights, by permitting waivers to be made many years before retirement and long before meaningful information might be available concerning the value of benefits being waived.

8. Deny Federal Tax Information to States Imposing a Pension Source Tax

Administration Position. **Oppose.** The exchange of tax information between State and Federal tax authorities for tax administration is essential to the orderly collection of both State and Federal tax revenues. Prohibiting the exchange of tax information would interfere with the administration and enforcement of Federal tax laws. The access of States to Federal tax information should not be conditioned on compliance with requirements unrelated to the needs of Federal tax administration.

9. Unfunded Deferred Compensation Plans of Tax-Exempt and Governmental Organizations

(a). Exempt Deferred Compensation Plans for Volunteer Fire Fighters

Administration Position. **Oppose.** The proposal would effectively allow volunteer fire and rescue personnel to defer up to 100 percent of their compensation. Other employees of tax-exempt organizations or of State and local governments are generally limited to deferring one third of their compensation (or $7,500 if less). There is no tax policy reason to distinguish employees who perform these services from any other employees of tax-exempt or governmental employers.

(b). Increase Deferred Compensation Limit for Group Medical Practices

Administration Position. **Support a broader proposal that would apply to all tax-exempt organizations and State and local governments.** There is no tax policy reason to confer special benefits exclusively on such a narrow class of taxpayers. However, because excess benefit plans provide certain employees with benefits that are already provided to other employees under a qualified plan, we believe that excess benefit plans maintained by all tax-exempt organizations and State and local governments should be exempt -- without limit -- from the restrictions of section 457. The Administration's pension simplification proposal provides for this exemption.

(c). Require Individual Ownership of Plan Assets

Administration Position. **Oppose.** This proposal would, by its terms, require amounts deferred under a nonqualified deferred compensation plan of a tax-exempt organization or a State or local government to be funded for the exclusive benefit of plan participants. However, income tax on these amounts would be deferred as if they were not funded. This favorable tax

treatment of participants would confer on a category of nonqualified deferred compensation plans significant benefits that are specifically reserved under the current statutory scheme for retirement plans that meet numerous nondiscrimination and other qualification requirements. Section 457 plans not only are allowed to discriminate in favor of highly compensated employees, but, in the case of tax-exempt organizations, they also are generally permitted to cover only a select group of management or highly compensated employees because of the interaction of the Code and ERISA requirements. We oppose extending significant benefits of qualified retirement plans to this very broad category of nonqualified deferred compensation plans.

10. Provisions Relating to Individual Retirement Arrangements ("IRAs")

(a). Permit Tax-Free Rollover of Certain Severance Payments

Administration Position. **Do not support.** We do not believe that it is generally appropriate to expand the individual retirement account rollover provisions to otherwise taxable severance payments that have not been dedicated to retirement savings under a tax-qualified plan.

(b). H.R. 682 (the "Savings and Investment Incentive Act of 1995")

Administration Position. **Support Administration's version of this proposal.** The Administration supports the expansion of IRAs, but believes the President's IRA proposal in H.R. 980 provides a more cost-effective way to increase net national savings. The President's proposal expands savings incentives to individuals with more moderate incomes, who are now doing little saving. We also believe that penalty-free withdrawals should be made available to pay for long-term care expenses for an incapacitated parent, as proposed by the President.

11. Treatment of Indian Tribal Governments under Section 403(b)

Administration Position. **Do not support.** The Administration believes it would be more appropriate to address the retirement saving needs of tribal government employees through comprehensive pension simplification that would include consideration of all tax-exempt organizations. Accordingly, as part of its pension simplification proposal, the Administration has proposed allowing tax-exempt organizations and Indian tribal governments to sponsor section 401(k) plans in the future. Also, as a general matter of tax policy, the Administration does not favor this type of retroactive tax relief.

12. Special Rules for Church Pension Plans

Administration Position. **Oppose, except for certain technical changes.** As a general matter, the Administration opposes the proposal for the following reasons:

- We believe that the proposed exemption from the trust and nondiscrimination requirements for most qualified church retirement plans and section 403(b) annuities is not justified by differences in church organizational structures or polity, or other unique attributes of churches or church plans. Church employees are entitled to the same safeguards as employees of other organizations, regardless of their employer's internal administration. We have similar reservations about most of the other new special rules for church plans in the proposal. The proposed amnesty included in the proposal for all past violations of sections 401(a) and 403(b) and the retroactive effective dates of many of the proposals are contrary to our general policy against retroactive relief from prior compliance obligations.

- We believe that the current statutory approach of exempting church plans from certain provisions that are difficult to apply or inappropriate in the church plan context is the right approach because it applies, to the extent possible, the same retirement policy for all employers and employees.

- We oppose the extension of the special rules currently applicable only to qualified church-controlled organizations (QCCOs) to all church-controlled or affiliated organizations (other than certain hospitals and universities) because it is inappropriate to provide special treatment reserved generally for churches to organizations that function more as secular charities or commercial enterprises. We are, however, sensitive to problems that exist in applying the QCCO definition. We are also concerned about the problems that exist in applying the generally applicable employer aggregation rules to churches. We would be pleased to work with the Committee to develop simplified rules to address these issues.

We do not oppose certain technical changes included in the proposal. For example, the clarification of the ability of self-employed ministers to participate in a church plan may facilitate the application of certain provisions to church plans, and we would like to work with the Committee to develop this proposal more fully. In addition, we note that the proposal to modify the age 70 1/2 required beginning date for distributions is consistent with the Administration's proposal to generally eliminate the requirement that distributions from a qualified

plan must begin at age 70 1/2 even for an employee who continues to work for the employer maintaining the plan.

B. EMPLOYEE BENEFITS

1. Tax Treatment of Certain Disability Benefits for Police and Fire Fighters

Administration Position. **Do not support.** The Treasury Department generally has not favored this type of targeted retroactive tax relief.

2. Exclude from Income Retirement Benefits that an Employee Elects to Use to Purchase Employer-Provided Accident or Health Care

Administration Position. **Oppose.** Enactment of the proposed exclusion from income would create an entirely new mechanism for prefunding retiree accident and health benefits, and it is not clear whether any nondiscrimination or vesting rules would apply. The proposal may result in significant revenue loss.

3. Modify Restrictions on Golden Parachute Payments

Administration Position. **Do not support.** We do not support eliminating the 75 percent shareholder approval requirement in cases where one person owns more than 50 percent of the voting power of a corporation. The super-majority rule serves to promote serious shareholder consideration of compensation paid upon changes of control.

4. Employee Housing For Certain Medical Research Institutions

Administration Position. **Do not oppose.** The proposal would eliminate disparities in the tax treatment of employer-provided faculty housing for schools and institutions providing similar medical instruction for students.

CC. TAX-EXEMPT BONDS

1. Expansion of Arbitrage Rebate Exception for Certain Bonds

Administration Position. **Do not support.** It may be appropriate to review the arbitrage rebate exceptions as part of the Administration's effort to simplify the tax law. The arbitrage rebate rules were enacted to discourage unnecessary and early issuance of tax-exempt bonds by requiring that arbitrage profits be turned over to the federal government. However, this type of proposal should be considered in the context of a general review of these rules which would exempt more issues rather than more

dollar volume from the rebate requirements while still preventing arbitrage abuse.

2. Bonds for Certain Output Facilities

Administration Position. **Do not oppose.** Although this change would have a revenue cost, it would simplify the tax laws. There does not appear to be any reason to treat municipal output facilities more harshly than other municipal facilities.

3. Bonds for Emergency Response Vehicles of Certain Volunteer Fire Departments

Administration Position. **Do not oppose.** Although this proposal will result in a slight revenue loss, it is a reasonable expansion of the limited authority to issue tax-exempt bonds under current law.

4. Spaceport Exempt-Facility Bonds

Administration Position. **Oppose.** This proposal would principally benefit a single municipality in Florida. Further, there could be a significant revenue loss because these bonds would not be subject to the volume cap.

5. Bonds for Solar Energy Facility

Administration Position. **Do not support.** Use of tax-exempt financing, particularly in combination with other federal subsidies exempt from the federal guarantee rule, would not be an efficient vehicle for encouraging solar energy facilities. Other federal tax incentives are available to support solar energy development.

6. Bonds for the Sale of the Alaska Power Administration Facility

Administration Position. **Oppose.** This proposal would principally benefit a single State in the purchase of a federal power facility which has already received other federal benefits.

7. Bonds for the United Nations

Administration Position. **Support.** The Administration believes that the proposal to use tax-exempt financing to provide office space for the United Nations is a matter of great importance and benefit to the United States. There would be an insignificant revenue impact because these bonds would be subject to the volume cap.

8. Bonds for Certain Pre-1990 Issues in the State of Connecticut

Administration Position. **Oppose.** This proposal would benefit a single State and have retroactive effect.

9. Bonds Related to the Transfer of Port Everglades, Florida

Administration Position. **Oppose.** This proposal would principally benefit a single municipality.

10. Qualified Mortgage Bonds - Home Improvement Loans

Administration Position. **Do not oppose.** It may be appropriate to review the dollar limitation on home improvement loans to persons meeting specified income limits. However, this type of change should be considered in the context of a general purpose of the mortgage revenue bond program, which is to provide housing to certain first-time homebuyers meeting income and purchase-price limits.

11. Qualified Veterans' Mortgage Bonds

Administration Position. **Do not support.** The qualified veterans' mortgage bond program continues to apply to only five States and to a limited class of veterans as a grandfather rule and it is not appropriate to further expand the program in this manner. Veterans' programs should apply uniformly across the nation. Veterans may be able to qualify for mortgages supported by tax-exempt mortgage revenue bonds or mortgage credit certificates.

12. Modification of Exception to Bank Interest Deduction Disallowance for Qualified 501(c)(3) Bonds

Administration Position. **Oppose.** This proposal would have significant revenue cost. This change effectively increases the $10 million small issuer limit by removing a significant category of bonds from its coverage. In addition, by providing every 501(c)(3) organization with its own annual $5 million limit, the applicability and complexity of the small issuer rule would be increased substantially.

13. Qualified Small-Issue Bonds

Administration Position. **Do not support.** The small-issue bond provisions were extended permanently to provide a benefit targeted to small manufacturing businesses. This change is a significant increase in the ability of larger business to benefit from tax-exempt bonds.

14. Repeal Student Loan Marketing Association's Exception to the Rule Disallowing Interest Deductions on Debt Used to Acquire or Carry Investments in Tax-Exempt Bonds

Administration Position. **Support.** The Administration believes that it is appropriate to provide a transition rule for interest deductions during the period of time that the Student Loan Marketing Association moves toward either privatization or dissolution.

DD. TAX RETURN CHECKOFF

1. Permit Individual Tax Return Checkoff for U.S. Olympic Trust Fund

Administration Position. **Oppose.** Regardless of how meritorious the beneficiary of any voluntary checkoff on a tax return, such proposals add complexity to the return, result in confusion, and impose significant administrative burdens.

2. Permit Individual Tax Return Checkoff for Deficit Reduction

Administration Position. **Oppose.** This Administration has a strong commitment to deficit reduction. Nevertheless, this particular proposal would add complexity to the return, result in confusion, and impose significant administrative burdens.

EE. TRUSTS AND ESTATES

1. Income Tax Rates Applicable To Trusts and Estates

Administration Position. **Oppose.** These proposals reduce the income tax rates applicable to all (H.R. 329) or certain (H.R. 960) trusts. The tax rate brackets applicable to trusts were compressed in 1986. We believe that the present tax-rate schedule for trusts is appropriate, and we would consider a change to this schedule only in the context of a complete overhaul of the income taxation of trusts and estates.

FF. OTHER

1. Allow Nonprofit Educational Foundations to Sell U.S. Savings Bonds

Administration Position. **Oppose.** Although the Administration strongly supports efforts to make it easier for individuals to save and invest, the proposal to allow nonprofit educational foundations to be agents for the sale of U.S. savings bonds would increase risks and expenses to investors and to the Treasury, and

likely would not result in additional investments in savings bonds. In addition, changing the prohibition against the use by private parties of the words "United States Savings Bonds" in advertising or solicitations would inhibit Treasury's efforts to stop deceptive advertising and solicitation practices. The Treasury is developing guidelines for appropriate and acceptable uses of the words "United States Savings Bonds" by private parties.

II. POSSIBLE MODIFICATIONS TO SIMPLIFICATION PROVISIONS CONTAINED IN H.R. 3419 (103RD CONGRESS)

1. Provisions Relating to Individuals

(a). Permit Payment of Taxes by Credit Card

Administration Position. **Support.** Clarifying that the fees that may be imposed for using a credit card to pay federal taxes could not be borne by the federal government would improve this provision.

(b). Election by Parent to Claim Unearned Income of Certain Children on Parent's Return

Administration Position. **Do not oppose deletion.** Because this provision of H.R. 3419 was included in H.R. 1215, as passed by the House of Representatives, the Administration does not oppose deleting the provision from this tax simplification package.

(c). Expanded Access to Simplified Income Tax Returns

Administration Position. **Support deletion.** Section 116 of H.R. 3419 required the Commissioner to study ways to expand access to simplified individual income tax returns, including permitting itemizers to use Form 1040A and removing or raising the taxable income limitations on use of Form 1040A, and to submit a report discussing such actions. Since the Service is already working on such a study, this provision is unnecessary, and Treasury supports deleting this proposal from the simplification package.

2. Pension Simplification

(a). Tax-Exempt Organizations Eligible under Section 401(k)

Administration Position. **Oppose.** This proposal would impose a restriction on tax-exempt organizations that is not imposed on for-profit employers. For-profit employers are allowed to provide a nonqualified deferred compensation plan in addition to a broad-based section 401(k) plan. Restricting the ability of tax-exempt organizations to do the same would be contrary to the spirit of the basic provision (i.e., allowing tax-exempt

organizations to maintain 401(k) plans), which is to put for-profits and tax-exempt organizations on an equal footing. In addition, the section 457 dollar limit (generally $7,500) for any individual is offset dollar for dollar by elective deferrals made by the individual to a 401(k) plan. Therefore, the benefits that are provided under a 457 plan to an employee who also participates in a 401(k) plan are already restricted.

(b). Nondiscrimination Rules for Qualified Cash or Deferred Arrangements and Matching Contributions

Administration Position. We support the Administration's proposal to provide a new simpler plan for small employers instead of modifying the SARSEP rules. We believe that one of the reasons SARSEPs have not been more widely used is that they do not allow employers to match employee deferrals. The extension of the 401(k) safe harbors to SARSEPs would presumably allow matching contributions to be used under a SARSEP as an incentive to induce employees to make elective contributions. We believe that nondiscrimination safe harbors (and the ability to have matching contributions) would be a significant improvement to SARSEPs. However, under the proposal, the matching contribution safe harbor would not appear to be a meaningful option for the many SARSEPs that are top-heavy and therefore required to provide a 3 percent minimum nonelective employer contribution for all nonkey employees. At the same time, if no employer contribution is required for employees who do not elect to make salary reduction contributions, the matching contribution safe harbor currently proposed will not do enough to promote meaningful contributions for nonhighly compensated employees.

Instead of simply modifying the SARSEP provisions, the Administration has proposed a new, simple plan for small employers, known as the National Employee Savings Trust, or NEST. The NEST provides for design-based safe harbors that are almost identical to the safe harbors proposed in H.R. 3419, except that the NEST safe harbors exempt the employer from the top-heavy rules while also providing for a 1 percent nonelective employer contribution as part of the matching contribution safe harbor.

(c). Full-Funding Limitation of Multiemployer Plans

Administration Position. **Oppose deletion.** H.R. 3419 proposed to repeal the 150 percent limitation on deductible contributions for multiemployer plans and to allow triennial actuarial valuations (rather than annual valuations) for these plans. Consistent with the Administration's pension simplification proposal, we oppose the current proposal to delete these provisions from H.R. 3419. The 150 percent limit is intended to limit the extent to which an employer can deduct contributions to a defined benefit plan for liabilities that have not yet accrued. However, an employer has little, if any, incentive to make "excess" contributions to a

multiemployer plan. The amount an employer contributes to a multiemployer plan is fixed by the collective bargaining agreement, and a particular employer's contributions are not set aside to pay benefits solely to the employees of that employer. Without the 150 percent limit, annual actuarial valuations are unnecessary and overly burdensome. Therefore, we believe that triennial valuations should be allowed for multiemployer plans if the 150 percent limit is repealed.

(d). Alternative Full-Funding Limitation

Administration Position. **Support deletion.** While we recognize that the OBRA 1987 full funding limitation has the effect of limiting pension plan funding for plans with liability that is heavily weighted towards younger employees, we believe that a narrow rule eliminating the effect of the OBRA 1987 change for a few employers is inappropriate. Furthermore, this proposal requires an offsetting adjustment to the 150 percent full funding limit to maintain revenue neutrality. This adjustment will be difficult to determine on an annual basis and will subject the employers affected by the adjustment to uncertainty.

(e). Special Rules for Plans Covering Pilots

Administration Position. **Support deletion.** We do not believe that an extension of the current exception for pilots to nonunionized pilots is warranted.

(f). Treatment of Employer Reversions Required by Contract to be Paid to the United States

Administration Position. **Oppose deletion.** The excise tax is intended to apply to reversions received by employers. Accordingly, it is inappropriate to impose the excise tax on the portion of a reversion that must be paid by a government contractor to the United States. The President's pension simplification proposal includes a provision excluding these reversions from excise tax.

(g). Continuation Health Coverage for Employees of Failed Financial Institutions

Administration Position. **Do not oppose deletion.** The primary motivation for including this provision in H.R. 3419 is now moot.

(h). Clarify Relationship Between Community Property Rights and Retirement Benefits

Administration Position. While the scope of the provision as described is unclear, the Administration generally supports clarification of the relationship between community property rights and retirement benefits. The Administration generally

supports, with technical modifications, the proposal (described in the June 16, 1993 Joint Committee on Taxation Description of Miscellaneous Tax Proposals (JCS-8-93) at 71-72) to clarify the availability of the marital deduction where the non-participant spouse in a community property State predeceases the participant spouse.

3. Treatment of Large Partnerships

(a). Simplified Flow Through for Large Partnerships

Administration Position. **Oppose deletion.** The Administration opposes the suggestion of deleting the provisions that would modify the tax treatment of large partnerships and reduce the number of items that must be separately reported to the partners. The Administration would be happy to work with the Committee to devise any revisions that may be needed to provide more simplified flow through treatment for large partnerships.

(b). Simplified Audit Procedures for Large Partnerships

Administration Position. **Oppose deletion.** The Administration opposes the suggestion of deleting the provisions providing simplified audit procedure for large partnerships. The new audit system created by these provisions would improve the IRS's ability to audit large partnerships in a timely and efficient manner. The Administration would be happy to work with the Committee to devise any revisions that may be needed to provide more efficient audit procedures for large partnerships.

(c). Partnership Returns on Magnetic Media

Administration Position. **Support.** The Administration supports requiring magnetic media reporting for large partnerships and other partnerships with more than 250 partners. The Administration also supports the provision of H.R. 3419 that would provide the IRS with authority to require magnetic media reporting for large partnerships. Magnetic media reporting would assist the IRS in auditing large partnerships in a timely and efficient manner.

4. Foreign Provisions

(a). Deferral of Tax on Income Earned through Foreign Corporations and Exceptions to Deferral

Administration Position. **Support foreign simplification efforts.** The Administration supports meaningful simplification of the foreign provisions of the Code to the extent permitted by budgetary constraints. We would be pleased to work with the Committee to further develop simplification proposals.

5. Provisions Relating to Regulated Investment Companies

(a). Require Brokers and Mutual Funds to Report Basis to Customers

Administration Position. **Support deletion.** Because we understand that much of the industry is now voluntarily reporting basis to shareholders, we support deleting the mandatory reporting requirement in H.R. 3419.

6. Tax-Exempt Bond Provisions

(a). Clarification of Definition of "Investment-Type Property"

Administration Position. **Support deletion.** This issue was clarified in Treasury regulations.

7. Administrative Provisions

(a). Administrative Practice and Procedural Simplification

Administration Position. **Do not oppose deletion.** H.R. 3419 included nine provisions modifying administrative practice and procedure. Because these provisions are presently being considered separately in connection with the Taxpayer Bill of Rights proposals, Treasury does not oppose deleting these provisions from this simplification package.

8. Estate and Gift Tax Provisions

(a). Statute of Limitations Applicable To Valuation of Gifts

Administration Position. **Do not support.** The proposal as described appears too broad. It requires additional study to ascertain its administrative costs as well as its estimated revenue loss.

9. Other Provisions

(a). Treatment of Pre-Need Funeral Trusts

Administration position. **Oppose.** When trust income is distributed to the provider, it is taxable as a payment for services or merchandise, regardless of its original character to the trust. If the provider were treated as the owner of the trust, then trust income distributed as a payment for services or merchandise could escape tax, depending on the nature of the trust corpus. In addition, the proposed amendment would inappropriately allow purchasers and providers of a pre-need funeral to choose which party will bear the tax burden with respect to the income earned by the trust.

DEPARTMENT OF THE TREASURY

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FOR IMMEDIATE RELEASE
July 28, 1995

MEDIA ADVISORY

Written testimony by Treasury Assistant Secretary Leslie B. Samuels giving the administration's views on some 250 miscellaneous revenue bills submitted to the House Ways and Means Committee is now available. The revenue bills were discussed during Ways and Means hearings July 11-12.

The 75-page testimony may be obtained at the Treasury Department courier window at the 15th St. entrance, by calling the Office of Public Affairs at (202) 622-2960, or on the Internet at the Treasury Department homepage at http://www.ustreas.gov

It may also be obtained through FedWorld at 703-321-3339 (14.4 modem speed), in the Treasury Electronic Library as file T2SPCH61.txt. The library is reached by first selecting "C" from the main menu for the Business, Trade and Labor area, and then selecting "E" for the Treasury Electronic Library. The file is at least 174,000 bits and will take about 20 minutes to download.

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DEPARTMENT OF THE TREASURY

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FOR IMMEDIATE RELEASE
July 27, 1995

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U.S. FIRMS, IRS TO BENEFIT FROM OECD TAX RULES, TREASURY SAYS

New international guidelines for taxing multinational corporations will help American businesses compete in the global economy and facilitate collection of a fair share of tax by the Internal Revenue Service, the Treasury Department said Thursday.

The guidelines, in a report to be released Friday, July 28, by the Organization for Economic Cooperation and Development provide a common framework for determining how to tax a company's income so that it isn't taxed by more than one country. So-called double taxation is considered a barrier to free trade.

"These new OECD guidelines are fully consistent with current U.S. tax rules and will help prevent double taxation and facilitate the United States in collecting its fair share of tax," said Leslie B. Samuels, Treasury assistant secretary for tax policy. "Keeping American companies competitive in global markets by removing such trade barriers as double taxation is a top priority of this administration," Samuels said.

The report, "Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations," replaces earlier guidelines issued in 1979 and updates the consensus interpretation of the so-called "arm's length principle." The arm's length principle is the agreed international standard for evaluating the prices charged in cross-border transactions between related companies.

Samuels said these guidelines will help Treasury achieve two critical goals. First, they improve transfer pricing compliance by endorsing the use of the most reliable evidence of an arm's length price. Second, they reduce taxpayer compliance burdens by providing OECD tax authorities with a common framework for analyzing a transaction, thus avoiding inconsistent analyses that can result in double taxation.

Along with new transfer pricing regulations issued by the Internal Revenue Service in July 1994 and penalty regulations issued in February 1994, the OECD

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guidelines represent a major component of Treasury's efforts to ensure that the arm's length principle is as simple as possible for both taxpayers and the IRS.

The 25-member OECD represents most of the world's industrialized nations. The United States is an active participant in the work of the OECD and was a major contributor to the content of the new tax report.

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TRANSFER PRICING BACKGROUND

Transfer pricing involves the prices that affiliated companies charge one another for cross-border transfers of goods and services. A multinational group can manipulate these prices to shift taxable income from one country to another.

The United States and other countries have adopted the "arm's length principle" as the international transfer pricing norm. Under this principle, the price in a controlled transaction should be the same that it would have been had the parties been unrelated. Various methods are used to determine whether the terms of a controlled transaction were arm's length.

The guidelines serve two principal functions. First, they provide a framework for resolving cases of double taxation that arise when two countries inconsistently allocate the income from cross-border transactions between related companies (controlled transactions), subjecting the income to taxation in both countries. Second, they provide guidance for countries when they develop their internal transfer pricing rules. Similarity among the rules in different countries helps to minimize the number of cases of double taxation.

The principal issue addressed in the guidelines is the role of "profit methods" that have been increasingly used in many countries. The U.S. included variants of these methods in transfer pricing regulations issued in 1994. The guidelines express a preference for other, more traditional methods, but recognize that when it is not possible to apply these methods reliably, profit methods are useful.

A draft of the guidelines was issued for public comment in July 1994 and changes were made in response to the comments received. In particular, the discussion of profit methods was clarified to indicate, like the U.S. regulations, that such methods should be applied to specific transactions, rather than to a multinational's entire operations. This change increased the already considerable degree of similarity between the guidelines and the U.S. regulations.

The guidelines discuss two categories of transfer pricing methods: "traditional transaction methods" and "transactional profit methods." The traditional transaction methods examine prices or gross margins in comparable transactions between unrelated parties to determine an appropriate price for a controlled transaction. A transactional profit method starts with a net, or operating margin, and works back to an appropriate price.

U.S. regulations issued last year included two types of transactional profit methods: the Comparable Profits Method (CPM) and the Profit Split Method. The role of the CPM has been the most controversial issue in transfer pricing for several years. A version of the CPM was first proposed in U.S. proposed regulations issued in 1992.

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Two principal concerns were raised with respect to this method: first, the CPM might be based on an industry average rate of return that would not reflect non-transfer pricing factors that could explain differences between the taxpayer's result and the results obtained by the industry generally; second, the CPM might be applied to determine an overall rate of return for an entire entity rather than to determine an appropriate return from a specific transaction or product line.

The 1994 regulations substantially revised the CPM to address these concerns. To address the first concern, the regulations provide that "unadjusted industry average returns themselves cannot establish arm's length results." To address the second concern, the regulations provide that the CPM is to be applied to "the most narrowly identifiable business activity for which data incorporating the controlled transaction is available."

Similarly, the draft OECD guidelines issued in 1994 also cautioned against using industry averages: "[I]n no event can unadjusted industry average returns themselves establish arm's length conditions." Unlike the U.S. regulations, however, the draft guidelines did not strongly direct tax administrators to attempt to apply the CPM on as narrow a basis as possible.

The final guidelines reflect two major changes in the discussion of the CPM. First, to eliminate the misimpression in some quarters that the CPM described in the guidelines was the same as the version of the CPM that the U.S. proposed in 1992, the name of the method was changed to "transactional net margin method." Second, like the U.S. regulations, the guidelines were revised to discourage application of the CPM without regard to specific transactions.

The OECD guidelines are of critical importance to the efficient administration of the international transfer pricing system. The earlier guidelines were widely regarded as obsolete. Without the discipline imposed by creditable OECD guidelines, country practices were beginning to diverge and the risk of double -- and under -- taxation was increasing. Although it is not anticipated that all 25 OECD Member States will adopt rules that precisely track the guidelines in all respects, the new guidelines will help to bring country practices into broad conformity, thereby reducing the incidence of double taxation. They also will provide a common framework for resolution of those cases of double taxation that do arise.

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Department of the Treasury
Financial Crimes Enforcement Network

FinCEN news

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Anti-Money Laundering Controls for Indian Tribal Casinos

FOR IMMEDIATE RELEASE
July 31, 1995

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The Treasury's Financial Crimes Enforcement Network (FinCEN) announced today a proposed regulation that would bring Indian tribal casinos under Treasury's anti-money laundering controls.

The proposed regulations are issued under the Bank Secrecy Act (BSA), which is the core of the Treasury's program to combat financial crimes, including money laundering and tax evasion. The BSA is administered by FinCEN.

"Money launderers and tax evaders continue to look for new ways to hide their money," said Stanley E. Morris, FinCEN's Director. "Casinos are cash-intensive and many offer a wide variety of financial services, similar to banks. Without effective regulations, they may be vulnerable to money laundering."

Since 1985, Treasury, through its BSA regulations, has required recordkeeping and reporting of large cash transactions occurring at state licensed casinos with gross annual gaming revenue in excess of $1 million. This information preserves a financial trail for investigators to follow as they track criminals and their assets. It can be an invaluable tool in criminal, tax, or regulatory investigations or proceedings. Congress specifically extended Treasury's authority to regulate Indian tribal gaming when it enacted the Money Laundering Suppression Act last fall.

Over the past 10 years, U.S. casino gaming has grown rapidly:

Industry sources report that last year over **600** commercial casinos were licensed in 10 states and accounted for approximately $167.3 billion in wagering activity. Of the 600 casinos, about 370 have gross revenues in excess of $1 million.

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Tribal casino growth has been just as dramatic, with approximately 120 tribal casinos located in 16 states, with new operations expected to open in an additional eight states within the coming year.

The most recent statistics available from the industry indicate that patrons of Indian casino gaming establishments wager over $27 billion each year.

"With the tremendous growth of Indian gaming, the time is right for the industry to adopt money laundering controls," said Morris. He pointed out that the method of operation of casinos on Indian lands is no different than the method of operation of state licensed casinos. Therefore, regulatory requirements should be applied consistently.

Prior to issuing the proposed rule, FinCEN consulted with tribal governments, Congress, and the National Indian Gaming Commission. Last month, Richard G. Hill, Chairman of the National Indian Gaming Association (NIGA), a national group representing more than half of all tribal government casino operations, testified in support of FinCEN's proposed regulations. "In order to ensure that integrity and security of their gaming operators, many tribes have already, voluntarily adopted Bank Secrecy Act measures," said Hill. "We have met with Treasury about BSA on several occasions. We understand what Treasury is doing, and we are willing to work cooperatively to see that the Indian gaming industry is protected against abuse by money launderers."

Morris said that Treasury does not want to jeopardize the growth of Tribal gaming, which has such positive social and employment ramifications for the tribes involved. At the same time, he stressed that the industry must adopt reasonable controls to prevent and identify illegal financial transactions.

The notice of proposed rule making, delivered to the Federal Register today and published in accordance with the Register's schedule, seeks specific comments on how compliance with the BSA by tribal casinos can best be examined and enforced. They make it clear that Treasury is hoping to hear from tribal officials, casino operators, and state officials, said Morris.

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DEPARTMENT OF THE TREASURY

TREASURY NEWS

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FOR IMMEDIATE RELEASE
Text as Prepared for Delivery
July 28, 1995

STATEMENT OF THE HONORABLE JOHN D. HAWKE, JR.
UNDER SECRETARY OF THE TREASURY
FOR DOMESTIC FINANCE
BEFORE THE COMMITTEE ON FINANCE
UNITED STATES SENATE

RR-485

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TESTIMONY OF THE HONORABLE
JOHN D. HAWKE, JR.
UNDER SECRETARY FOR DOMESTIC FINANCE
U.S.DEPARTMENT OF THE TREASURY
BEFORE THE
SENATE FINANCE COMMITTEE

I appreciate the opportunity to appear before you today to discuss issues relating to the debt limit. I commend you, Mr. Chairman, for bringing this matter up for hearing sufficiently in advance of the time the current ceiling will be reached so that this Committee will have an opportunity to deliberate in a thoughtful and orderly manner. My testimony will address in sequence each of the questions posed in the Chairman's letter to me of July 24, 1995.

THE NEED TO INCREASE THE DEBT LIMIT

On July 17, Secretary Rubin wrote to the Congressional leadership pointing out that the Treasury's current estimates show that the permanent ceiling of $4.9 trillion will be sufficient to provide cash for Government operations and payment obligations until sometime in October. The exact date when the Treasury will run up against the limit is difficult to pinpoint, since it will depend upon a number of factors, including the timing of receipts and expenditures, which can deviate from our estimates over short time periods. Since this process deals with numbers of very large magnitude, even small deviations from

estimates in percentage terms can translate into large changes in actual dollars. Also, the Office of Management and Budget is releasing additional details for the Midsession Review of the Budget for FY 1996 on Monday. As the cash flows estimated in the Midsession Review actually occur, our estimates of cash and debt may need to be refined. We will provide more information to Congress later this summer, as the need for a debt limit increase becomes more pressing.

With regard to the size of a debt limit increase, the Conference Report on the Concurrent Resolution on the Budget for FY 1996 -- recently passed by Congress -- called for a permanent increase in the debt ceiling to not more than $5.5 trillion. We estimate that a ceiling increased to this level would not be reached until sometime in 1997. This would allow ample time to revisit the debt limit in a well-considered, orderly fashion.

IMPACTS OF DELAY -- BORROWING DISRUPTIONS

The Committee has asked that I address the impact on the U.S. Treasury and the financial markets of a delay in raising the debt limit. Even modest delay threatens market dislocations, which could generally hamper Treasury borrowing operations and increase the Government's cost of financing. More extensive delay could precipitate a debt limit crisis that could significantly interrupt Government operations, delay millions of

Federal payments, and spread fear and uncertainty about the Government's ability to pay its obligations.

Borrowing from the public. When there has been a delay in Congressional action to increase the debt limit in the past, it has generated market uncertainty about Treasury financing schedules. This uncertainty has tended to cause Treasury borrowing costs to be higher than they otherwise would have been. The Treasury will conduct its regular midquarter refunding operation in November, when the Treasury is scheduled to sell 3- and 10-year notes. If uncertainty related to enactment of an increase in the debt limit caused an increase of just 5 basis points (five one-hundredths of one percentage point) in the interest rate on the 10-year notes, the interest cost to the taxpayer would increase by $62.5 million.[1]

Disruptions in Treasury borrowing operations were acute during the debt limit impasse in 1990, when six temporary increases in the debt limit were enacted before it was increased permanently on November 5, 1990. The Treasury announced regularly scheduled auctions, but was forced to postpone them.[2]

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[1] Based on $12.5 billion, the amount of 10-year notes offered in the May 1995 refunding, over the life of the notes.

[2] The Treasury cannot auction a marketable security unless it has assurance that there will be sufficient room under the debt ceiling to issue the security on the settlement date. Secondary market trading, which usually begins when a Treasury security is announced, cannot begin until enactment of debt limit legislation is assured.

Large backlogs of borrowing operations resulted from the delays and, when debt limit increases were enacted, auction schedules were compressed. This meant that investors did not have time to plan acquisitions of Treasury securities, nor did the dealer community have time to distribute securities to their customers during the pre-auction period.

For example (shown in the table attached to my testimony), the Treasury announced an emergency issue of cash management bills on October 18, 1990, when we were assured of enactment of one of the six temporary increases in the limit. The bills were auctioned and issued on October 19. There usually is a week of pre-auction trading and another several days between the auction and issue dates.

In addition to disruptions of auctions of marketable Treasury securities, sales of savings bonds were suspended, which meant notifying 45,000 issuing agents to stop accepting applications and notifying them again to begin applications when there was room under the debt limit. Moreover, the Treasury was not able to follow normal procedures in issuing nonmarketable state and local government series securities, which may have caused would-be buyers to purchase government securities in the open market instead, with a resulting decline in Treasury sales of the lower yield nonmarketable securities.

Borrowing from Government accounts. About 165 Government accounts, including the social security trust funds, have statutory authority to invest with the Treasury. Under normal investment procedures, the Treasury invests net receipts in nonmarketable Treasury securities and reinvests proceeds of maturing securities to the extent that a particular fund does not need the proceeds for program purposes. Investments may be redeemed by the investing agencies to meet program needs, such as payment of social security benefits. Net investment increases the public debt.

When the debt limit is reached, the Treasury may be unable to invest or reinvest these funds, which may cause them to lose interest earnings[3] unless Congress ultimately acts to restore lost interest earnings of the Government accounts as part of its action increasing the permanent debt limit.

The most profound impact of protracted delay, of course, would be to cause apprehension in the markets about a potential default on Treasury obligations. The United States has never defaulted on its public debt, and while we are confident that Congress would not purposefully put Treasury in jeopardy of a default, a failure to address the debt limit in a timely manner

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[3] Exceptions are the Civil Service Retirement Fund and the Thrift Savings Fund of the Federal Employee Retirement System, which have automatic earnings restoration language in their statute.

would in itself generate uncertainty in the markets that would be harmful to the national interest.

ROLE OF DEBT LIMIT IN DEFICIT REDUCTION

Finally, the Committee has asked that I address the role of the debt limit in deficit reduction. As a practical matter, the debt limit itself does not have an impact on deficit reduction. The critical revenue-raising and spending decisions are made during the Congressional budget process, and budget resolutions propose levels of debt limit that are consistent with the budget deficit, investments of the Government accounts in Treasury securities, and borrowing to fund Federal lending programs.

Balancing the Federal budget can only be accomplished by changing revenue and spending policies. The Administration, in the strongest possible terms, urges you to de-couple the issues of raising the debt ceiling and reaching our mutual goal of a balanced budget.

Balancing the budget must be done in an orderly, careful, and thoughtful manner allowing for a full and open policy debate. It should not be subject to a last-minute effort to complete reconciliation just before hitting the debt ceiling. Such a rush, which threatens the shutdown of vital services to our citizens and the financial integrity of the market for Treasury securities, is in no one's interest.

CONCLUSION

We look to Congress to act in a timely manner to avert a debt limit crisis that could prevent the Government from meeting its obligations. The United States has never in its over 200-year history defaulted on any of its debt obligations, nor has it ever had its checks returned for insufficient funds. The consequences of either type of default would be enormously expensive and far-reaching. The public has a right to expect that this important issue will be addressed in a timely, orderly, and thoughtful manner, and we are pleased that this Committee has opened up the consideration of the matter in this spirit.

1990 Debt Limit: Market Disruptions

1. On August 1, Treasury announced the quarterly refunding (3-, 10-, and 30-year securities) with a caveat that the auctions would occur only if there was assurance of debt limit authority to issue them on August 15.

2. On August 6, Treasury announced that it would proceed with the refunding auctions. A temporary debt limit was signed on August 9. There was little pre-auction when-issued trading of the new issues between August 1 and August 6, which truncated the normal refunding distribution period.

3. On October 9, the temporary debt limit was extended through October 19.

4. On October 12, Treasury announced 52-week bill auction for October 18 with settlement on October 25, only if there was assurance of debt limit authority to issue them.

5. On October 16, Treasury announced regular weekly bills for auction on October 22, and settlement on October 25, with the debt limit caveat.

6. On October 17, Treasury announced the 2-year note for auction October 24 with the debt limit caveat.

7. On October 18, Treasury postponed auction for 52-week bills.

8. On October 18, Treasury, with assurance the temporary debt limit would be extended on October 19, announced $12.5 billion of 69-day cash management bills for auction and settlement on October 19.

9. On October 19, the temporary debt limit was extended through October 24.

10. On October 22, Treasury postponed auction of weekly bills.

11. On October 23, Treasury announced regular weekly bills for auction on October 29, with the debt limit caveat.

12. On October 24, Treasury postponed the 2-year auction because there was no assurance that the Treasury could settle on October 31.

13. On October 25, the temporary debt limit was extended through October 27. The Treasury rescheduled the 13-, 26-, and 52-week bill auctions for settlement prior to the expiration of the temporary debt limit. The 13- and 26-week bills were auctioned at 10:00 a.m. and settled the same day.

14. On October 26, the 52-week bills were auctioned at 10:00 a.m. and settled before close of business.

15. On October 26, Treasury rescheduled the 2-year auction for October 30, with the same debt limit caveat.

16. On October 28, the temporary debt limit was extended through November 5.

17. On October 29, the Treasury released two separate press releases: (1) reaffirming the October 30 date for the 2-year auction, which was just one day before the settlement date and (2) reaffirming the October 29 date for the weekly bill auction, in accordance with its announcement of October 23.

18. On November 5, a permanent debt ceiling was enacted.

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TESTIMONY OF THE HONORABLE JOHN D. HAWKE, JR.
UNDER SECRETARY OF THE TREASURY
FOR DOMESTIC FINANCE
ON THE
SAVINGS ASSOCIATION INSURANCE FUND
BEFORE THE COMMITTEE ON
BANKING, HOUSING AND URBAN AFFAIRS
UNITED STATES SENATE

RR-486

SAVINGS ASSOCIATION INSURANCE FUND

Testimony of the Honorable John D. Hawke, Jr.
Under Secretary of the Treasury
for Domestic Finance

Before the Committee on
Banking, Housing, and Urban Affairs
United States Senate

July 28, 1995

SUMMARY

SAIF's Problems

The Savings Association Insurance Fund (SAIF) has four major weaknesses. First, SAIF has slender reserves. As of March 31, 1995, SAIF held only 31 cents in reserves for each $100 in insured deposits. The failure of one or two large thrift institutions could exhaust these reserves and leave the Fund insolvent.

Second, SAIF has only meager income with which to protect depositors and build reserves. Forty-five percent of SAIF premiums go to pay interest on bonds issued to prop up a prior deposit insurance fund (the so-called FICO bonds).

Third, SAIF has excessive concentrations of risk because it insures a specialized industry and because of the industry's concentration in large West Coast-based institutions.

Fourth, and most importantly, SAIF has an assessment base (i.e., base of deposits on which to charge premiums) in long-term decline. From the end of 1989 through March of this year, SAIF's assessment base -- instead of growing over 40 percent (as projected in 1989, when SAIF was established) -- has shrunk 23 percent.

Need for Action

SAIF-insured deposits will almost certainly continue to shrink, because depository institutions have both the motive and the means to reduce their use of such deposits. Under the FDIC's proposed premium schedule, SAIF premiums for the healthiest institutions will be nearly six times as high as Bank Insurance Fund (BIF) premiums. Institutions with SAIF-insured deposits can avoid high premiums in various ways. They can sell off loans, instead of holding them in portfolio, and thus reduce their need for deposits. They can replace deposits with nondeposit funding sources, such as Federal Home Loan Bank borrowings. Or they can seek to switch deposits from SAIF to BIF, using approaches such as that proposed by Great Western earlier this year (forming an affiliated BIF-insured bank with branches in its thrift lobbies). Accordingly, we believe it would be unwise to base policy on projections that SAIF's assessment base will grow, stabilize, or shrink only very slowly.

SAIF's greatest vulnerability arises from the interaction between the payments on the FICO bonds, which claim the first $793 million in annual SAIF premiums, and a SAIF assessment base in long-term decline. The combination of fixed FICO payments and a shrinking assessment base tends to create a vicious circle in which (1) shrinkage of the assessment base makes FICO payments consume an increasing share of SAIF premiums, which (2) reduces SAIF's capacity to bear losses and build reserves and renders increasingly remote the prospect of SAIF ever accumulating sufficient reserves so that it could cut premiums, which (3) makes SAIF-insured deposits less attractive as a funding source, which

in turn (4) promotes further shrinkage of the assessment base and leaves SAIF with even less income remaining after FICO payments.

If not corrected, SAIF's weaknesses could leave the Fund insolvent and the FICO interest payments in default. They could also make it more difficult for savings institutions to attract and retain capital, thus harming what remains of the thrift industry and diminishing the industry's capacity to help solve its problems.

Guiding Principles

The Administration believes that six principles should guide any solution to SAIF's problems:

First, minimize the costs and risks to the taxpayers.

Second, assure prompt capitalization of SAIF.

Third, avoid default on the FICO bonds.

Fourth, require a fair and substantial contribution from institutions with SAIF-insured deposits.

Fifth, allocate burdens fairly, and avoid market distortions and perverse incentives.

And sixth, maintain public confidence in federal deposit insurance by acting promptly, before SAIF's problems become more serious.

Resolving SAIF's Problems

Over the past several months, the Treasury has worked with the FDIC and OTS to develop a solution to SAIF's problems. The joint proposal has three critical elements:

First, *capitalizing SAIF through a special assessment on SAIF-insured deposits*. Institutions with SAIF-insured deposits would pay a special assessment at a rate sufficient to increase SAIF's reserves to $1.25 per $100 of deposits at the beginning of 1996. The special assessment would be based on institutions' SAIF-assessable deposits on a specific past date, such as March 31, 1995, which would make the assessment difficult to evade and would give institutions no new incentives to shrink their SAIF-insured deposits.

To help ensure that the special assessment does not inadvertently contribute to the failure of institutions that might otherwise have survived, the FDIC's Board of Directors could exempt weak institutions from the special assessment if the exemptions would actually reduce risk to the Fund. But any exempted institution would pay premiums for 1996 through 1999 under the current SAIF risk-based premium schedule (with rates ranging from 23 to 31 basis points). Thus weak institutions would still, over time, generally pay more than healthy institutions.

Second, *spreading FICO payments pro rata over all FDIC-insured institutions.* Spreading FICO payments over a large deposit base ($3.2 trillion as of March 1995) would avoid the vicious circle of shrinkage, perverse incentives, and record-high premium rates described above. And it would leave BIF premiums only 2.5 cents higher per $100 of deposits than they otherwise would have been -- still allowing BIF premiums to decline dramatically from the 23-cent rates prevailing over the past four years.

Third, *merging the deposit insurance funds as soon as practicable -- preferably no later than the beginning of 1998.* Merging the funds would cure the longer-term weaknesses of SAIF that arise from the Fund's concentrations of risk. Merger would provide the requisite asset and geographic diversification, and would protect taxpayers from the possibility of another deposit insurance crisis by ensuring that SAIF's problems would not need to be revisited.

The joint proposal also includes some additional provisions that would improve the overall solution. In view of BIF members' contribution to a SAIF solution, we support restoring the FDIC's authority to rebate premiums paid on BIF-insured deposits to the extent that BIF has reserves exceeding its designated reserve ratio. In order to give the FDIC flexibility to reduce the frequency of premium rate changes, we would also support allowing the insurance funds' actual reserves to fluctuate temporarily within a range of not more than 0.1 percentage point above or below the designated reserve ratio. The FDIC would still strive to maintain the funds at that ratio (and that ratio itself would not change), but the flexibility would help smooth out premium rate fluctuations.

Conclusion

We urge immediate action on SAIF's problems -- before they develop into a crisis.

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SAVINGS ASSOCIATION INSURANCE FUND

Testimony of John D. Hawke, Jr.
Under Secretary of the Treasury

Before the Committee on Banking, Housing, and Urban Affairs
United States Senate

July 28, 1995

Mr. Chairman, Senator Sarbanes, Members of the Committee.

I appreciate this opportunity to present the Administration's views on the problems and prospects of the Savings Association Insurance Fund (SAIF) and on possible solutions to SAIF's problems. I want to commend you, Mr. Chairman, and Senator Sarbanes for your very constructive leadership on these issues.

Over one-fifth of all FDIC-insured institutions held SAIF-insured deposits as of March 1995. These institutions, located in every state, included 1,773 savings institutions and 771 commercial banks. SAIF's deposit base of $733 billion constituted 23 percent of all domestic deposits at FDIC-insured institutions.

While savings institutions are healthy, SAIF is not. SAIF's problems have been a source of increasing concern to us at the Treasury. We warned of those problems as early as 1993:

> "A wide disparity between BIF and SAIF premiums will encourage SAIF-insured institutions to reduce their reliance on insured deposits (e.g., by operating more like mortgage banks), regardless of any moratorium on conversions. If SAIF-insured deposits continue to shrink -- as we believe will occur if BIF and SAIF premiums diverge so significantly -- SAIF's assessment base will eventually decline to the point that premium income will not even cover FICO payments." [See footnote 5.]

We continue to believe that these problems merit attention and action.

In my testimony, I will (1) describe the problems SAIF faces; (2) explain the need for action to resolve those problems; (3) set forth criteria for a solution; and (4) set forth our recommendations for resolving SAIF's problems -- recommendations we make jointly with the FDIC and the Office of Thrift Supervision.

I. SAIF'S PROBLEMS

SAIF has four major weaknesses: slender reserves; meager income; excessive concentrations of risk; and, most significantly, an assessment base in long-term decline. Together, these weaknesses raise doubts about SAIF's long-term viability. I will discuss each of the weaknesses in turn.

A. Slender Reserves

First, SAIF has slender reserves. As of March 31, 1995, SAIF held $2.2 billion in reserves to cover $703.7 billion in insured deposits. These reserves amounted to only 31 cents per $100 of insured deposits -- 75 percent *below* the statutory standard of $1.25 in reserves per $100 of insured deposits. SAIF's reserves amounted to only 7 percent of the $32 billion in assets of SAIF-insured problem institutions as of March 1995. The failure of one or two large thrift institutions could exhaust these reserves and leave the Fund insolvent.

By contrast, the Bank Insurance Fund (BIF) had reserves of $23.2 billion as of March 1995 to cover $1.9 trillion in insured deposits -- about $1.22 in reserves per $100 of insured deposits and 70 percent of the assets of problem BIF-insured institutions. The FDIC believes that BIF's reserves reached the statutorily required level of $1.25 per $100 of insured deposits during the second quarter of this year (which the FDIC will verify once deposit data become available in September).

SAIF's reserves would have exceeded the statutorily required level last year (even before BIF) if SAIF had been permitted to retain the premiums paid on its deposits since the Fund's inception in August 1989, for SAIF has charged high premiums throughout its history. But $7.4 billion -- or approximately 75 percent -- of SAIF premiums have been diverted through March 1995 to uses other than building up the Fund: 11 percent to the Resolution Funding Corporation ($1.1 billion); 20 percent to the FSLIC Resolution Fund ($2.0 billion); and 42 percent to pay interest on Financing Corporation (FICO) bonds ($4.3 billion). If these premiums had gone into SAIF's reserves, rather than being diverted to pay costs associated with failures in the thrift industry before SAIF's creation, SAIF's reserves would have stood at $9.6 billion as of March 31, 1995 -- 1.36 percent of insured deposits -- plus interest on the foregone premiums.

B. Meager Income

Second, SAIF has only meager income with which to protect depositors and build reserves. Although the Resolution Funding Corporation and FSLIC Resolution Fund no longer receive SAIF premiums, FICO bonds continue to claim a large proportion of those premiums. By law, the first $793 million in premiums paid annually by SAIF-member savings associations goes to pay the interest on FICO bonds, which were issued from 1987 through 1989 to cover losses of the old Federal Savings and Loan Insurance Corporation.[1] FICO payments currently consume almost 45 percent of all SAIF premiums. Continued shrinkage of SAIF's assessment base (i.e., the deposits on which SAIF can levy premiums) will only increase the percentage taken by FICO payments, leaving SAIF even less income with which to protect depositors and build reserves.

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[1]The actual payments from SAIF members to FICO have been slightly less because FICO has had a small amount of investment income, which was used to pay interest costs. Future payments will equal, or closely approach, the full $793 million annual interest cost.

C. EXCESSIVE CONCENTRATIONS OF RISK

Third, SAIF has greater-than-optimal concentrations of risk. These concentrations arise because SAIF insures a specialized industry and because of the industry's concentration in large West Coast institutions. SAIF members' similarities to each other are greater than those of BIF members: SAIF members invest mainly in residential-mortgage-related assets. Although SAIF members *individually* tend to be at least as safe as commercial banks with similar capital ratios and management quality, SAIF itself faces increased risks from insuring institutions whose asset portfolios correlate with one another to a greater degree than those of BIF members. Thus, for example, adverse changes in interest rates or housing markets could put many SAIF members under stress at the same time. Furthermore, eight of the ten largest savings institutions (ranked by domestic deposits) have headquarters on the West Coast. These eight institutions held 18 percent of SAIF-insured deposits[2] as of March 1995. This geographic concentration increases the risk of problems in the Fund that could affect all SAIF-insured institutions, nationwide.

D. DECLINING ASSESSMENT BASE

Fourth, and most importantly by far, SAIF's assessment base has declined dramatically. In 1989, when proposing the creation of SAIF, the Bush Administration projected that SAIF's assessment base would grow 7 percent annually. Similarly, the Congressional Budget Office (CBO) assumed 6 percent annual growth. In fact, SAIF's assessment base has shrunk 23 percent, from $950 billion at the end of 1989 to $733 billion as of March 1995 -- an annual shrinkage rate of almost 5 percent.

Although SAIF's deposit base actually grew slightly during the last quarter of 1994 and the first quarter of 1995, this reversal is likely to be short-lived. The FDIC has attributed the deposit growth to the relatively higher costs of savings institutions' other funding sources (including Federal Home Loan Bank advances), and to the effect of higher interest rates last year, which made deposits a relatively attractive option for savers. The FDIC also believes that SAIF members, anticipating a possible legislative solution to SAIF's problems, might have deferred steps to reduce their reliance on SAIF-insured deposits. Without such a solution, we believe SAIF-insured deposits will resume their decline because, as I will explain, depository institutions have both the *motive* and the *means* to reduce their reliance on SAIF-insured deposits.

II. NEED FOR ACTION

We believe it would be unwise to base policy on projections that SAIF's assessment base will grow, stabilize, or shrink only very slowly. Institutions with SAIF-insured deposits

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[2]For brevity, I use the term SAIF-insured deposits to refer to *any* deposits at SAIF-member depository institutions and *any* Oakar deposits at BIF-member institutions (see footnote 3), whether or not these deposits exceed the $100,000 limit on insurance coverage. (SAIF members have only minimal amounts of uninsured deposits.)

have strong economic incentives to reduce their use of such deposits, and to a significant extent they also have the ability to do so. Indeed, the very uncertainty surrounding future trends in SAIF's assessment base will tend to encourage accelerated shrinkage. As we discuss below, a rapid shrinkage of SAIF's assessment base -- indeed, a rate of shrinkage equivalent to what actually occurred since 1989 in the part of the assessment base from which FICO payments are made -- could result in a default on FICO bonds within a couple of years. To the extent that such a decline results from the migration from SAIF of the deposits of the Fund's strongest members, or represents a shift toward secured nondeposit liabilities, SAIF could be deprived of the income necessary to fund its losses and build reserves. We believe this prospect of shrinkage makes a compelling case for resolving SAIF's problems now.

A. Incentives to Reduce Reliance on SAIF-Insured Deposits

Depository institutions have strong incentives to reduce their reliance on SAIF-insured deposits. The most acute incentives arise from the prospect of a large and protracted differential between BIF and SAIF premiums. The healthiest members of BIF and SAIF all currently pay 23 cents in premiums per $100 of domestic deposits. Because BIF is very close to recapitalizing as of the latest available data, the FDIC has proposed reducing the BIF premium rate for healthy institutions to 4 cents per $100, while maintaining the corresponding SAIF rate at 23 cents per $100. The healthiest SAIF members would thus pay 575 percent as much as BIF members *for the same insurance coverage*. Since savings institutions must meet the same capital and other regulatory standards as banks, such a wide differential in a low-margin business would put thrifts at a significant competitive disadvantage.

A significant BIF-SAIF differential could persist for years, especially in view of the large and increasing proportion of SAIF's income consumed by payments on FICO bonds. Even if SAIF were to reach the 1.25 percent target early in the next century, the FICO obligation would perpetuate a large differential until 2019, when the FICO bonds will be paid off.

Apart from any shrinkage of the total SAIF assessment base, the General Accounting Office (GAO) has noted that SAIF members also face the possibility that the FDIC might need to increase premiums on all SAIF-insured deposits solely to offset the shrinkage in the proportion of SAIF-insured deposits from which premiums can be used for FICO payments.[3]

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[3]The deposits in question are known as "Oakar" and "Sasser" deposits. As relevant here, Oakar deposits result when a SAIF member merges into a BIF member. SAIF remains responsible for insuring the portion of the BIF member's deposits attributable to the former SAIF member, and the BIF member pays premiums on those deposits at the SAIF rate. Sasser deposits result when a SAIF member becomes a bank but remains SAIF-insured. As of March 1995, Oakar deposits accounted for almost 27 percent of SAIF's deposit base; Sasser deposits accounted for 7 percent.

B. Ways to Reduce Reliance on SAIF-Insured Deposits

Current law generally prohibits SAIF members from converting to BIF membership.[4] But depository institutions have ample means available to reduce their reliance on SAIF-insured deposits -- and thus avoid high premiums. They can operate more like mortgage banks. They can shift from SAIF-insured deposits to nondeposit funding sources. Or they can pursue more aggressive and unconventional approaches to avoid the prohibition against switching from SAIF to BIF.

1. Operating More Like Mortgage Banks

Savings institutions have traditionally held in their portfolios the residential mortgage loans they originated, and have funded those loans with federally insured deposits. Mortgage banks, by contrast, promptly sell off in the secondary market the loans they originate; they hold few loans -- only those they are waiting to sell off. Many savings institutions now operate to some degree like mortgage banks: they sell off some of the loans they originate.

SAIF-member institutions can reduce their reliance on SAIF-insured deposits by operating more like mortgage banks. When the institutions originate residential mortgage loans, they can promptly sell them in the secondary market, instead of holding them in their portfolios. In this way, the institutions can do without deposits they have traditionally used to fund their loan portfolios -- and avoid the SAIF premiums they would otherwise pay on those deposits. Unfortunately, several types of mortgages that do not meet secondary market standards might not be available with a shift toward mortgage banking.

2. Shifting to Nondeposit Funding Sources

SAIF member institutions can also reduce their reliance on SAIF-insured deposits by shifting from deposits to other funding sources. In fact, deposits as a percentage of OTS-

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The FDIC has ruled that payments on FICO bonds can be made only from premiums paid on SAIF-member savings association deposits, and not from premiums paid on Oakar and Sasser deposits. Thus, as the percentage of SAIF's assessment base in Oakar and Sasser deposits increases, the proportion of SAIF's income available for FICO payments decreases. (FICO payments consume two-thirds of the premiums from non-Oakar, non-Sasser deposits.) The GAO has noted that the growth of Oakar and Sasser deposits might, in itself, conceivably lead the FDIC to increase SAIF premiums -- so that income from SAIF-member savings associations alone would suffice to make FICO payments. Making SAIF's entire deposit base available for FICO still would not resolve SAIF's problems.

[4]Until SAIF's reserves reach 1.25 percent of insured deposits, current law generally prohibits SAIF members from becoming BIF members and vice versa, and generally prohibits other "conversion" transactions between BIF and SAIF members, including: mergers; assumptions of deposit liabilities; transfers of assets in exchange for assumptions of deposit liabilities; and certain deposit transfers involving receiverships.

supervised thrifts' total assets have declined from 80 percent at the end of 1991 to 71 percent as of March 1995. Examples of how institutions can shift away from SAIF-insured deposits include the following:

- A SAIF member can increase its borrowings from the *Federal Home Loan Bank (FHLBank) System* -- a government-sponsored enterprise that makes long-term "advances" to depository institutions, generally for less than 50 basis points over the Treasury's own cost of funds. FHLBank advances carry no SAIF premiums. Because FHLBank advances are available in a wide range of maturities and terms, they can help institutions manage their interest-rate risk more effectively than full funding with deposits. For OTS-supervised thrifts, FHLBank advances financed 10.6 percent of total assets as of March 1995, up from 7.4 percent in 1991.

- A SAIF member can increase its use of other *secured borrowing* -- such as by obtaining funds through reverse repurchase agreements, using securities as collateral. Funds obtained through these agreements financed 5.5 percent of the total assets of OTS-supervised institutions as of March 1995, up from 2.4 percent in 1991.

- A SAIF member whose holding company forms a BIF-member bank may seek to *accept deposits as agent* of the bank, perhaps in return for a commission from the bank. The bank might go on to loan the funds in question to the SAIF member.

In each case, SAIF comes out the loser. It collects no premiums on the nondeposit liabilities that its members use in place of insured deposits. Indeed, using FHLBank advances and other secured borrowings in place of deposits actually puts SAIF at greater risk of loss by requiring the institution to use high-quality assets as collateral, thereby making them unavailable to satisfy depositors' claims if the institution fails.

3. Other Approaches

According to the FDIC, 12 institutions, including the parent companies of some of the largest West Coast thrifts, have applied to establish banks with branches in their thrift lobbies. These institutions have $115 billion in SAIF-insured deposits, almost 16 percent of SAIF's assessment base. These banks, benefitting from soon-to-be-lower premiums than their sister thrifts, should be able to offer deposits and loans more competitively with those of other financial institutions. More attractive deposit rates will induce thrift customers to switch their accounts to the affiliated banks. Over time, this could allow a substantial proportion of such thrifts' deposits to escape from SAIF despite the moratorium.

Another way to reduce reliance on SAIF-insured deposits might be for SAIF member institutions to acquire BIF-insured deposits through mergers -- also an Oakar transaction, but the reverse of the more common form in which BIF members buy SAIF deposit franchises. Because the acquired deposits remain BIF-insured, institutions expanding in this way would reduce the percentage of their total assets financed with SAIF-insured deposits.

4. Conclusion: Moratorium Doomed to Fail

The possible actions outlined above illustrate the flexibility SAIF members have to restructure their operations so as to soften the burden of high SAIF premium rates. The Government *cannot* realistically regulate this managerial flexibility out of existence -- for example, by broadening the current moratorium on conversions between BIF and SAIF. Given the BIF-SAIF differential and other incentives for reduced reliance on SAIF-insured deposits, the ingenuity of financial markets would thwart attempts to prop up SAIF by such regulatory means. Such attempts would afford SAIF no meaningful protection from shrinkage of its deposit base. On the contrary, they would be as futile as price controls aimed at charging some motorists $6 a gallon for gasoline that other motorists can readily obtain for $1 a gallon.

C. Continuing Decline Likely in SAIF Assessment Base

The combination of an assessment base in long-term decline and a fixed FICO obligation lies at the heart of SAIF's predicament. With little foreseeable prospect of relief from high premiums, SAIF members will tend to reduce their reliance on SAIF-insured deposits, thus deepening the decline of SAIF's assessment base. Shrinkage of the assessment base will reduce SAIF's income, and with it SAIF's ability to absorb losses and build reserves. But no matter how much SAIF's income shrinks, annual FICO payments will remain fixed at $793 million, and will thus consume an ever greater proportion of SAIF's remaining income. This burden of FICO payments will render SAIF's capitalization (i.e., building its reserves to 1.25 percent) increasingly distant and unlikely. Carried to its logical conclusion, this vicious circle could very well leave SAIF insolvent and the FICO interest

payments in default.[5] At a minimum, it underscores the shakiness of assuming little or no shrinkage in the deposit base. We need to break this cycle now.

We cannot rely on the continual growth of Oakar deposits to somehow resolve SAIF's problems. SAIF-insured Oakar deposits must by law be assumed to grow at the same rate as the total deposits of each BIF-member bank that purchased them. With a BIF-SAIF premium differential, banks with Oakar deposits will effectively pay higher rates for deposit insurance than banks of comparable size without Oakar deposits -- even beyond SAIF's capitalization date, because of the FICO burden. The differential may discourage banks from purchasing

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[5]The Administration warned of these risks while the Resolution Trust Corporation Completion Act of 1993 was pending. For example, a Treasury position paper distributed to the conference committee described the very problems now coming to pass:

> "This projected decline in BIF premiums poses potentially serious problems for SAIF and the taxpayers who stand behind it. . . . At the time of FIRREA, [FICO] payments were not expected to burden SAIF significantly. Thrift institutions had $948 billion in deposits, and thrift deposits had been growing rapidly. The framers of FIRREA assumed that [SAIF-insured] deposits . . . would generally grow at an annual rate of 7.2 percent. FIRREA specifically contemplated that Congress would help build up SAIF with appropriated funds, thus offsetting the drain of FICO payments. In fact, SAIF-insured deposits have shrunk 23 percent since FIRREA, to $734 billion -- declining at an average rate of some 6 percent per year (even as deposits at BIF-insured institutions remained stable). . . .
>
> "These large and persistent declines in SAIF-insured deposits have increased the relative burden of FICO payments. If such deposits had grown as anticipated at the time of FIRREA, FICO payments would now consume 27 percent of SAIF's premium income. In fact, they now consume over 40 percent.
>
> "Thus, although SAIF charges the same premium rates as BIF, SAIF will have difficulty building reserves. . . .
>
> "If SAIF premiums averaged 25 basis points, premiums for healthy SAIF-insured institutions might be 15-20 basis points higher than premiums for comparable BIF-insured institutions. We are concerned that such a disparity could cause further shrinkage of SAIF-insured deposits and, over time, actually *reduce* SAIF's total premium income. Banks and thrifts operate on narrow margins in increasingly competitive financial services markets. A wide disparity between BIF and SAIF premiums will encourage SAIF-insured institutions to reduce their reliance on insured deposits (e.g., by operating more like mortgage banks), regardless of any moratorium on conversions. If SAIF-insured deposits continue to shrink -- as we believe will occur if BIF and SAIF premiums diverge so significantly -- SAIF's assessment base will eventually decline to the point that premium income will not even cover FICO payments."

additional Oakar deposits and should discourage banks from bidding aggressively for such deposits. Therefore, not only would SAIF's deposit base shrink, but costs for resolving future thrift failures could be expected to rise. Moreover, existing holders of Oakar deposits would also have significant incentives to find ways to avoid paying premiums on those deposits at the higher SAIF rate.

D. CONSEQUENCES OF INACTION

1. SAIF

FDIC staff baseline projections released earlier this year assumed a relatively low level of insurance losses over the long term -- i.e., that thrifts with 0.22 percent of all SAIF assets would fail per year -- enabling SAIF to capitalize in 2002 under the current premium schedule. However, these projections also showed that SAIF's ability to recapitalize is highly sensitive to the assumed level of future insurance losses. For example, tripling the annual failure rate to 0.66 percent of SAIF assets would render SAIF incapable of capitalizing before 2019. Even this higher rate is substantially less than the 0.94 percent thrift asset failure rate observed during the past 15 years, *after excluding* the high loss years of 1988-1992. Historical experience therefore suggests a real possibility that SAIF could linger for a long time in great weakness, or even become insolvent.

If SAIF were to become severely troubled or even insolvent, the FDIC might wish to protect depositors by drawing on its $30 billion line of credit with the Treasury. But there is some uncertainty about whether the line of credit could be used under these circumstances. Section 14(c)(1) of the Federal Deposit Insurance Act allows the Secretary of the Treasury to disburse funds under the line of credit only pursuant to an agreement with the FDIC that provides a repayment schedule and demonstrates that available premium income will be sufficient to meet the repayment schedule, including interest accruing on the balance. If SAIF's condition were to deteriorate to the point that the FDIC needed to draw on the line of credit, the burden of the FICO obligation might make it difficult to show that borrowings could be repaid from SAIF's premium income.

2. FICO Bonds

The continuing decline of SAIF's assessment base, coupled with the growth of Oakar and Sasser deposits, raises the possibility that the SAIF premiums available to make payments on FICO bonds (i.e., the premiums paid by SAIF-member savings associations) could fall below the requisite $793 million. A 10 percent annual deposit shrinkage rate (excluding Oakar and Sasser deposits) would result in insufficient premium income to cover FICO bonds within a few years. Such a decline is not unrealistic in light of the historical trends in SAIF-insured deposits and the steps recently taken by several of the largest thrifts to shift deposits from SAIF to BIF.

3. SAIF Members

Whether or not SAIF members succeed in extricating themselves from SAIF premiums and other perceived disadvantages of being associated with SAIF, failure to resolve SAIF's problems will make it more difficult for savings institutions to attract and retain capital, thus harming what remains of the thrift industry and diminishing the industry's capacity to help solve its problems. Delay could reduce the industry's ability to serve housing finance while raising the ultimate cost of resolving SAIF's problems. Delay could also harm SAIF by discouraging the formation of new SAIF-insured institutions, encouraging weak institutions to take excessive risks in an attempt to remain competitive with BIF-insured institutions, and hindering efforts by the FDIC and OTS to find private-sector solutions for troubled institutions.

III. GUIDING PRINCIPLES

The Administration believes that six principles should guide any solution to the problems of SAIF:

- First, minimize the costs and risks to the taxpayers.
- Second, assure prompt capitalization of SAIF.
- Third, avoid default on the FICO bonds.
- Fourth, require a fair and substantial contribution from institutions with SAIF-insured deposits.
- Fifth, allocate burdens fairly, and avoid market distortions and perverse incentives.
- And sixth, maintain public confidence in federal deposit insurance by acting promptly, before SAIF's problems become more serious.

IV. RESOLVING SAIF'S PROBLEMS

Over the past several months, the Treasury has worked with the FDIC and OTS to develop a solution to SAIF's problems. We have arrived at a joint proposal with three critical elements: first, a special assessment on SAIF-insured deposits to fully capitalize SAIF; second, spreading FICO payments over all FDIC-insured depository institutions; and third, merging SAIF into BIF. We have also agreed on some additional provisions that we think would improve the overall solution. We will discuss in turn below each element of a SAIF solution.

A. CAPITALIZING SAIF THROUGH A SPECIAL ASSESSMENT ON SAIF-INSURED DEPOSITS

1. Basic Approach

The first critical element would require institutions with SAIF-insured deposits to pay a special assessment at a rate sufficient to fully capitalize SAIF (i.e., increase the Fund's reserves to $1.25 per $100 of deposits) at the beginning of 1996, when the special assessment would be due. Unlike regular SAIF premiums, the special assessment would use a retrospective assessment base -- namely, an institution's SAIF-assessable deposits on a specific past date, such as March 31, 1995.

Under such an approach, we estimate that a special assessment on the order of 83 to 90 basis points would suffice to capitalize SAIF. The exact rate would depend on (1) the extent to which SAIF's reserves fall short of the 1.25 percent level at the end of this year; and (2) the total deposits subject to the special assessment.[6] In any event, we would expect the special assessment to augment the Fund by some $6 billion.

Capitalizing SAIF immediately through a special assessment on a retrospective base has several major advantages. The special assessment would avoid the distorting effects of maintaining high regular SAIF premiums (with a large BIF-SAIF differential) over a protracted period. Using a retrospective base would give institutions no new incentives to reduce their SAIF-insured deposits, since reducing such deposits would not affect their premium liability. For that same reason, a retrospective base would also prevent evasion. A special assessment using such a base represents the best available means of obtaining a substantial contribution from institutions with SAIF-insured deposits without significantly distorting those institutions' behavior.

With SAIF capitalized, the FDIC could base SAIF premiums on the risks posed by SAIF members (as well as on SAIF members' pro rata share of FICO payments -- see Part IV-B). We anticipate that SAIF premium rates for institutions that had paid the special assessment would fall to levels approximating BIF premium rates. So long as the FICO bonds remained outstanding, however, SAIF rates could not fall below BIF rates for institutions posing comparable risk.

I would note that a special assessment, standing alone, would not solve all of SAIF's problems. It would not correct SAIF's most serious problem: the adverse effects of applying the fixed FICO obligation to a shrinking SAIF assessment base. Thus, the other two elements of our proposal discussed below are critical for achieving a long-term solution.

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[6] I.e., the total SAIF deposit base, including Oakar deposits, minus deposits at weak institutions that the FDIC exempts from the special assessment (as discussed below).

2. Weak Institutions

A special assessment would put weak institutions under some stress insofar as it diminished their reported capital.[7] To help ensure that the special assessment does not inadvertently contribute to the failure of institutions that might otherwise have survived, the FDIC's Board of Directors should be authorized to exempt weak institutions from the special assessment if it determines that the exemptions would actually reduce risk to the Fund.

It is important to understand, however, that any institution exempted from the special assessment would instead pay regular premiums under the current SAIF risk-based premium schedule, with rates ranging from 23 to 31 basis points, for 1996 through 1999. Thus, weak institutions would still, over time, generally pay more than healthy institutions -- a result consistent with the underlying principles of risk-related premiums. Assuming FICO payments are reallocated as explained in Part IV-B, a healthy institution would pay approximately 101 basis points from 1996 through 1999 (assuming an 85 basis point special assessment, plus a risk-based premium of 4 basis points for each of four years). A weak institution exempted from the special assessment and paying annual premiums of 29 basis points (under the applicable schedule weak institutions pay premiums between 29 and 31 basis points) would pay a total of 116 basis points (29 basis points for each of four years). Institutions exempted from the special assessment would have the option (during the 1997-1999) of paying a pro-rated portion of the special assessment and thenceforth paying premiums under the new risk-based schedule.[8] This option would encourage weak institutions to resolve capital and other deficiencies.

B. Spreading FICO Payments Over All FDIC-Insured Institutions

SAIF's greatest vulnerability arises from the interaction between the fixed FICO obligation and SAIF's declining assessment base. Specifically, SAIF confronts the possibility of a vicious circle in which (1) FICO payments consume an increasing share of SAIF

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[7]Such stress would result in part from institutions paying higher risk-based premiums because they had fallen into lower capital categories (e.g., from well-capitalized to adequately capitalized, or from adequately capitalized to undercapitalized). The FDIC could mitigate that sort of stress by using its existing statutory authority to adjust risk-based premiums: specifically -- and solely for the purpose of setting risk-based premiums for coverage during the calendar year 1996 -- the FDIC could calculate a SAIF-insured institution's capital before payment of the special assessment but taking into account other capital fluctuations.

[8]Thus, if the special assessment were 85 basis points and an exempted institution raised additional capital during 1996, it could pay a pro-rated special assessment of 63.75 basis points at the beginning of 1997, and thereafter pay regular premiums under the new SAIF risk-based schedule. The 63.75 basis points (three-fourths of 85 basis points) reflects the fact that the institution paid the special assessment one-fourth of the way through the 1996-1999 period.

premiums, which (2) reduces SAIF's capacity to bear losses and build reserves and renders increasingly remote the prospect of SAIF reaching the 1.25 percent reserve level, which (3) makes SAIF-insured deposits less attractive as a funding source, which in turn (4) promotes further shrinkage of the assessment base and leaves SAIF with even less income remaining after FICO payments.

Such a vicious circle is possible because FICO payments bulk large in relation to SAIF's income. Consequently, the second critical element in resolving SAIF's problems would be to spread the FICO obligation pro rata over all FDIC-insured institutions, both banks and thrifts. This would not involve withdrawing money from the deposit insurance funds. Instead, as is currently the case with SAIF, money sufficient to make FICO payments would be deducted from the premiums insured depository institutions remitted to the FDIC, before those premiums were deposited in the insurance funds.

This approach would spread FICO costs over a large deposit base, $3.2 trillion as of March 1995, instead of leaving them concentrated in a much smaller and shrinking deposit base of $485 billion (or $733 billion counting Oakar and Sasser deposits). Spreading FICO payments would remove the damaging uncertainty the current arrangement creates for SAIF and its members, as well as the perverse incentives it gives SAIF members to shrink their deposits. Spreading FICO payments would also help SAIF bear losses and maintain reserves and, combined with the special assessment on SAIF-insured deposits, would eliminate the BIF-SAIF premium differential. A stronger SAIF would reduce the risk to taxpayers of another deposit insurance crisis.

We welcome the indications from banks and bank trade associations that they appreciate the urgency of SAIF's problems and are open to participating in a solution that would involve a sharing FICO costs.

Some in the banking industry have argued that BIF members should not contribute to a solution because banks are not to blame for SAIF's problems. But blame is not the issue; the issue is how to restore SAIF to health and avoid another deposit-insurance debacle.

Let there be no mistake: banks did not cause SAIF's problems. But neither did the surviving savings institutions or the taxpayers. The surviving institutions suffered (as did banks) from unfair competition by deeply insolvent thrifts that remained open and ran up huge losses. The surviving institutions have paid record-high deposit insurance premiums far longer than banks. As already noted, most of their SAIF premiums have been diverted to pay for losses incurred before the creation of SAIF.

Nor were taxpayers to blame for past losses. Yet they have already contributed huge sums to the thrift cleanup. The taxpayers have borne almost all of the estimated $87-95 billion in losses covered by the RTC, and over two-thirds of the estimated $62 billion cost of FSLIC assistance agreements.

Participation by banks in sharing the FICO costs would underscore the importance to banks and the public of a stable deposit insurance system backed by the full faith and credit

of the United States. Banks have benefitted substantially from Government actions -- and taxpayer backing -- to shore up the deposit insurance funds. The aid taxpayers provided to the depleted thrift insurance fund helped prevent spillover effects on public confidence for FDIC-insured banks that would have been disastrous, particularly at a time when mounting bank failures were putting tremendous pressure on BIF's predecessor fund. The Government stood ready to provide resources to protect the insured depositors of troubled banks only a few years ago when BIF's reserves were depleted. Banks benefitted directly from the Government's removal and resolution of insolvent thrifts, whose bidding for deposits to finance mounting losses raised the cost of funds for all insured institutions.

Sharing the FICO obligation would also highlight the common interests of banks and savings institutions in solving SAIF's problems and maintaining a sound deposit insurance system. Consumers do not distinguish between BIF and SAIF: they view the two together as "federal deposit insurance." Thus any uncertainties about the health of one Fund would adversely affect public perception of the entire system.

Spread across all FDIC-insured institutions, FICO payments would amount to only about 2.5 cents per $100 of deposits. Using recent FDIC projections, this would still allow premiums to fall to 4 cents for the healthiest institutions during the next couple of years, a dramatic decline from the 23-cent premiums prevailing over the past four years -- and well below the approximately 7-cent effective premium rate (i.e., net of rebates) charged on average over the FDIC's entire history.

C. Merging the Deposit Insurance Funds

The first two critical elements of a SAIF solution -- capitalizing SAIF through a special assessment and spreading FICO payments over all FDIC-insured institutions -- would resolve SAIF's most pressing problems in a reasonable and equitable manner that protects the taxpayers and maintains the stability of the deposit insurance system. But these elements would not cure the longer-term weaknesses of SAIF that arise from the Fund's excessive concentrations of risk (discussed in Part II-C): the fact that SAIF insures a specialized industry, whose members are more like each other than BIF members, and that the industry is concentrated in large West Coast institutions.

These longer-term weaknesses necessitate the third critical element of our joint proposal: merging SAIF into BIF, and thereby providing the requisite asset and geographic diversification. Such a merger would protect taxpayers from the possibility of another deposit insurance crisis. It would assure the public -- and Congress -- that SAIF's problems would not need to be revisited. And with SAIF fully recapitalized by the special assessment, the merger would not dilute BIF. Congress should act now to provide for a merger of the Funds. We recommend that the merger occur as soon as practicable -- preferably no later than the beginning of 1998.

We recognize that any discussion of merging the deposit insurance funds raises many ancillary issues, which center on the future of the thrift charter and other rules and institutional arrangements specific to savings institutions. The Treasury staff has been

working hard to develop a comprehensive approach for dealing with all the complex and difficult issues involved here. We are preparing to report back to both Banking Committees within a relatively short period of time with our suggestions on the ancillary issues. In the meantime, we urge the Committee to act promptly on the joint proposal, which would provide an urgently needed -- and comprehensive -- solution to SAIF's problems.

D. SUPPLEMENTARY ELEMENTS

1. Authorizing Rebates of Excess BIF Premiums

In view of the contribution BIF members would be asked to make to secure a sound solution to SAIF's problems, we support restoring the FDIC's authority to rebate premiums paid on BIF-insured deposits to the extent that BIF has reserves exceeding its designated reserve ratio.[9]

2. Adjusting Rules to Promote Premium-Rate Stability

A final issue which received consideration in our discussions with the FDIC and the OTS was the desirability of providing stability to premium rates, important for depository institutions to make reliable projections of their costs.[10] In order to give the FDIC flexibility to reduce the frequency of premium rate changes, the Board's rate-setting authority would be modified to allow actual reserves to fluctuate temporarily within a range of not more than 0.1 percentage point above or below the designated reserve ratio. This would provide flexibility to smooth out premium rate fluctuations but does not change the designated reserve ratio.[11]

We also support lowering, from 23 basis points to 8 basis points, the minimum average premium required when a deposit insurance fund is undercapitalized or when the FDIC has borrowings outstanding from the Treasury or the Federal Financing Bank. This change would further reduce the potential for sharp swings in insurance premium rates.

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[9]Rebate authority would not extend to BIF's investment income, which has never been rebated in the FDIC's history.

[10]Once the deposit insurance funds are fully capitalized, premiums charged to their members might vary from period to period depending on factors such as the level of actual or expected insurance losses, and changes in interest rates, combined with the need to maintain a deposit insurance fund's reserve ratio so that it approximates the designated reserve ratio.

[11]This flexibility would not override (1) the FDIC's duty to base premiums on risk; or (2) the requirement that SAIF premiums be no lower than BIF premiums. Nor would it authorize rebating BIF's investment income.

V. CONCLUSION

In this testimony, I have described serious weaknesses in SAIF -- weaknesses that cast doubt on the Fund's long-term viability. The large impending disparity between BIF and SAIF premiums heightens the prospects for further weakening of SAIF, especially by accelerating the long-term erosion of SAIF's deposit base. SAIF members will have the incentives and the ability to reduce their reliance on SAIF-insured deposits, regardless of any moratorium on switching Funds. Inaction would increase the risks of another thrift deposit insurance fund insolvency crisis and a potential default on FICO debt.

For these reasons we urge Congress to act now to resolve SAIF's problems. Another thrift crisis would hurt all FDIC-insured institutions, including BIF members. Any solution should minimize costs to the taxpayers, provide for prompt capitalization of SAIF and payments on the FICO bonds, require a significant contribution from SAIF-insured institutions, avoid market distortions, and maintain public confidence in the deposit insurance system.

After the deposit insurance debacles of the 1980s and early 1990s, we have an opportunity here. We have identified the problems before the crisis. This gives us an opportunity to work together to secure the enactment of a lasting solution. Some would have us squander this opportunity by denying that problems exist and waiting until they hit us over the head. As we know, that is how policymakers dealt with the thrift debacle during the 1980s. The question here is not whether there will be problems; there are problems today. The question is when these problems will ripen into a current crisis -- and that may occur sooner than many believe possible.

We stand ready to continue to work with this Committee and other Members of Congress to resolve SAIF's problems.

RESOLVING THE PROBLEMS OF THE SAVINGS ASSOCIATION INSURANCE FUND

July 27, 1995

BACKGROUND: THE NEED FOR ACTION

SAIF Is in Poor Condition, and Its Prospects Are Bleak.

- ***SAIF is significantly undercapitalized.***

  As of March 31, 1995, SAIF held reserves of $2.2 billion to cover $704 billion in insured deposits -- only 31 cents in reserves per $100 of insured deposits.

- ***SAIF assessments have been -- and continue to be -- diverted to other uses.***

  From SAIF's inception in 1989 through March 1995, $7.4 billion in SAIF assessments were diverted to cover past thrift losses. If those funds had gone into SAIF, the fund would have been fully capitalized last year.

  Payments on bonds issued to prop up a prior deposit insurance fund (FICO bonds) currently consume 45 percent of SAIF assessments -- and that percentage will increase if SAIF deposits continue to shrink.

- ***SAIF's assessment base has declined sharply.***

  SAIF deposits shrank by 23 percent from year-end 1989 through March 1995, or an average of 5 percent annually, rather than growing over 40 percent (as projected at the time of SAIF's creation in 1989).

- ***SAIF is now responsible for resolving failed thrifts.***

  On July 1, 1995, SAIF became responsible for handling thrift failures. Given SAIF's meager reserves, the failure of one or two large thrifts could render SAIF insolvent and put the taxpayer at risk.

Consequences of Inaction: Prospects for SAIF, the FICO Bonds, and the Thrift Industry Will Worsen.

- ***Erosion of the SAIF assessment base would accelerate.***

  The healthiest SAIF members will have strong economic incentives to avoid paying almost 6 times as much as the healthiest BIF members for the same insurance coverage. Because of SAIF's obligation to make payments on the FICO bonds, a large differential between BIF and SAIF premiums would persist until the year 2019 even if SAIF were fully capitalized. Thus institutions would continue to have incentives to shrink their SAIF deposits.

  Healthy institutions have a wide variety of ways in which to shrink their SAIF deposits, despite the current moratorium on converting from BIF to SAIF. For example, they can sell off loans instead of holding them in portfolio. They can replace deposits with nondeposit funding sources. They can also seek to switch deposits from SAIF to BIF by forming or acquiring affiliated BIF-insured banks offering higher interest rates than thrifts.

- ***SAIF's weaknesses could lead to a default on FICO interest payments.***

  If the portion of SAIF's assessment base available for FICO payments declines 10 percent annually, FICO will default on its interest payments in a few years.

- ***Failure to resolve SAIF's problems could weaken the thrift industry, and thus further weaken SAIF.***

  Uncertainties about SAIF -- and high SAIF premiums -- could make it more difficult for SAIF members to attract and retain capital, thus reducing the thrift industry's ability to help solve its problems and respond to any adverse economic changes.

- ***Structural issues make SAIF more vulnerable to economic downturns and financial market instability.***

  SAIF faces increased risks because it insures institutions with similar asset portfolios, and because SAIF-insured deposits are concentrated in large West Coast thrifts.

PROPOSAL

1. Capitalize SAIF Through Assessments on SAIF Deposits

- Require institutions with SAIF-assessable deposits to pay a special assessment in an amount sufficient to capitalize SAIF (i.e., increase the Fund's reserve ratio to 1.25 percent). Base the special assessment on SAIF-assessable deposits held as of March 31, 1995. Make the special assessment due on January 1, 1996.

  The special assessment would probably amount to 85 to 90 basis points. The rate would depend on (1) the extent to which SAIF is undercapitalized at the end of this year; and (2) the total deposits subject to the special assessment (i.e., total SAIF-assessable deposits, minus deposits at weak institutions exempted by the FDIC from the special assessment, as discussed below).

  The risk-based assessment schedule for the newly capitalized SAIF would be similar to the schedule for BIF (the current FDIC Board proposal has rates ranging from 4 to 31 basis points).

  For purposes only of setting risk-based assessments for coverage during the calendar year 1996, the FDIC would calculate a SAIF-insured institution's capital before payment of the special assessment but taking into account other capital fluctuations.

- Permit the FDIC's Board of Directors (acting pursuant to published guidelines) to exempt weak institutions from the special assessment if the Board determines that the exemption would reduce risk to the Fund.

  - Require institutions exempted from the special assessment to continue to pay regular assessments under the current SAIF risk-based assessment schedule, with rates ranging from 23 to 31 basis points, for the next four calendar years (1996-1999).

Thus weak institutions would still, over time, generally pay more than healthy institutions. A healthy institution would pay approximately 101 basis points from 1996 through 1999 (an 85 basis point special assessment, plus a risk based assessment of 4 basis points for each of four years as proposed by the FDIC Board). A weak institution would pay annual assessments of 29-31 basis points (under the current schedule weak institutions pay assessments of 29-31 basis points) for a total of 116-124 basis points (29-31 basis points for each of four years).

- To encourage weak institutions to resolve capital and other deficiencies, give institutions exempted from the special assessment the option -- during the 1996-1999 period -- of paying a pro-rated portion of the special assessment and then paying assessments under the new risk-based schedule for the remainder of the period.

- Require that rates under the risk-based assessment schedule for SAIF be no lower than the rates for comparable institutions under the risk-based assessment schedule for BIF until the Funds are merged.

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2. Spread FICO Payments Over All FDIC-Insured Institutions

- Effective January 1, 1996, expand the assessment base for payments on FICO bonds to include the entire assessment base of all FDIC-insured institutions -- both BIF members and SAIF members (thus spreading the FICO obligation pro rata over all FDIC-insured institutions).

As under current law, the cash to pay FICO bond interest would come from assessment payments remitted by insured depository institutions, rather than by withdrawing money from the deposit insurance funds.

Spreading FICO payments would still allow healthy institutions' BIF premiums to decline dramatically from current rates.

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3. Merge the Deposit Insurance Funds

- Effective as soon as practicable -- preferably no later than the beginning of 1998 -- merge the BIF and SAIF.

A merger of the funds would resolve the long-term weaknesses of SAIF by providing the requisite asset and geographic diversification, which in turn should protect taxpayers from the possibility of another deposit insurance crisis.

We recognize that any discussion of a merger of the funds raises a host of ancillary issues, such as the future of the thrift charter -- and other distinctions between banks and thrifts. The Treasury is developing a comprehensive proposal to deal with these issues.

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4. Authorize Rebates of BIF Excess Premiums

- Authorize the FDIC to rebate assessments paid by BIF members to the extent that BIF reserves exceed the designated reserve ratio.

Rebate authority would not extend to BIF's investment income, which has never been rebated in the FDIC's history.

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5. Adjust Rules to Promote Assessment-Rate Stability

- Direct the FDIC's Board of Directors to maintain a deposit insurance fund's reserve ratio so that it approximates the designated reserve ratio. Give the Board flexibility to reduce the size and frequency of assessment rate changes by permitting the reserve ratio to fluctuate temporarily within a range of not more than 0.1 percentage point above or below the designated reserve ratio. This would provide flexibility to smooth out premium rate fluctuations but would not change the 1.25 percent designated reserve ratio.

The FDIC would seek to maintain the fund at approximately the designated reserve ratio, but could permit it to fluctuate temporarily within a narrow band. This flexibility would in no way impair such other rules as (1) the FDIC's duty to base assessments on risk; or (2) the requirement that SAIF assessments be no lower than BIF assessments. Nor would it authorize rebating BIF's investment income.

- Lower from 23 basis points to 8 basis points the minimum average assessment required under section 7(b)(2)(E) of the Federal Deposit Insurance Act when a deposit insurance fund is undercapitalized or when the FDIC has borrowings outstanding for the fund from the Treasury or the Federal Financing Bank.

FDIC and OTS:

Make Unspent RTC Funds Available as a Backstop for Extraordinary, Unanticipated SAIF Losses Until the BIF and SAIF are Merged

- If SAIF losses were to exceed $500 million in any calendar year during the period beginning on July 1, 1995 (when SAIF takes over the RTC's responsibility for resolving failed institutions), and ending when the Funds are merged, make unspent RTC funds available to cover the amount by which the losses in that year exceed $500 million.

  Thus SAIF would cover the first $500 million in losses during any such year, and unspent RTC funds would cover any additional losses.

  Neither the CBO nor the FDIC currently projects that SAIF losses will reach $500 million in any year. (The FDIC projects losses of $270 million per year; the CBO projects losses of $450 million per year.) Thus unspent RTC funds would serve only as a reinsurance policy against losses more severe than those now anticipated.

  The Treasury does not support use of RTC funds.

DEPARTMENT OF THE TREASURY

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TREASURY HOSTS 4TH "PARTNERSHIPS" CONFERENCE IN CALIFORNIA

Small, minority and women-owned businesses will be able to bid on over $2 million in contracts at the U.S. Treasury Department's "PARTNERSHIPS '95" conference in City of Industry, California, on August 30. The conference will be held at the Industry Hills Sheraton from 7 a.m. to 5 pm.

PARTNERSHIPS '95 is designed to bring bid opportunities directly to businesses, establish working relationships with the Treasury staff who make purchasing decisions, and teach businesses how to access federal contract information through electronic commerce so they can compete. This is the fourth such conference and the second time PARTNERSHIPS has come to the West Coast -- with $8 million in contracts available at previous events. It is part of a larger initiative to increase contracting with small, minority and women-owned businesses by 30% over Fiscal Year 1992 levels. Treasury Assistant Secretary for Management and Chief Financial Officer George Muñoz is spearheading that effort and will be a keynote speaker at the August conference.

"Treasury has made great strides in fostering partnerships with small, minority and women-owned businesses," Treasury Secretary Robert E. Rubin said. "That spirit of partnership and of economic inclusion allows us to take advantage of a greater array of goods and services. I am committted to giving more business to historically underutilized companies. This is a top priority of President Clinton and myself. Treasury will continue to streamline the bidding process, and make it easier for them to become Treasury partners. Together we'll build strong and lasting partnerships."

Treasury will provide hands-on training in electronic commerce, the technology that more and more companies use to access bid information throughout the federal government. Some Treasury bureaus will identify professional service requirements for local competition. Thousands of dollars in credit card purchases will be made and announced throughout the conference. Exhibitors will include value-added networks and Treasury prime contractors ready to discuss their subcontracting needs. Treasury bureaus, including local California offices, will be represented. They are the Internal Revenue Service; Bureau of Alcohol, Tobacco & Firearms; Comptroller of the Currency; Customs Service; Bureau of Engraving & Printing; Financial Management Service; U.S. Mint; Bureau of Public Debt; and Secret Service.

The registration fee is $60 ($30 for additional company representatives). Requests for quotations will be available on August 17 through Treasury's Small Business Fax line at (202) 622-1133. For registration information, call Sullivan & Associates at (818) 792-3259.

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DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

UNDER SECRETARY

July 28, 1995

MEMORANDUM FOR MEMBERS OF THE PRESS

FROM: Ronald K. Noble
Under Secretary (Enforcement)

SUBJECT: Waco Hearings

Special Agent James Cavanaugh's gripping remarks Wednesday, July 26 of his negotiations with David Koresh wrapped up five days of testimony by Treasury and Bureau of Alcohol, Tobacco and Firearms employees in this month's congressional hearings on Waco.

During these hearings, Treasury and ATF have taken great care to set the record straight about what happened at Waco and why.

The 1993 Treasury Department report on ATF's actions at Waco withstood critical scrutiny. The core elements of the tragedy that led to the murder of four ATF agents are now beyond dispute:

-- ATF initiated an investigation of David Koresh, at the request of the local sheriff's office, because of legitimate concerns about the illegal manufacture of machine guns and explosives at the compound.

-- ATF agents obtained lawful warrants to search the premises and arrest Koresh.

-- The Davidians were tipped off 40 minutes ahead of time and chose to ambush federal law enforcement agents.

As Treasury's own review pointed out two years ago, ATF commanders ordered that the operation proceed although they were aware that surprise was lost. Certain ATF officials made false or misleading statements in the aftermath. All of these facts, as detailed in the Treasury report, were confirmed in these hearings, as they were in previous hearings and at the criminal trial of the surviving Davidians.

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The hearings also have addressed and resolved the following issues -- issues that some skeptics have claimed required further investigation:

-- David Koresh was investigated because of suspected violations of federal firearms and explosives laws, not because of his religious beliefs or because he raped children who lived on the compound. FBI firearms examiner James Cadigan described his count of 48 illegal machine guns recovered from the compound as "conservative."

-- The search and arrest warrants were legally sufficient. Federal prosecutor Ray Jahn testified that none of the defense lawyers challenged the warrants at trial. Indeed, Tim Evans, the defense lawyer for one of the Branch Davidians, conceded during the hearings that he believed ATF's investigation developed probable cause. And the president of the National District Attorneys Association testified that the warrant was legally sound.

-- ATF legally acquired military training and helicopters. Officials from the Department of Defense, the Texas National Guard, as well as members of Congress on both sides of the aisle, agreed that ATF did not violate laws dealing with the use of the military in law enforcement.

The helicopters did not have guns mounted, their doors were closed, they were 300 yards from the compound when they were fired upon and turned back, and their pilots testified under oath at trial that no shots were fired. Davidians shot at ATF agents on the roof; this firing would have caused bullet holes in the roof.

-- The Branch Davidians fired the first shot. Testimony by ATF agents Roland Ballesteros, Bill Buford and John Williams confirmed that gunfire erupted from within the compound as they approached. ATF special agent James Cavanaugh, the supervisor stationed in the undercover house, stated that agents took "an awful beating" as they unloaded from the cattle trailers.

"If I thought that an ATF agent would drive up in front of a structure and shoot, I would throw my badge in the garbage," Cavanaugh told the subcommittees on Wednesday, July 26. "It didn't happen."

These accounts have been corroborated by the trial testimony of three members of the press who were on or near the premises when the firefight began.

A number of facts were sometimes presented as new information during the hearings. Actually, they were thoroughly covered in Treasury's review. These "new" facts include:

-- ATF planners did not fully consider other options for executing the warrants, such as arresting Koresh off the compound. (Pages 134-143 of the Treasury report).

-- Intelligence gathering (including the undercover operation) was poor and existing intelligence was not adequately evaluated by planners and decision-makers. (Pages 51-53, 143-148, 168-170, 186-188).

-- No completed written raid existed before the operation went forward. (Pages 207-210).

-- Tactical experts disagree as to whether ATF's raid plan was well-conceived. (Appendix B).

-- Treasury historically has exercised inadequate oversight of the Treasury enforcement bureaus. (Pages 180-183).

-- Secretary Bentsen was not informed of the raid in advance. (Page 178).

-- Undercover agent Robert Rodriguez, who was in the compound the morning February 28, informed his superiors that surprise had been lost minutes before the raid was ordered to go forward. (Pages 89-91). In testimony Monday, July 24, he described his call to the raid's tactical coordinator, Chuck Sarabyn: "'Chuck, they know. They know. They know we're coming.' I can remember that as long as I live. I remember those words."

-- The supervisors who ordered the raid to go forward on February 28 falsely state that they did not know the operation had been compromised. (Pages 193-207). Texas Ranger Captain David Byrnes testified that, based on the overwhelming evidenced developed during the Rangers' investigation, Sarabyn and Chojnacki are not credible, that the Rangers concluded they knew Koresh was aware that ATF was coming.

Rodriguez put it this way: "These two men knew what I told them. They knew exactly what I meant. They lied to the public, and in doing so they just about destroyed a great agency."

-- The internal shooting review conducted by ATF personnel was halted at the request of the local U.S. Attorney's office. The Texas Rangers began a full criminal investigation within two days of the raid. (Page 197).

-- Treasury coordinated with the Department of Justice in order not to interfere with ongoing investigations and prosecutions. (Pages 2 and 7). "Throughout the planning and conduct of the review, two issues were paramount: (1) to produce a thorough, unbiased review of ATF's conduct and (2) to ensure that the actions of the Treasury review did not jeopardize the Justice Department's criminal case against those who murdered four ATF agents," Treasury General Counsel Edward S. Knight said in statement Thursday, July 20.

In short, no findings, conclusions, or recommendations have been demonstrated false or incomplete by these hearings. Of course, not every fact or opinion contained in the more than 26,000 pages of documents produced to the committees was included in Treasury's 500 page report. But the fact remains that the Treasury report is the most complete, accurate, and honest account of what happened at Waco, why it happened, and who was responsible.

Weeks before the hearings commenced, Secretary Rubin expressed his hope that the hearings get at the truth, not undermine law enforcement or advance the agenda of special interests who oppose firearms laws and their enforcement. Disturbing evidence of covert involvement by the National Rifle Association in the congressional inquiry confirms the Secretary had reason to be concerned that the hearings would be used for a broad attack on ATF, or measures such as the Brady Law and the Assault Weapons Ban.

Despite such evidence and although no new material facts emerged, the hearings did serve a useful purpose. They further clarified the difference between fact and fiction.

The public heard from ATF agents themselves -- individuals such as Bill Buford, Roland Ballesteros, James Cavanaugh, John Williams and Robert Rodriguez -- about what took place at the Branch Davidian compound on February 28, 1993, confirming what the Treasury report found two years ago. The public was able to see that these men are not "jack-booted thugs," but are dedicated public servants doing difficult and dangerous work.

Kiri Jewell's testimony established that Koresh was a villain, not a victim. Koresh was shown to be insensitive to human life. Cavanaugh recalled negotiating with Koresh and trying to arrange the rescue of a wounded agent during the firefight: "I had a radio mike in one ear, with an agent pleading for his life. And I had this guy on the phone who thought he was God. So I put all my energy into negotiating it because if I didn't, this guy in my ear, my friend, was going to die."

Members on both sides of the aisle agreed with near unanimity that no mistakes made by ATF justified the killing of the four agents -- Conway LeBleu, Todd McKeehan, Robert Williams, and Steven Willis -- who perished in the line of duty.

But at least one witness mistakenly contended that the deaths of these agents could be considered justifiable homicide. "I wasn't there," said Jack Zimmerman, attorney for Davidian Steve Schneider. "But if the ATF accidentally or however opened fire on people in their home, and all they did was defend themselves in their home, then under the law that's justifiable homicide. It's not murder. It's not murder." But overwhelming evidence in the Treasury report, at trial and during these hearings proved that the Davidians shot first.

ATF Director John Magaw and I had the opportunity to describe the changes made since Waco at ATF and Treasury, respectively, to prevent future tragedies.

Looking forward, our goal must be to strengthen law enforcement. We must ensure that our agencies are equipped and trained to confront the increasingly dangerous challenges they face. To this end, Congressman McCollum has exhibited welcome leadership in promising to hold hearings on militias this fall.

We will continue to institute reforms at ATF and Treasury. But we will also make sure that the men and women of ATF receive the respect that they have earned. Never again, should federal agents, such as Bill Buford, shot four times by the Branch Davidians, be vilified for doing their sworn duty.

"This is very similar to how I felt when I came home from Vietnam," Buford said in USA Today Wednesday, July 26. "I thought I had done a service for my country, but was portrayed as something less. They made us feel that we were the enemy." Dehumanizing such heroes diminishes us all.

DEPARTMENT OF THE TREASURY

TREASURY NEWS

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ADV 9 A.M. EDT
Remarks as prepared for delivery
July 31, 1995

REMARKS OF TREASURY SECRETARY ROBERT E. RUBIN
FRATERNAL ORDER OF POLICE
VIRGINIA BEACH, VA.

Thank you for the invitation. I'm the first Treasury Secretary to address the Fraternal Order of Police, and I very much appreciate the honor.

I also want to congratulate Dewey on his stewardship of the FOP. Treasury's law enforcement people have greatly valued the opportunity to work with you, Dewey, and we're looking forward to working closely with your successor and with this organization. You and the FOP have been very supportive, and in particular I and all of us at Treasury very much appreciate the support the FOP has provided to our Bureau of Alcohol, Tobacco and Firearms.

When I came to this job, my focus was on economic policy, taxes, the dollar, the federal budget, and similar matters. I was heavily involved in those issues when I was at the White House, and they are an important part of my agenda now that I'm at the Treasury Department. However, the more I learned about the law enforcement side of my job and about the functions of the 34,000 people at Treasury who work in our various law enforcement operations, the deeper my appreciation became of the importance of Treasury's law enforcement role and more generally of the critical importance of all law enforcement -- state, local and federal -- to our social order and social fabric.

As my time at Treasury has grown, I've come to have a good deal of first-hand experience in the issues of law enforcement. That experience has enhanced my understanding and that understanding has led to commitment.

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That commitment deepened as I looked into the ATF actions at Waco while Treasury was preparing for the current hearings. Clearly, mistakes were made in the initial ATF raid. Hearings were held after the raid, and Treasury conducted an exhaustive and widely-praised investigation resulting in many changes at ATF. However, no mistake that was made justified the ambush and killing of four law enforcement officers. David Koresh knew in advance that the ATF was coming to serve arrest and search warrants. Instead of accepting the warrants and then resorting to legal process, he stationed armed people in the windows of his compound and on a water tower, and then shot, killed and wounded ATF officers as they approached the compound. That is the core fact of the ATF raid on Waco.

When Congress decided to hold these hearings, I said in public appearances that the hearings could prove useful if they served to once again get the truth out, and that there many members of Congress on both sides of the aisle who were committed in good faith to doing that. However, I also said that I was deeply concerned that some might use the hearings to undermine support for law enforcement through distortion and misinformation -- and clearly there has been evidence of that -- in order to attempt to roll back the Brady Law and the assault weapons ban, or to divert attention from extremist groups and militias, or even to feed paranoia and conspiracy theories. There can be legitimate differences of opinon on the Brady Law or assault weapons ban -- but my own view is that they powerfully serve public safety without any interference with the use of guns for sport or self-defense. While there may be these differences, it is extremely dangerous to undermine law enforcement as a vehicle towards reversing that legislation. It must not be allowed to happen.

I think it is also worth noting that nothing new with respect to the ATF was elicited in the hearings beyond the findings of the Treasury report, and nothing in the hearings contradicted any of the findings of the Treasury report.

The more I looked into Waco and the more I learned, the more I came out convinced that the ATF needs and deserves support. And second I was convinced that I should do everything possible to support law enforcement more generally, because these are some of the most difficult and dangerous jobs in our society, and absolutely critical to our social order and social fabric.

I've made this a hands-on experience. Last month I visited in New York with the Customs Service agents who conducted an undercover operation with respect to some individuals trying to sell eight tons of nuclear-related materials that came from Russia. As has since been publicly disclosed, the suspects were fully prepared to proceed when our undercover agent said he was a broker for Saddam Hussein. I also stayed informed as that same agency put a serious dent in the Cali cartel a couple of months back.

Our ATF has played an important role in the arrests in the Oklahoma City and the World Trade Center bombings, and it works closely every day with local law enforcement authorities in the dangerous and critically important mission of dealing with illegal weapons and armed criminals. The Secret Service is not only protecting the President, but also protecting the integrity of our currency through their jurisdiction over counterfeiting. FLETC, our training center in Georgia, is producing officers ready for street duty. FinCen, our Financial Crimes Enforcement Network, is going after money-launderers. And the IRS has a criminal investigations operation. Every one of our enforcement bureaus has had many important successes and makes a daily contribution to maintaining the rule of law, as do each of you.

Much of our work in federal law enforcement involves working closely with state and local officers. And that teamwork is invaluable.

For example, the ATF has 21 task forces in conjunction with state and local officers in 20 major cities with high violent crime rates. They go after gang violence, drug trafficking, murder, rape and other violent crimes. These task forces have taken more than 6,200 violent criminals off the streets in seven years. And since we're in the Tidewater area, let me cite some specifics here. Two months ago a man with 14 prior felony convictions was sentenced on several firearms charges after an investigation by the ATF and Chesapeake Police Department. Last month 10 people involved in distributing several kilos of crack each month in this area were sentenced on firearms and drug charges -- again, a cooperative effort between the ATF and the Norfolk Police Department.

Similarly, in the span of five days last month Secret Service field offices in Miami and Charlotte helped city officers solve two brutal murders.

I am proud, and I feel it more strongly every day as I learn more and more, of being associated with the men and women of law enforcement. You place your lives on the line doing very dangerous and difficult work. Some of you live under cover, and go after extraordinarily dangerous individuals who smuggle drugs or run gangs or build bombs. The support of the American people is essential for you to be effective, your effectiveness is essential for public safety, and all of us must do everything possible to ensure that you have that support and combat those who would undermine that support.

In addition to your law enforcement accomplishments, the American people need to know more about the work you do to support our communities in other ways. While I'm impressed in the broad sense at the accomplishments of our law enforcement personnel, I am equally impressed at your willingness not just to go out on the line every day, but to work in our communities in other supportive ways.

I remember about 15 years ago while I was living in New York I was involved with an organization called the 28th Precinct Council. For those of you who don't know New York, the 28th Precinct is around the middle of Harlem. What impressed me as I worked with the council was the commitment of the officers not only to policing, but also volunteering in their community for programs with children, acting as mentors, helping out senior citizens.

It can make a difference. We have programs at Treasury, in cooperation with many other law enforcement agencies around the country, to help teach youngsters why guns are dangerous and gangs are bad. The Norfolk ATF field office just finished a video on that subject. We have Secret Service agents and others adopting schools and giving security advice at housing projects. I suspect every department represented here today has individuals deeply involved in their communities in activities other than law enforcement.

I believe police officers have a keen understanding of the problems of our communities, perhaps more so than the rest of us, because you live with those problems every day. You do double duty: protecting society and building society.

That's the reality of law enforcement in this country -- people who build communities, people who protect communities, people who make incredible sacrifices for all of us. The debt Americans owe those who protect and serve is tremendous.

As I have come to understand the law enforcement area of Treasury more, and as my commitment has deepened, I have tried to carry that understanding and commitment to the financial and business forums where Treasury Secretaries are invariably and often invited to speak. I was in New York at the New York Economic Club earlier this year. I told a hall of 600 black-tie businessmen that they really need to understand and support law enforcement.

That wasn't the message they expected to hear from a Treasury Secretary, but they were highly responsive as I explained to them how central to our daily lives the profession of law enforcement is and how much the men and women of law enforcement need the support of all Americans. Crime takes an enormous physical and emotional toll and feeds anger and anxiety and insecurity that undermines and tears at our social fabric. It also takes a tremendous financial toll as well, which puts us at a productivity disadvantage compared to the many nations which do not have problems of the same magnitude.

I include this message in almost every speech I give to business groups. More importantly, as Dewey can tell you, the President is totally committed to supporting law enforcement, and is an ardent and frequent advocate for the men and women of law enforcement and the dangerous and difficult and critical role they play in our society.

The President worked hard to see the Crime Bill passed so that we can have another 100,000 officers on the street to make you more effective. He worked hard, as you have, for Brady and the assault weapons ban. He is working hard for anti-terrorist legislation. The President, the Attorney General and I were honored to share the podium with Dewey at the annual peace officers' memorial service in Washington in May when the names of officers from around the country who died in the line of duty were added to the memorial.

Having said that, I want to comment on some of the headlines related to law enforcement we've seen lately.

There will always be problems from time to time in any organization composed of human beings, and that includes law enforcement organizations. When a Waco raid is mishandled, or allegations are made about a Good Ol' Boys Roundup, they must be dealt with fully, candidly, openly and expeditiously. Public support and perceptions of the profession of law enforcement are predicated on the absolute necessity that law enforcement is fair and unbiased. However, problems within law enforcement organizations must be dealt with in the context of supporting law enforcement, not with an intent to undermine law enforcement.

In closing, I want to make two points. First, as Secretary of Treasury I am strongly committed to supporting law enforcement and combatting those who would undermine law enforcement, those who would drive a wedge between Americans whose safety you protect, and you, the protectors.

And second, police officers have a keen insight into our society's problems. You see the worst of it, and you understand the causes of crime better than most Americans. You realize that the more support given to prevention, to working with problem children in our inner cities, to giving young men and women economic opportunity, to eliminating the causes of insecurity and alienation, the less crime for all of us. All Americans must vigorously engage on that front -- where so many of you are involved -- while at the same time giving you our utmost support as you protect all of us.

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DEPARTMENT OF THE TREASURY

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FOR IMMEDIATE RELEASE
July 28, 1995

Contact: Jon Murchinson
(202) 622-2960

BORROWING ADVISORY COMMITTEE MEETING, REFUNDING PLANNED

The Treasury Department's Borrowing Advisory Committee will hold an open meeting at 11:30 a.m. Tuesday, August 1, 1995 in the Treasury Department, room 3327, 1500 Pennsylvania Avenue NW.

Deputy Assistant Secretary (Federal Finance) Darcy Bradbury will announce the Treasury Department's quarterly refunding at 1 p.m. on Wednesday, August 2, 1995 in room 3327 of the Treasury Department.

Media without Treasury, White House, State, Defense or Congressional credentials wishing to attend should contact the Office of Public Affairs at (202) 622-2960, with the following information: name, Social Security number and date of birth, by 5 p.m. Monday, July 31 for Tuesday's event and by 5 p.m. Tuesday, August 1 for Wednesday's event. This information can be faxed to (202) 622-1999.

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DEPARTMENT OF THE TREASURY

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FOR IMMEDIATE RELEASE
July 28, 1995

Contact: Jon Murchinson
(202) 622-2960

RUBIN HOLDS FIRST MEETING OF FINANCIAL SERVICES COMMISSION

Treasury Secretary Robert E. Rubin will convene the first meeting of the Financial Services Advisory Commission on Monday, July 31 at 1 p.m. The meeting, which is open to the public, will be in the Cash Room at the Treasury Department, 1500 Pennsylvania Avenue NW.

Under the Interstate Banking and Branching Efficiency Act of 1994, the Secretary of the Treasury is conducting a study of the American financial services system, in consultation with the advisory commission and federal financial regulators. The Treasury study will examine the strengths and weaknesses of the U.S. financial system in meeting the needs of the system's users. A final report and recommendations will be made to Congress. The report will focus on the issues facing the future of financial services and on the needs of the users of those services.

Media without Treasury, White House, State, Defense or Congressional credentials wishing to attend should contact the Office of Public Affairs at (202) 622-2960, with the following information: name, Social Security number and date of birth, by noon Monday, July 31. This information can be faxed to (202) 622-1999.

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Department of the Treasury
Advisory Commission on Financial Services

Stephen J. Brobeck, Executive Director, Consumer Federation of America

John G. Heimann, Global Financial Institutions Group Chairman, Merrill Lynch & Co.

Beth Hodges, Executive Vice President, First National Bank of Panhandle, Texas

Mary Agnes Houghton, President, ShoreBank Corporation

Glenn H. Hutchins, General Partner, Blackstone Group

Orin S. Kramer, General Partner, Kramer Spelman, L.P.

Donald A. Moore Jr., Managing Director, Morgan Stanley & Co.

Clyde W. Ostler, Vice Chairman, Wells Fargo Bank

Robert C. Pozen, General Counsel and Managing Director, Fidelity Investments

Franklin D. Raines, Vice Chairman, Federal National Mortgage Association

Rachel F. Robbins, Managing Director and Deputy General Counsel,
J.P. Morgan & Co.

John F. Sandner, Chairman of the Board, Chicago Mercantile Exchange

July 28, 1995