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THE WHITE HOUSE

WASHINGTON

December 28, 1982

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Enrolled Bill S. 835 - Private Relief for
Jerry Crow and Ralph and Connie Hubbell

Richard Darman has asked for comments by close of business today on Enrolled Bill S. 835, a private relief bill. The bill would require the Secretary of the Interior to sell 10 acres of Alaskan land at fair market value to Jerry Crow, an Alaskan campground operator, and lease up to 70 additional acres, with an option to purchase. Crow's application to purchase 80 acres for his campground was denied in 1967 because he failed to meet the conditions of the Trade and Manufacturing Act of 1898, which provides for sales of up to 80 acres to Alaskan residents occupying Federal lands for business purposes. A completely unrelated section of the bill directs the Secretary to convey to the Hubbells of Carbondale, Colorado, all interest of the United States in a 1.25 acre tract of land on which their home is situated, at 1964 fair market value. The Hubbells thought they had purchased the land in 1964 from a private party, but their title was defective, due to an inaccurate private survey.

OMB recommends approval, despite the lack of a current fair market value provision in the case of the Hubbells. Interior has no objection. I have reviewed the memorandum to the President from James Frey, Assistant Director of OMB for Legislative Reference, and the bill itself. I see no legal objections, and have prepared a memorandum to that effect to Darman for your signature.

Attachment

THE WHITE HOUSE

WASHINGTON

December 28, 1982

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT *Orig. signed by FFF*

SUBJECT: Enrolled Bill S. 835 - Private Relief for
Jerry Crow and Ralph and Connie Hubbell

Counsel's Office finds no objection from a legal perspective
to the above-referenced enrolled bill.

FFF:JGR:aw 12/28/82

cc: FFFielding
✓ JGRoberts
Subj.
Chron

THE WHITE HOUSE
WASHINGTON

December 28, 1982

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill S. 835 - Private Relief for
Jerry Crow and Ralph and Connie Hubbell

Counsel's Office finds no objection from a legal perspective
to the above-referenced enrolled bill.

FFF:JGR:aw 12/28/82

cc: FFFielding
JGRoberts
Subj.
Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) _____Name of Correspondent: Richard Darman☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: S. 835 - Private Relief of Jerry Crow
and Ralph & Connie Hubbard

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>CVHolland</u>	ORIGINATOR	<u>82112127</u>			<u>1 1</u>
<u>WAT18</u>	Referral Note: <u>B</u>	<u>82112127</u>		<u>S</u>	<u>82112128</u>
	Referral Note: _____	<u>1 1</u>			<u>1 1</u>
	Referral Note: _____	<u>1 1</u>			<u>1 1</u>
	Referral Note: _____	<u>1 1</u>			<u>1 1</u>
	Referral Note: _____	<u>1 1</u>			<u>1 1</u>

ACTION CODES:

A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet
to be used as Enclosure

I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
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FOR OUTGOING CORRESPONDENCE:

Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: _____

Keep this worksheet attached to the original incoming letter.

Send all routing updates to Central Reference (Room 75, OEOB).

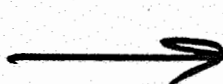
Always return completed correspondence record to Central Files.

Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

WHITE HOUSE STAFFING MEMORANDUM

DATE: 12/27/82 ACTION/CONCURRENCE/COMMENT DUE BY: c.o.b. TOMORROW
12/28

SUBJECT: S. 835 - PRIVATE RELIEF OF JERRY CROW AND RALPH
& CONNIE HUBBELL

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	FULLER	<input type="checkbox"/>	<input type="checkbox"/>
MEESE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	GERGEN	<input type="checkbox"/>	<input type="checkbox"/>
BAKER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	HARPER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DEAVER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	JENKINS	<input type="checkbox"/>	<input type="checkbox"/>
STOCKMAN	<input type="checkbox"/>	<input type="checkbox"/>	MURPHY	<input type="checkbox"/>	<input type="checkbox"/>
CLARK	<input type="checkbox"/>	<input type="checkbox"/>	ROLLINS	<input type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input type="checkbox"/> P	<input checked="" type="checkbox"/> SS	WILLIAMSON	<input type="checkbox"/>	<input type="checkbox"/>
DOLE	<input type="checkbox"/>	<input type="checkbox"/>	VON DAMM	<input type="checkbox"/>	<input type="checkbox"/>
DUBERSTEIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	BRADY/SPEAKES	<input type="checkbox"/>	<input type="checkbox"/>
FELDSTEIN	<input type="checkbox"/>	<input type="checkbox"/>	ROGERS	<input type="checkbox"/>	<input type="checkbox"/>
FIELDING 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

Remarks:

Please provide any comments/recommendations by c.o.b. tomorrow,
 December 28th.

Thank you.

Richard G. Darman
 Assistant to the President
 (x2702)

Response:



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

DEC 27 1982

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 835 - Private Relief of Jerry Crow and
Ralph and Connie Hubbell
Sponsor - Sen. Stevens (R) Alaska

Last Day for Action

January 3, 1983 - Monday

Purpose

Requires the Secretary of the Interior to (1) sell Jerry Crow certain land in Alaska, and offer to lease him other land and (2) sell Ralph and Connie Hubbell certain land in Colorado.

Agency Recommendations

Office of Management and Budget

Approval

Department of the Interior

No objection(Informally)

Discussion

The Trade and Manufacturing Act of 1898 allows Alaskan residents occupying Federal lands for business purposes to purchase up to 80 acres of such land, under certain conditions. Jerry Crow applied in 1967 to purchase 80 acres for a campground. His application has been denied, mainly because the campground currently occupies less than 40 acres, and Mr. Crow has been unable to show that it is a "productive industry" as required by the 1898 Act.

S. 835 would resolve the problem by requiring the Secretary to sell Mr. Crow up to 10 acres of the 80 acres in question at current fair market value. The Secretary would also be required to offer to lease Mr. Crow all or a portion of the 80-acre tract for thirty years, with an option to purchase, at fair market value at the time of purchase, to be determined by the Secretary.

The Administration initially opposed S. 835, but did recommend several amendments if the Congress were to grant Mr. Crow relief, and the Congress has accepted these recommendations. While we would not like to see such private relief granted routinely by the Congress, this section of the enrolled bill presents no major concerns.

During final congressional consideration of this legislation, a rider was attached which would require the Secretary to convey to Ralph and Connie Hubbell all Federal interests in a 1.25-acre tract of land in Garfield County, Colorado, if the Hubbells pay the land's fair market value as of 1964, as determined by the Secretary. The Hubbells "purchased" the land, under a defective warranty deed based on an inaccurate private survey, from a third party in 1964, and built their home upon it. The error was discovered in 1972, and efforts to resolve the problem have been under way since then.

The Congress accepted none of the legislative changes suggested by the Administration concerning the Hubbell's case, mainly that the conveyance be made at the land's current fair market value. However, given that (1) the tract of land is so small and (2) the principle of fair market payment for conveyance of Federal property is embodied in the bill, a veto is not warranted. Accordingly, we recommend that you approve S. 835, which passed the Senate and House by voice vote.

James M. Frey
Assistant Director for
Legislative Reference

Enclosures

Ninety-seventh Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-fifth day of January,
one thousand nine hundred and eighty-two*

An Act

For the relief of Jerry L. Crow and Ralph D. and Connie V. Hubbell.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Jerry L. Crow may, within one year of the date of enactment of this Act, select not more than ten acres of land from the public lands included in his original application to purchase a trade and manufacturing site located at mile numbered 68 on the Denali Highway in the State of Alaska, and shall notify the Secretary of the Interior of his intention to purchase the selected land under the provisions of this Act.

SEC. 2. Notwithstanding the provisions of section 203 of the Federal Land Policy and Management Act (90 Stat. 2743) and as soon as practicable upon receipt of a notification under section 1 of this Act, the Secretary is directed to sell the selected land to Mr. Crow at a price based upon their fair market value as of the date of enactment of this Act, excluding any value added to the lands by Mr. Crow.

SEC. 3. The Secretary shall offer to lease to Mr. Crow for thirty years, with an option to purchase, for use as a trade and manufacturing site, all or a portion of the lands included in his original application, with rental based on the land's fair market value. If the option to purchase is exercised by Mr. Crow, the purchase price shall be the fair market value at the time of purchase. Fair market value shall be determined by the Secretary or his designee.

SEC. 4. That the Secretary is hereby authorized and directed to convey to Ralph D. and Connie V. Hubbell, Carbondale, Colorado, all right, title, and interest to the United States in and to a tract of land situated in lot 19 of section 27, township 7 south, range 88 west of the sixth principal meridian, Garfield County, Colorado, consisting of one and twenty-five one-hundredths acres, more or less. Notwithstanding any other provision of law, such conveyance shall be made upon prompt payment of the 1964 fair market value, as determined by the Secretary. For purposes of this Act, prompt payment shall be no more than thirty days after notification by the Secretary of such value.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate*

THE WHITE HOUSE

WASHINGTON

December 28, 1982

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Enrolled Bill S. 3103 - Collection and
Use of Participation Fees for Private
Sector Participants in the President's
Executive Exchange Program

Richard Darman has asked for comments by close of business today on Enrolled Bill S. 3103. This bill would authorize the President's Commission on Executive Exchange (PCEE) to collect fees for the participation of private sector exchange executives, and use those fees for education and travel expenses of those exchange executives. In the past agencies have accepted from the firms of private sector exchange executives fees for participation of their employees, and used those fees for expenses of the exchange executives. The fees were deposited in a Treasury fund, which was recently determined to lack authority to spend the funds for earmarked purposes. S. 3103 authorizes collection and expenditure of participation fees, for one year only. PCEE will seek permanent authority over the course of the next year.

I have reviewed the memorandum to the President from James Frey, Assistant Director of OMB, and the bill itself. OMB, OPM and the PCEE all recommend approval of the bill. I see no legal objections, and have prepared a memorandum to that effect to Darman for your signature.

Attachment

THE WHITE HOUSE
WASHINGTON

December 28, 1982

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING *Orig. signed by FFF*
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill S. 3103 - Collection and
Use of Participation Fees for Private
Sector Participants in the President's
Executive Exchange Program

Counsel's Office finds no objection from a legal perspective
to the above-referenced enrolled bill.

FFF:JGR:aw 12/28/82

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE
WASHINGTON

December 28, 1982

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill S. 3103 - Collection and
Use of Participation Fees for Private
Sector Participants in the President's
Executive Exchange Program

Counsel's Office finds no objection from a legal perspective
to the above-referenced enrolled bill.

FFF:JGR:aw 12/28/82

cc: FFFielding
JGRoberts
Subj.
Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1/1/Name of Correspondent: Richard Darman☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: S. 3103 - President's Commission on
Executive Exchange

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>CW Holland</u>	ORIGINATOR	<u>82/12/27</u>			<u>1/1</u>
	Referral Note:				
<u>CW AT/8</u>	<u>D</u>	<u>82/12/27</u>		<u>S</u>	<u>82/12/28</u>
	Referral Note:				
		<u>1/1</u>			<u>1/1</u>
	Referral Note:				
		<u>1/1</u>			<u>1/1</u>
	Referral Note:				
		<u>1/1</u>			<u>1/1</u>
	Referral Note:				

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WHITE HOUSE STAFFING MEMORANDUMDATE: 12/27/82 ACTION/CONCURRENCE/COMMENT DUE BY: c.o.b. TOMORROW, 12/28SUBJECT: S. 3103 - PRESIDENT'S COMMISSION ON EXECUTIVE EXCHANGE

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	FULLER	<input type="checkbox"/>	<input type="checkbox"/>
MEESE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	GERGEN	<input type="checkbox"/>	<input type="checkbox"/>
BAKER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	HARPER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DEAVER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	JENKINS	<input type="checkbox"/>	<input type="checkbox"/>
STOCKMAN	<input type="checkbox"/>	<input type="checkbox"/>	MURPHY	<input type="checkbox"/>	<input type="checkbox"/>
CLARK	<input type="checkbox"/>	<input type="checkbox"/>	ROLLINS	<input type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input type="checkbox"/> P	<input checked="" type="checkbox"/> SS	WILLIAMSON	<input type="checkbox"/>	<input type="checkbox"/>
DOLE	<input type="checkbox"/>	<input type="checkbox"/>	VON DAMM	<input type="checkbox"/>	<input type="checkbox"/>
DUBERSTEIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	BRADY/SPEAKES	<input type="checkbox"/>	<input type="checkbox"/>
FELDSTEIN	<input type="checkbox"/>	<input type="checkbox"/>	ROGERS	<input type="checkbox"/>	<input type="checkbox"/>
FIELDING →	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

Remarks:

Please provide any comments/recommendations by c.o.b. tomorrow, 12/28.

Thank you.

Richard G. Darman
 Assistant to the President
 (x2702)

Response:



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

DEC 27 1982

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 3103 - President's Commission on
Executive Exchange
Sponsor - Sen. Stevens (R) Alaska

Last Day for Action

January 3, 1983 - Monday

Purpose

Permits the President's Commission on Executive Exchange (PCEE) to impose participation fees for private sector participants in its Executive Exchange program; allows the fees collected to be spent for education and related travel of exchanged executives, and for other purposes related to the PCEE's work.

Agency Recommendations

Office of Management and Budget	Approval
Office of Personnel Management	Approval
President's Commission on Executive Exchange	Approval

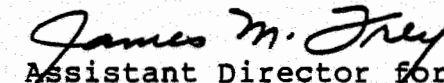
Discussion

The PCEE manages the Government's executive exchange program, under which private sector executives with management potential are assigned to Federal agencies for a period of training and exposure to Federal sector activities, and comparable Federal executives serve with private sector firms for similar training and experience.

Historically, the PCEE relied on other Federal agencies to accept and spend private sector fees for the education and training of private sector employees during their Federal service. The fees collected were maintained in a Treasury "deposit fund", which was recently determined to lack authority to spend the funds for earmarked purposes. To remedy this problem, the PCEE proposed legislation virtually identical to S. 3103, to make clear that the PCEE may charge participation fees from private sector firms and to authorize such fees to be expended on executives' education and training during Federal service.

S. 3103, which passed both Houses by voice vote, specifies that the fees collected would be credited to an existing revolving fund of the Office of Personnel Management, which provides administrative, training, and other services for the PCEE. Fees so collected would be authorized to be expended not only on education, including honoraria, but on related travel of exchanged executives during their Federal assignments. In addition, such fees would be available for printing of promotional materials about the program, without regard to the constraints otherwise imposed by the Government Printing Office. Finally, the enrolled bill would permit use of participation fees for facilities rentals, dinners, and receptions for sponsoring private sector firms, guest lecturers, and the like, in amounts specified in annual appropriation acts.

The authority granted by S. 3103 will expire on December 31, 1983; the Commission plans to seek permanent authority as in its original legislative proposal.


Assistant Director for
Legislative Reference

Enclosures

Ninety-seventh Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-fifth day of January,
one thousand nine hundred and eighty-two*

An Act

To amend section 1304(e) of title 5, United States Code.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1304(e)(1) of title 5, United States Code, is amended by inserting "(i)" after "(1)", and by adding a new paragraph as follows:

"(ii) Participation fees, which the President's Commission on Executive Exchange may impose for private sector participation in its Executive Exchange Program shall be collected and credited to the fund, and shall be available for the costs of education and related travel of exchanged executives; for printing without regard to section 501 of title 44, United States Code; and, in such amounts as may be specified in appropriations Acts, for entertainment expenses."

(b) The authority granted in subsection (a) shall terminate on December 31, 1983.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

THE WHITE HOUSE

WASHINGTON

December 28, 1982

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Enrolled Bill H.R. 6946 - False
Identification Crime Control Act

Richard Darman has asked for comments by 2:00 p.m. today on Enrolled Bill H.R. 6946, which establishes criminal penalties for various acts involving false identification cards. This bill is the result of recommendations by the Federal Advisory Committee on False Identification. It would provide criminal penalties for knowing production of a false identifier, possession of five or more false identifiers, possession of false identifiers with intent to defraud the United States, production or transfer of falsifying implements, and possession of false United States identifiers. The bill also requires "i.d. companies" to stamp "not a government document" on their products. Fines and prison terms ranging to \$25,000 and five years are set for violations. There is an interstate commerce provision satisfying any Constitutional objections on that score.

I have reviewed the memorandum to the President from James Frey, Assistant Director of OMB, and the bill itself. OMB and the Department of Justice approve of the bill, and I see no legal objections.

I have attached a proposed memorandum to Darman.

Attachment

THE WHITE HOUSE

WASHINGTON

December 28, 1982

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING *Orig. signed by FFF*
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 6946 - False
Identification Crime Control Act

Counsel's Office finds no objection from a legal perspective
to the above-referenced enrolled bill.

FFF:JGR:aw 12/28/82

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

December 28, 1982

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 6946 - False
Identification Crime Control Act

Counsel's Office finds no objection from a legal perspective to the above-referenced enrolled bill.

FFF:JGR:aw 12/28/82

cc: FFFielding
JGRoberts
Subj.
Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1 1Name of Correspondent: Richard Darman☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: Enrolled Bill H.R. 6946
False Identification Crime Control Act of 1982

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>CW401land</u>	ORIGINATOR	<u>82112127</u>			<u>1 1</u>
	Referral Note:				
<u>CWAT18</u>	<u>A</u>	<u>82112127</u>		<u>S</u>	<u>82112128</u>
	Referral Note:				
		<u>1 1</u>			<u>1 1</u>
	Referral Note:				
		<u>1 1</u>			<u>1 1</u>
	Referral Note:				
		<u>1 1</u>			<u>1 1</u>
	Referral Note:				

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WHITE HOUSE STAFFING MEMORANDUM

DATE: 12/27/82 ACTION/CONCURRENCE/COMMENT DUE BY: 2:00 P.M. tomorrow
12/28/82
 SUBJECT: ENROLLED BILL H.R. 6946 - FALSE IDENTIFICATION CRIME CONTROL ACT OF
1982

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	FULLER	<input type="checkbox"/>	<input type="checkbox"/>
MEESE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	GERGEN	<input type="checkbox"/>	<input type="checkbox"/>
BAKER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	HARPER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DEAVER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	JENKINS	<input type="checkbox"/>	<input type="checkbox"/>
STOCKMAN	<input type="checkbox"/>	<input type="checkbox"/>	MURPHY	<input type="checkbox"/>	<input type="checkbox"/>
CLARK	<input type="checkbox"/>	<input type="checkbox"/>	ROLLINS	<input type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input type="checkbox"/> P	<input checked="" type="checkbox"/> SS	WILLIAMSON	<input type="checkbox"/>	<input type="checkbox"/>
DOLE	<input type="checkbox"/>	<input type="checkbox"/>	VON DAMM	<input type="checkbox"/>	<input type="checkbox"/>
DUBERSTEIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	BRADY/SPEAKES	<input type="checkbox"/>	<input type="checkbox"/>
FELDSTEIN	<input type="checkbox"/>	<input type="checkbox"/>	ROGERS	<input type="checkbox"/>	<input type="checkbox"/>
FIELDING 	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

Remarks:

May we have your comments on the attached by 2:00 p.m. tomorrow, 12/28.
 Thank you.

Richard G. Darman
 Assistant to the President
 (x2702)

Response:



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

DEC 27 1982

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 6946 - False Identification Crime
Control Act of 1982
Sponsor - Rep. Hughes (D) New Jersey

Last Day for Action

January 1, 1983 - Saturday

Purpose

To establish penalties for certain crimes involving the use of false identification documents.

Agency Recommendations

Office of Management and Budget

Approval

Department of Justice

Approval

Discussion

In November 1974, the Attorney General established the Federal Advisory Committee on False Identification (FACFI) to investigate the criminal use of false identification documents and to recommend steps to combat it. Two years later, FACFI concluded that criminal use of false identification is a multibillion dollar problem, involving thousands of persons and a plethora of counterfeit credentials. FACFI cited examples of false identification documents being used in connection with welfare fraud, illegal immigration, drug trafficking, passing bad checks, using phony credit cards, and a host of other crimes. (An "identification document" is generally defined as a document issued by or under the authority of the United States, a State or political subdivision of a State, a foreign government, or a quasi-governmental international organization that is of a kind generally used to identify an individual.)

Although the problem of false identification is serious, it is widely acknowledged that existing Federal statutes do not provide effective tools with which to combat it. The States have little power to protect any but their own identification documents and cannot control counterfeiting and criminal use of their own documents beyond their own borders. As a consequence of these

and related considerations, FACFI recommended Federal legislation as a way to combat the use of false identification.

The enrolled bill addresses a number of the problems associated with the criminal use of false identification documents.

H.R. 6946 would prohibit the -

- O Production of an identification document or false identification document knowingly and without lawful authority;
- O Possession with intent to use or transfer unlawfully five or more identification documents or false identification documents;
- O Transfer of an identification document or false identification document if it is known that the document was stolen or produced without legal authority;
- O Possession of an identification document or false identification document with the intent that the document be used to defraud the United States;
- O Production, transfer, or possession of a document-making implement with the intent that the implement will be used in the production of a false identification; or
- O Possession of an identification document that is, or appears to be, an identification document of the United States that is stolen or produced without authority, knowing that the document is stolen or produced without authority.

In addition, the bill prohibits a person in the business of furnishing documents purporting to be identification documents from using the mails or other means of interstate commerce to transport these documents (e.g., an "official looking" document bearing a birthdate supposed to be that of the bearer) unless the words "not a government document" appear prominently on the front and back of the purported identification documents. This prohibition is aimed at the illegal purchase of alcoholic beverages by persons of less than legal age which is often facilitated by their use of privately manufactured documents bearing a false birthdate.

Depending upon the seriousness of the offense, a violation of the provisions of the enrolled bill carries a potential penalty of up to five years in prison, a \$25,000 fine, or both.

In its enrolled bill views letter recommending approval of H.R. 6946, the Department of Justice advises that it has worked for several years for legislation to combat the problem of false identification, and that H.R. 6946 generally reflects recommendations made by the Department.

H.R. 6946 passed both Houses by voice vote.

James M. Frey
Assistant Director for
Legislative Reference

Enclosures

Ninety-seventh Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday, the twenty-fifth day of January, one thousand nine hundred and eighty-two

An Act

To amend title 18 of the United States Code to provide penalties for certain false identification related crimes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "False Identification Crime Control Act of 1982".

SEC. 2. Chapter 47 of title 18 of the United States Code is amended by adding at the end the following:

"§ 1028. Fraud and related activity in connection with identification documents

"(a) Whoever, in a circumstance described in subsection (c) of this section—

"(1) knowingly and without lawful authority produces an identification document or a false identification document;

"(2) knowingly transfers an identification document or a false identification document knowing that such document was stolen or produced without lawful authority;

"(3) knowingly possesses with intent to use unlawfully or transfer unlawfully five or more identification documents (other than those issued lawfully for the use of the possessor) or false identification documents;

"(4) knowingly possesses an identification document (other than one issued lawfully for the use of the possessor) or a false identification document, with the intent such document be used to defraud the United States; or

"(5) knowingly produces, transfers, or possesses a document-making implement with the intent such document-making implement will be used in the production of a false identification document or another document-making implement which will be so used;

"(6) possesses an identification document that is or appears to be an identification document of the United States which is stolen or produced without authority knowing that such document was stolen or produced without authority;

or attempts to do so, shall be punished as provided in subsection (b) of this section.

"(b) The punishment for an offense under subsection (a) of this section is—

"(1) a fine of not more than \$25,000 or imprisonment for not more than five years, or both, if the offense is—

"(A) the production or transfer of an identification document or false identification document that is or appears to be—

"(i) an identification document issued by or under the authority of the United States; or

"(ii) a birth certificate, or a driver's license or personal identification card;

"(B) the production or transfer of more than five identification documents or false identification documents; or

"(C) an offense under paragraph (5) of such subsection;

"(2) a fine of not more than \$15,000 or imprisonment for not more than three years, or both, if the offense is—

"(A) any other production or transfer of an identification document or false identification document; or

"(B) an offense under paragraph (3) of such subsection;

and

"(3) a fine of not more than \$5,000 or imprisonment for not more than one year, or both, in any other case.

"(c) The circumstance referred to in subsection (a) of this section is that—

"(1) the identification document or false identification document is or appears to be issued by or under the authority of the United States or the document-making implement is designed or suited for making such an identification document or false identification document;

"(2) the offense is an offense under subsection (a)(4) of this section; or

"(3) the production, transfer, or possession prohibited by this section is in or affects interstate or foreign commerce, or the identification document, false identification document, or document-making implement is transported in the mail in the course of the production, transfer, or possession prohibited by this section.

"(d) As used in this section—

"(1) the term 'identification document' means a document made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals;

"(2) the term 'produce' includes alter, authenticate, or assemble;

"(3) the term 'document-making implement' means any implement or impression specially designed or primarily used for making an identification document, a false identification document, or another document-making implement;

"(4) the term 'personal identification card' means an identification document issued by a State or local government solely for the purpose of identification; and

"(5) the term 'State' includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other possession or territory of the United States.

"(e) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481)."

SEC. 3. The table of sections at the beginning of chapter 47 of title 18 of the United States Code is amended by adding at the end the following:

"1028. Fraud and related activity in connection with identification documents."

SEC. 4. (a) Chapter 83 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1738. Mailing private identification documents without a disclaimer

"(a) Whoever, being in the business of furnishing identification documents for valuable consideration, and in the furtherance of that business, uses the mails for the mailing, carriage in the mails, or delivery of, or causes to be transported in interstate or foreign commerce, any identification document—

"(1) which bears a birth date or age purported to be that of the person named in such identification document; and

"(2) knowing that such document fails to carry diagonally printed clearly and indelibly on both the front and back "NOT A GOVERNMENT DOCUMENT" in capital letters in not less than twelve point type;

shall be fined not more than \$1,000, imprisoned not more than one year, or both.

"(b) For purposes of this section the term 'identification document' means a document which is of a type intended or commonly accepted for the purpose of identification of individuals and which is not issued by or under the authority of a government."

(b) The table of sections at the beginning of chapter 83 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1738. Mailing private identification documents without a disclaimer."

SEC. 5. Section 3001(a) of title 39, United States Code, is amended by striking out "or 1718" and inserting in lieu thereof ", 1718, or 1738".

Thomas P. O'Neill
Speaker of the House of Representatives

Strom Thurmond

~~Vice President of the United States and~~

President of the Senate

pro Tempore

THE WHITE HOUSE

WASHINGTON

December 29, 1982

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Enrolled Bill H.R. 5447 - Commodity
Futures Trading Commission Reauthorization

Richard Darman has requested comments by close of business today on Enrolled Bill H.R. 5447, concerning commodity futures trading. The bill authorizes funds for the Commodity Futures Trading Commission (CFTC) for fiscal years 1983-1986, enacts into law the CFTC's side of its jurisdictional agreement with the SEC, establishes a new self-regulatory body for commodity futures trading (the National Futures Association), permits the CFTC to impose limited service fees, and otherwise expands and clarifies regulation of commodity futures markets and CFTC regulatory authority. Two additional provisions of the bill are problematic: Section 238 would prohibit the President -- in the absence of a declared national emergency or declared war -- from imposing an export embargo on commodities already under contract for delivery at the time of the announced embargo and to be actually delivered within 270 days of the announcement. Section 221 provides that nothing in the Act prohibits States from proceeding in State court against certain persons registered under the Act for a violation of the antifraud provisions of the Act.

State, Commerce, and NSC recommended disapproval because of the limits on Presidential power contained in section 238. State has submitted a memorandum of disapproval. OMB, Agriculture, the CFTC and the SEC recommend approval despite section 238. OMB argues that the "contract sanctity" provision of section 238 -- a floor amendment sponsored by Senator Durenberger -- does not impose any serious limits beyond the already announced intention of the President not to impose an embargo on agricultural products except as part of a broad package of trade restrictions.

A serious argument can be developed that section 238 is unconstitutional. It is an attempt by Congress to circumscribe the President's authority over the conduct of foreign

affairs. While an effort by an Executive to take action prohibited by section 238 would fall within the third, most suspect category of the classic tripartite division of executive power in Justice Jackson's concurring opinion in Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 637-638 (1952) -- action in contravention of the will of Congress -- cases covered by section 238 would also have the most direct foreign relations link, unlike the situation in the Sawyer case itself. In any event, section 238 purports to circumscribe the legal authority of the President, and this office has a responsibility to ensure that the President retain as much legal flexibility as possible. I therefore recommend that we concur in the objections of State, Commerce, and NSC to the bill on the ground that it would, perhaps unconstitutionally, restrict the legal authority of the President to act in the area of foreign affairs. The memorandum prepared by the State Department adequately makes this point, although it does not raise the constitutionality concerns. I do not think those concerns need be expressed in the memorandum, primarily because there is no precise answer on the constitutionality question. (The Supreme Court itself noted last year that "the decisions of the Court in this area have been rare, episodic, and afford little precedential value for subsequent cases." Dames & Moore v. Regan, 453 U.S. 654, 661 (1981)).

I have another unrelated objection to the bill. Section 221 provides that nothing in the Act shall prohibit a state from proceeding in State court against certain persons registered under the Act for violations of the federal antifraud provisions. The very clear negative implication in this section essentially makes the States federal prosecutors under the Act. While the CFTC is given rights of notice and intervention, the fact remains that a State could prosecute violations of federal law under this provision, even if federal prosecutors, in the exercise of their discretion, determined that such prosecution was unwarranted. Federal prosecutions could be commenced under authority of prosecutors appointed not by the President with the advise and consent of the Senate, but appointed by some state governor, or elected by citizens of some state.

Current law does provide that States may bring parens patriae actions on behalf of aggrieved residents, 7 U.S.C. § 13a-2 (1978). Such a parens patriae action, however, "on behalf of" injured citizens, is simply a class action type device, and really no more objectionable than the existence of implied private rights of action under the Act. Section 221 is quite different, since States are, by negative implication, authorized to institute proceedings not on behalf of aggrieved residents but as States.

The evolution of section 221 leads me to conclude that little attention has been paid to its bizarre provisions. The Senate added an amendment to the House bill providing that nothing in the Act prohibited States from instituting proceedings in State court for violations of State commodities antifraud statutes -- a classic non-preemption provision. The Conference changed this to cover violations of the antifraud provisions of the federal Act, apparently to avoid subjecting traders to separate State regulations. See Conference Report, at 42-43.

I recommend noting an objection to section 221 in the memorandum to Darman. I have prepared a suggested memorandum to Darman for your signature.

Attachment

THE WHITE HOUSE

WASHINGTON

December 28, 1982

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING *Orig. signed by FFF*
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 5447 - Commodity
Futures Trading Commission Reauthorization

Counsel's Office has reviewed the above-referenced Enrolled Bill. I agree with the view of the Departments of State and Commerce and the National Security Council that section 238 of the bill is objectionable because it would limit the options available to the President to respond to international crises. As an intrusion on the powers of the Executive over the conduct of foreign affairs section 238 is constitutionally suspect, although more than that cannot be said because of the absence of clear rules governing such cases. Section 238 does purport to limit the legal authority of the President -- authority the Executive has exercised in the past, and could well desire to exercise in the future -- and is thus of serious concern to this office. I have no legal objection to the memorandum of disapproval discussing these concerns prepared by the Department of State.

Section 221 of the bill is also a source of concern to this office. That section, by clear negative implication, contemplates that State officials may institute proceedings in State court for violations of Federal law. This unusual arrangement would remove control over the institution of Federal prosecutions from Federal prosecutors, a highly undesirable development. It is true that under current law States may institute so-called parens patriae actions on behalf of residents aggrieved by violations of the Act, 7 U.S.C. § 13a-2, but this is a far cry from simply permitting States to institute proceedings for violations of provisions of the Act. I do not believe that we should sanction the transfer of Federal prosecutorial authority to State officials, even assuming this can be done. Section 221, though far from clear and apparently lacking definitive legislative history, raises this danger.

FFF:JGR:aw 12/28/82
cc: FFFielding/JGRoberts/Subj./Chron

THE WHITE HOUSE

WASHINGTON

December 28, 1982

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 5447 - Commodity
Futures Trading Commission Reauthorization

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FFF:JGR:aw 12/28/82
cc: FFFielding/JGRoberts/Subj./Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1/1Name of Correspondent: Richard G. Harman☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: Enrolled Bill H.R. 5447 - Commodity
Futures Trading Commission

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>EW Holland</u>	ORIGINATOR	<u>82/12/23</u>			<u>1/1</u>
<u>EWAT18</u>	Referral Note: <u>D</u>	<u>82/12/23</u>		<u>S</u>	<u>82/12/28</u>
	Referral Note:				
		<u>1/1</u>			<u>1/1</u>
	Referral Note:				
		<u>1/1</u>			<u>1/1</u>
	Referral Note:				
		<u>1/1</u>			<u>1/1</u>
	Referral Note:				

ACTION CODES:

A - Appropriate Action
 C - Comment/Recommendation
 D - Draft Response
 F - Furnish Fact Sheet
 to be used as Enclosure

I - Info Copy Only/No Action Necessary
 R - Direct Reply w/Copy
 S - For Signature
 X - Interim Reply

DISPOSITION CODES:

A - Answered
 B - Non-Special Referral
 C - Completed
 S - Suspended

FOR OUTGOING CORRESPONDENCE:

Type of Response = Initials of Signer
 Code = "A"
 Completion Date = Date of Outgoing

Comments: _____

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 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

WHITE HOUSE STAFFING MEMORANDUM

Tuesday - COB

DATE: 12/22/82 ACTION/CONCURRENCE/COMMENT DUE BY: December 28, 1982SUBJECT: Enrolled Bill H.R. 5447 - Commodity Futures Trading Commission
Reauthorization

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	FULLER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MEESE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	GERGEN	<input type="checkbox"/>	<input type="checkbox"/>
BAKER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	HARPER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DEAVER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	JENKINS	<input type="checkbox"/>	<input type="checkbox"/>
STOCKMAN	<input type="checkbox"/>	<input type="checkbox"/>	MURPHY	<input type="checkbox"/>	<input type="checkbox"/>
CLARK	<input type="checkbox"/>	<input type="checkbox"/>	ROLLINS	<input type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input type="checkbox"/> P	<input checked="" type="checkbox"/> SS	WILLIAMSON	<input type="checkbox"/>	<input type="checkbox"/>
DOLE	<input type="checkbox"/>	<input type="checkbox"/>	VON DAMM	<input type="checkbox"/>	<input type="checkbox"/>
DUBERSTEIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	BRADY/SPEAKES	<input type="checkbox"/>	<input type="checkbox"/>
FELDSTEIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	ROGERS	<input type="checkbox"/>	<input type="checkbox"/>
FIELDING →	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

Remarks:

Please provide comments on this Enrolled Bill by close of business Tuesday, December 28, 1982. (Also, please note draft Disapproval Statement provided by State.)

Thank you.

Richard G. Darman
Assistant to the President
(x2702)

Response:



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

DEC 22 1982

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 5447 - Commodity Futures Trading
Commission Reauthorization
Sponsors - Rep. Jones (D) Tennessee and Rep. Jeffords
(R) Vermont

Last Day for Action

Purpose

1) Extends the authorization of appropriations for the Commodity Futures Trading Commission (CFTC); 2) clarifies the regulatory jurisdiction of the CFTC and the Securities and Exchange Commission (SEC) over futures and securities markets; 3) strengthens the role of the CFTC, the States, and self-regulatory bodies in overseeing futures markets; and 4) prohibits the Federal Government from embargoing agricultural exports covered by contracts calling for delivery within 270 days of the announcement of the embargo, except in a declared national emergency or state of war.

Agency Recommendations

Office of Management and Budget	Approval
Commodity Futures Trading Commission	Approval (Informal)
Securities and Exchange Commission	Approval (Informal)
Department of Agriculture	Approval
Federal Reserve Board	No objection (Informal)
Department of Justice	Defers to other agencies (Informally)
Department of the Treasury	Cites concerns (Informal)
Department of State	Disapproval (Memorandum of Disapproval attached)
National Security Council	Disapproval (Informally)
Department of Commerce	Disapproval (Informally)
U.S. Trade Representative	No response

vigorous opposition because of the effect it would have on Presidential flexibility and discretion to respond to unexpected international exigencies. In his letter to you on this subject, Secretary Shultz states that "In my view, Section 32 raises fundamental issues relating to your ability to conduct the foreign policy of the United States and to advance our national security. In an uncertain world, it is vital that you retain the flexibility to deal with unforeseen international crises swiftly and decisively. Economic sanctions remain one of the few means, short of military confrontation, of responding to aggressive behavior by other countries." Concurring in this view, Judge Clark states in his letter that "This restrictive provision would undercut at a critical juncture a major tenet of our policy regarding Poland. It also represents yet another instance of Congressional intrusion on your national security prerogatives."

The Departments of State and Commerce and the National Security Council recommend that you veto the enrolled bill on these grounds. While I agree that H.R. 5447 would restrict Presidential options in future foreign policy crises similar to the current situation in Poland, the prohibition contained in the enrolled bill is only slightly more restrictive than your announced intention not to impose an embargo on agricultural commodities except as part of broad trade restrictions. Moreover, I believe that a veto of the enrolled bill over this issue would hamper the Administration's efforts to re-establish the reputation of the United States as a reliable supplier of agricultural commodities. Efforts to alleviate the current economic problems of the agricultural sector have been, and will continue to be, a priority for the Congress and the Administration. In order to prevent the Congress from adopting measures to resolve these problems by raising loan rates or taking other steps that would increase the budget deficit, we have been promoting efforts to increase agricultural exports as the best way to help American farmers.

A veto of H.R. 5447 could seriously impair these efforts, and would be perceived by farmers as a hostile gesture. Moreover, I concur in CFTC's informal assessment that disapproval of the enrolled bill would introduce substantial uncertainty in the futures markets, and could disrupt their ability to provide the essential price-stabilizing functions for the agricultural sector. Finally, I believe our support for the other provisions of the enrolled bill outweighs the problems associated with the Durenberger amendment. For these reasons, I recommend that you approve the enrolled bill.

The Conference Report on H.R. 5447 passed both houses of the Congress by voice vote. The Durenberger contract sanctity amendment was also adopted by voice vote on the Senate floor and in Conference.

(signed) David A. Stockman

Director

Enclosures

MAJOR PROVISIONS OF H.R. 5447

H.R. 5447 is an omnibus bill that would authorize the appropriation of such sums as are necessary to fund the programs of the Commodity Futures Trading Commission (CFTC) for fiscal years 1983 through 1986. The enrolled bill would also make numerous other amendments to the Commodity Exchange Act, most of which would implement CFTC's part of the jurisdictional accord reached by CFTC and the Securities and Exchange Commission (SEC) regarding the regulatory authority of the two agencies over the commodities and futures markets (P.L. 97-303 amended the Securities Exchange Act to incorporate SEC's portion of the accord). Finally, H.R. 5447 would enhance the abilities of Federal and State officials to prevent abuses in the futures markets and expand the industry's self-regulation authority.

CFTC-SEC Jurisdiction

H.R. 5447 would continue the CFTC's exclusive regulatory jurisdiction over futures contracts on commodities, commodity pools, groups or indexes of securities (i.e. stock index futures), and options on all such futures. CFTC would be required to submit plans for any trading of stock index futures or options to the SEC, which could then veto the plans to allow such trading if it found them to violate certain minimum standards. The bill would also repeal the current ban on trading of agricultural options.

CFTC Regulatory Powers

H.R. 5447 would make several technical and clarifying amendments to the Commodity Exchange Act's provisions that specify the regulatory authorities of the CFTC over the futures industry. The bill would also expand these powers by authorizing the CFTC to 1) regulate sales of foreign futures in the United States; 2) limit speculation by setting margins on future contracts and, in emergency cases, by setting position limits; 3) require certain types of traders not currently under CFTC authority (i.e. "introducing brokers," who accept orders for futures contracts to be handled by registered commission merchants) to register with the CFTC and comply with other rules governing industry merchants; 4) require all futures traders to pass written tests before being registered by the CFTC; 5) deny, condition, suspend, or restrict traders' registration without hearings in certain cases (i.e. after felony convictions), and after hearings in other situations; and 6) obtain ex parte court orders to prevent destruction of evidence or to obtain access to records pertinent to investigations regarding violations of the Act.

Expanded State Role in Futures Regulation

In response to concerns expressed by some State officials that the CFTC's current exclusive regulatory jurisdiction over the futures industry hampered State efforts to reduce abuses in the industry, Congress included in H.R. 5447 several sections to expand the authority of the States to regulate these markets. Specifically, H.R. 5447 would permit States to 1) prosecute under Federal law violators of the Commodity Exchange Act and apply State and Federal law to those who illegally trade in these markets; 2) pursue civil proceedings against violators of the Act, with the concurrence of the CFTC; and 3) require the CFTC to provide registration information. The bill would also allow CFTC to share other trading information with States upon request.

Industry Self-Regulation

The futures industry has also responded to widespread allegations of fraud by forming a new self-regulatory body, the National Futures Association (NFA). The enrolled bill would facilitate the expansion of the NFA's role in regulating the industry by authorizing it to perform, subject to CFTC review, as much of the registration function as the CFTC is willing to delegate. The CFTC would be authorized to 1) share trading information with the NFA; and 2) to exercise a veto over proposed NFA rules if the CFTC believes, after a hearing, that such rules violate the Commodity Exchange Act.

Other Prohibitions and Requirements

In addition to the regulatory authorities provided to the CFTC, States, and the NFA, the enrolled bill would impose further prohibitions and requirements on the futures markets and the organizations regulating these markets. H.R. 5447 would 1) require large traders to maintain certain records even if the CFTC eliminates similar routine reporting requirements; 2) require all persons associated with commodity pools who solicit trading to register with the CFTC; 3) hold registered traders responsible for ensuring that their employees qualify under the Act; 4) require CFTC to complete action on contract market designations within one year; 5) establish procedures under which CFTC may disclose market information in connection with bankruptcy proceedings and in response to subpoenas; 6) make embezzlement of customer assets by registered traders a felony; 7) make those who aid, abet, or indirectly control violators subject to administrative and judicial proceedings; 8) allow judicial review of CFTC emergency powers; 9) prohibit those with "inside" information from trading in futures markets; 10) require the Federal Reserve Board to conduct a comprehensive study of futures markets; and 11) require grain exporters to notify CFTC of large sales within 48 hours and CFTC to make such reports public the next business day.

User Fees

H.R. 5447 would explicitly prohibit the imposition of transaction user fees, which were proposed by the Administration. Instead, the bill would authorize CFTC to impose a set of service fees that would recover approximately \$3 million of the Commission's \$23 million annual budget.

Memorandum of Disapproval

I have chosen to withhold my approval of H.R. 5447, the Commodity Futures Trading Commission authorization bill, because Section 238 of the bill would place additional limits on the President's powers to use export controls to further United States foreign policy and national security objectives. Section 238 would vitiate the option of responding to aggressive behavior by other nations with a total and immediate export embargo, thus hampering the President's ability to respond swiftly and decisively to unforeseen international crises.

I recognize that it is important that the United States be seen as a reliable supplier by its overseas customers. However, Section 238 adds little to this Administration's agricultural export policy, which assures American farmers that agricultural exports will not be subject to capricious or discriminatory government interference. In pledging to consider foreign policy controls on farm exports only under extreme circumstances, as part of broad trade controls and with the support of other nations, I have made clear my commitment to a strong and reliable agricultural export sector.

Section 238 applies only to agricultural export contracts, and therefore discriminates against the other sectors of our economy. The treatment of export contracts, both for manufactured and agricultural products, should be addressed in the context of the review of the Export Administration Act next year. It is not appropriate to give preferential treatment to one sector, as Section 238 would.

THE WHITE HOUSE

WASHINGTON

December 28, 1982

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Enrolled Bill S. 1501 - Educational
Mining Act of 1982

Richard Darman has requested comments by noon tomorrow, December 29, on Enrolled Bill S. 1501. This bill authorizes and directs the Secretary of Interior to convey to the University of Alaska all interest of the United States in a 57-acre tract of land known as the Silver Fox Mine. The land had been worked by an individual as an unpatented mining claim, and the individual donated the land to the University's School of Mines. OMB recommends approval. Interior has no objection, but notes that while the bill refers to a 76-acre tract the physical description is of a 57-acre tract. The bill as introduced conveyed a 76-acre tract, but corrections during the legislative process deleted some lands that had already left Federal ownership. I agree with OMB that this technical error will cause no major problems. The physical description of a 57-acre tract will control, and even if it does not all the bill does is convey the interest of the United States in the land. If the United States has no interest in the extra 19 acres, that is what is conveyed.

I have reviewed the memorandum to the President prepared by James Frey, Assistant Director of OMB for Legislative Reference, the legislative report, and the bill itself. I see no legal objections, and have prepared a memorandum to Darman to that effect for your signature.

Attachment

THE WHITE HOUSE
WASHINGTON

December 28, 1982

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING *Orig. signed by FFF*
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill S. 1501 - Educational
Mining Act of 1982

Counsel's Office finds no objection from a legal perspective
to the above-referenced enrolled bill.

FFF:JGR:aw 12/28/82

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

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WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ **O - OUTGOING**☐ **H - INTERNAL**☐ **I - INCOMING**Date Correspondence
Received (YY/MM/DD) 1/1Name of Correspondent: Richard G. Darman☐ **MI Mail Report**

User Codes: (A) _____ (B) _____ (C) _____

Subject: Enrolled Bill S. 1501 - - Educational
Mining Act of 1982**ROUTE TO:****ACTION****DISPOSITION**

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>CU Holland</u>	ORIGINATOR	<u>82/12/27</u>			<u>1/1</u>
<u>CUAT 18</u>	Referral Note: <u>D</u>	<u>82/12/27</u>		<u>5</u>	<u>82/12/29</u>
	Referral Note:	<u>1/1</u>			<u>1/1</u>
	Referral Note:	<u>1/1</u>			<u>1/1</u>
	Referral Note:	<u>1/1</u>			<u>1/1</u>
	Referral Note:	<u>1/1</u>			<u>1/1</u>

ACTION CODES:

A - Appropriate Action
 C - Comment/Recommendation
 D - Draft Response
 F - Furnish Fact Sheet
 to be used as Enclosure

I - Info Copy Only/No Action Necessary
 R - Direct Reply w/Copy
 S - For Signature
 X - Interim Reply

DISPOSITION CODES:

A - Answered
 B - Non-Special Referral
 C - Completed
 S - Suspended

FOR OUTGOING CORRESPONDENCE:

Type of Response = Initials of Signer
 Code = "A"
 Completion Date = Date of Outgoing

Comments: _____

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Send all routing updates to Central Reference (Room 75, OEOB).

Always return completed correspondence record to Central Files.

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WHITE HOUSE STAFFING MEMORANDUM

DATE: Dec. 27, 1982 ACTION/CONCURRENCE/COMMENT DUE BY: NOON WEDNESDAY
December 29, 1982

SUBJECT: Enrolled Bill S. 1501 -- Educational Mining Act of 1982

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	FULLER	<input type="checkbox"/>	<input type="checkbox"/>
MEESE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	GERGEN	<input type="checkbox"/>	<input type="checkbox"/>
BAKER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	HARPER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DEAVER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	JENKINS	<input type="checkbox"/>	<input type="checkbox"/>
STOCKMAN	<input type="checkbox"/>	<input type="checkbox"/>	MURPHY	<input type="checkbox"/>	<input type="checkbox"/>
CLARK	<input type="checkbox"/>	<input type="checkbox"/>	ROLLINS	<input type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input type="checkbox"/> P	<input checked="" type="checkbox"/> SS	WILLIAMSON	<input type="checkbox"/>	<input type="checkbox"/>
DOLE	<input type="checkbox"/>	<input type="checkbox"/>	VON DAMM	<input type="checkbox"/>	<input type="checkbox"/>
DUBERSTEIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	BRADY/SPEAKES	<input type="checkbox"/>	<input type="checkbox"/>
FELDSTEIN	<input type="checkbox"/>	<input type="checkbox"/>	ROGERS	<input type="checkbox"/>	<input type="checkbox"/>
FIELDING	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

Remarks:

Please forward comments on this enrolled bill by Noon Wednesday, December 29.

Thank you.

Richard G. Darman
Assistant to the President
(x2702)

Response:



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

DEC 27 1982

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 1501 - Educational Mining Act of 1982
Sponsors - Sen. Stevens (R) and Sen. Murkowski (R)
Alaska

Last Day for Action

January 3, 1983 - Monday

Purpose

Conveys certain lands in Alaska to the University of Alaska to be used by mining and geology students.

Agency Recommendations

Office of Management and Budget

Approval

Department of the Interior

No objection (initials)

Discussion

Approximately 57 acres of land in Alaska, known as the Silver Fox Mine, have been held and mined as unpatented mining claims by Tury Anderson. Mr. Anderson donated the claim to the University of Alaska for use by its School of Mines in training geology and mining engineering students. At that time, the University considered applying for a mineral patent but was dissuaded by the lengthy process involved.

S. 1501 authorizes and directs the Secretary of the Interior to convey to the University of Alaska all rights and interests in the 57-acre tract provided that (1) the Secretary is satisfied that no valid mining claims exist on the lands; (2) the lands are held by the University and not later conveyed to another party; (3) application for conveyance is filed by the University within six months; and (4) if a perimeter survey is required, the University pays for it.

The Department of the Interior notes in its views letter that the enrolled bill contains a technical error. As introduced, S. 1501 required conveyance of a 76-acre tract, including some lands that have already left Federal ownership. The Senate deleted these lands from the description of the tract to be conveyed, so that the bill now describes a 57-acre tract of Federal land. However, no correction was made to section one, which says that the tract comprises some 76 acres. We do not expect any major problems to result from this oversight.

Finally, as the Department of the Interior previously advised the Congress, the land would leave Federal ownership whether or not S. 1501 is enacted into law, because the State of Alaska selected these lands under the Statehood Act in 1959, three years after the mining claims were located. The Department deferred to the Congress on the question of resolving State versus University interests. The Congress has determined that the University's interests should prevail by passing S. 1501. Accordingly, we recommend that you approve the enrolled bill, which passed the Senate and House by voice vote.

(Signed) James M. Frey

Assistant Director for
Legislative Reference

Enclosures

Ninety-seventh Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-fifth day of January,
one thousand nine hundred and eighty-two*

An Act

Entitled the "Educational Mining Act of 1982".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to the conditions and limitations specified in this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to convey to the University of Alaska, all right, title, and interest of the United States in the following described land comprising approximately seventy-six acres:

FAIRBANKS MERIDIAN, ALASKA

Township 2 North, Range 1 East

Section 8:

East half southeast quarter southwest quarter northeast quarter southeast quarter,

North half southwest quarter southeast quarter northeast quarter southeast quarter,

South half south half southeast quarter northeast quarter southeast quarter,

East half northeast quarter northwest quarter southeast quarter southeast quarter,

Northeast quarter southeast quarter southeast quarter,

North half southeast quarter southeast quarter southeast quarter,

North half south half southeast quarter southeast quarter southeast quarter,

South half southeast quarter southeast quarter southeast quarter southeast quarter,

Section 9:

West half southwest quarter southwest quarter,

South half southwest quarter northwest quarter northeast quarter southwest quarter southwest quarter,

Southwest quarter northeast quarter southwest quarter southwest quarter, southeast quarter southwest quarter southwest quarter,

West half west half southwest quarter southeast quarter southeast quarter southwest quarter,

Southwest quarter southeast quarter southwest quarter,

South half southwest quarter northwest quarter southeast quarter southwest quarter.

SEC. 2. Conveyance under this Act shall be made only (a) upon the Secretary being satisfied that no valid mining claims exist on the described lands; and (b) upon the condition that the described land shall be held and used by the University of Alaska and shall not be conveyed by the university.

SEC. 3. No conveyance shall be made unless application for conveyance is filed by the university with the Secretary within six months of the date of the approval of this Act.

SEC. 4. The Secretary may at his discretion require that he be provided a perimeter survey of the described lands. All costs of obtaining such survey shall be borne by the university.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*